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**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,
MORMON WOMEN FOR ETHICAL
GOVERNMENT, STEFANIE CONDIE,
MALCOLM REID, VICTORIA REID,
WENDY MARTIN, ELEANOR
SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and
LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

**PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION ON
COUNT 15 OF THEIR SECOND
SUPPLEMENTAL COMPLAINT**

(Expedited consideration requested)

Case No. 220901712

Honorable Dianna Gibson

HEARING REQUESTED

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RELIEF REQUESTED AND GROUNDS

Pursuant to Rule 65A of the Utah Rules of Civil Procedure, Plaintiffs League of Women Voters of Utah, Mormon Women for Ethical Government, Stefanie Condie, Malcolm Reid, Victoria Reid, Wendy Martin, Eleanor Sundwall, and Jack Markman hereby move for a preliminary injunction on Count 15 of their Second Supplemental Complaint. In addition to the grounds stated in Plaintiffs' motion for a preliminary injunction on Counts 9-14 of their First Supplemental Complaint, Plaintiffs are also entitled to a preliminary injunction on Count 15.

Defendants have now indisputably also violated the Publication Clause of Article XXIII, Section 1 of the Utah Constitution. This Clause requires that "the Legislature shall cause [proposed constitutional amendments] to be published in at least one newspaper in every county of the state, where a newspaper is published, for two months immediately preceding the next general election." Utah Const. art. XXIII, § 1. By any conceivable definition of "two months immediately preceding the next general election," Defendants have now failed to timely publish proposed Amendment D. For that reason, the Amendment must be stricken from the November 2024 ballot and otherwise declared void regardless of whether it remains a question on the ballot given ballot printing and mailing deadlines.

Expedited Relief Requested: For the same reasons set forth in Plaintiffs' motion for a preliminary injunction with respect to Counts 9-14, Plaintiffs respectfully request that the Court order expedited briefing and a hearing.

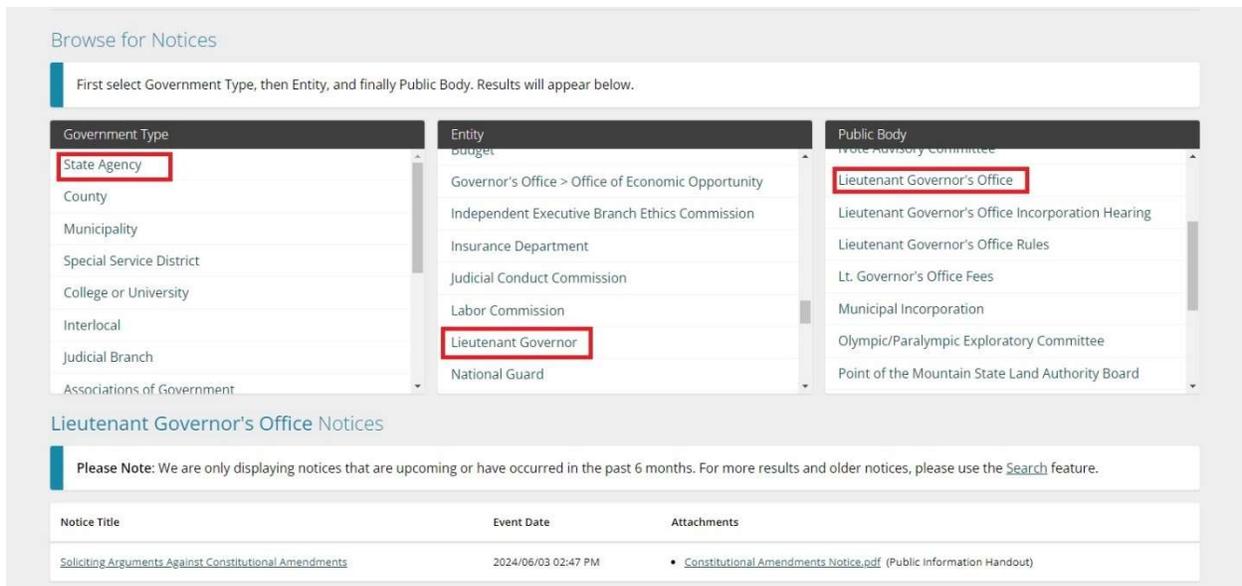
INTRODUCTION

The Utah Constitution mandates that before a constitutional amendment can be submitted to the voters, its text must be published in at least one newspaper in every county of the state for a two-month period. As the Utah Supreme Court has held, the purpose of this requirement is to

ensure that voters have sufficient time with, and access to, the actual text of proposed amendments in advance of the election. The requirement is mandatory, and the Legislature's failure to follow it renders the submission to the voters on the ballot invalid. The deadline for the Legislature to comply with the publication requirement has now passed, and the Legislature has not caused proposed Amendment D's text to be published in a single newspaper anywhere in Utah.

Instead, in 2023, the Legislature amended the publication *statute* to trade the newspaper publication requirement for publication on an obscure website called the Utah Public Notice website. That statute likewise shrinks the publication time from two months to potentially just two *weeks*. But the Legislature cannot evade the *Constitution's* commands by *statutory* enactment.

The Legislature's shortcomings are not some technicality. As of today, the *text* of proposed Amendment D has not been published, either in a newspaper or even on the Utah Public Notice website. If and when the text is published, the Lieutenant Governor has indicated—consistent with the statute passed by the Legislature but in violation of the Constitution—that it will appear on an obscure website that few voters know exists: www.utah.gov/pmn. Even if a voter got that far, she would need to know that the Lieutenant Governor's office is tasked with posting the text of constitutional amendments in order to navigate the website to locate the proposed Amendment. Below is a screenshot of the relevant section of the website, which is at the bottom of the homepage.



Utah Archives and Records Service, *Public Notice Website*, <https://www.utah.gov/pmn/>.

As the screenshot illustrates, voters would first need to know to click “State Agency” under “Government Type,” then to scroll down under “Entity” and click “Lieutenant Governor,” then finally scroll down under “Public Body” to click “Lieutenant Governor’s Office.” Even if they figure that out, they will have to just keep checking this website until the day it is posted—which may come any time between now and two weeks before the election.

This website demonstrates why our Constitution has a two-month newspaper publication requirement. Defendants plan to bury the text of *proposed amendments to the foundational governing document of the state* on an obscure website in a messy navigational pane, which in turn requires advanced knowledge of the innerworkings of state agencies. Even then, it may not be posted for another month and a half under Defendants’ planned approach. The Defendant’s own actions show that the Constitution’s two-month newspaper publication requirement is not some procedural technicality, but rather a core, substantive requirement in the constitutional amendment process. As the Utah Supreme Court held in *Snow v. Keddington*, “[a]ll voters throughout the state

are entitled to notice,” and the two-month newspaper notice requirement “permits the voter time to consider the merits or demerits of the proposed change.” 195 P.2d 234, 238 (Utah 1948).

This is especially problematic here given the deceptive and misleading ballot summary language Defendants have certified, that has been widely distributed, and that will appear on the actual ballots. To prevent voters from learning about the Amendments’ *actual language*, the Legislature is not even complying with the basic constitutional requirement to inform Utahns of the text of the proposed amendment it has rushed onto the ballot. Complying with the Constitution is not optional, its commands cannot be ignored, and its publication requirements are critical to ensuring an informed citizenry who can freely and fairly cast their ballots.

FACTUAL BACKGROUND

1. On August 21, 2024, at an “emergency” special session, two-thirds of legislators in both the Utah House and Senate approved S.J.R. 401, which proposed a constitutional amendment to eliminate Utah voters’ constitutional right to alter or reform their government without infringement by the Legislature and instead grant the Legislature unfettered power to repeal voters’ initiatives. S.J.R. 401, Proposal to Amend Utah Constitution – Voter Legislative Power, 65th Leg., 2024 4th Spec. Sess. (Utah 2024), <https://le.utah.gov/~2024S4/bills/static/SJR401.html>; see Utah Const. art. I, § 2; *League of Women Voters of Utah v. Utah State Legislature*, 2024 UT 21, ¶ 74 (“*LWWUT*”). It has been designated proposed Amendment D for the November 5, 2024 ballot.

2. Article XXIII, Section 1 of the Utah Constitution provides that after the Legislature approves a proposed constitutional amendment, “the Legislature shall cause the same to be published in at least one newspaper in every county of the state, where a newspaper is published, for two months immediately preceding the next general election.” Utah Const. art. XXIII, § 1.

3. Separately, Utah Code § 20A-7-103(2) provides that “[t]he lieutenant governor shall, not more than 60 days or less than 14 days before the date of the election, publish the full text of the amendment . . . as a class A notice under Section 63G-30-102, through the date of the election. Utah Code § 20A-7-103(2).

4. In turn, Utah Code § 63G-30-102 requires “class A notices” for matters affecting the entire state to be (1) published on the Utah Public Notice Website and (2) published on the relevant official’s website if that official maintains one and has “an annual operating budget of \$250,000 or more.” Utah Code § 63G-30-102(1)(a)-(b) & 4(a).

5. The next general election is November 5, 2024, which—including that date in the count—is 59 days from the date of the filing of this Motion.

6. To date, the Legislature has not caused proposed Amendment D to be published in a single Utah newspaper, notwithstanding that November 5, 2024 election is less than two months away under any definition of “two months.”

LEGAL STANDARD

A preliminary injunction is appropriate if Plaintiffs show that (1) “there is a substantial likelihood that [they] will prevail on the merits of the underlying claim,” (2) “[they] will suffer irreparable harm unless the . . . injunction issues,” (3) “the threatened injury to [them] outweighs whatever damage the proposed . . . injunction may cause the party . . . enjoined,” and (4) “the . . . injunction, if issued, would not be adverse to the public interest.” Utah R. Civ. P. 65A(e).

ARGUMENT

I. Plaintiffs are likely to prevail on the merits of their Article XXIII, Section 1 publication claim.

Plaintiffs are likely to prevail on the merits of their Article XXIII, Section 1 Publication Clause claim. The Utah Constitution provides that after approving a proposed amendment,

[T]he Legislature shall cause the same to be published in at least one newspaper in every county of the state, where a newspaper is published, for two months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the state for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution.

Utah Const. art. XXIII, § 1.

When interpreting constitutional language, Utah courts “start with the meaning of the text as understood when it was adopted.” *LWVUT*, 2024 UT 21, ¶ 101 (cleaned up). The focus is on “the objective meaning of the text, not the intent of those who wrote it.” *Id.* (cleaned up). The Court thus “interpret[s] the [C]onstitution according to how the words of the document would have been understood by a competent and reasonable speaker of the language at the time of the document’s enactment.” *Id.* (cleaned up). “When [courts] interpret the Utah Constitution, the ‘text’s plain language may begin and end the analysis.’” *State v. Barnett*, 2023 UT 20, ¶ 10, 537 P.3d 212 (quoting *South Salt Lake City v. Maese*, 2019 UT 58, ¶ 23, 450 P.3d 1092). But if any doubt exists, courts “can and should consider all relevant materials.” *Maese*, 2019 UT 58, ¶ 23 (quoting *In re Young*, 1999 UT 6, ¶ 15, 976 P.2d 581). This includes “the historical context in which [constitutional provisions] were ratified.” *LWVUT*, 2024 UT 21, ¶ 103; *see also Salt Lake City Corp. v. Haik*, 2020 UT 29, ¶ 12, 466 P.3d 178 (noting that determining original public meaning requires analyzing the provision’s “text, historical evidence of the state of the law when it was drafted, and Utah’s particular traditions at the time of drafting.” (cleaned up)). One historical source the Utah Supreme Court has found particularly instructive for ascertaining the original public meaning of the Constitution is the 1898 Code. This is so, the Court has explained, because it was the “first effort to codify the law after adoption of our constitution” and thus while it is not a “perfect enshrinement of constitutional principles,” it “may help us understand the

contemporaneous public meaning of certain constitutional terms and concepts.” *Id.* ¶ 35 (quoting *Maese*, 2019 UT 58, ¶¶ 45-46).

Article I, Section 26 provides that “[t]he provisions of this Constitution are mandatory and prohibitory, unless by express words that are declared to be otherwise.” Utah Const. art. I, § 26. The Supreme Court has explained that “Section 26 means that . . . courts cannot ignore the constitution. That is, courts are not free to pick and choose which parts of the constitution they will enforce.” *State v. Barnett*, 2023 UT 20, ¶ 27. This is all the more important when the provision at issue regulates how the Constitution may be amended.

The Utah Supreme Court has only once addressed the Publication Clause of Article XXIII, Section 1. In *Snow v. Keddington*, a statute required county clerks to post at polling stations the existing constitutional text along with the proposed amendment’s text, but a county clerk failed to include the proposed amendment’s effective date on the poster. 195 P.2d 234, 237-38 (Utah 1948). The Court observed that the Legislature had delegated to the Secretary of State the requirement in Article XXIII, Section 1 to publish the amendment in newspapers for two months preceding the election and that “the amendment was published as required.” *Id.* at 238. The Court observed that because the text of the amendment is not printed on the ballot in full, “the notice of importance to the voter is the publication in the newspapers prior to the general election. This is the publication that permits the voter time to consider the merits or demerits of the proposed change.” *Id.* The Court reasoned that “[a]ll voters throughout the state are entitled to notice,” and that “[u]nder our constitutional requirements, notices *must* be carried in the newspapers.” *Id.* (emphasis added). The Court further explained that

the probabilities and possibilities of the voter being fully informed of the context of an amendment are reasonably assured if the publication is in the newspapers. Accordingly, the method of notice prescribed by the constitution is one reasonably calculated to give notice to the voters, and this method was here complied with.

This is sufficient to sustain a finding that the proposed amendment . . . was submitted to the voters for approval or disapproval.

Id.

Snow thus makes clear that compliance with the Publication Clause is mandatory and a proposed amendment that fails to comply has not been “submitted to the electors of the state” as Article XXIII, Section 1 requires.

Snow did not address the original public meaning of the components of the Publication Clause, however, because it was undisputed that it had been satisfied. But under any plausible conception of the Clause’s original public meaning, Defendants in this case have failed to comply with respect to proposed Amendment D. Plaintiffs nevertheless address the meaning of the Clause to illustrate Defendants’ failure and why it requires the Court to strike Amendment D from the November 2024 ballot and/or otherwise declare and enjoin it as void regardless of whether it remains on the ballots because of printing and mailing deadlines.

Published in one newspaper in every county. There can be no doubt as to what the phrase “published in at least one newspaper in every county of the state, where a newspaper is published” meant to Utahns in 1895. The internet did not exist in 1895, and thus the original public meaning of “newspaper” could only mean a physical, printed newspaper—thus the word *newspaper*. Moreover, the balance of the Clause requires not merely the publication in one newspaper with statewide circulation, but rather publication in at least one newspaper that physically publishes its papers within each county. There would be no purpose to the phrase “where a newspaper is published” were it otherwise. Moreover, this understanding accords with the practice of the day, where small local newspapers delivered news and information in communities across the State. *See, e.g.*, Utah Digital Newspapers, <https://digitalnewspapers.org/browse/holdings> (project of the University of Utah, Brigham Young University, Utah State University, and Salt Lake Community

College digitizing historic newspapers) (listing historic Utah newspapers by county of publication).

For two months immediately preceding the next general election. Unlike the newspaper publication requirement, the temporal requirement of the Publication Clause is susceptible to more than one plausible meaning. Are the two months immediately preceding the next general election the two *calendar* months that do so—*i.e.*, September and October? Or does the phrase refer to a quantity of days that immediately precede election day itself (*e.g.*, either 60 days before the election or beginning on the same date in September as the relevant date in November)?

There is textual support for both interpretations. The text of the Publication Clause supports the former interpretation—the full two calendar months of September and October—because a “month” is not a precise number of days. In even-numbered years, a month can be 28 days (February), 29 days (February in leap years), 30 days, or 31 days. In this regard, the text supports counting two calendar months that precede the election. On the other hand, the phrase “immediately preceding the next general election” suggests proximity to election day itself, while the former interpretation leaves one to six “extra” days depending on when election day falls in November.

The historical record likewise provides mixed evidence. The “Rules of Construction” provision of the 1898 Code provides that “[t]he word ‘month’ means a calendar month unless otherwise expressed.” Utah Code § 65-2-2498(1) (1898). This understanding of the word “month” as used in the law at the time “provide[s] persuasive evidence about what the people of Utah would have understood our state constitution to mean.” *Haik*, 2020 UT 29, ¶ 35 (cleaned up).

On the other hand, there is mixed evidence from the early Legislatures’ practice of publishing proposed amendments in newspapers. The 1899 Legislature approved the first three

proposed amendments to Utah’s Constitution for submission to the voters at the November 6, 1900 election. It appears that the initial publication date effectuated by the Legislature in 1900 depended upon the circulation frequency of the newspapers. For the weekly newspapers, the publication began in either late August or September 1.¹ By contrast, the initial publication for newspapers with more frequent circulation, however, began after September 1, starting September 3 in the Cache County’s *Logan Nation* and September 5 in Weber County’s *Ogden Daily Standard*.² Given the election date of November 6 and the initial publication of September 5 in the *Ogden Daily Standard*—as its name suggests, a daily circulation newspaper—one could deduce that the Legislature at the time interpreted “two months immediately preceding the next general election” as meaning the same numbered date in September as the date immediately preceding the election date in November. For the weekly publications with editions that were issued either before or after that date, the Legislature began publication in the earlier issue to ensure a full two months of publication occurred.

¹ Utah Digital Newspapers, *Park Record* (Summit County), https://newspapers.lib.utah.edu/search?page=2&facet_paper=%22Park+Record%22&facet_type=issue&date_tdt=%5B1900-01-01T00%3A00%3A00Z+TO+1900-12-31T00%3A00%3A00Z%5D; *id.*, *Eastern Utah Advocate* (Carbon County), https://newspapers.lib.utah.edu/search?page=2&facet_paper=%22Eastern+Utah+Advocate%22&facet_type=issue&date_tdt=%5B1900-01-01T00%3A00%3A00Z+TO+1900-12-31T00%3A00%3A00Z%5D; *id.*, *Beaver County Blade* (Beaver County), https://newspapers.lib.utah.edu/search?page=2&facet_paper=%22Beaver+County+Blade%22&facet_type=issue&date_tdt=%5B1900-01-01T00%3A00%3A00Z+TO+1900-12-31T00%3A00%3A00Z%5D.

² *Id.*, *Logan Nation* (Cache County), https://newspapers.lib.utah.edu/search?facet_paper=%22Logan+Nation%22&facet_type=issue&date_tdt=%5B1900-01-01T00%3A00%3A00Z+TO+1900-12-31T00%3A00%3A00Z%5D; *id.*, *Ogden Daily Standard* (Weber County), https://newspapers.lib.utah.edu/search?page=5&facet_paper=%22Ogden+Daily+Standard%22&facet_type=issue&date_tdt=%5B1900-01-01T00%3A00%3A00Z+TO+1900-12-31T00%3A00%3A00Z%5D.

The interpretation reflected in the publication practice for the first three amendments in 1900 perhaps best accords with the constitutional text among the potential meanings, by giving a harmonized meaning to both the phrase “two months” and the phrase “immediately preceding the next general election.” Utah Const. art. XXIII, § 1.

At which time said amendment . . . shall be submitted to the electors. Structurally, this phrase makes clear that only after the Publication Clause’s requirements have been satisfied may the amendments be submitted to the electors. Article XXIII, Section 1 is written as a series of necessary steps, with each subsequent step dependent upon satisfaction of the prior step. First, proposed amendments must be approved by two-thirds of each house of the legislature, then they must be entered in the respective chambers’ journals, then they must be published in newspapers, then they must be submitted to the voters, and only then—if a majority of voters approve—do they become part of the Constitution. *See* Utah Const. art. XXIII, § 1. The only time the text of Article XXIII, Section 1 permits amendments to be submitted to the electors is “[a]t which time” they have completed being published in newspapers for two months immediately preceding the election day. *Id.* Publication is thus a mandatory condition precedent to submission to the voters. Indeed, the *Snow* Court made clear that publication in the newspapers was a mandatory requirement and necessary in order for the amendment to be considered to have been lawfully “submitted to the voters for approval or disapproval.” *Snow*, 195 P.2d at 238.

But in this case, the Court need not decide the precise original public meaning of Article XXIII, Section 1’s Publication Clause. It is indisputable that Defendants have failed to comply with it under *any* plausible interpretation—whether “two months” means (1) the full calendar months of September and October, (2) the period commencing on September 4, 2024 (consistent with the 1900 Legislature’s practice given the November 5, 2024 election date), (3) the period

commencing on September 5, 2024 (including election day in the count), or (4) 60 days before November 5, 2024 (*i.e.*, September 6, 2024).

This is because each of these potential trigger dates for the Publication Clause’s requirements has now come and gone and Defendants have failed to cause the text of Amendment D to be published in *any* newspaper in *any* county in Utah, let alone in at least one newspaper in each county in Utah. *See* Utah Const. art. XXIII, § 1. For example, there is one print edition newspaper that published in Washington County—*The St. George Spectrum*. *See The Spectrum*, <https://www.thespectrum.com/>; *see also* Utah’s Online School Library, *Utah’s Local Newspapers by County*, <https://utahsonlinelibrary.org/countynews/> (identifying newspapers that are currently in circulation across Utah’s counties). *The Spectrum* publishes print editions on Thursdays and Sundays.³ Under any definition of “two months,” Defendants were required to publish the text of Amendment D in *The Spectrum* beginning with the Thursday, September 5 edition, given that the next publication was not until Sunday, September 8. Yet Defendants did not do so. *See The Spectrum*, Utah Public Notices, <https://www.thespectrum.com/public-notice> (showing no publication of proposed Amendment D’s text). Likewise, the text of proposed Amendment D has not appeared in either of Salt Lake County’s printed newspapers—the *Salt Lake Tribune* and the *Deseret News*. Indeed, the Utah Press Association provides a free public database of the Legal and Public Notices that are published in Utah’s newspapers. *See* Utah Press Association, *Utah Legals & Public Notices*, [https://www.utahlegals.com/\(S\(oy51nxsefg1gf5u5gjbnmey2\)\)/default.aspx](https://www.utahlegals.com/(S(oy51nxsefg1gf5u5gjbnmey2))/default.aspx). A search for “constitution,” “amendment,” “amend,” and “resolution” reveals no publication of

³ *See The Spectrum*, Choose Your Plan, https://subscribe.thespectrum.com/offers?gps-source=CPTOPNAVBAR&itm_campaign=2024LOCFLSHSEPT&itm_medium=ONSITE&itm_content=bluebutton&gnt-eid=control.

Amendment D's text in any Utah newspaper. Under no conception of the Publication Clause's meaning have Defendants complied with the Constitution.

Indeed, the Legislature has, over time, seemingly ignored the Publication Clause's central requirements in the enacting *statutory* requirements related to the publication of proposed amendments. In 2002, the Legislature amended § 20A-7-103(2) as follows, with strikethrough showing deletions and underline showing additions:

§ 20A-7-103

(2) The In addition to the publication in the voter information pamphlet required by Section 20A-7-702, the lieutenant governor shall, not ~~later~~ more than 60 days or less than ten days before the regular general election, publish the full text of the amendment, question, or statute in at least one newspaper in every county of the state where a newspaper is published.

2002 Utah Laws Ch. 127, § 1 (H.B. 86), 54th Leg., 2002 Gen. Sess. With this amendment, the Legislature by *statute* permitted the Lieutenant Governor to choose to publish amendments for only *ten days* prior to the election, rather than the two months required by the Constitution.

In 2008, the Legislature amended § 20A-7-103(2) again to increase the ten-day minimum publication period to a fourteen-day minimum period. *See* 2008 Utah Laws Ch. 225, § 11 (S.B. 12), 57th Leg., 2008 Gen. Sess. And in 2020, the Legislature again amended § 20A-7-103(2) to delete the first sentence regarding the publication of the voter information pamphlet but left the remainder of the provision unchanged. *See* 2020 Utah Laws 5th Sp. Sess. Ch. 20, § 4 (S.B. 5012), 63d Leg., 5th Sp. Sess.

Then, in 2023, the Legislature amended § 20A-7-103(2) as follows:

§ 20A-7-103

(2) The lieutenant governor shall, not more than 60 days or less than 14 days before the date of the election, publishes the full text of the amendment, question, or statute ~~in at least one newspaper in every county of the state where a newspaper is~~

published for the state, as a class A notice under Section 63G-28-102, through the date of the election.

2023 Utah Laws Ch. 435, § 136 (S.B. 43), 65th Leg., 2023 Gen. Sess. Having previously taken the statute out of compliance with the Constitution’s two-month publication requirement, the Legislature in 2023 dealt the final blow to the statute’s conformity with the Constitution—eliminating the newspaper publication requirement entirely. An attorney for the Utah Office of Legislative Research and General Counsel spoke at the committee hearing, noting that he drafted the bill (which affected a number of different notice requirements across the Code), and observing that it was designed to make the Code’s various notice provisions uniform and to modernize the format to eliminate all newspaper publication requirements and move all notices to a central state-run website. *See* House Gov’t Operations Comm. Mt’g Video (S.B. 43), 65th Leg., 2023 Gen. Sess., at 1:57:22, <https://le.utah.gov/av/committeeArchive.jsp?timelineID=218312>. It does not appear that any legislator or staff mentioned or discussed the *Constitution’s* contrary requirement for proposed constitutional amendments.⁴

Unsurprisingly then, in her response to Plaintiffs’ Motion for a Preliminary Injunction on Counts 9-14 of Plaintiffs’ First Supplemental Complaint, the Lieutenant Governor says nothing about publishing the text of the proposed Amendment in at least one newspaper in every county for the two months preceding the election, as the Publication Clause of Article XXIII, § 1 plainly requires. She instead explains that her office will “publish the full text of the amendment not more than 60 days or less than 14 days before the date of the election in accordance with Utah Code

⁴ Because this change occurred in 2023, the four proposed amendments on the November 2024 ballot—including proposed Amendment D—are the first ones in Utah history where the Legislature has failed to cause publication in newspapers entirely.

§ 63G-30-102.” Resp. of Lt. Governor to Mot. for Prelim. Inj. at 3; *see also id.* (Declaration of Shelly Jackson, Exhibit 1, ¶ 8).

It is axiomatic, of course, that the publication *statute* cannot trump the *Constitution’s* Publication Clause requirements. The Constitution mandates that the Legislature cause the text of proposed Amendment D to be published in at least one newspaper in every county of the state (other than those lacking a newspaper), and that it do so for two months prior to the election. Defendants have indisputably failed to satisfy this mandatory constitutional requirement.

In *Snow*, it was precisely *because* the Legislature complied with the newspaper publication requirement that the amendment at issue was not invalidated by the Court post-election for failing to “submit[] [it] to the voters for approval or disapproval” as required by Article XXIII, § 1. 195 P.2d at 283. As *Snow* recognizes and as the plain text of Article XXIII provides, compliance with the Publication Clause’s requirements is the mandatory condition precedent for a proposed amendment to “be submitted to the electors of the state.” Utah Const. art. XXIII, § 1. Because Defendants have violated this straightforward, plain text requirement of the Constitution, Amendment D is void.

II. The remaining factors favor entry of an injunction.

The remaining factors favor entry of an injunction. *See* Utah R. Civ. P. 65A(e). Plaintiffs—who seek to persuade other Utah voters to oppose Amendment D—are stymied in their efforts by Defendants’ failure to comply with the constitutionally prescribed publication requirements, especially because of the misleading nature of the ballot language. Defendants’ failure to publish the text in conformity with the Constitution irreparably harms Plaintiffs. The double-effect of Defendants’ failure to publicize the proposed Amendment’s text along with Defendants’ misleading ballot language means that like-minded Utahns who would oppose the Amendment if

they were told what it said might be duped into voting in favor of Amendment D. Increasing the likelihood of Amendment D being approved by the voters through deceit in turn irreparably harms Plaintiffs by threatening their chances of success in the underlying litigation, which challenges their placement in congressional districts that are severe partisan gerrymanders. *See* Exhibit A (Declarations of Plaintiffs). These harms are irreparable in the absence of an injunction barring Amendment D from the November 2024 ballot or, if altering the ballot printing and mailing is not feasible, absent an order declaring and enjoining Amendment D as void.

The public interest clearly favors an injunction. The public has a strong interest in not being forced to vote on a misleading ballot question where Defendants have failed to provide them the notice of the *text* of the Amendment as the Constitution requires.

In her response to Plaintiffs’ Motion for a Preliminary Injunction on Counts 9-14, filed on September 6, the Lieutenant Governor states that “county clerks will submit ballot proofs to third-party printing vendors beginning Monday, September 9, 2024 so that they may print ballots.” Resp. of Lt. Gov. at 2. The Lieutenant Governor contends that it is too late to stop the presses on printing the ballots because doing so would be costly and may jeopardize the timely preparation for the election. For that reason, the Lieutenant Governor contends that “the harms to the State and the harms to the public interest far exceed the alleged harm suffered by Plaintiffs.” *Id.* at 6. Of course, to the extent the State suffers any harm, that is harm of its own making. Putting that aside, it is hard to understand how reprinting ballots—or briefly delaying the printing of ballots—qualifies as “irreparable harm.” Indeed, on Friday the North Carolina Court of Appeals—on the day ballots were to begin being mailed under North Carolina law—enjoined the dissemination of ballots and ordered the removal of Robert F. Kennedy, Jr. from the ballot. *See Robert F. Kennedy, Jr. v. N.C. State Bd of Elections*, No. P24-624 (N.C. Ct. App. Sept. 6, 2024),

[https://appellate.nccourts.org/dockets.php?court=2&docket=2-P2024-0624-](https://appellate.nccourts.org/dockets.php?court=2&docket=2-P2024-0624-001&pdf=1&a=0&dev=1)

[001&pdf=1&a=0&dev=1](https://appellate.nccourts.org/dockets.php?court=2&docket=2-P2024-0624-001&pdf=1&a=0&dev=1). North Carolina has substantially more ballots to print than does Utah, yet North Carolina election officials report they will be able to comply notwithstanding having to reprint 2.9 million ballots. See N.C. State Bd. of Elections, Press Release (Sept. 6, 2024), <https://www.ncsbe.gov/news/press-releases/2024/09/06/state-board-appeals-decision-take-robert-f-kennedy-jr-nc-ballots>; see also *DeMora v. LaRose*, 217 N.E.3d 715, 726 (Ohio 2022) (“[W]e will not hesitate to order that a wrongly excluded candidate be added to the ballot, notwithstanding the UOCAVA date.”). Here, the “proof” for the ballots has not yet been sent to printers in Utah and the upcoming deadline for overseas ballots involves only 4,451 ballots statewide. See Resp. of Lt. Gov. at 5.

But in any event, the Lieutenant Governor does not address Plaintiffs’ request that Amendment D be declared and enjoined as void regardless of whether it is included on the ballot. None of the Lieutenant Governor’s arguments have any bearing on that requested relief. And that relief is consistent with a substantial body of case law, where unlawfully presented proposed Amendments are stricken whether pre- or post-election. See, e.g., *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982); *Armstrong v. Harris*, 773 So. 2d 7, 12 (Fla. 2000); *Lane v. Lukens*, 283 P. 532, 533-34 (Idaho 1929); *Ex parte Tipton*, 93 S.E.2d 640, 642 (S.C. 1956); *State ex rel. Thomson v. Zimmerman*, 60 N.W.2d 416, 423 (Wis. 1953).

Regardless of whether time permits the removal of Amendment D from the physical ballots (it does), Plaintiffs are entitled to an injunction voiding Amendment D such that it will have no effect. It violates every conceivably applicable constitutional provision and cannot stand.⁵

⁵ If deemed desirable for the public interest, the Court could order the Lieutenant Governor to direct county clerks to post notices at polling places and to mail notices along with the ballots informing voters that the Court has ordered Amendment D void for failing to comply with the

CONCLUSION

For the foregoing reasons, the motion for a preliminary injunction should be granted.

September 7, 2024

Respectfully submitted,

/s/ David C. Reymann

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constitutional requirements for presenting a proposed amendment to voters for approval or rejection.

CERTIFICATE OF COMPLIANCE

Pursuant to Utah R. Civ. P. 7(q)(3), I hereby certify that the foregoing **PLAINTIFFS’ MOTION FOR A PRELIMINARY INJUNCTION ON COUNT 15 OF THEIR SECOND SUPPLEMENTAL COMPLAINT** complies with the word limits in Utah R. Civ. P. 7(q)(1) and contains 5,139 words, excluding the items identified in Utah R. Civ. P. 7(q)(2).

/s/ Kade N. Olsen

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of September, 2024, I filed the foregoing **PLAINTIFFS’ MOTION FOR A PRELIMINARY INJUNCTION ON COUNT 15 OF THEIR SECOND SUPPLEMENTAL COMPLAINT** via electronic filing, which served all counsel of record.

/s/ Kade N. Olsen

EXHIBIT A

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**Admitted Pro Hac Vice*

**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,
MORMON WOMEN FOR ETHICAL
GOVERNMENT, STEFANIE CONDIE,
MALCOLM REID, VICTORIA REID,
WENDY MARTIN, ELEANOR
SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and

**DECLARATION OF KATHARINE
BIELE, PRESIDENT OF
PLAINTIFF ORGANIZATION
LEAGUE OF WOMEN VOTERS OF
UTAH**

Case No. 220901712

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

Honorable Dianna Gibson

I, Katharine Biele, based on my personal knowledge, declare that:

1. I am a member and currently serve as president of the League of Women Voters of Utah, which I will refer to as L WVUT or the League in this declaration.

2. I am over eighteen years old and a resident of Salt Lake City, in Salt Lake County, Utah.

3. L WVUT is a nonpartisan nonprofit membership-based organization located in Salt Lake City, Utah that is dedicated to empowering voters and defending democracy. L WVUT encourages active participation in government and works to increase its members' and voters' understanding of major public policy issues.

4. L WVUT has diverse members throughout the State of Utah. L WVUT has members who are registered voters living in each of Utah's four congressional districts.

5. L WVUT actively supported Proposition 4, including through public messaging, voter education, and signature gathering, among other activities. Numerous League members voted in favor of Proposition 4. L WVUT opposed the Legislature's repeal of Proposition 4, and opposed the partisan gerrymandered maps the Legislature enacted in 2021.

6. L WVUT and its members support the Utah Supreme Court's decision in the League's favor in *L WVUT, et al. v. Utah Legislature, et al.* ("*L WVUT*"), which vindicated their constitutional rights to alter or reform their government through citizen ballot initiatives without legislative impairment.

7. LWFVUT has members who oppose the Legislature's proposed Amendment D, which could undermine the decision in the League's favor in *LWFVUT*.

8. LWFVUT has members who plan to vote in the November 5, 2024 election.

9. Voting is one way that LWFVUT members express their opinion about important issues in their communities and in the state of Utah.

10. A key part of LWFVUT's mission is to educate and empower its members to participate in every phase of the democratic process. The deceptive and misleading language used to describe proposed Amendment D on the November 5, 2024 ballot will make it more difficult to explain to voters the actual effect of Amendment D if passed.

11. Because the Legislature failed to publish the full text in the newspaper as required by the Constitution, LWFVUT will have to expend resources sending the text to its members and other voters to further LWFVUT's goal of educating and empowering their members and other Utah voters.

12. The fewer opportunities there are for Utah voters to see the actual text of Amendment D, the more LWFVUT will have to do to educate its members and other voters about the actual effect of proposed Amendment D.

13. The fewer opportunities there are for Utah voters to see the actual text of proposed Amendment D, the more likely it is to pass and become law, threatening the *LWFVUT* Supreme Court decision and the potential for a fair district configuration under Proposition 4, which the League supports.

14. LWFVUT and many of its members support nonpartisan and neutral redistricting such as that required by Proposition 4.

15. The partisan gerrymandered 2021 Congressional Plan threatens LWVUT's mission by diluting the voices and political power of its members, making its members' representatives less accountable, and reducing the members' interest in now noncompetitive races.

16. The 2021 Congressional Plan abridges associational freedoms of LWVUT's members by cracking voters with disfavored political views, including LWVUT members, into separate congressional districts to diminish their collective action, thereby hindering their ability to recruit volunteers, secure contributions, and effectively join with other voters to advocate for their views.

17. The 2021 Congressional Plan discriminates and retaliates against LWVUT's members in the Salt Lake County area who prefer to vote for non-Republican and moderate candidates by cracking them into multiple congressional districts because of their expressed political beliefs and past voting behavior. The partisan gerrymandered districts in the 2021 Congressional Plan thus reward voters with favored political views while punishing other voters, including LWVUT members, for their political views.

18. The partisan gerrymandered 2021 Congressional Plan requires LWVUT to expend additional resources, and divert those resources from other programs, in order to engage and mobilize voters whose votes are diluted, whose voices are muted, and whose interests are impaired by the 2021 Congressional Plan.

19. LWVUT members oppose the 2021 partisan gerrymandered congressional map, and support the reinstatement of Proposition 4, which would require fair and neutral redistricting. LWVUT members support the *LWVUT* decision from the Utah Supreme Court that protects Utahns' fundamental right to alter or reform the government without legislative impairment. LWVUT members oppose proposed Amendment D, which would undermine that right and the

potential for a fair congressional district configuration under Proposition 4, and oppose the deceptive ballot language used to describe Amendment D which does not accurately represent the full effects of the proposed amendment and may mislead voters to inadvertently vote in favor of an amendment that they actually oppose.

I declare under penalty of perjury of the laws of the State of Utah that the foregoing is true and correct.

Executed in Salt Lake City, Utah this 7th day of September 2024.

/s/ Katharine Biele _____

Electronically signed pursuant to Utah Code §§ 46-4-101, et seq.

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**Admitted Pro Hac Vice*

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LEAGUE OF WOMEN VOTERS OF UTAH,
MORMON WOMEN FOR ETHICAL
GOVERNMENT, STEFANIE CONDIE,
MALCOLM REID, VICTORIA REID,
WENDY MARTIN, ELEANOR
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Plaintiffs,

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UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and

**DECLARATION OF EMMA PETTY
ADDAMS, CO-EXECUTIVE DIRECTOR
OF PLAINTIFF ORGANIZATION
MORMON WOMEN FOR
ETHICAL GOVERNMENT**

Case No. 220901712

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

Honorable Dianna Gibson

I, Emma Petty Addams, based on my personal knowledge, declare that:

1. I am a member and currently serve as co-executive director of the Mormon Women for Ethical Government, which I will refer to as MWEG in this declaration.

2. I am over eighteen years old and a resident of Salt Lake City, in Salt Lake County, Utah.

3. MWEG is a nonpartisan nonprofit membership organization based in Riverton and Salt Lake City, Utah. MWEG's purpose is to inspire women of faith—across the political spectrum—to be ambassadors of peace who transcend partisanship and advocate for ethical government. MWEG and its members are guided by its four core values: faithful, nonpartisan, peaceful, and proactive.

4. MWEG has diverse nationwide membership including many active members in Utah. MWEG has members who are registered voters in each of Utah's four congressional districts. MWEG's members are Republicans, Democrats, and individuals who are unaffiliated with either major political party.

5. MWEG leaders and members actively supported Proposition 4, including through organizational messaging, voter education, and signature gathering, among other activities. Numerous MWEG members affiliated with both major political parties voted in favor of Proposition 4. MWEG opposed the Legislature's repeal of Proposition 4 in 2020, and opposed the partisan gerrymandered maps the Legislature enacted in 2021.

6. MWEG and its members support the Utah Supreme Court's decision in MWEG's favor in *LWWUT, et al. v. Utah Legislature, et al.* ("*LWWUT*"), which vindicated their constitutional rights to alter or reform their government through citizen ballot initiatives without legislative impairment.

7. MWEG has members who oppose the Legislature's proposed Amendment D, which could undermine the decision in MWEG's favor in *LWWUT*

8. MWEG has members who plan to vote in the November 5, 2024 election.

9. Voting is one way that MWEG members express their opinion about important issues in their communities and in the state of Utah.

10. A key part of MWEG's mission is to educate and empower its members to participate in every phase of the democratic process. The deceptive and misleading language used to describe proposed Amendment D on the November 5, 2024 ballot will make it more difficult to explain to voters the actual effect of Amendment D if passed.

11. Because the Legislature failed to publish the full text in the newspaper as required by the Constitution, MWEG will have to expend resources sending the text to its members and other voters to further MWEG's goal of educating and empowering their members and other Utah voters.

12. The fewer opportunities there are for Utah voters to see the actual text of Amendment D, the more MWEG will have to do to educate its members and other voters about the actual effect of proposed Amendment D.

13. The fewer opportunities there are for Utah voters to see the actual text of proposed Amendment D, the more likely it is to pass and become law, threatening the *LWWUT* Supreme

Court decision and the potential for a fair district configuration under Proposition 4, which MWEG supports.

14. MWEG and many of its members support nonpartisan and neutral redistricting such as that required by Proposition 4.

15. The partisan gerrymandered 2021 Congressional Plan threatens MWEG's mission by diluting the voices and political power of its members, making its members' representatives less accountable, and reducing the members' interest in now noncompetitive races.

16. The 2021 Congressional Plan abridges associational freedoms of MWEG's members by cracking voters with disfavored political views, including MWEG members, into separate congressional districts to diminish their collective action, thereby hindering their ability to recruit volunteers, secure contributions, and effectively join with other voters to advocate for their views.

17. The 2021 Congressional Plan discriminates and retaliates against MWEG's members in the Salt Lake County area who prefer to vote for non-Republican and moderate candidates by cracking them into multiple congressional districts because of their expressed political beliefs and past voting behavior. The partisan gerrymandered districts in the 2021 Congressional Plan thus reward voters with favored political views while punishing other voters, including MWEG members, for their political views.

18. The partisan gerrymandered 2021 Congressional Plan requires MWEG to expend scarce resources, including diversion of resources from other programs, in order to mobilize voters and members who have been disenfranchised and feel disaffected by the 2021 Congressional Plan.

19. MWEG members oppose the 2021 partisan gerrymandered congressional map, and support the reinstatement of Proposition 4, which would require fair and neutral redistricting.

MWEG members support the *LWVUT* decision from the Utah Supreme Court that protects Utahns’ fundamental right to alter or reform the government without legislative impairment. MWEG members oppose proposed Amendment D, which would undermine that right and the potential for a fair congressional district configuration under Prop 4, and oppose the deceptive ballot language used to describe Amendment D which does not accurately represent the full effects of the proposed amendment and may mislead voters to inadvertently vote in favor of an amendment that they actually oppose.

I declare under penalty of perjury of the laws of the State of Utah that the foregoing is true and correct.

Executed in Salt Lake City, Utah this 7th day of September 2024.

/s/ Emma Petty Addams _____

Electronically signed pursuant to Utah Code §§ 46-4-101, et seq.

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**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,
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UTAH STATE LEGISLATURE, UTAH
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COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and

**DECLARATION OF
PLAINTIFF STEFANIE
CONDIE**

Case No. 220901712

Honorable Dianna Gibson

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

I, Stefanie Condie, based on my personal knowledge, declare that:

1. I am a qualified registered voter in the State of Utah.
2. I am over eighteen years old and a resident of Salt Lake City, in Salt Lake County, Utah, and I reside and vote in District 2 under the 2021 Congressional Plan.
3. I am registered to vote as a Democrat, have consistently voted for Democratic candidates for Congress, and intend to vote for Democratic candidates in 2024 and future elections.
4. The 2021 Congressional Plan renders my votes ineffective due to extreme partisan gerrymandering. In the 2021 Congressional Plan, Utah's partisan mapmakers manipulated the configuration of electoral districts to ensure single-party Republican control of all four Congressional seats and intentionally cracked voters living in Salt Lake County who prefer Democratic and moderate candidates to prevent us from fairly translating our votes into congressional seats.
5. The 2021 Congressional Plan abridges my associational freedoms by cracking voters who share my political views into separate congressional districts to diminish our ability to engage in collective action and join together to advocate for our views in the political process.
6. The 2021 Congressional Plan discriminates and retaliates against voters who prefer non-Republican and moderate candidates in the Salt Lake County area by cracking them into multiple congressional districts because of their expressed political beliefs and past voting

behavior. The partisan gerrymandered districts in the 2021 Congressional Plan thus reward voters with favored political views while punishing me for my political views.

7. The 2021 Congressional Plan impairs my ability to express my political viewpoints and engage in associations with other likeminded voters by locking in single-party control of Utah's congressional delegation and generally making elections uncompetitive in Utah. The 2021 Congressional Plan denies me the fair opportunity to elect representatives of my choice that a redistricting plan devised in an impartial manner using neutral redistricting criteria would provide. The 2021 Congressional plan thus dilutes my right to vote.

8. I voted for Proposition 4 when it was on the ballot in 2018, opposed the Legislature's repeal of Proposition 4, and continue to oppose it.

9. I oppose partisan gerrymandering, and support fair redistricting as required by Proposition 4.

10. I am a Plaintiff in *LWVUT, et al. v. Utah Legislature, et al.*, and I support the Utah Supreme Court's decision in my favor in that case which vindicated my constitutional rights to alter or reform the government through citizen ballot initiatives without legislative impairment.

11. I plan to vote in the November 5, 2024 election. Voting is one way that I express my opinion about important issues in my community and in the state of Utah.

12. I do not support proposed Amendment D because it would undermine my constitutional rights and threaten to undo the decision in my favor by the Utah Supreme Court in *LWVUT, et al. v. Utah Legislature, et al.*

13. The deceptive and misleading language used to describe proposed Amendment D on the November 5, 2024 ballot was confusing to me when I read it. The ballot language does not reflect my understanding of the actual effects of proposed Amendment D.

14. The ballot language used to describe proposed Amendment D does not present me with a fair representation of what the amendment would do if it became law, and a vote based on that ballot language would not be free from undue influence or coercion.

15. I am concerned that other Utah voters who may read only the ballot language describing proposed Amendment D will vote in favor of the amendment because they do not understand its actual effects, making it more likely that Amendment D would pass.

16. I am concerned that if Utah voters have fewer opportunities to read the actual text of proposed Amendment D, they might be more likely to vote in favor of its passage.

17. I oppose the 2021 partisan gerrymandered congressional map, and support the reinstatement of Proposition 4, which would require fair and neutral redistricting. I support the *LWVUT* decision from the Utah Supreme Court that protects my fundamental right to alter or reform the government without legislative impairment. I oppose proposed Amendment D, which would undermine that right and the potential for a fair congressional district configuration under Prop 4, and I oppose the deceptive ballot language used to describe Amendment D which does not accurately represent the full effects of the proposed amendment and may mislead voters to inadvertently vote in favor of an amendment that they actually oppose.

I declare under penalty of perjury of the laws of the State of Utah that the foregoing is true and correct.

Executed in San Juan, Puerto Rico, this 7th day of September 2024.

/s/ Stefanie Condie

Electronically signed pursuant to Utah Code §§ 46-4-101, et seq.

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Attorneys for Plaintiffs

**Admitted Pro Hac Vice*

**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,
MORMON WOMEN FOR ETHICAL
GOVERNMENT, STEFANIE CONDIE,
MALCOLM REID, VICTORIA REID,
WENDY MARTIN, ELEANOR
SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and

**DECLARATION OF
PLAINTIFF MALCOLM
REID**

Case No. 220901712

Honorable Dianna Gibson

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

I, Malcolm Reid, based on my personal knowledge, declare that:

1. I am a qualified registered voter in the State of Utah.
2. I am over eighteen years old and a resident of Millcreek, in Salt Lake County, Utah, and I reside and vote in District 2 under the 2021 Congressional Plan.
3. I am registered to vote as a Democrat, have consistently voted for Democratic candidates for Congress, and intend to vote for Democratic candidates in 2024 and future elections.
4. The 2021 Congressional Plan renders my votes ineffective due to extreme partisan gerrymandering. In the 2021 Congressional Plan, Utah's partisan mapmakers manipulated the configuration of electoral districts to ensure single-party Republican control of all four Congressional seats and intentionally cracked voters living in Salt Lake County who prefer Democratic and moderate candidates to prevent us from fairly translating our votes into congressional seats.
5. The 2021 Congressional Plan abridges my associational freedoms by cracking voters who share my political views into separate congressional districts to diminish our ability to engage in collective action and join together to advocate for our views in the political process.
6. The 2021 Congressional Plan discriminates and retaliates against voters who prefer non-Republican and moderate candidates in the Salt Lake County area by cracking them into multiple congressional districts because of their expressed political beliefs and past voting

behavior. The partisan gerrymandered districts in the 2021 Congressional Plan thus reward voters with favored political views while punishing me for my political views.

7. The 2021 Congressional Plan impairs my ability to express my political viewpoints and engage in associations with other likeminded voters by locking in single-party control of Utah's congressional delegation and generally making elections uncompetitive in Utah. The 2021 Congressional Plan denies me the fair opportunity to elect representatives of my choice that a redistricting plan devised in an impartial manner using neutral redistricting criteria would provide. The 2021 Congressional plan thus dilutes my right to vote.

8. I voted for Proposition 4 when it was on the ballot in 2018, opposed the Legislature's repeal of Proposition 4, and continue to oppose it.

9. I oppose partisan gerrymandering, and support fair redistricting as required by Proposition 4.

10. I am a Plaintiff in *LWVUT, et al. v. Utah Legislature, et al.*, and I support the Utah Supreme Court's decision in my favor in that case which vindicated my constitutional rights to alter or reform the government through citizen ballot initiatives without legislative impairment.

11. I plan to vote in the November 5, 2024 election. Voting is one way that I express my opinion about important issues in my community and in the state of Utah.

12. I do not support proposed Amendment D because it would undermine my constitutional rights and threaten to undo the decision in my favor by the Utah Supreme Court in *LWVUT, et al. v. Utah Legislature, et al.*

13. The deceptive and misleading language used to describe proposed Amendment D on the November 5, 2024 ballot was confusing to me when I read it. The ballot language does not reflect my understanding of the actual effects of proposed Amendment D.

14. The ballot language used to describe proposed Amendment D does not present me with a fair representation of what the amendment would do if it became law, and a vote based on that ballot language would not be free from undue influence or coercion.

15. I am concerned that other Utah voters who may read only the ballot language describing proposed Amendment D will vote in favor of the amendment because they do not understand its actual effects, making it more likely that Amendment D would pass.

16. I am concerned that if Utah voters have fewer opportunities to read the actual text of proposed Amendment D, they might be more likely to vote in favor of its passage.

17. I oppose the 2021 partisan gerrymandered congressional map, and support the reinstatement of Proposition 4, which would require fair and neutral redistricting. I support the *LWWUT* decision from the Utah Supreme Court that protects my fundamental right to alter or reform the government without legislative impairment. I oppose proposed Amendment D, which would undermine that right and the potential for a fair congressional district configuration under Prop 4, and I oppose the deceptive ballot language used to describe Amendment D which does not accurately represent the full effects of the proposed amendment and may mislead voters to inadvertently vote in favor of an amendment that they actually oppose.

I declare under penalty of perjury of the laws of the State of Utah that the foregoing is true and correct.

Executed in Dallas, Texas this 7th day of September 2024.

/s/ Malcolm Reid

Electronically signed pursuant to Utah Code §§ 46-4-101, et seq.

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Attorneys for Plaintiffs

**Admitted Pro Hac Vice*

**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,
MORMON WOMEN FOR ETHICAL
GOVERNMENT, STEFANIE CONDIE,
MALCOLM REID, VICTORIA REID,
WENDY MARTIN, ELEANOR
SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and

**DECLARATION OF
PLAINTIFF VICTORIA
REID**

Case No. 220901712

Honorable Dianna Gibson

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

I, Victoria Reid, based on my personal knowledge, declare that:

1. I am a qualified registered voter in the State of Utah.
2. I am over eighteen years old and a resident of Millcreek, in Salt Lake County, Utah, and I reside and vote in District 2 under the 2021 Congressional Plan.
3. I am registered as a Republican and a longtime supporter of Republican causes, but I am a political moderate with political positions that cut across the partisan line in Utah. I often prefer moderate Democratic and other non-Republican candidates when they are the most politically moderate choice on the ballot.
4. The 2021 Congressional Plan renders my votes ineffective due to extreme partisan gerrymandering. In the 2021 Congressional Plan, Utah's partisan mapmakers manipulated the configuration of electoral districts to ensure single-party Republican control of all four Congressional seats and intentionally cracked voters living in Salt Lake County who prefer Democratic and moderate candidates to prevent us from fairly translating our votes into congressional seats.
5. The 2021 Congressional Plan abridges my associational freedoms by cracking voters who share my political views into separate congressional districts to diminish our ability to engage in collective action and join together to advocate for our views in the political process.
6. The 2021 Congressional Plan discriminates and retaliates against voters who prefer non-Republican and moderate candidates in the Salt Lake County area by cracking them into

multiple congressional districts because of their expressed political beliefs and past voting behavior. The partisan gerrymandered districts in the 2021 Congressional Plan thus reward voters with favored political views while punishing me for my political views.

7. The 2021 Congressional Plan impairs my ability to express my political viewpoints and engage in associations with other likeminded voters by locking in single-party control of Utah's congressional delegation and generally making elections uncompetitive in Utah. The 2021 Congressional Plan denies me the fair opportunity to elect representatives of my choice that a redistricting plan devised in an impartial manner using neutral redistricting criteria would provide. The 2021 Congressional plan thus dilutes my right to vote.

8. I also object to the extreme partisan gerrymandering in the 2021 Congressional Plan because when one party dominates a district, the party primary matters more than the general election, making politicians more responsive to their parties than to the people they represent.

9. I voted for Proposition 4 when it was on the ballot in 2018, opposed the Legislature's repeal of Proposition 4, and continue to oppose it.

10. I oppose partisan gerrymandering, and support fair redistricting as required by Proposition 4.

11. I am a Plaintiff in *LWVUT, et al. v. Utah Legislature, et al.*, and I support the Utah Supreme Court's decision in my favor in that case which vindicated my constitutional rights to alter or reform the government through citizen ballot initiatives without legislative impairment.

12. I plan to vote in the November 5, 2024 election. Voting is one way that I express my opinion about important issues in my community and in the state of Utah.

13. I do not support proposed Amendment D because it would undermine my constitutional rights and threaten to undo the decision in my favor by the Utah Supreme Court in *LWVUT, et al. v. Utah Legislature, et al.*

14. The deceptive and misleading language used to describe proposed Amendment D on the November 5, 2024 ballot was confusing to me when I read it. The ballot language does not reflect my understanding of the actual effects of proposed Amendment D.

15. The ballot language used to describe proposed Amendment D does not present me with a fair representation of what the amendment would do if it became law, and a vote based on that ballot language would not be free from undue influence or coercion.

16. I am concerned that other Utah voters who may read only the ballot language describing proposed Amendment D will vote in favor of the amendment because they do not understand its actual effects, making it more likely that Amendment D would pass.

17. I am concerned that if Utah voters have fewer opportunities to read the actual text of proposed Amendment D, they might be more likely to vote in favor of its passage.

18. I oppose the 2021 partisan gerrymandered congressional map, and support the reinstatement of Proposition 4, which would require fair and neutral redistricting. I support the *LWVUT* decision from the Utah Supreme Court that protects my fundamental right to alter or reform the government without legislative impairment. I oppose proposed Amendment D, which would undermine that right and the potential for a fair congressional district configuration under Prop 4, and I oppose the deceptive ballot language used to describe Amendment D which does not accurately represent the full effects of the proposed amendment and may mislead voters to inadvertently vote in favor of an amendment that they actually oppose.

I declare under penalty of perjury of the laws of the State of Utah that the foregoing is true and correct.

Executed in Dallas, Texas this 7th day of September 2024.

/s/ Victoria Reid _____

Electronically signed pursuant to Utah Code §§ 46-4-101, et seq.

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Attorneys for Plaintiffs

**Admitted Pro Hac Vice*

**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,
MORMON WOMEN FOR ETHICAL
GOVERNMENT, STEFANIE CONDIE,
MALCOLM REID, VICTORIA REID,
WENDY MARTIN, ELEANOR
SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and

**DECLARATION OF
PLAINTIFF WENDY
MARTIN**

Case No. 220901712

Honorable Dianna Gibson

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

I, Wendy Martin, based on my personal knowledge, declare that:

1. I am a qualified registered voter in the State of Utah.
2. I am over eighteen years old and a resident of Salt Lake City, in Salt Lake County, Utah, and I reside and vote in District 1 under the 2021 Congressional Plan.
3. I am registered to vote as a Democrat, have consistently voted for Democratic candidates for Congress, and intend to vote for Democratic candidates in 2024 and future elections.
4. The 2021 Congressional Plan renders my votes ineffective due to extreme partisan gerrymandering. In the 2021 Congressional Plan, Utah's partisan mapmakers manipulated the configuration of electoral districts to ensure single-party Republican control of all four Congressional seats and intentionally cracked voters living in Salt Lake County who prefer Democratic and moderate candidates to prevent us from fairly translating our votes into congressional seats.
5. The 2021 Congressional Plan abridges my associational freedoms by cracking voters who share my political views into separate congressional districts to diminish our ability to engage in collective action and join together to advocate for our views in the political process.
6. The 2021 Congressional Plan discriminates and retaliates against voters who prefer non-Republican and moderate candidates in the Salt Lake County area by cracking them into multiple congressional districts because of their expressed political beliefs and past voting

behavior. The partisan gerrymandered districts in the 2021 Congressional Plan thus reward voters with favored political views while punishing me for my political views.

7. The 2021 Congressional Plan impairs my ability to express my political viewpoints and engage in associations with other likeminded voters by locking in single-party control of Utah's congressional delegation and generally making elections uncompetitive in Utah. The 2021 Congressional Plan denies me the fair opportunity to elect representatives of my choice that a redistricting plan devised in an impartial manner using neutral redistricting criteria would provide. The 2021 Congressional plan thus dilutes my right to vote.

8. I voted for Proposition 4 when it was on the ballot in 2018, opposed the Legislature's repeal of Proposition 4, and continue to oppose it.

9. I oppose partisan gerrymandering, and support fair redistricting as required by Proposition 4.

10. I am a Plaintiff in *LWVUT, et al. v. Utah Legislature, et al.*, and I support the Utah Supreme Court's decision in my favor in that case which vindicated my constitutional rights to alter or reform the government through citizen ballot initiatives without legislative impairment.

11. I plan to vote in the November 5, 2024 election. Voting is one way that I express my opinion about important issues in my community and in the state of Utah.

12. I do not support proposed Amendment D because it would undermine my constitutional rights and threaten to undo the decision in my favor by the Utah Supreme Court in *LWVUT, et al. v. Utah Legislature, et al.*

13. The deceptive and misleading language used to describe proposed Amendment D on the November 5, 2024 ballot was confusing to me when I read it. The ballot language does not reflect my understanding of the actual effects of proposed Amendment D.

14. The ballot language used to describe proposed Amendment D does not present me with a fair representation of what the amendment would do if it became law, and a vote based on that ballot language would not be free from undue influence or coercion.

15. I am concerned that other Utah voters who may read only the ballot language describing proposed Amendment D will vote in favor of the amendment because they do not understand its actual effects, making it more likely that Amendment D would pass.

16. I am concerned that if Utah voters have fewer opportunities to read the actual text of proposed Amendment D, they might be more likely to vote in favor of its passage.

17. I oppose the 2021 partisan gerrymandered congressional map, and support the reinstatement of Proposition 4, which would require fair and neutral redistricting. I support the *LWWUT* decision from the Utah Supreme Court that protects my fundamental right to alter or reform the government without legislative impairment. I oppose proposed Amendment D, which would undermine that right and the potential for a fair congressional district configuration under Prop 4, and I oppose the deceptive ballot language used to describe Amendment D which does not accurately represent the full effects of the proposed amendment and may mislead voters to inadvertently vote in favor of an amendment that they actually oppose.

I declare under penalty of perjury of the laws of the State of Utah that the foregoing is true and correct.

Executed in Fort Belvoir, Virginia this 7th day of September 2024.

/s/ Wendy Martin

Electronically signed pursuant to Utah Code §§ 46-4-101, et seq.

PARR BROWN GEE & LOVELESS

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Attorneys for Plaintiffs

**Admitted Pro Hac Vice*

**IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF UTAH,
MORMON WOMEN FOR ETHICAL
GOVERNMENT, STEFANIE CONDIE,
MALCOLM REID, VICTORIA REID,
WENDY MARTIN, ELEANOR
SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in his
official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and

**DECLARATION OF
PLAINTIFF ELEANOR
SUNDWALL**

Case No. 220901712
Honorable Dianna Gibson

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

I, Eleanor Sundwall, based on my personal knowledge, declare that:

1. I am a qualified registered voter in the State of Utah.
2. I am over eighteen years old and a resident of Murray, in Salt Lake County, Utah, and I reside and vote in District 3 under the 2021 Congressional Plan.
3. I am registered to vote as a Democrat, have consistently voted for Democratic candidates for Congress, and intend to vote for Democratic candidates in 2024 and future elections.
4. The 2021 Congressional Plan renders my votes ineffective due to extreme partisan gerrymandering. In the 2021 Congressional Plan, Utah's partisan mapmakers manipulated the configuration of electoral districts to ensure single-party Republican control of all four Congressional seats and intentionally cracked voters living in Salt Lake County who prefer Democratic and moderate candidates to prevent us from fairly translating our votes into congressional seats.
5. The 2021 Congressional Plan abridges my associational freedoms by cracking voters who share my political views into separate congressional districts to diminish our ability to engage in collective action and join together to advocate for our views in the political process.
6. The 2021 Congressional Plan discriminates and retaliates against voters who prefer non-Republican and moderate candidates in the Salt Lake County area by cracking them into multiple congressional districts because of their expressed political beliefs and past voting

behavior. The partisan gerrymandered districts in the 2021 Congressional Plan thus reward voters with favored political views while punishing me for my political views.

7. The 2021 Congressional Plan impairs my ability to express my political viewpoints and engage in associations with other likeminded voters by locking in single-party control of Utah's congressional delegation and generally making elections uncompetitive in Utah. The 2021 Congressional Plan denies me the fair opportunity to elect representatives of my choice that a redistricting plan devised in an impartial manner using neutral redistricting criteria would provide. The 2021 Congressional plan thus dilutes my right to vote.

8. I voted for Proposition 4 when it was on the ballot in 2018, opposed the Legislature's repeal of Proposition 4, and continue to oppose it.

9. I oppose partisan gerrymandering, and support fair redistricting as required by Proposition 4.

10. I am a Plaintiff in *LWVUT, et al. v. Utah Legislature, et al.*, and I support the Utah Supreme Court's decision in my favor in that case which vindicated my constitutional rights to alter or reform the government through citizen ballot initiatives without legislative impairment.

11. I plan to vote in the November 5, 2024 election. Voting is one way that I express my opinion about important issues in my community and in the state of Utah.

12. I do not support proposed Amendment D because it would undermine my constitutional rights and threaten to undo the decision in my favor by the Utah Supreme Court in *LWVUT, et al. v. Utah Legislature, et al.*

13. The deceptive and misleading language used to describe proposed Amendment D on the November 5, 2024 ballot was confusing to me when I read it. The ballot language does not reflect my understanding of the actual effects of proposed Amendment D.

14. The ballot language used to describe proposed Amendment D does not present me with a fair representation of what the amendment would do if it became law, and a vote based on that ballot language would not be free from undue influence or coercion.

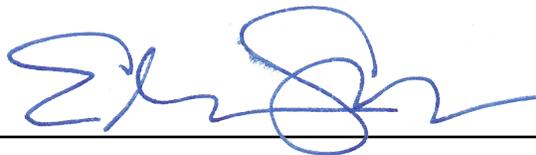
15. I am concerned that other Utah voters who may read only the ballot language describing proposed Amendment D will vote in favor of the amendment because they do not understand its actual effects, making it more likely that Amendment D would pass.

16. I am concerned that if Utah voters have fewer opportunities to read the actual text of proposed Amendment D, they might be more likely to vote in favor of its passage.

17. I oppose the 2021 partisan gerrymandered congressional map, and support the reinstatement of Proposition 4, which would require fair and neutral redistricting. I support the *LWVUT* decision from the Utah Supreme Court that protects my fundamental right to alter or reform the government without legislative impairment. I oppose proposed Amendment D, which would undermine that right and the potential for a fair congressional district configuration under Prop 4, and I oppose the deceptive ballot language used to describe Amendment D which does not accurately represent the full effects of the proposed amendment and may mislead voters to inadvertently vote in favor of an amendment that they actually oppose.

I declare under penalty of perjury of the laws of the State of Utah that the foregoing is true and correct.

Executed in Murray, Utah this 7th day of September 2024.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and lines, positioned above a horizontal line.

Electronically signed pursuant to Utah Code §§ 46-4-101, et seq.

PARR BROWN GEE & LOVELESS

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IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

LEAGUE OF WOMEN VOTERS OF
UTAH, MORMON WOMEN FOR
ETHICAL GOVERNMENT, STEFANIE
CONDIE, MALCOLM REID, VICTORIA
REID, WENDY MARTIN, ELEANOR
SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, UTAH
LEGISLATIVE REDISTRICTING
COMMITTEE; SENATOR SCOTT
SANDALL, in his official capacity;
REPRESENTATIVE MIKE SCHULTZ, in
his official capacity; SENATOR J. STUART
ADAMS, in his official capacity; and

**DECLARATION OF
PLAINTIFF JACK
MARKMAN**

Case No. 220901712

Honorable Dianna Gibson

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

I, Jack Markman, based on my personal knowledge, declare that:

1. I am a qualified registered voter in the State of Utah.
2. I am over eighteen years old and a resident of Murray, in Salt Lake County, Utah, and I reside and vote in District 4 under the 2021 Congressional Plan.
3. I am registered to vote as a Democrat, have consistently voted for Democratic candidates for Congress, and intend to vote for Democratic candidates in 2024 and future elections.
4. The 2021 Congressional Plan renders my votes ineffective due to extreme partisan gerrymandering. In the 2021 Congressional Plan, Utah's partisan mapmakers manipulated the configuration of electoral districts to ensure single-party Republican control of all four Congressional seats and intentionally cracked voters living in Salt Lake County who prefer Democratic and moderate candidates to prevent us from fairly translating our votes into congressional seats.
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7. The 2021 Congressional Plan impairs my ability to express my political viewpoints and engage in associations with other likeminded voters by locking in single-party control of Utah's congressional delegation and generally making elections uncompetitive in Utah. The 2021 Congressional Plan denies me the fair opportunity to elect representatives of my choice that a redistricting plan devised in an impartial manner using neutral redistricting criteria would provide. The 2021 Congressional plan thus dilutes my right to vote.

8. I voted for Proposition 4 when it was on the ballot in 2018, opposed the Legislature's repeal of Proposition 4, and continue to oppose it.

9. I oppose partisan gerrymandering, and support fair redistricting as required by Proposition 4.

10. I am a Plaintiff in *LWVUT, et al. v. Utah Legislature, et al.*, and I support the Utah Supreme Court's decision in my favor in that case which vindicated my constitutional rights to alter or reform the government through citizen ballot initiatives without legislative impairment.

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15. I am concerned that other Utah voters who may read only the ballot language describing proposed Amendment D will vote in favor of the amendment because they do not understand its actual effects, making it more likely that Amendment D would pass.

16. I am concerned that if Utah voters have fewer opportunities to read the actual text of proposed Amendment D, they might be more likely to vote in favor of its passage.

17. I oppose the 2021 partisan gerrymandered congressional map, and support the reinstatement of Proposition 4, which would require fair and neutral redistricting. I support the *LWVUT* decision from the Utah Supreme Court that protects my fundamental right to alter or reform the government without legislative impairment. I oppose proposed Amendment D, which would undermine that right and the potential for a fair congressional district configuration under Prop 4, and I oppose the deceptive ballot language used to describe Amendment D which does not accurately represent the full effects of the proposed amendment and may mislead voters to inadvertently vote in favor of an amendment that they actually oppose.

I declare under penalty of perjury of the laws of the State of Utah that the foregoing is true and correct.

Executed in Salt Lake City, Utah this 7th day of September 2024.

/s/Jack Markman

Electronically signed pursuant to Utah Code §§ 46-4-101, et seq.

Notice to responding party

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed the motion may get what they requested.

See the court's Motions page for more information about the motions process, deadlines and forms: utcourts.gov/motions



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Finding help

The court's Finding Legal Help web page (utcourts.gov/help) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.



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Aviso para la parte que responde

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

utcourts.gov/motions-span



Para acceder esta página escanee el código QR

Cómo encontrar ayuda legal

La página de la internet del tribunal Cómo encontrar ayuda legal (utcourts.gov/help-span) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.



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