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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
LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendants.

**PLAINTIFFS' REPLY IN SUPPORT OF
MOTIONS FOR LEAVE TO FILE
SUPPLEMENTAL COMPLAINTS**

Case No. 220901712

Honorable Dianna Gibson

Plaintiffs respectfully submit this Reply in Support of (1) Plaintiffs' Motion to File Supplemental Complaint; and (2) Plaintiffs' Motion for Leave to File Second Supplemental Complaint.

Defendants concede the standard for allowing a supplemental pleading under Rule 15(d) parallels the liberal standard under Rule 15(a), and that leave "should be freely granted unless the court finds that factors such as untimeliness, prejudice, bad faith, or futility of the amendment would make such a grant unjust." *Harvey v. Ute Indian Tribe of Uintah & Ouray Rsrv.*, 2017 UT 75, ¶ 56. Yet they ask this Court to deny Plaintiffs leave for supplemental complaints filed *within days* of the new events on which they are based because (1) Defendants say they do not have time to prepare, and (2) the new claims would somehow delay the pending summary judgment motion on Claim V. Defendants' arguments are not compelling.

First, Defendants argue they will be "prejudiced" by having to respond to the preliminary injunction motions in such an expedited manner. But this Court already considered those issues when it heard counsel's argument on Monday and, given the extremely urgent nature of these issues, ordered the current briefing schedule. Not only that, but Defendants have since filed an extremely lengthy opposition to both preliminary injunction motions, belying any notion that they were unable to adequately prepare or respond.

And more fundamentally, the supposed time crisis of which Defendants now complain is entirely of their own making. It was Defendants who rushed through this eleventh-hour amendment at an emergency session and then changed all the statutory deadlines to push it onto this November's ballot. It was Defendants who waited until September 3 to publish the ballot language that misdescribes what the proposed amendment actually does. Plaintiffs sought leave to file their first Supplemental Complaint only *two days* after the Lieutenant Governor certified

the ballot language, and only *one day* after she posted it. And Plaintiffs filed their Second Supplemental Complaint regarding the Publication Clause on the *day after* the mandatory notice period had begun to run. If there is any blame to ascribe for the expedited nature of these proceedings—and this Court need assign none—it does not lie with Plaintiffs.

Second, Defendants claim it would be “unjust” to allow the supplemental pleadings because they will “divert[]” Defendants’ resources and delay resolution of the pending motion for summary judgment on Claim V. That assertion is unexplained and makes no sense. These issues are separate from the claim remanded by the Utah Supreme Court and, unlike the pending motions in *Harvey*, will have no effect on the summary judgment briefing schedule set by this Court. And it is worth pausing to note that it was *Defendants* who insisted—over Plaintiffs’ objection—that the briefing schedule on Claim V be stretched out far beyond what the rules typically allow. Their newfound sense of urgency on that claim is hardly a compelling reason to deny leave for the supplemental complaints.¹

Finally, Defendants argue the amendments would be futile. All of those issues are addressed in the substantive briefing on Plaintiffs’ preliminary injunction motions.

For these reasons, this Court should grant Plaintiffs leave to file their Supplemental Complaint and Second Supplemental Complaint.

¹ Defendants also argue (at 3) the amendments would be “unjust” because removing Amendment D from the ballot would “jeopardize the orderly election.” Setting aside the fact that Defendants have set in motion anything but an “orderly election” on Amendment D, that argument confuses the underlying merits of the claims (should Plaintiffs prevail) with whether they may be pled at all.

September 11, 2024

Respectfully submitted,

/s/ David C. Reymann

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of September, 2024, I filed the foregoing **PLAINTIFFS' REPLY IN SUPPORT OF MOTIONS FOR LEAVE TO FILE SUPPLEMENTAL COMPLAINTS** via electronic filing, which served all counsel of record.

/s/ David C. Reymann