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**Pro hac vice pending*

Counsel for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

COMMISSIONERS AMELIA POWERS
GARDNER, a registered Utah voter and
elected official, et al.,

Plaintiffs,

v.

LIEUTENANT GOVERNOR DEIDRE
HENDERSON, in her official capacity,

Defendant.

**PLAINTIFFS' UNOPPOSED
MOTION FOR EXPEDITED
APPOINTMENT OF
THREE-JUDGE PANEL**

Case No. 2:26-cv-00084-RJS

District Judge Robert J. Shelby

**THREE-JUDGE PANEL
REQUESTED**

Plaintiffs Amelia Powers Gardner, Greg Miles, Clint Painter, Victor Iverson,
Lori Maughan, Tammy Pearson, Jimmie Hughes, Tracy Glover, Chad Jensen, Mike

Smith, Celeste Maloy and Burgess Owens move this Court for expedited appointment of a three-judge panel to hear this action, pursuant to 28 U.S.C. § 2284. Defendant Lieutenant Governor Deidre Henderson does not oppose this motion. Expedited relief is necessary so that the three-judge panel can rule and provide relief at least a few days before the U.S. House of Representatives candidate filing deadline on March 13, 2026 at 5:00 p.m. FEC, *2026 Congressional Primary Dates and Candidate Filing Deadlines for Ballot Access* (Jan. 9, 2026), <https://tinyurl.com/3nne93zd> (“*FEC Filing Dates*”).

1. On November 10, 2025, in a 90-page order issued minutes before a midnight deadline set by the Lieutenant Governor, Utah state district judge Dianna Gibson purported to invalidate redistricting maps enacted by the Utah Legislature. *See Ruling & Order, League of Women Voters of Utah v. Utah State Legislature*, No. 220901712 (Utah Dist. Ct., Salt Lake Cnty., Nov. 10, 2025), <https://tinyurl.com/47sykkze>. In her ruling, Judge Gibson then purported to select and impose “Map 1”—a congressional redistricting plan that had never been introduced, debated, or voted upon by a single member of the Utah House or Senate.

2. Soon thereafter, Defendant Lieutenant Governor Deidre Henderson indicated that she intended to “begin the process of implementing Plaintiff’s Map 1 unless otherwise ordered” by an appropriate court. Deidre Henderson (@DeidreHenderson), X (Nov. 11, 2025 at 1:52 AM), <https://tinyurl.com/wk3fs6bj>.

Further actions by Defendant indicate that she is continuing to implement that map and plans to conduct the November 2026 congressional elections under it.

3. Yet “Map 1” was not selected by the Legislature in accordance with the U.S. Constitution. Under the Elections Clause, “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof[.]” U.S. Const. art. I, § 4, cl. 1. Map 1 was drawn by voter advocacy organizations and selected by a state court judge, not the “Legislature.” Therefore, implementation of that map was and is unconstitutional under the Elections Clause.

4. This action is brought to require the Lieutenant Governor to comply with the U.S. Constitution and to use a map chosen by the Legislature, not Map 1.

5. In Utah, the primaries will be held on June 23, 2026, with the general election on November 3, 2026. *FEC Filing Dates*. The candidate filing deadline for the primary is March 13, 2026, at 5:00 p.m. *Id.*

6. Potential candidates should know the district in which they might run weeks before the primary filing deadline. Because of the uncertainty from the evident unconstitutional nature of Map 1, the Plaintiffs who are candidates for congressional seats are unsure in which district they will be running.

7. A three-judge panel is the proper judicial forum for Plaintiffs’ claim. Federal statute requires that “a district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of

congressional districts[.]” 28 U.S.C. § 2284(a). And under that provision, claims alleging that the wrong entity chose a congressional map deal with “apportionment” and therefore go to a three-judge panel. *See, e.g., Az. State Legislature v. Az. Indep. Redistricting Comm’n*, 576 U.S. 787, 799 (2015).

8. In this action, Plaintiffs challenge the constitutionality of the apportionment of congressional districts—arguing that the wrong entity (a state judge) chose a congressional map—and have requested a three-judge district court panel. *See* Doc. 1. The Supreme Court has decided a nearly procedurally identical case arising from a three-judge panel where the “federal plaintiffs” asked a district court “to enjoin [a] current redistricting plan, and . . . to enjoin any plan developed by a state court” because it allegedly “would violate Article I, § 4, of the Constitution.” *See Branch v. Smith*, 538 U.S. 254, 259 (2003) (citing 28 U.S.C. § 2284(a)). A three-judge panel is therefore the appropriate judicial mechanism for deciding this case.

9. Under 28 U.S.C. § 2284(b)(1), moreover, “[u]pon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit[.]” Plaintiffs filed that request yesterday in their complaint, *see* Doc. 1, and have reiterated that request here. They therefore respectfully request that this Court immediately notify the Chief Judge of the Tenth Circuit of this case and of this motion.

10. Plaintiffs further request that the Chief Judge of the Tenth Circuit immediately appoint an appropriate three-judge panel of judges to hear this case.

11. Time is of the essence for this action. Indeed, relief is needed at least a few days before the March 13, 2026, primary filing deadline.

CONCLUSION

Plaintiffs ask that this Court grant their unopposed Motion for Expedited Appointment of Three-Judge Panel. And Plaintiffs respectfully ask that the Court rule on this motion no later than noon on February 5, 2026.

February 3, 2026

Respectfully submitted,

/s/James C. Phillips

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**Pro hac vice application pending*

Counsel for Plaintiffs

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the requirements of DUCivR 7-1(a)(4)(D) and 10-1 because this motion was prepared in 12-point Century Schoolbook, a proportionally spaced typeface, using Microsoft Word, and because this motion contains 836 words.

Dated: February 3, 2026

/s/ James C. Phillips
James C. Phillips (17302)

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on February 3, 2026, the foregoing motion was served by electronic mail on counsel for Defendant as follows:

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Dated: February 3, 2026

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