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IN THE UTAH STATE SUPREME COURT

BART GRANT (*pro se*) STEVEN G. MAXFIELD (*pro se*) DANIEL NEWBY (*pro se*) Petitioner vs. GOVERNOR GARY R. HEBERT LT. GOVERNOR SPENCER COX DIRECTOR OF ELECTIONS JUSTIN LEE SENATE PRESIDENT WAYNE L. NIEDERHAUSER SEN. LUZ ESCAMILLA SEN. JIM DABAKIS SEN. GENE DAVIS SEN. JANI IWAMOTO	: : : : : : : :	Petition for Extraordinary writ of relief Case:_____

SEN. KAREN MAYNE
SEN. WAYNE A. HARPER
SEN. DEIDRE M. HENDERSON
SEN. BRIAN ZEHNDER
SEN. LINCOLN FILLMORE
SEN. HOWARD A. STEPHENSON
SEN. DANIEL W. THATCHER
SEN. JACOB L. ANDEREGG
SEN. DANIEL HEMMERT
SEN. KEITH GROVER
SEN. CURTIS S. BRAMBLE
SEN. PETER C. KNUDSON
SEN. ANN MILLNER
SEN. ALLEN M. CHRISTENSEN
SEN. DAVID G. BUXTON
SEN. JERRY W. STEVENSON
SEN. J. STUART ADAMS
SEN. TODD WEILER
SEN. RALPH OKERLUND
SEN. LYLE W. HILLYARD
SEN. KEVIN T. VAN TASSELL
SEN. DAVID P. HINKINS
SEN. EVAN J. VICKERS
SEN. DON L. IPSON
SPEAKER OF THE HOUSE GREGORY H. HUGHES
REP. SCOTT D. SANDALL
REP. JEFFERSON MOSS
REP. VAL K. POTTER
REP. EDWARD H. REDD
REP. CASEY SNIDER
REP. A. CORY MALOY
REP. KYLE R. ANDERSEN
REP. GAGE FROERER
REP. JEREMY A. PETERSON
REP. DIXON M. PITCHER
REP. KELLY B. MILES
REP. MIKE SCHULTZ
REP. PAUL RAY
REP. KARIANNE LISONBEE
REP. BRAD R. WILSON
REP. STEPHEN G. HANDY
REP. STEWART E. BARLOW

REP. TIMOTHY D. HAWKES
REP. RAYMOND P. WARD
REP. REBECCA P. EDWARDS
REP. DOUGLAS V. SAGERS
REP. SUSAN DUCKWORTH
REP. SANDRA HOLLINS
REP. REBECCA CHAVEZ-HOUCK
REP. JOEL K. BRISCOE
REP. ANGELA ROMERO
REP. MICHAEL S. KENNEDY
REP. BRIAN S. KING
REP. LEE B. PERRY
REP. MIKE WINDER
REP. ELIZABETH WEIGHT
REP. LAVAR CHRISTENSEN
REP. CRAIG HALL
REP. KAREN KWAN
REP. MARK A. WHEATLEY
REP. PATRICE M. ARENT
REP. CAROL SPACKMAN MOSS
REP. ERIC K. HUTCHINGS
REP. JAMES A. DUNNIGAN
REP. LYNN N. HEMINGWAY
REP. DANIEL MCCAY
REP. KIM F. COLEMAN
REP. CHERYL K. ACTON
REP. BRUCE R. CUTLER
REP. STEVE ELIASON
REP. MARIE H. POULSON
REP. KEN IVORY
REP. KEVEN J. STRATTON
REP. ROBERT M. SPENDLOVE
REP. SUSAN PULSIPHER
REP. JOHN KNOTWELL
REP. LOGAN WILDE
REP. TIM QUINN
REP. SCOTT H. CHEW
REP. KAY J. CHRISTOFFERSON
REP. BRIAN M. GREENE
REP. DERRIN R. OWENS
REP. VAL L. PETERSON
REP. BRAD M. DAW
REP. MARSHA JUDKINS

REP. TRAVIS M. SEEGMILLER
REP. ADAM ROBERTSON
REP. NORMAN K. THURSTON
REP. FRANCIS D. GIBSON
REP. MICHAEL K. MCKELL
REP. MARC K. ROBERTS
REP. MERRILL F. NELSON
REP. CHRISTINE F WATKINS
REP. CARL R. ALBRECHT
REP. BRADLEY G. LAST
REP. JOHN R. WESTWOOD
REP. MICHAEL E. NOEL
REP. V. LOWRY SNOW
REP. WALT BROOKS

Respondents.

1. Comes now Petitioners Steven G. Maxfield (Maxfield), Daniel Newby (Newby), Bart Grant (Grant), Sharla Christie (Christie), Utah registered voters, and hereby complains against Respondents, who are elected officials in the State of Utah, responsible for the executive and co-equal legislative power in the State of Utah.

STATUTORY BASIS

2. This action is brought pursuant to URAP 19, URCP 65B (c) and URAP 8A, in that Respondents as state officers have failed to comply with multiple provisions of the Utah code, including but not limited to, UCA 20A-7 parts 1 through 3, including but not limited to, 20A-7-102, 20A-7-302, and 20A-7-302(2)(b)(ii).

CONSTITUTIONAL BASIS

3. The Utah Constitution states that "*[a]ll political power is inherent in the people, and all free governments are founded on their authority....*" Article VI, Section 1 ["Power vested in Senate, House, and People"] states:

    (1) The Legislative power of the State shall be vested in:

    (a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah; and

    (b) the people of the State of Utah…

JURISDICTIONAL BASIS

4. This action is appropriately brought before the Utah Supreme Court pursuant to URAP 19 and URCP 65B (c). The violations are a constitutional crisis caused by a joint effort from Respondents Governor Gary Herbert (Governor), Lt Governor Spencer Cox (LG), and the Legislature, to effectively VETO and eviscerate the fundamentally-protected right of the people to initiate effective legislation retained by the people in Article VI, Section 1 of the Utah State Constitution.
5. This action is appropriately brought before the Utah Supreme Court pursuant to URAP 8A emergency relief, based on Respondents' failure to act on the application for referendum on House Bill 3001 Substitute 6 ("HB 3001S6") as required under UCA 20A-7-302 and Article VI, Section 1 of the Utah State Constitution. This denial also violates Utah State Constitution Article 1, Sections 1 and 17, the First Amendment to the Bill of Rights included in the United States Constitution, and the 10th Amendment as applied via the 14th Amendment, specifically the right to free elections and the right to petition government for a redress of grievances. As a registered voter, no other means is available to the Petitioner other than through an Extraordinary Writ before this Court. Respondents in this case have effectively

destroyed, and made completely illusory, the initiative-referendum power of the people by calling a special session to undo Proposition 2 within two days of its effective date. In doing so, they have emasculated the right of the people to exercise their co-equal legislative power, making the Senate and the House the "only legislative game in town," contrary to this courts warning in Gallivan V Walker SC 2002: "*52 As we have previously explained, the initiative power and the citizens' right to legislate directly through the exercise of that power is a fundamental right guaranteed in the Utah Constitution. See supra 24-27. The legislature's purpose to unduly burden or constrict that fundamental right by making it harder to place initiatives on the ballot is not a legitimate legislative purpose. Endorsing this legislative purpose would essentially allow the legislature without limitation to restrict and circumscribe the initiative power reserved to the people, thus rendering itself the only legislative game in town. If such a legislative purpose were legitimate, the legislature would be free to completely emasculate the initiative right and confiscate to itself the bulk of, if not all, legislative power. This would obviously contravene both the letter and the spirit of article VI of the constitution.*"

6. In response to Proposition 2 (**Exhibit A**: 31 pages), Respondents, acting in concert, passed HB 3001S6 on December 3, 2018, (**Exhibit B**: 222 pages) in a single-day special session. In doing so they violated the People's Right to pass effective legislation and policy. The Legislature passed HB 3001S6 with a super-majority.
7. Petitioners filed a referendum application with the LG on December 3, 2018, as soon as HB 3001S6 passed both chambers. (**Exhibit C**)
8. The Governor signed HB 3001S6 the same evening.
9. On December 4, 2018, the LG's office denied Petitioners' application from Referendum (**Exhibit C**) on two bases: First UCA 20A-7-302(2)(b)(ii) in that Newby, a registered voter, had not voted in the previous three years, a statutory code clearly in violation of Utah

Constitution Article VI, Section 1 (2)(a)(i). Newby is a "Legal Voter". Requirements to have voted create a separate class of voter.

10. Second, the LG's office denied respondents' application under 20A-7-102, thus creating a constitutional crisis.

STATEMENT REQUIRED RULE 19(b)(1)

CLASS 1

11. Petitioners are legal voters who exercised their constitutional rights to enact public policy via the Initiative process. These Petitioners were denied that right.

CLASS 2

12. Petitioners Maxfield, Newby, and Grant filed a completed referendum application with the LG's office that was subsequently denied. These Petitioners were denied that right.

CLASS 3

13. Respondents Governor Gary Herbert and Lieutenant Governor Spencer Cox are the chief executive officers of the State of Utah with important duties as a check and balance to the Legislature including, but not limited to, veto powers, elections, and to safeguard the Petitioners co-equal legislative powers.

CLASS 4

14. Respondent members of the House of Representatives and Senate, with their respective House and Senate leaders, have a Constitutional duty under Article VI, Section 1 to enable the peoples co-equal legislative right by setting the time place and manner when the people can exercise that same right.

STATEMENT OF FACTS

15. On June 26, 2017, 7 legal voters signed the sponsor application for an initiative with the LG's Office. This initiative was named The Utah Medical Cannabis Act (UMCA). (**Exhibit A**)
16. On May 29, 2018, the LG's office gave the final totals for The UMCA: 153,894 verified signatures, the highest of any of the 6 initiative applications. (**Exhibit D**)
17. On May 29, 2018, the LG declared the UMCA sufficient and ordered it placed on the ballot as Proposition 2 for the November General Election November 6, 2018. (**Exhibit E**)
18. There are approximately 1,661,395 registered voters in the State of Utah. (**Exhibit M**) https://elections.utah.gov/party-and-status)
19. Voter turnout for the 2018 Utah General Election was 75.5% (**Exhibit F**: Page 58)
20. 562,072 legal voters voted and passed Proposition 2 by 52.7%. It was the highest vote garner of any proposition on the 2018 ballot. (**Exhibit F**: Page 54)
21. These results were certified by the LG after the official canvas on November 26, 2018. (**Exhibit F**: Page 1)
22. Proposition 2 became effective December 1, 2018
23. On October 4, 2018, the Governor announced he would call a special session for December 3, 2018, regarding Proposition 2 with the stated purpose: "*'The good news here is that whether [Proposition 2] passes or fails, we're going to arrive at the same point,' Herbert said.*" (**Exhibit G**)
24. On November 15, 2018, Senate President Respondent Wayne Niederhauser issued the following email to Senators: "*The Governor will call a special session on December 3rd to address the medical cannabis bill...it's anticipated it will start in the morning and will end in the afternoon. Based upon the current results, Prop 2 will pass and go into effect on Saturday, December 1. The earliest opportunity for the legislature to convene is December*

3rd… It is important for every Senator to attend… To avoid legal issues… this bill must pass by a two-thirds majority… As Senate President I can compel attendance… I will not hesitate to order the sergeant at arms to find you and ensure your attendance… this is one of the few times I'm willing to exercise my discretion to ensure your attendance…" (**Exhibit H**)

25. On November 30, 2018, the Governor issued a proclamation calling for a 3rd special session using his Constitutional and statutory authority**.** (**Exhibit I**)
26. On December 3, 2018, the Legislature suspended their general rules, allowing HB 3001S6 to be acted upon the respective bodies without a public committee hearing. (**Exhibit J**: At 11:35)
27. On December 3, 2018, the Legislature first publicly introduced the final substitute after 11:46 AM, and passed HB 3001S6 through both chambers by 3:43 PM, less than 4 hours later from its introduction to enrollment. (**Exhibit K**)
28. The Legislature attached a fiscal note to HB 3001 S6 while it was still being amended. (**Exhibit K**)
29. Petitioners filed a completed referendum application with the LG's Office shortly after 4:00 PM on December 3, 2018. (**Exhibit C**)
30. The Governor subsequently signed HB 3001 S6 on December 3rd 2018, effectively vetoing Proposition 2 (**Exhibit K**)
31. On December 4, 2018, the LG denied the Petitioners' application for referendum.(**Exhibit L**)
32. UCA 20A-7-302(1) only allows 5 days for a "Person" wishing to circulate a statewide referendum petition to meet the following requirements:

    (2) The application shall contain:

    (a) the name and residence address of at least five sponsors of the referendum petition;

    (b) a certification indicating that each of the sponsors:

    (i) is a voter; and

(ii) has voted in a regular general election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public; and

(d) a copy of the law.

33. UCA 20A-7-212(2)(c) puts the effective date of Proposition 2 on December 1st 2018, five days after the date of the official proclamation of the vote by the governor.
34. UCA 20A-7-212(3)(a) states that, "*The governor may not veto a law adopted by the people.*"

FIRST CAUSE OF RELIEF

Violation of the People's Legislative Power - Article VI, Section 1 of the Utah Constitution by the Executive branch operating in concert and in secret with the Legislature. By effectively eliminating the people's right to enact meaningful legislation through the initiative process, by calling a special session without exigent circumstances to subvert and veto the will of the people.

35. Petitioners incorporate the above stated facts, that are self authenticating and available from public sources.
36. The Respondent Governor signaled his intent to call a special session before any vote had been taken on Proposition 2, quoting fact No. 23 above... "*'The good news here is that whether [Proposition 2] passes or fails, we're going to arrive at the same point,' Herbert said.*" This chilling effect signaled to the people, including to Proposition 2 supporters and the Legislature, that he would use executive power to undo Proposition 2. Taken at face value, the Governor was posturing to undue Proposition 2 outside of the normal legislative process that occurs during the general session starting the 4th week of January, and not exceeding 45 calendar days. See Utah Constitution Article VI, Sections 2 and 16.

The sponsors had followed the statute outlined in 20A-7-201, gathered the prerequisite signatures verified by the respective county clerks and certified under the LG. This was an open and transparent process. The 28-page Citizen initiative was locked down in final form and attached to every signature gathering packet. Arguments for and against the proposition were included in the 2018 voter information. From the time of filing the application (June 26, 2017) to the general election (November 6, 2018), this process exceeded 17 months. The election was not certified until November 26, 2018, and Proposition 2 became law on December 1, 2018. Less than 48-hours later the Governor, acting in concert with the Legislature, convened a special session to replace the 28-page Citizen initiative, with a box car secret HB 3001 S6, again a 6th substitute, that the general public had no time or opportunity to examine, read, or compare with the 28-page Citizen initiative. It was passed only after the Legislature suspended its normal rules of requiring a public committee hearing. The legislative process by the House and Senate took less than 4 hours to suspend the rules, introduce the bill, make amendments, do a fiscal impact statement, and enroll and send to the governor to sign. The governor then signed HB 3001 6S into law at approximately 8:00 pm the same day. This is disproportionate to the legislative statutory scheme put in place that is supposed to mirror the peoples co-equal legislative power under Article VI, Section 1 of the Utah State Constitution. This Court has previously held that certain parts of the process for Initiatives are not "unduly burdensome" to that extent, for the Legislature acting unilaterally or in concert with the executive branch to effectively veto the people's initiative power … effectively makes the Legislature "the only game in town", violating Article I, Section 1 of the Utah State Constitution: "*...[T]o assemble peaceably, protest against wrongs and petition for redress of grievance*; Article I, Section 2: "*All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may*

require"; and Article VI, Section 1 ["Power vested in Senate, House, and People."]:

(1) The Legislative power of the State shall be vested in:

(a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah; and

(b) the people of the State of Utah as provided in Subsection (2).

(2)(a)(i) The legal voters of the State of Utah, in the numbers, under the conditions, in the manner,and within the time provided by statute, may:

(A) initiate any desired legislation and cause it to be submitted to the people for adoption upon a majority vote of those voting on the legislation, as provided by statute; or

(B) require any law passed by the Legislature,...

By calling a special session, the Governor violated UCA 20A-7-212(3)(a) by creating a process where no exigent circumstances existed to veto the Citizen initiative, Proposition 2. The Legislature, acting outside it's well-established general session, acted in concert with the Governor to torpedo the barely-enacted people's public policy. This also raises Federal Constitutional concerns with the 1st, 10th, and 14th Amendment to the US Constitution regarding the People's rights for redress and to vote. If the people's right to vote is canceled out within days of being certified, the right to vote becomes clearly illusionary and an act of futility. With the Legislature's and Executive's disdain for the people's right to do the people's business via direct democracy, it is no wonder a large percentage of legal residents choose NOT to participate in Utah's "democratic" process.

FIRST PRAYER FOR RELIEF

37. For an order and finding that the Governor exceeded his statutory authority by calling a special session to undo a Citizen initiative in violation of UCA 20A-7-212(3)(a).

38. For an order and finding that the special session violates the Constitutionally-protected and -retained right of the people to vote on substantial, meaningful, and effective legislation.
39. For an order and finding that no exigent circumstances existed for a special session to cancel out the votes of the People.
40. For an order and finding that there is no statutory scheme that allows the People to call themselves into special session, nor to suspend the rules outside of the statutory process outlined in UCA 20A chapter 7.
41. For an order that HB 3001 6S is unconstitutional as it makes the Legislature "the only game in town".
42. In the alternative, order the Legislature to create enabling legislation to grant the People the co-equal right for "special sessions", and suspend the normal rules and process for the Citizens to put constitutional amendments on the ballot.

SECOND CAUSE OF RELIEF

Violation of the People's Legislative Power - Article VI, Section 1 of the Utah Constitution by the LG Spencer Cox

43. The Petitioners incorporate the above stated facts, that are self-authenticating and available from public sources.
44. The LG's denial of the completed sponsor petition on the grounds that Petitioner Newby, a *legal* registered voter on the grounds of UCA 20A-7-302(2)(b)(ii), had not "voted" in the previous 3 years. This requirement poses at least three fatal flaws. First, it is unconstitutional, as Article VI, Section 6(2)(a)(i) states: *The legal voters of the State of Utah, in the numbers, under the conditions, in the manner, and within the time provided by statute, may:*

(A) initiate any desired legislation and cause it to be submitted to the people for adoption upon a majority vote of those voting on the legislation, as provided by statute; or

(B) require any law passed by the Legislature…

While the Legislature may put in a statutory scheme as to the time, place, and manner, it cannot add additional restrictions and create new and separate classes of voters. Doing so disenfranchises voters and serves no legitimate government purpose.

45. Second, UCA 20A-7-302(2)(b)(ii) fails in the statutory scheme as the LG has no statutory authority to verify Petitioner Newby's voter status, nor if he had voted in the last 3 years. Under UCA 20A-7-302 ["Referendum process -- Application procedures."]:

(1) Persons wishing to circulate a referendum petition shall file an application with the lieutenant governor within five calendar days after the end of the legislative session at which the law passed.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a certification indicating that each of the sponsors:

(i) is a voter; and

(ii) has voted in a regular general election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public; and

(d) a copy of the law.

A close reading of the statute requires only there be a certification by the "Persons" wanting to circulate a referendum petition, that each sponsor is a "voter" and had voted in a regular general election in the past three years. There is no provision in UCA 20A Chapter 7 for the LG to verify or reject a completed application based upon further certification. As such, the LG exceeded his statutory authority by rejecting the completed application, stating: "*[The] application does not meet the requirements of UCA 20A-7-302(2)(b)(ii), which requires each*

sponsor to have 'voted in a regular general election in Utah within the last three years.' Mr. Newby does not meet this requirement and cannot be considered a sponsor." Again there is no provision in that statute for the LG, his staff, or any county clerk to reject an application. This Court and Federal Courts have held, that the law must be liberally construed to ensure the effectiveness of the Citizens' right to vote, whether by being a candidate or by placing measures on the ballot. The LG violated Petitioner Newby's constitutional rights by rejecting him as a sponsor.

46. Third, by requiring "Persons" interested in sponsoring a referendum to be registered voters, there is no independent way or separate system held d by the people to verify who voted in the previous three years. This violates the separate and equal footing, and if upheld creates a system that breeds mistrust and serves no legitimate government function. Thus, to maintain the separate integrity of the Citizens' right to initiate initiatives or referenda, this provision is also unconstitutional.

SECOND PRAYER FOR RELIEF

47. For a finding and order that UCA 20A-7-302(2)(b)(ii) violates petitioner Newby's Constitutional rights.
48. In the alternative, a finding that the 5 business days under UCA 20A-7-302 serves no legitimate government purpose, that persons who wish to gather support (i.e. sponsors) is unconstitutionally burdened, and can not effectively campaign for, nor digest, complicated, lengthy legislation within that time frame. As such, an order striking down that provision as unconstitutional and ordering the time be extended for Petitioners to gather sponsors.
49. An order as to 20A-7-302 the sponsors have met the requirements, as such that the LG adjust his findings to comport with the law.

THIRD CAUSE OF RELIEF

Violation of the People's Legislative Power - Two-thirds prohibition creates a constitutional crisis when applied to referendum as applied to initiatives crating a Constitutional Crises.

50. The Petitioners incorporate the above stated facts, that are self-authenticating and available from public sources.
51. The Utah Constitution, Article I, Section 27, compels "*[f]requent recurrence to fundamental principles,* which is *essential to the security of individual rights and the perpetuity of free government.*"
52. The Utah Constitution, Article I, Section 2, provides, as one of those fundamental principles, that "*[a]ll political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit....*" (emphasis added).
53. Through the Utah Constitution, Article VI, Section I, the People vested the Legislature with legislative power, but the People also retained their power to legislate through the initiative and referendum process.
54. Article VI, Section I of the Utah Constitution prohibits the Legislature from materially undermining, by repeal or amendment, the core purposes of legislation passed through the initiative process.
55. In *Gallivan V Walker SC 2002*: "*52 As we have previously explained, the initiative power and the citizens' right to legislate directly through the exercise of that power is a fundamental right guaranteed in the Utah Constitution. See supra 24-27. The legislature's purpose to unduly burden or constrict that fundamental right by making it harder to place*

initiatives on the ballot is not a legitimate legislative purpose. Endorsing this legislative purpose would essentially allow the legislature without limitation to restrict and circumscribe the initiative power reserved to the people, thus rendering itself the only legislative game in town. ***If such a legislative purpose were legitimate, the legislature would be free to completely emasculate the initiative right and confiscate to itself the bulk of, if not all, legislative power. This would obviously contravene both the letter and the spirit of article VI of the constitution.***" *emphasis added.*

56. Further, in *Gallivan v Walker*, this Court opined: "*Long ago, this court explained:* ***[G]overnment... is an organization created by the people for their own purposes****, to wit, for governmental purposes. As such, the government has powers [that] are strictly limited by the constitution... The State of Utah... was conceived of dalliance between the Congress of the United States and the people of the Territory of Utah. The Congress passed an act, known as the Enabling Act, 'to enable the people of Utah to form a constitution and State government.'* ***As a result thereof, the people of Utah conceived and gave birth to Siamese twins: A constitution and the State of Utah, inseparable unless both shall die****... Duchesne County v. State Tax Comm'n, 104 Utah 365, 375-76, 140 P.2d 335, 339-40 (1943) (quoting Enabling Act of July 16, 1894, ch. 138, Statutes at Large 107, reprinted in 1A Utah Code Ann. (1991))...*"

"*22 The government of the State of Utah was founded pursuant to the* ***people's organic authority to govern themselves****…*

"*23 In conformity with this principle, the Utah Constitution vests* ***the people's sovereign legislative power*** *in both (1) a representative legislature* ***and (2) the people of the State, in whom all political power is inherent.*** *Utah Const. art. VI, § 1(1) (Supp. 2001); see also Utah Const. art. I, § 2; Duchesne County, 104 Utah at 376, 140 P.2d at 340. Pursuant to article VI, section 1 of the Utah Constitution,* ***the people exercise their direct legislative power***

through initiatives and referenda*...Article VI, section 1* ***is not merely a grant of the right to directly legislate, but reserves and guarantees the initiative power to the people****...The power of the legislature and the* ***power of the people to legislate through initiative and referenda are coequal, coextensive, and concurrent and share "equal dignity."*** *Utah Power & Light Co. v. Provo City...stating that "by the initiative process [under the Utah Constitution] the* ***people [are] a legislative body coequal in power and with superior advantages to the Legislature")****;...*"

"*24 ...The reserved right and power of initiative is a fundamental right under article VI, 1 Indeed,****[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right****. Reynolds v. Sims, 377 U.S. 533, 560 (1964)...*

"*25* ***Initiative is the power of a voter to directly legislate via exercising the right to vote****. Stavros v. Office of Legislative Research & Gen. Counsel, 2000 UT 63, ¶ 19, 15 P.3d 1013; Halgren, 91 Utah at 21, 63 P.2d at 552; see also Shriver, 6 Utah 2d at 330, 313 P.2d at 476. Like the right to vote generally, the initiative right guarantees participation in the political process. Loonan, 882 P.2d at 1383-84.* ***It is a constitutionally guaranteed right that 'form[s] an implicit part of the life of a free citizen in a free society****.' (6) Pub. Employees' Ass'n, 610 P.2d at 1273. The initiative right encourages political dialogue and* ***allows the general populace to have substantive and meaningful participation in enacting legislation that impacts society. It is democracy in its most direct and quintessential form****...*

"*27* ***Because the people's right to directly legislate through initiative and referenda is sacrosanct and a fundamental right, Utah courts must defend it against encroachment and***

maintain it inviolate...*('**[I]t is our solemn duty to jealously guard the precious initiative power, and to resolve any reasonable doubts in favor of its exercise**.')*...." [emphasis added]

57. With above references, this court is obligated to construe liberally the statutory scheme in light of the constitutional right the people that is not only co-equal with power and dignity, but is supposed to have "superior advantages" over the Legislature. Using this distinction, this Court must first review the factual circumstances and background the UMCA. This Act qualified for the ballot with 153,894 verified signatories, passed with 562,072 votes, was enacted into law December 1, 2018.
58. The Respondents in less than 4 hours replaced a simple 28-page Citizen initiative with a 222-page bill.
59. Further to "avoid legal issues" the Legislators passed it with a supermajority. Effectively ending the initiative and referendum right of the people in violation of Utah Constitution Article VI, Section (2)(a)(i)(B) and UCA 20A-7-102.
60. In short, while this Court has given lip service, it has not done justice to the co-equal and superior right of the people. The People formed this government and only they can alter, reform, or abolish it. Meaningful referendum and initiative powers represent the only non-violent repository the People have in their box as an effective check and balance on a Legislature corrupted by special interests. If this court fails to act and correct this aberration, unchecked power grab by the Respondents, the initiative and referendum power of the People is dead, and should be given a proper and honorable burial by this court as an antiquated and outdated relic of an earlier time.
61. If this Court up holds Respondents end run around the citizens right to legislate, using special session and supermajority vote, effectively putting the people "in their place," The right to vote is also abolished.

62. One of the fundamental rights in our Constitutionally-limited Democratic Republic, is that the people, who grant to the Legislature the co-equal right to legislate, can take those legislative powers back (alter the government). The Legislature has repeatedly fettered the People's power to legislate through initiative, including this example found unconstitutional by this Court and referenced above (*Gallivan V Walker SC 2002*). As a result of these systemic power plays, from 1952 through 2014, Utahns succeeded only 20 times placing initiatives on ballots for a vote. From 1977 through 2017, only two citizen initiatives passed and became law, one of which, providing for meaningful due process protections against civil forfeitures (Initiative B in 2000), was later gutted by the Legislature's enactment of Senate Bill 175 Substitute 2 in 2004. Further, in *Sevier Power V Hansen Utah Supreme Court 2008* this Court held: "*11 Consequently, we are compelled to* ***deem section 20A-7- 401 unconstitutional. Unless and until the people give the legislature the constitutional authority to suspend or forbid the use of the initiative power, it cannot be done by statute****...* "*16 We express no opinion on the wisdom, worthiness, or wording of the initiative at issue. It is for the voters of Sevier County to determine if and how the measure is to be regarded. Imposing additional steps in issuing conditional use permits has both costs and benefits, the value of which, and nature of which, are left to the consideration of the voters, as with all initiatives proposed as direct legislation by the people.* ***Highly participatory democracy is at times inefficient, expensive, and time consuming. However, the initiative power, as with all other powers identified in our constitution, is a creature of the people. It is for the people to determine when, if, and how it is to be modified. That much is clear.***"
63. In a nutshell, the Legislature would have us believe they are superior to the Citizens in legislative power as evidenced by UCA 20A-7-212(3), they claim they can prohibit the Governor from vetoing an initiative, while giving themselves the additional authority to

amend any initiative during any legislative session. This is not provided for as a constitutional right reserved for the Legislature.

64. Further the Legislature, Governor, and LG have falsely determined that 20A-7-102(2) "*require[s]* ***any law passed by the Legislature****, except those laws passed by a two-thirds vote of the members elected to each house of the Legislature, to be referred to the voters for their approval or rejection before the law takes effect;....*" [emphasis added]. And Utah Constitution Article V1, Section 1(2)(a)(i)(B), "*...require[s] any law passed by the Legislature,* ***except those laws passed by a two-thirds vote of the members elected to each house of the Legislature****, to be submitted to the voters of the State, as provided by statute, before the law may take effect.*" [emphasis added] This interpretation usurps the Petitioners and all legal Voters, including, but not limited to, the 562,072 Utah's who voted to put Proposition 2 into effect as is. The Legislature has furthered this powershift by purposely marshalling all into attendance under threat of force to pass the replacement bill HB 3001 S6 with a supermajority, with the intent to prevent the Citizens from providing a necessary check and balance.

65. The above emphasized passages can only be read as being designed to prevent a Citizen referendum on laws passed on legislation originally proposed and enacted by the Legislature in its normal and regular general session. It can not be applied to a Citizen initiative when the Legislature creates special powers for itself, without granting the same and equal right to the People.

THIRD PRAYER FOR RELIEF

66. For a ruling and order that the LG and/or his officers or agents misapplied 20A-7-102(2) and Utah Constitution Article V1, Section 1(2)(a)(i)(B), by applying the two-thirds provision to Citizen initiatives.
67. For a declaratory judgment and order that the two-thirds provision does not apply to Citizen referendums in direct response to the use of the People's initiative power.
68. An order to the LG to accept the Petitioners' Referendum completed application, and allow the Petitioners to proceed with a statewide referendum.
69. In the alternative, declare the Citizens' supposed *superior* right to legislate is actually no right at all.

STATEMENT UNDER RULE 19 (b)(4)

A statement of the reasons why no other plain, speedy, or adequate remedy exists and why the writ should issue.

70. The Citizens, registered voters, legal voters and persons interested in exercising their right to vote through the initiative process have been denied that right.
71. Proposition 2 passed and was the law of the land for two days, it was substantially changed, gutted and key provisions removed without any meaningful open public process.
72. If the only redress available for Citizens is for them to redo the initiative, in two years, duplicating the time, energy and resources already wasted, only to have shut down at the will of the legislature, what is the point?
73. Secondly, Petitioners have sought to exercise their equal right to a referendum on their successful initiative, they have been denied that constitutional right. In closing, the petitioners only have five days to submit an application, and then 40 days to gather almost

120,000 signatures. These are the same requirements as an initiative, only in reverse with a limited amount of time.

74. There is no other plain, speedy, or adequate remedy; therefore, to protect and restore this fundamental right, this Court must act.

PETITION FOR EXTRAORDINARY RELIEF

Therefore, Petitioner respectfully asks this Utah Supreme Court to issue a Writ of Extraordinary Relief granting the relief sought herein and/or a hearing on the matter.

DECLARATION PURSUANT TO SECTION 78B-5-705

I declare under criminal penalty of the State of Utah that the foregoing is true and accurate to the best of my understanding and recollection, and do so swear.

/S/ Bart Grant Date: 12-10-2018

Bart Grant, Petitioner

/S/ Daniel Newby Date: 12-10-2018

Daniel Newby, Petitioner

/S/ Steven G. Maxield Date: 12-10-2018

Steven G. Maxfield, Petitioner

Exhibits Attached to Initial Petition

Exhibit A Proposition 2 / Utah Medical Cannabis Act
https://elections.utah.gov/Media/Default/2018%20Election/Initiatives/Initiative%20-%20Utah%20Medical%20Cannabis%20Act.pdf

Exhibit B HB 3001 6S

https://le.utah.gov/~2018S3/bills/hbillenr/HB3001.pdf

Exhibit C Referendum Application
https://www.dropbox.com/s/l8vdlq96sf9fjyc/Application-for-Referendum-121018.pdf?dl=0

Exhibit D Verified signatures Prop 2

https://elections.utah.gov/2018-initiative-numbers

Exhibit E Sufficient statement LG
https://elections.utah.gov/Media/Default/2018%20Election/Initiatives/Utah%20Medical%20Cannabis%20Act%20Declaration%205.29.2018.pdf

Exhibit F Voter Turnout
https://elections.utah.gov/Media/Default/2018%20Election/2018%20General%20Election%20Canvass.pdf

Exhibit G Tribune Article 10/04/2018
https://www.sltrib.com/news/politics/2018/10/04/utahs-governor-lawmakers/

Exhibit H Sen President Email compel attendance
https://www.dropbox.com/s/hqsknhw4kg6mahj/Niederhauser-Mandatory.pdf?dl=0

Exhibit I Governor Proclamation Special Hearing

https://le.utah.gov/session/2018S3/proclamation.pdf

Exhibit J Audio Legislature suspending General Rules
https://le.utah.gov/av/floorArchive.jsp?day=1&chamber=H&sessionID=2018S3&fileName=rHVID_116_120318_01.mp4

Exhibit K Time line HB 3001 6S

https://le.utah.gov/~2018S3/bills/static/HB3001.html

Exhibit L LG rejections letter
https://www.dropbox.com/s/81d98xv24d83nzl/Rejection%20LG.pdf?dl=0

Exhibit M Registered voters

https://elections.utah.gov/party-and-status

Certificate of Service

I hereby certify that I, Steven G. Maxfield, hand delivered a true and correct copy of the above petition for an extraordinary writ of relief along with all exhibits to the following this 10th day of December, 2018.

/S/ Daniel Newby Date: 12-10-2018

Daniel Newby, Petitioner

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