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U.S. DISTRICT COURT
SEP 05 2008
2008 SEP -8 A 8:56

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

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Attorneys for Blue Cross of California

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, NORTHERN DIVISION**

WILLIAM K., and DAYNA K. personally
and as guardians and next friends of
CASSIDY K., a minor, and ISLAND VIEW
RESIDENTIAL TREATMENT CENTER,
LLC.,

Plaintiffs,

vs.

BLUE CROSS OF CALIFORNIA; and THE
CHRISTOPHER ELECTRIC CO.
WELFARE BENEFITS PLAN,

Defendants.

ORDER EXTENDING DEADLINES

Civil No. 1:07-cv-00147

Judge Bruce S. Jenkins

Pursuant to the Stipulation and Joint Motion to Extend Deadlines filed by the parties, and for good cause appearing thereby,

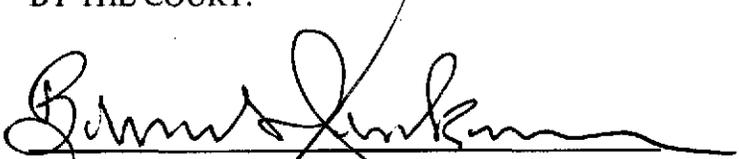
IT IS HEREBY ORDERED, that the deadline for filing dispositive motions is changed from August 29, 2008 to and including September 12, 2008 and the hearing previously scheduled for September 29, 2008 at 1:30 p.m., has been rescheduled to November 10, 2008 at

1:07-cv-147 J

1:30 p.m.

DATED this 8th day of September, 2008.

BY THE COURT:


Honorable Bruce S. Jenkins
District Court Judge

Approved as to form:

/s/ Bradley R. Sidle
Brian S. King
Bradley R. Sidle
Attorneys for Plaintiffs

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2008 SEP -5 P 2:36

SEP 05 2008

Andrew H. Stone (USB #4921)
Brent A. Orozco (USB #9572)
JONES WALDO HOLBROOK & McDONOUGH PC
Attorneys for PC Consulting, Inc. dba TimeShareWare
170 South Main Street, Suite 1500
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Telephone: (801) 521-3200

DISTRICT OF UTAH
JUDGE TENA CAMPBELL
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

PC CONSULTING, INC. dba
TIMESHAREWARE, a Utah Corporation,

Plaintiff(s),

vs.

KING'S CREEK PLANTATION, LLC, a
Virginia limited liability company,

Defendant(s).

**ORDER GRANTING STIPULATED
MOTION FOR EXTENSION OF
TIME**

Civil No. 1:08-cv-60 **TC**
~~Judge Paul M. Warner~~

Based upon the Stipulated Motion for Extension of Time filed by Plaintiff PC Consulting, Inc. dba TimeShareWare and Defendant King's Creek Plantation, LLC, and for good cause appearing, it is hereby ORDERED that Plaintiff's time for filings its opposition memorandum to Defendant's Motion to Dismiss or Alternatively to Transfer Venue shall be extended until September 18, 2008.

DATED this 5th day of September 2008.

BY THE COURT

By: Jena Campbell
Honorable Jena Campbell

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

**INTERSTATE FIRE & CASUALTY
COMPANY, a corporation,**

Plaintiff,

v.

**TRAVELERS PROPERTY &
CASUALTY COMPANY OF AMERICA,
et al.,**

Defendants.

ORDER

Case No. 1:08-cv-0091-PMW

Magistrate Judge Paul M. Warner

Before the court is a stipulated motion for an extension of time for Defendant Travelers Property & Casualty Company of America (“Travelers”) to respond to Plaintiff Interstate Fire & Casualty Company’s (“Plaintiff”) complaint.¹ Based on the stipulation of the parties and good cause appearing, the motion is **GRANTED**. Travelers may have up to and including Monday, September 22, 2008, to respond to Plaintiff’s complaint.

IT IS SO ORDERED.

DATED this 8th day of September, 2008.

BY THE COURT:



PAUL M. WARNER
United States Magistrate Judge

¹ See docket no. 14.

UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT
UTAH

CENTRAL DIVISION

District of

UNITED STATES OF AMERICA

V.

KEVIN FARREL PARTIN

JUDGMENT IN A CRIMINAL CASE
(For Revocation of Probation or Supervised Release)

2008 SEP 8 AM 9:41
DISTRICT OF UTAH

Case Number: DUTX201CR000302-001

USM Number:

BY: _____
CLERK

Defendant's Attorney

THE DEFENDANT:

- admitted guilty to violation of condition(s) 1 and 2 of the Petition of the term of supervision.
- was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1	Defendant submitted a urine sample testing positive for methamphetamine	5/14/2008
2	Defendant failed to submit to drug testing (4 instances)	

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

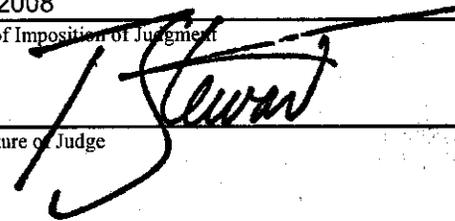
- The defendant has not violated condition(s) 3 of the Petition and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: 000-00-5137

9/8/2008
Date of Imposition of Judgment

Defendant's Date of Birth: /1965


Signature of Judge

Defendant's Residence Address:

The Honorable Ted Stewart U. S. District Judge
Name of Judge Title of Judge

9/8/2008
Date

Defendant's Mailing Address:

DEFENDANT: KEVIN FARREL PARTIN
CASE NUMBER: DUTX201CR000302-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

NONE

- The court makes the following recommendations to the Bureau of Prisons:

- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ a.m. p.m. on _____
 - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: KEVIN FARREL PARTIN
CASE NUMBER: DUTX201CR000302-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
Supervised release is reinstated and due to terminate in February 2011.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: KEVIN FARREL PARTIN
CASE NUMBER: DUTX201CR000302-001

SPECIAL CONDITIONS OF SUPERVISION

- 1) All previously imposed terms and conditions are reinstated.
- 2) Defendant shall participate and successfully complete the RISE Program.

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U.S. DISTRICT COURT

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DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

STEPHEN R. McCAUGHEY - 2149
Attorney at Law
10 West Broadway, Suite 650
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Telephone: (801) 364-6474
Facsimile: (801) 364-5014

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER NOAH MOLLNER,

Defendant.

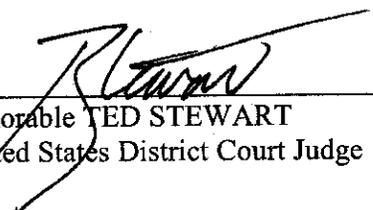
**ORDER CONSOLIDATING
CASES**

Case No. 2:08-CR-156 TS

Based on the motion of defense counsel to consolidate his pending cases, and the Government and The Honorable Thomas Greene having no objection, it is hereby;

ORDERED that case No 2:02-CR-163 JTG be consolidated with this case.

DATED this 14th day of July, 2008.



Honorable TED STEWART
United States District Court Judge

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

UNITED STATES OF AMERICA

Plaintiff,

BRADEN ELLIS PEARSON

Defendant

:
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:
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:
:
:
:
:

ORDER

2:05-CR-00481-001 DAK

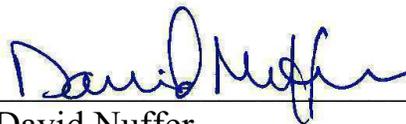
The defendant appeared before the Court and the following special condition of supervised release was ordered, effective August 29, 2008:

1. The defendant shall reside in a residential reentry center under a Public Law placement until further order of the Court, with release for work, education, medical, religious services, treatment, or other approved release as deemed appropriate by the probation office or residential reentry center.

All previous conditions of supervised release remain in effect.

DATED this 5th day of September, 2008

BY THE COURT:



David Nuffer

United States Magistrate Judge

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

TRAVIS HARDS,

Defendant.

ORDER

Case No. 2:05CR697DAK

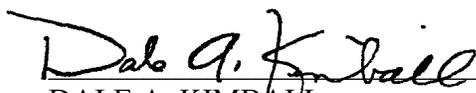
Based on the motion filed by the defendant and good cause appearing,

IT IS HEREBY ORDERED:

That the above case be transferred to Judge Dee Benson and associated with Case No. Number 2:07CR908DB for resolution.

DATED this 7th day of January, 2008.

BY THE COURT:



DALE A. KIMBALL
United States District Court Judge

Wesley M. Lang #4613
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6965 Union Park Ctr. #400
Cottonwood Heights, UT 84047
801-255-5335

Attorneys for Plaintiffs

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Kevin P. Wagner (*pro hac vice*)
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Attorneys for Defendant Field Logic, Inc.

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U.S. DISTRICT COURT

2008 SEP -5 P 1:42

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

VICTOR JAY LIECHTY, II and GRIM
REAPER BROADHEADS, INC.
Plaintiffs

vs.

FIELD LOGIC INC., and TROPHY RIDGE
Defendants.

ORDER OF DISMISSAL

Case No. 2:07CV00009DB

Judge Dee Benson

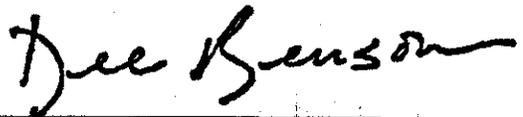
WHEREAS, plaintiff Victor Jay Liechty II and Grim Reaper Broadheads, Inc. (collectively "Grim Reaper") and Defendant Field Logic Inc. ("Field Logic") have filed a Stipulated Motion for Voluntary Dismissal with Prejudice and

WHEREAS, the court having reviewed the Stipulated Motion for Voluntary Dismissal with Prejudice and other good cause appearing,

It is hereby ORDERED ADJUDGED AND DECREED as follows:

1. Grim Reaper's claims against Field Logic, as alleged in the Complaint (Docket No. 1), are hereby dismissed with prejudice.
2. Grim Reaper and Field Logic are each ordered to bear their own costs and attorney's fees with respect to the dismissed claims.

Dated this 5th day of September, 2008



United States District Court Judge

UNITED STATES DISTRICT COURT DISTRICT OF UTAH

CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

NOVUS TECHNOLOGIES, LLC, a Utah
limited liability company, RALPH W.
THOMPSON, JR., DUANE C. JOHNSON,
RCH2, LLC a Utah limited liability company,
ROBERT CASEY HALL AND ERIC J.
WHEELER,

Defendants,

And

U.S. VENTURES, LC., a Utah limited
liability company, U.S. VENTURES
INTERNATIONAL, LLC, a Utah limited
liability company, ROBERT L.
HOLLOWAY, ONLINE STRATEGIES
GROUP, INC., a Delaware corporation, and
DAVID STORY,

Relief Defendants

Civil No. 2:07-CV-00235 TC

ORDER VACATING ORDER RE:
RECEIVER'S MOTION FOR
DISBURSEMENT OF FUNDS

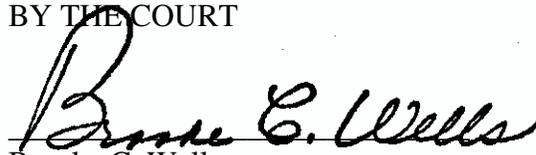
The Honorable Tena Campbell

Magistrate Brooke C. Wells

The Court hereby VACATES its order regarding the Reciever's Motion for Disbursement of Funds.¹ The Court's prior order, however, is not vacated as to those portions addressing Kelly S. McEntire's motion to amend/correct.

Dated this 8th day of September, 2008.

BY THE COURT

A handwritten signature in black ink that reads "Brooke C. Wells". The signature is written in a cursive style with a large initial "B".

Brooke C. Wells
United States Magistrate Judge
District of Utah

¹ Docket no. 343.

FILED
U.S. DISTRICT COURT

2008 SEP -8 A 10: 02

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DISTRICT OF UTAH
BY _____
DEPUTY CLERK

Attorneys for Plaintiff Neways, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

NEWAYS INC., a Utah corporation,
Plaintiff,
v.
THOMAS ELWIN MOWER, SR., *et al*,
Defendants.

NEWAYS INC., a Utah corporation,
Plaintiff,
v.
MAYURI YAMASHITA, *et al*,
Defendants.

**STIPULATED ORDER REGARDING
BRIEFING SCHEDULE ON
JAPANESE DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT
REGARDING CONTRACT CLAIMS
AND DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT ON
NEWAYS' CLAIMS REGARDING
FUCOIDAN**

Consolidated Case No. 2:07-CV-339

Judge Bruce S. Jenkins

Based on the Stipulation of all parties hereto and good cause appearing, Neways' response to the Japanese Defendants' Motion for Summary Judgment Regarding Contract Claims (Dkt. No. 378) shall be due no later than September 30, 2008 and Neways' response to Defendants' Motion for Summary Judgment on Neways' Claims Regarding Fucoidan (Dkt No. 369) shall be due no later than November 14, 2008.

DATED this 8th day of Sept 2008.

BY THE COURT:


Hon. Bruce S. Jenkins
United States District Court Judge

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U.S. DISTRICT COURT

JUSTIN D. HEIDEMAN (USB #8897)
ASCIONE, HEIDEMAN & MCKAY L.L.C.
2696 North University Avenue, Suite 180
Provo, UT 84604
Telephone: (801) 812-1000
Fax: (801) 374-1724
Attorneys for Plaintiff

OFFICE OF U.S. DISTRICT JUDGE 2008 SEP -8 A 8: 56
BRUCE S. JENKINS

DISTRICT OF UTAH

BY: _____
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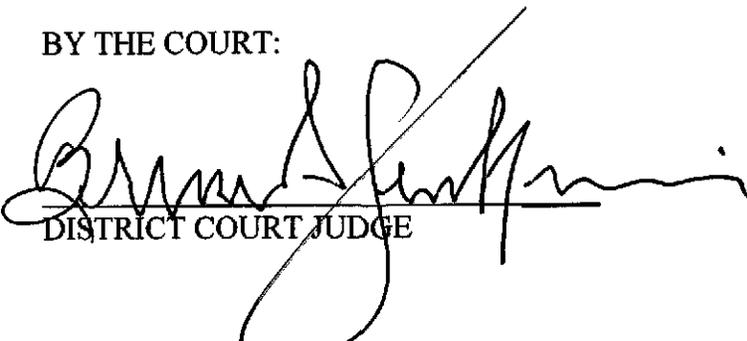
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA, ex rel. DEBBIE WOODWARD,	ORDER
Plaintiff,	Case No. 2:07-cv-369
vs.	Judge Bruce S. Jenkins
DANVILL SERVICES OF UTAH, LLC., a Utah Limited Liability Company,	
Defendant.	

The Court, having reviewed the foregoing Stipulation and good cause appearing therefore, IT IS HEREBY ORDERED that the Stipulation is approved and made part of the Court file.

DATED this 8th day of September, 2008.

BY THE COURT:


DISTRICT COURT JUDGE

Arthur B. Berger (6490)
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36 South State Street, #1400
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James J. Boutrous II
Katherine D. Goudie
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Facsimile: (313) 225-7080

Attorneys for Defendants

FILED
U.S. DISTRICT COURT
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SEP 04 2008 DISTRICT OF UTAH
BY: DEPUTY CLERK
OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

CHARTLOGIC, INC., a Utah corporation,

Plaintiff,

vs.

GLOSTREAM, INC., a Michigan
corporation, and YAW KWAKYE, an
individual,

Defendants.

**ORDER OF DISMISSAL WITH
PREJUDICE**

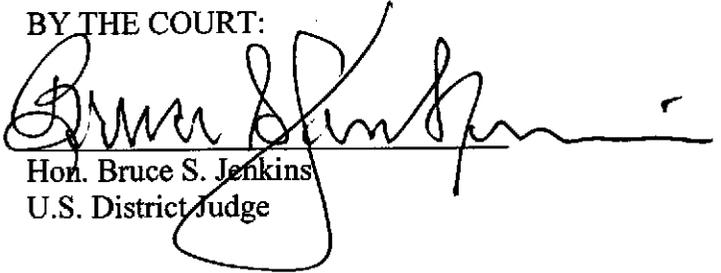
Civil No. 2:07-CV-707-BSJ

Based on the stipulation and joint motion of the parties, pursuant to Rule 41(a) of the
Federal Rules of Civil Procedure, and good cause appearing,

IT IS HEREBY ORDERED that this action is dismissed with prejudice. Each party will bear its own fees and costs.

DATED this 8th day of September, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Bruce S. Jenkins", written over a horizontal line. The signature is cursive and extends to the right of the line.

Hon. Bruce S. Jenkins
U.S. District Judge

BERMAN & SAVAGE, P.C.
E. Scott Savage (2865)
Kenneth W. Yeates (3577)
170 South Main St., Suite 500
Salt Lake City, Utah 84101
Telephone: (801) 328-2200
Attorneys for Plaintiff William E. Davis

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION

WILLIAM E. DAVIS,

Plaintiff,

vs.

CALYLE E. SLACK

Defendant.

**ORDER GRANTING STIPULATED
MOTION TO AMEND AND AMENDED
SCHEDULING ORDER**

Civil No. 2:07cv00780

Honorable Dee Benson

Magistrate Judge David Nuffer

Pursuant to Fed.R. Civ P. 16(b) and 29(b), the Magistrate Judge¹ received the parties' Joint Stipulated Motion to Extend Discovery (docket # 18). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1. PRELIMINARY MATTERS

DATE

Nature of claim(s) and any affirmative defenses:

- | | |
|---|-----------------|
| a. Was Rule 26(f)(1) Conference held? | <u>11/26/07</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>12/11/07</u> |

c. Was 26(a)(1) initial disclosure completed? 01/15/08

2. DISCOVERY LIMITATIONS NUMBER

a. Maximum Number of Depositions by Plaintiff(s) 10

b. Maximum Number of Depositions by Defendant(s) 10

c. Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) 7

d. Maximum Interrogatories by any Party to any Party 25

e. Maximum requests for admissions by any Party to any Party No Limit

f. Maximum requests for production by any Party to any Party 25

DATE

3. AMENDMENT OF PLEADINGS/ADDING PARTIES²

a. Last Day to File Motion to Amend Pleadings P 02/15/08

D 03/03/08

b. Last Day to File Motion to Add Parties P 04/15/08

P 05/15/08

4. RULE 26(a)(2) REPORTS FROM EXPERTS³

a. Plaintiff 11/28/08

b. Defendant 12/29/08

c. Counter reports 01/30/09

5. OTHER DEADLINES

a. Discovery to be completed by:

Fact discovery 10/28/08

Expert discovery 02/27/09

b. (optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)

c. Deadline for filing dispositive or potentially dispositive motions

02/27/09

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

a. Referral to Court-Annexed Mediation Yes/No

b. Referral to Court-Annexed Arbitration Yes/No

c. Evaluate case for Settlement/ADR on

02/27/09

d. Settlement probability:

7. TRIAL AND PREPARATION FOR TRIAL:

a. Rule 26(a)(3) Pretrial Disclosures⁴

Plaintiff

06/26/09

Defendant

07/10/09

b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

DATE

c. Special Attorney Conference⁵ on or before

07/23/09

d. Settlement Conference⁶ on or before

07/23/09

e. Final Pretrial Conference

2:30 p.m.

08/12/09

f. Trial

Length

Time

Date

i. Bench Trial

days

ii. Jury Trial

Three days

8:30 a.m.

08/24/09

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 8th day of September, 2008.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
U.S. Magistrate Judge

APPROVED AS TO FORM:

BERMAN & SAVAGE, P.C.

By /s/ Kenneth W. Yeates
E. Scott Savage
Kenneth W. Yeates
Attorneys for Plaintiff

MORGAN, MINNOCK, RICE & JAMES, L.C.

By /s/ Dennis R. James
Dennis R. James
Brian H. Hess
Attorneys for Defendant

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.
6. The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

NATIONAL RIGHT TO WORK LEGAL
DEFENSE AND EDUCATION
FOUNDATION, INC., aka NATIONAL
RIGHT TO WORK LEGAL DEFENSE
FOUNDATION, INC.,

Plaintiff,

vs.

GARY R. HERBERT, Lieutenant Governor
of the State of Utah, in his official capacity,

Defendant.

MEMORANDUM OPINION AND
ORDER

Case No. 2:07-CV-809

Judge Dee Benson

Plaintiff National Right to Work Legal Defense and Education Foundation, Inc. (the “Foundation”) brought the present lawsuit challenging, both facially and as applied, the constitutionality of Utah Code Annotated (“UCA”) §§ 20A-11-101(7)(a)(ii) (definition of “corporation”), 20A-11-101(28)(b) (definition of “political issues committee”), and 20A-11-101(30)(a)(ii) (definition of “political issues expenditure”). These statutes impose disclosure and reporting requirements on all organizations that make campaign related expenditures in the state of Utah. The Foundation is seeking declaratory and permanent injunctive relief with respect to these statutes and expungement from all Utah State records of any documents the Foundation was required to file under Title 20A (the “Election Code”) of the Utah Code. On February 15, 2008, the Foundation filed the present motion for summary judgment, arguing as a matter of law, that these statutes are vague and overbroad in violation of the First and Fourteenth Amendments of the United States Constitution. Oral argument was held on June 30, 2008.

James Bopp, Jr. of Bopp, Coleson & Bostrom represented the Foundation. The state of Utah was represented by Thomas D. Roberts of the Utah Attorney General's Office.

I. FACTUAL BACKGROUND

In February 2007, the Utah Legislature passed H.B. 148, entitled Education Vouchers. H.B. 148, 57th Leg., Gen. Sess., 2007 Utah Laws 4. This bill established a school voucher system in which children would be provided with state-funded scholarships to attend eligible private schools. These state-funded scholarships ranged in amount from \$500 to \$3,000 depending on the size and annual income of the child's family. Unlike other voucher systems around the country, Utah's did not limit these state-funded scholarships to the economically disadvantaged. All children in the state of Utah, no matter their economic status, were eligible for at least \$500 in vouchers.

This new law was met with significant opposition. Almost immediately after H.B. 148 was signed into law by Utah's Governor, opponents of school vouchers began a petition drive pursuant to UCA § 20A-7-201(2)¹ in an effort to gather enough signatures to subject the new law to a vote by the people. By April 12, 2007, enough signatures had been gathered to force a ballot

¹UTAH CODE ANN. § 20A-7-201(2):

(20)(a) A person seeking to have an initiative submitted to a vote of the people for approval or rejection shall obtain:

(i) legal signatures equal to 10% of the cumulative total of all votes cast for all candidates for governor at the last regular general election at which a governor was elected; and

(ii) from each of at least 26 Utah State Senate districts, legal signatures equal to 10% of the total of all votes cast in that district for all candidates for governor at the last regular general election at which a governor was elected.

(b) If an initiative petition meets the requirements of this part and the lieutenant governor declares the initiative petition to be sufficient, the lieutenant governor shall submit the proposed law to a vote of the people at the next regular general election.

initiative, and on May 9, 2007, Utah's Governor announced that H.B. 148 would be on the ballot in the November 2007 General Election as Referendum 1.

This ballot initiative prompted extensive debate, not only among voters in the state of Utah, but also nationwide. *See, e.g.,* Richard D. Kahlenberg, *Balkanizing Utah's Schools*, POLITICO, (October 31, 2007), <http://www.politico.com/news/stories/1007/6656.html> (“The vote has national implications not only for education but also for presidential politics.”). It became the subject of a vigorous ad campaign – with Parents for Choice in Education leading the charge in favor of the initiative and the Utah Teacher's Association leading the charge in opposition – and was consistently discussed in both local and national newspapers. *See, e.g.,* George F. Will, *The Challenges of School Choice*, MIAMI HERALD, Nov. 1, 2007, at A17; *Voucher Showdown*, WALL ST. J., Aug. 29, 2007, at A14; Lisa Schencker, *Vouchers the Villain at UEA*, SALT LAKE TRIB., Oct. 30, 2007. Nearly \$8 million was spent campaigning for and against the initiative. Bob Bernick Jr. & Jennifer Toomer-Cook, *Upward of \$8M Spent on Vouchers*, DESERET MORNING NEWS, Nov. 8, 2007, at A1. In the end, Referendum 1 was defeated; with 62% voting against it and only 38% voting in favor. *Id.*

The Foundation is a nonprofit legal aid organization dedicated to defending “the rights of workers who are suffering legal injustice as a result of employment discrimination under compulsory unionism arrangements, and to assist such workers in protecting rights guaranteed to them under the Constitution and laws of the United States” Foundation Articles of Incorporation, Art. III.2, Verified Complaint, Exhibit B. In March of 2007, the Foundation began receiving complaints from teachers and other public school employees claiming that they were being harassed and intimidated by labor union agents to sign petitions opposing the

recently enacted school voucher law and calling for a referendum to have it repealed. Letter from Richard J. Clair to Michael J. Cragun (May 4, 2007) (“Clair Letter II”), Verified Complaint, Exhibit I. In an effort to inform public school employees of their rights and to oppose the Union, the Foundation ran an ad campaign of its own.

This campaign consisted of both a radio advertisement and a television advertisement.

The text of the radio advertisement, which ran from March 30 to April 11, 2007, was as follows:

Recently, teacher union officials have launched a state-wide political blitz in Utah’s public schools. Their goal? To sabotage a popular new law meant to improve the quality of education for Utah’s children.

If you are a teacher or school employee, you have the right not to participate in the union’s petition drive. In fact, the attorney general’s office has just warned that the use of school time or resources for politics violates Utah’s criminal laws. If you are pressured by a union activist, you have the legal right to say no – without fear of union retaliation. For free legal aid, contact the National Right to Work Foundation at 1-800-336-3600. Or righttowork.org.

It’s just plain wrong for union bosses or any special interest group to misuse our public schools to promote their narrow political agenda. You have rights. Once again, that’s 1-800-336-3600. Or righttowork.org.

Verified Complaint, Exhibit D.

The text of the television advertisement, which was broadcast from April 4 to April 9, 2007, contained similar text. It stated:

Teacher union officials have launched a state-wide political blitz to block a new law meant to improve the education of Utah’s children.

Teachers or school employees: you have the right not to participate in the union’s petition drive. In fact, the attorney general’s office has just warned that using school time or resources for politics violates Utah law.

If you are pressured by a union activist, you have the right to say no – without fear of retaliation. For free legal aid, visit righttowork.org.

Verified Complaint, Exhibit E.

In the midst of these advertisements being broadcast, on April 3, 2007, Michael J. Cragun, Deputy Director of the Utah Lieutenant Governor’s Office, sent a letter to the Foundation warning it that its advertisements may be subject to the reporting requirements of the Utah Election Code. Letter from Michael J. Cragun, Deputy Director, State of Utah Office of the Lieutenant Governor, to Raymond J. LaJeunesse, Jr. (April 3, 2007), Verified Complaint, Exhibit F. Mr. Cragun explained that “[b]ecause the suggestion has arisen that your advertisements are subject to the requirements [of the Campaign and Financial Reporting chapter of the Utah Election Code], I am enclosing for your reference the definitions section and Political Issues Committees – Registration and Financial Reporting part of this chapter of the code.” *Id.* Also included with the letter were forms for registering as a political issues committee. *Id.*

Title 20A of the Utah Code imposes substantial financial disclosure requirements on political issues committees. UTAH CODE ANN. § 20A-11-802. A “political issues committee” is defined as “an entity . . . that . . . makes disbursements to influence, or to intend to influence, directly or indirectly, any person to . . . assist in keeping a statewide ballot proposition off the ballot, or refrain from voting or vote for or vote against any statewide ballot proposition.” UTAH CODE ANN. § 20A-11-101(28)(a)(i).² The Foundation immediately responded to Mr. Cragun’s

²UTAH CODE ANN. § 20A-11-101(28)(a) in its entirety reads:

(28) (a) “Political issues committee” means an entity, or any group of individuals or entities within or outside this state, that solicits or receives donations from any other person, group, or entity or makes disbursements to influence, or to intend to influence, directly or indirectly, any person to:

(i) assist in placing a statewide ballot proposition on the ballot, assist in keeping a statewide ballot proposition off the ballot, or refrain from voting or vote for or vote against any statewide ballot proposition; or

letter by explaining that it is not a political issues committee. Letter from Richard J. Clair, Corporate Counsel for the Foundation, to Michael J. Cragun (April 4, 2007), Verified Complaint, Exhibit G. Rather, it is a “legal aid organization offering free assistance to any public employees who might be coerced or intimidated in the exercise of their political rights by union agents.” *Id.*

The Lieutenant Governor’s Office, however, did not relent. On April 25, 2007, Mr. Cragun sent another letter to the Foundation explaining:

In the opinion of this office, the radio and television advertisements that your organization ran in Utah earlier this month demonstrate that it is [a political issues committee]. Specifically, we believe that references to: “sabotage a popular new law,” “petition drive,” and “narrow political agenda” fit the advertisements within the political issues expenditures definition of UCA § 20A-11-101(30).³

Letter from Michael J. Cragun to Richard J. Clair (April 25, 2007) (“Cragun Letter II”), Verified Complaint, Exhibit H. Mr. Cragun went on to explain that as a political issues committee, the Foundation was required to file an initial statement of organization under UCA § 20A-11-

(ii) sign or refuse to sign an incorporation petition or refrain from voting, vote for , or vote against any proposed incorporation in an incorporation election.

³UTAH CODE ANN. § 20A-11-101(30)(a):

- (30) (a) “Political issues expenditure” means any of the following:
- (i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of a statewide ballot proposition;
 - (ii) a purchase, payment , distribution, loan, advance, deposit, or gift of money made for the purpose of influencing the approval or the defeat of a statewide ballot proposition;
 - (iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;
 - (iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or
 - (v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

801(1)(b)(ii)⁴ and a series of financial disclosures throughout the year under UCA § 20A-11-802.⁵ Mr. Cragun advised that the Lieutenant Governor’s Office was “willing to entertain the argument” that the Foundation fit within the corporate exception of the political issues committee definition. UTAH CODE ANN. § 20A-11-101(28)(b)(v) (“Political issues committee” does not mean . . . a corporation, except a corporation whose apparent purpose is to act as a political issues committee.”). However, because its advertisements constituted political issues

⁴UTAH CODE ANN. § 20A-11-801(1)(b)(ii):

(b) If a political issues committee is organized after the January 10 filing date, the political issues committee shall file an initial statement of organization no later than seven days after:

- . . .
- (ii) disbursing political issues expenditures totaling at least \$50.

⁵UTAH CODE ANN. § 20A-11-802 provides in part:

(1) (a) Each registered political issues committee that has received political issues contributions totaling at least \$750, or disbursed political issues expenditures totaling at least \$50 during a calendar year on current or proposed statewide ballot propositions, to influence an incorporation petition or an incorporation election, or on initiative petitions to be submitted to the Legislature, shall file a verified financial statement with the lieutenant governor’s office:

- (i) on January 5, reporting contributions and expenditures as of December 31 of the previous year;
- (ii) seven days before the date of an incorporation election, if the political issues committee has received donations or made disbursements to affect an incorporation;
- (iii) March 1;
- (iv) June 1;
- (v) at least three days before the first public hearing held as required by Section 20A-7-204.1;
- (vi) at the time the sponsors submit the verified and certified initiative packets to the county clerk as required by Section 20A-7-206;
- (vii) on September 15; and
- (viii) seven days before the regular general election.

expenditures, even as a corporation the Foundation would be required to make disclosures under UCA § 20A-11-702.⁶ *Id.*

The Foundation again responded by letter, claiming that it is neither a political issues committee nor a corporation making political issues expenditures. Clair Letter II (May 4, 2007), Verified Complaint, Exhibit I. The Foundation explained that it is a nonprofit, charitable, legal aid *corporation*. Section 20A-11-101(28)(b)(v) expressly excludes corporations from the definition of political issues committee, unless the corporation’s “apparent purpose is to act as a political issues committee.” *Id.* The Foundation argued that because its purpose is to provide charitable legal aid, it meets the exclusion and is not required to register or file as a political issues committee. *Id.*

Furthermore, the Foundation argued that it had not made any political issues expenditures. *Id.* The term “political issues expenditure” is defined to include a “payment . . . of money made for the purpose of influencing the approval or the defeat of a ballot proposition.” UTAH CODE ANN. § 20A-11-101(30)(a)(ii). The Foundation contended that the purpose of its advertisements “was to offer legal aid to teachers and school employees who might be suffering from union coercion or intimidation. The ads were not for the purpose of ‘influencing the

⁶UTAH CODE ANN. § 20A-11-702 provides in part:

(1) (a) Each corporation that has made political issues expenditures on current or proposed ballot issues that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor’s office on:

- (i) January 5, reporting expenditures as of December 31 of the previous year;
- (ii) March 1;
- (iii) June 1;
- (iv) September 15; and
- (v) seven days before the regular general election.

approval or the defeat of a statewide ballot proposition.” Clair Letter II (May 4, 2007), Verified Complaint, Exhibit I (quoting UTAH CODE ANN. § 20A-11-101(30)(a)(ii)). Thus, the Foundation argued, it was under no requirement to file a corporate report detailing the cost of the advertisements under UCA § 20A-11-702. *Id.*

On May 24, 2007, the Lieutenant Governor sent a letter to the Foundation advising that, “[a]fter reviewing the correspondence between you and Mr. Cragun, listening to the National Right to Work Legal Defense Foundation’s radio advertisements, and consulting with the Utah Attorney General’s Office, I have determined that your organization is required to file a corporate financial report of political issues expenditures.” Letter from Gary R. Herbert, Lieutenant Governor of Utah, to Richard Clair (May 24, 2007) (“Herbert Letter”), Verified Complaint, Exhibit J. In other words, the Lieutenant Governor determined that although the Foundation was not a political issues committee, their ads constituted political issues expenditures, requiring the Foundation to comply with the reporting and disclosure requirements of UCA § 20A-11-702.

Accordingly, on May 31, 2007, the Foundation filed, under protest, a “Report of Expenditures For Corporations.” Verified Complaint, Exhibit A. The Foundation filed the present lawsuit for declaratory and injunctive relief claiming that the Utah Election Code’s definitions of “corporation,” “political issues expenditure,” and “political issues committee” improperly regulate political speech in violation of the First and Fourteenth Amendments of the United States Constitution.

II. LEGAL BACKGROUND

A. The Federal Election Campaign Act of 1971

In 1971 Congress enacted the Federal Election Campaign Act (“FECA”). FECA, as amended in 1974, imposed various limitations on individual political contributions and independent expenditures in an effort to curb corruption – both real and perceived – in the federal election process. The most significant limitations in the Act prohibited individuals from contributing more than \$1,000 to any single candidate per election and from independently spending more than \$1,000 a year “relative to a clearly identified candidate.” 18 U.S.C. § 608(b)(1), (e)(1) (1975). Most pertinent to the present case, FECA also imposed disclosure requirements on “[e]very person . . . who makes contributions or expenditures . . . in excess of \$100 within a calendar year.” 2 U.S.C. § 434(e) (1975).

In 1976, the Supreme Court addressed the constitutionality of FECA in its landmark decision *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam). Observing that campaign finance regulations “operate in an area of the most fundamental First Amendment activities,” *id.* at 14, the Court demarcated a clear boundary “between regulable election-related activity and constitutionally protected political speech.” *N. C. Right to Life, Inc. v. Leake*, 525 F.3d 274, 281 (4th Cir. 2008) (citing *Buckley*, 424 U.S. 1) [hereinafter *NCRTL*]. The Court concluded that only those activities that are “unambiguously related to the campaign of a particular . . . candidate” may be constitutionally regulated. *Buckley*, 424 U.S. at 80.

For example, in examining the constitutionality of FECA’s \$1,000 limitation on independent expenditures “relative to a clearly identified candidate,” 18 U.S.C. § 608(e)(1) (1975), the Court narrowly construed the language of that provision “to apply only to

expenditures for communications that in express terms advocate” for a candidate’s election or defeat. *Id.* at 44. The Court explained that the “use of so indefinite a phrase as ‘relative to’ a candidate fails to clearly mark the boundary between permissible and impermissible speech.” *Id.* at 41. Therefore, the Court held that in order to avoid invalidation of § 608(e)(1) on vagueness grounds, the \$1,000 independent expenditure limitation must be read to only apply to “communications containing express words of advocacy such as ‘vote for,’ ‘elect,’ ‘support,’ ‘cast your ballot for,’ ‘Smith for Congress,’ ‘vote against,’ ‘defeat,’ ‘reject.’” *Id.* at 44 n.52. These have become known as the “magic words of express advocacy.” *Fed. Election Comm’n v. Wis. Right to Life, Inc.*, 127 S.Ct. 2652, 2681 (2007) (Scalia, J., concurring) [hereinafter *WRTL*].⁷

With respect to 2 U.S.C. § 434(e), which imposed disclosure requirements on anyone making political contributions or expenditures in excess of \$100 a year, the Court applied a similarly narrow statutory construction. The Act defined “contributions” and “expenditures” as donations of money or other valuable assets “for the purpose of . . . influencing the nomination . . . or election” of a candidate for federal office. 2 U.S.C. § 431(e), (f) (1975). The Court found this provision, as it applied to § 434(e), to be ambiguous and unnecessarily vague. *Id.* at 76-77. Particularly troublesome to the Court was the uncertainty of the phrase “for the purpose of influencing.” *Id.* at 77. Recognizing, however, the legislature’s purpose behind FECA’s disclosure requirements, namely to insure “purity and openness of the federal election process,”

⁷The Court ultimately declared that § 608(e)(1) was unconstitutional – finding that limiting an individual’s independent political expenditures, as distinguished from direct contributions to a candidate, was not supported by any “substantial governmental interest.” *Buckley*, 424 U.S. at 47-48. However, the Court’s analysis of the vagueness issue, with regard to both this provision and FECA’s disclosure requirement provision, has long stood for the proposition that legislatures may only regulate those campaign communications that use the “magic words of express advocacy.” *WRTL*, 127 S.Ct. at 2681 (Scalia, J., concurring).

the Court narrowly construed the provision in a manner that would precisely further this legislative goal. *Id.* at 78.

To do this, the Court once again applied the rule that only those activities that are “unambiguously related to the campaign of a particular federal candidate” may be regulated. *Id.* at 80. Accordingly, the Court defined the term “contribution” to include donations made directly to a candidate and also any expenditures made in cooperation with a candidate. *Id.* at 78. The term “expenditure” was more narrowly defined. It included only those expenses that were “used for communications that expressly advocate the election or defeat of a clearly identified candidate,” *id.* at 80, referring to the “magic words of express advocacy,” *WRTL*, 127 S.Ct. at 2681 (Scalia, J., concurring). This included, however, all expenditures – whether they included expenses for campaign communications using magic words of express advocacy or not – made by political committees. The Court explained that expenditures made by organizations whose major purpose is the nomination or election of a candidate, are by definition unambiguously campaign related. *Buckley*, 424 U.S. at 79.

Therefore, with regard to disclosure requirements, *Buckley* held that they may be imposed on entities that are not candidates or political committees only in the following circumstances: (1) when a person makes direct contributions to a campaign or uses funds in coordination with a campaign, or (2) when a person makes independent expenditures “for communications that expressly advocate the election or defeat of a clearly identified candidate.” *Buckley*, 424 U.S. at 80. More generally, *Buckley* demarcated a “boundary between regulable election-related activity and constitutionally protected political speech: after *Buckley*, campaign finance laws may constitutionally regulate only those actions that are ‘unambiguously related to

the campaign of a particular . . . candidate.” *NCRTL*, 525 F.3d at 281 (quoting *Buckley*, 424 U.S. at 80).

B. The Bi-Partisan Campaign Reform Act of 2002

In 2002 Congress attempted to further curb what it saw as the corruptive influences of campaign finance by enacting the Bi-Partisan Campaign Reform Act (“BCRA”). One of BCRA’s central provisions was designed to address the increased use of “issue advertising,” a loophole created by *Buckley*. *McConnell v. Fed. Election Comm’n*, 540 U.S. 93, 133 (2003). *Buckley* held that only advertisements using words of express advocacy could be constitutionally regulated. Therefore, in order to circumvent FECA’s requirements, individuals and entities began running what have been described as “issue ads.” These “issue ads,” although clearly intended to influence the outcome of federal elections, did not use the “magic words of express advocacy,” and thus were beyond FECA’s reach as interpreted in *Buckley*. *Id.* at 127-28. Rather than run an ad stating “vote against John Smith,” where both contribution limits and disclosure requirements would be imposed under FECA, parties would simply run an ad that condemned John Smith’s record on a particular issue. *Id.* at 126-27. These type of ads enabled candidates to obtain potentially unlimited advertising contributions from special interest groups, and enabled wealthy individuals and organizations to anonymously influence the outcome of federal elections. *Id.* at 128.

In an effort to close this loophole, Congress expanded the definition of express advocacy and coined a new term – “electioneering communication.” Under BCRA, any broadcast that (1) clearly identifies a candidate for federal office, (2) is made within 60 days of a general election or 30 days of a primary election, and (3) is targeted to a relevant audience of at least 50,000, is

subject to disclosure requirements and other limitations. 2 U.S.C. § 434(f)(3)(A)(i) (defining “electioneering communication”); 2 U.S.C. § 434(f)(1) (imposing disclosure requirements on such communications); 2 U.S.C. § 441b(b)(2) (making it a crime for any labor union or corporation to use its general treasury funds to pay for an “electioneering communication”). After the enactment of BCRA, parties could no longer avoid disclosure for advertisements run close to a federal election by simply failing to use the magic words of express advocacy.

The constitutionality of the regulations imposed by BCRA on all “electioneering communications” was challenged in *McConnell v. Fed. Election Comm’n*, 540 U.S. 93 (2003). Plaintiffs argued that *Buckley* “drew a constitutionally mandated line between express advocacy and so-called issue advocacy, and that speakers possess an inviolable First Amendment right to engage in the latter category of speech.” *Id.* at 190. The Supreme Court of the United States found, however, that the two categories of speech were “functionally identical in important respects.” *Id.* at 126. Specifically, because both types of ads were being used “to advocate the election or defeat of clearly identified federal candidates.” *Id.* The Court explained that the mere “presence or absence of magic words cannot meaningfully distinguish electioneering speech from a true issue ad.” *Id.* at 193.

Accordingly, the Court upheld the disclosure requirements and other limitations BCRA imposed on “electioneering communications.” The Court found that issue ads broadcast just before federal elections which clearly identify a particular candidate were the “functional equivalent of express advocacy.” *Id.* at 206. Regulation of such ads, therefore, “fit within *Buckley’s* unambiguously campaign related standard” and were constitutional. *NCRTL*, 525 F.3d at 281.

Seven months after the Supreme Court issued its decision in *McConnell*, Wisconsin Right to Life, Inc. (“WRTL”), a nonprofit, ideological advocacy corporation, sought to have further clarification regarding what constituted a constitutionally regulable campaign communication under BCRA. *WRTL*, 127 S.Ct. 2652 (2007). In July 2004, WRTL began a lobbying campaign to end the use of filibusters in the United States Senate over judicial nominees. *Id.* at 2660. This campaign included both radio and television advertisements exhorting listeners to “[c]ontact Senators Feingold and Kohl and tell them to oppose the filibuster.”⁸ *Id.*

WRTL intended to run these ads throughout August 2004 and finance them through its general treasury. *Id.* at 2661. “It recognized, however, that as of August 15, [thirty] days prior

⁸The transcript of the first radio ad was as follows:

“ PASTOR: And who gives this woman to be married to this man?

“ BRIDE’S FATHER: Well, as father of the bride, I certainly could. But instead, I’d like to share a few tips on how to properly install drywall. Now you put the drywall up ...

“ VOICE OVER: Sometimes it’s just not fair to delay an important decision.

“ But in Washington it’s happening. A group of Senators is using the filibuster delay tactic to block federal judicial nominees from a simple “yes” or “no” vote. So qualified candidates don’t get a chance to serve.

“ It’s politics at work, causing gridlock and backing up some of our courts to a state of emergency.

“ Contact Senators Feingold and Kohl and tell them to oppose the filibuster.

“ Visit: BeFair.org

“ Paid for by Wisconsin Right to Life (befair.org), which is responsible for the content of this advertising and not authorized by any candidate or candidate’s committee.’ ”
WRTL, 127 S.Ct. at 2660.

to the Wisconsin primary” – a primary in which Senator Feingold was running unopposed for reelection – “the ads would be illegal ‘electioneering communications’ under BCRA.” *Id.*

WRTL nonetheless believed that these ads were true issue ads, protected from government regulation under the First Amendment. *Id.* Therefore, on July 28, 2004, WRTL filed suit against the Federal Election Commission arguing that BCRA’s prohibition on the use of corporate treasury funds for “electioneering communications” was unconstitutional as applied to these ads. *Id.*

In addressing WRTL’s claim, the United States Supreme Court determined that WRTL’s ads clearly met the definition of “electioneering communication” under BCRA. *Id.* at 2663. The ads identified by name a candidate running for federal office and the ads were intended to be run within thirty days of the primary. “The only question, then, [was] whether it [was] consistent with the First Amendment for BCRA . . . to prohibit WRTL from running these . . . ads.” *Id.* In other words, the Court had to analyze whether these particular electioneering communications were the “functional equivalent of express advocacy.” *McConnell*, 540 U.S. at 206.

To determine this, the Court developed an objective standard, one that would “reflec[t] our ‘profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.’” *WRTL*, 127 S.Ct. at 2665 (quoting *Buckley*, 424 U.S. at 14). The Court held that “an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *Id.* at 2667. Applying this standard to the ads at issue, the Court found that although WRTL’s ads were technically “electioneering communications” under BCRA, they

were not the functional equivalent of express advocacy and thus, could not constitutionally be regulated. *Id.*

C. Summary – Where Does This Precedent Leave Us?

The foregoing Supreme Court precedent makes clear that campaign finance laws may constitutionally regulate only those activities that are unambiguously campaign related. *Buckley*, 424 U.S. at 80. To date, the Supreme Court has recognized only two categories of campaign communications that meet this standard. *NCRTL*, 525 F.3d at 281. First, legislatures may constitutionally regulate campaign communications that use words of express advocacy, such as “vote for,” “elect,” or “vote against,” in relation to a particular candidate. *Buckley*, 424 U.S. at 44 n.52. Second, legislatures may constitutionally regulate campaign communications that are the “functional equivalent of express advocacy.” *McConnell*, 540 U.S. at 206. This latter category of regulable campaign communications has been narrowly circumscribed. *NCRTL*, 525 F.3d at 282. To be the “functional equivalent” of express advocacy, a campaign communication must be an “electioneering communication,” defined under BCRA as a “broadcast, cable, or satellite communication which refers to a clearly identified candidate” within thirty days of a primary election or sixty days of a general election, 2 U.S.C. § 434(f)(3)(A)(i), that “is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *WRTL*, 127 S.Ct. at 2667.

III. LEGAL STANDARDS

A. Summary Judgment Standard

Rule 56 of the Federal Rules of Civil Procedure allows for the entry of summary judgment if the evidence in the record shows “that there is no genuine issue as to any material

fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). The Tenth Circuit has explained that when applying this standard the court must “examine the factual record and reasonable inferences therefrom in the light most favorable to the party opposing summary judgment.” *Applied Genetics Int’l, Inc. v. First Affiliated Sec., Inc.*, 912 F.2d 1238, 1241 (10th Cir. 1990). This does not mean, however, that the existence of a mere scintilla of evidence in support of the non-moving party’s position is enough to overcome summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252 (1986). “[T]here must be evidence in which the jury could reasonably find for the [non-moving party].” *Id.*

B. Political Candidate vs. Ballot Initiative

The analysis up to this point has dealt entirely with the constitutionality of campaign finance laws as they relate to candidate elections. The Utah statutes at issue, however, regulate the influencing by individuals and entities of ballot measures. Whether campaign finance laws regulate candidate elections or noncandidate elections, the constitutional analysis does not change. Courts have consistently applied the standards articulated in *Buckley* to all types of campaign finance regulations and have not distinguished between ballot measure elections and candidate elections in their rationales. *See, e.g., Buckley v. Am. Constitutional Law Found., Inc.* (“*Buckley II*”), 525 U.S. 182, 186-87, 203-04 (1999) (recognizing that legislatures may constitutionally regulate noncandidate elections, and upholding most of Colorado’s disclosure requirements imposed on such elections); *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 347 (1995) (“The principles enunciated in *Buckley* extend equally to issue-based elections”); *Cal. Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1103 n.18, (9th Cir. 2003) (“[W]e do not read *Buckley* to mean that only candidate-related political speech may be regulated. . . .

Since there are no federal initiative or referenda, the *Buckley* court never considered the constitutionality of regulating ballot-measure advocacy.”); *Richey v. Tyson*, 120 F.Supp.2d 1298, 1310 (S.D. Ala. 2000) (“*Buckley*’s reference to candidates reflects only the scope of the statutory language at issue, not the scope of constitutionally permissible regulation.”); *Volle v. Webster*, 69 F.Supp.2d 171, 173-74 (D. Me. 1999) (“[A] public filing requirement in an issue-only election is not wholly prohibited.”).

C. Standard of Review

Buckley explained that compelled disclosure imposed by the state must survive “exacting scrutiny.” *Buckley*, 424 U.S. at 64. The Foundation argues that “exacting scrutiny” means “strict scrutiny.” That it must be “narrowly tailored” to serve a “compelling governmental interest.” *See, e.g., McIntyre*, 514 U.S. at 347 (dealing with disclosure requirements the Court stated: “When a law burdens core political speech, we apply ‘exacting scrutiny,’ and we uphold the restriction only if it is narrowly tailored to serve an overriding state interest”); *Am. Constitutional Law Found., Inc. v. Meyer*, 120 F.3d 1092, 1103-04 (10th Cir. 1997) (finding that statutory requirement that circulators wear identification badge was “not narrowly tailored to serve the state’s asserted interest”).

The Lieutenant Governor contends that a reduced level of scrutiny applies. The Lieutenant Governor argues that when analyzing the constitutionality of state election laws, the standard of review must be flexible:

A court considering a challenge to a state election law must weigh “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate” against “the precise interests put forward by the State as justifications for the burden imposed by its rule,” taking into consideration “the extent to which those interests make it necessary to burden the plaintiff’s rights.

Burdick v. Takushi, 504 U.S.428, 433 (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)). Applying this balancing process to the present case, the Lieutenant Governor contends that the disclosure requirements imposed by the Utah Election Code impose a very minor burden on the Foundation. Defendant’s Memo in Opposition, p. 20, Dkt. No. 22. They do not prohibit speech in anyway. They merely require disclosure by the Foundation of who paid for the advertisements. Therefore, the Lieutenant Governor contends that a reduced level of scrutiny applies, such that the regulation should be upheld if it serves a significant governmental interest. *Id.*

After analyzing the case law dealing with disclosure requirements, the court is persuaded that the standard articulated in *Buckley* is the appropriate standard. The disclosure requirements at issue, therefore, must survive “exacting scrutiny.” *Buckley*, 424 U.S. at 64. Although this standard is more strict than the “intermediate” level of scrutiny the Lieutenant Governor would have the court apply, it is also “more forgiving than the traditional understanding of [strict scrutiny].” *Buckley II*, 525 U.S. 182, 214 (1999) (Thomas, J., concurring). In order to be upheld, UCA §§ 20A-11-101(7), 20A-11-101(28), and 20A-11-101(30) must have a “substantial relation,” *Buckley*, 424 U.S. at 64, to a “substantial” governmental interest, *id.* at 68.

But as *Buckley* clearly articulated, the government possesses a substantial interest in the regulation of political speech only when that political speech is unambiguously campaign related. *Id.* at 79-81. Therefore, before applying exacting scrutiny by determining whether the information sought by the state of Utah through its disclosure requirements bears a substantial relation to the government’s interests, the court must first determine whether the activities being regulated are unambiguously campaign related.

IV. ANALYSIS

The Foundation has challenged, both facially and as applied, three provisions of the Utah Election Code: (1) UCA § 20A-11-101(7)(a)(ii) (definition of “corporation”); (2) UCA § 20A-11-101(30)(a)(ii) (definition of “political issues expenditure”); and (3) UCA § 20A-11-101(28)(b) (definition of “political issues committee”). The Foundation seeks declaratory and injunctive relief with respect to these provisions and expungement from all Utah state records of any documents the Foundation was required to file under the Utah Election Code.

A. Standing

In May 2007, the Lieutenant Governor notified the Foundation that as a corporation making political issues expenditures, it was required to file disclosure statements with the state of Utah under UCA § 20A-11-702. Herbert Letter (May 24, 2007), Verified Complaint, Exhibit J. The Foundation was not subject, however, to the more onerous reporting requirements imposed on political issues committees. *See* UTAH CODE ANN. § 20A-11-802.

The Lieutenant Governor argues that because the Foundation has never been officially classified as a political issues committee, nor has it ever been required to comply with the disclosure requirements imposed on political issues committees, the Foundation lacks standing to challenge Utah’s definition of such. UTAH CODE ANN. § 20A-11-101(28). The Lieutenant Governor contends that an alleged injury under one provision of a statute, in this case UCA § 20A-11-702 (which requires disclosure by corporations making political issues expenditures), is insufficient to confer standing to challenge other provisions of the statute where no actual injury has occurred. *CAMP Legal Defense Fund, Inc. v. City of Atlanta*, 451 F.3d 1257, 1273 (11th Cir. 2006). Therefore, although the Lieutenant Governor acknowledges that the Foundation has

standing to challenge Utah’s definitions of “corporation” and “political issues expenditure” – the provisions the Foundation was actually found to be subject to – he argues that it does not have standing to challenge Utah’s definition of “political issues committee.”

“Standing is a threshold requirement, determined with reference to both constitutional limitations on federal court jurisdiction in Article III and prudential limitations on the exercise of that jurisdiction.” *Baca v. King*, 92 F.3d 1031, 1035 (10th Cir. 1996). To meet the constitutional requirements, a plaintiff must demonstrate that: (1) he has suffered an injury-in-fact; (2) there is a causal connection between the injury and the conduct complained of; and (3) it is likely that the injury will be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

In cases involving free speech rights, the requirements for standing can be somewhat lessened. *Sec’y of State of Md. v. Munson*, 467 U.S. 947, 956 (1984). But the first requirement – that the plaintiff suffer an injury-in-fact – must be satisfied. *See Phelps v. Hamilton*, 122 F.3d 1309, 1326 (10th Cir. 1997). A plaintiff will satisfy the injury-in-fact requirement if he has demonstrated a credible and well-founded fear that the statute will be enforced against him. *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 298 (1979). Stated differently, in order to have standing to challenge UCA § 20A-11-101(28) (definition of “political issues committee”), the Foundation must show – “at an irreducible minimum” – a realistic possibility of being prosecuted under the Utah Election Code as a political issues committee, *Virginia v. Am. Booksellers Ass’n*, 484 U.S. 383, 392 (1988), or demonstrate that its free speech rights have been or will be sufficiently chilled. *Ward v. Utah*, 321 F.3d 1263, 1267 (10th Cir. 2003).

In its second letter to the Foundation, the Lieutenant Governor's office explained that in its opinion "the radio and television advertisements that [the Foundation] ran . . . demonstrate that it is 'an entity . . . outside this state . . . that makes disbursements to influence, or to intend to influence, directly or indirectly, any person to . . . assist in keeping a statewide ballot proposition off the ballot,'" i.e. a political issues committee. Cragun Letter II (April 25, 2007), Verified Complaint, Exhibit H (quoting UCA § 20A-11-101(28) (definition of "political issues committee")). A more clear example of a credible and well-founded fear of future prosecution is difficult to imagine.

The Foundation was accused of being a political issues committee for engaging in the type of speech it has always engaged in and which it would like to continue to engage in. Although the ads at issue referred to Utah's school voucher law, they also clearly informed workers about their legal rights and the availability of free legal aid. These types of public service announcements constitute a substantial part of the Foundation's marketing strategy. The Foundation continually monitors situations around the country that may give rise to a need for its aid, and often responds by informing the relevant community that free legal aid from the Foundation is available. However, because of fear that Utah's political issues committee definition and its attendant requirements will be enforced against it, the Foundation claims to have been discouraged from engaging in these activities in the state of Utah.

The Lieutenant Governor responds by arguing that subpart (b)(v) of the political issues committee definition explicitly excludes corporations from political issues committees. The Lieutenant Governor contends that because the Foundation is a corporation, it is not subject to the requirements imposed on political issues committees and thus lacks standing to challenge

UCA § 20A-11-101(28). But any purported security this corporate exception provides to the Foundation is illusory. The exception does not apply “when the corporation is acting generally as a political issues committee.” Defendant’s Memo in Opposition, p. 9, Dkt. No. 22. And the only criteria the provision provides to separate a corporation from a political issues committee is a broad “apparent purpose” test. UTAH CODE ANN. § 20A-11-101(28)(b)(v). A test, which when initially applied to the Foundation, was found by the State to be a political issues committee.

The Foundation has sufficiently demonstrated standing to challenge UCA § 20A-11-101(28) (definition of “political issues committee”) and its attendant requirements. It was classified by the Lieutenant Governor’s office as a political issues committee even after contending in a written letter to the State that it was not, and has been provided with no objective criteria as to what type of conduct may again classify it as such in the future. Accordingly, the Foundation has shown a credible and well-founded fear of future prosecution under the provision, *Babbitt*, 442 U.S. at 298, which has had a chilling effect on its First Amendment protected speech. *Ward*, 321 F.3d at 1267.

B. Constitutionality of Utah’s Disclosure Requirements

Narrowly drawn disclosure requirements are not only constitutional, but have been recognized as perhaps the best solution to deterring corruption in the election process. *See Buckley v. Valeo*, 424 U.S. 1, 60 (1976). Disclosure helps to control the “domination of the initiative process by affluent special interest groups,” *Buckley v. Am. Constitutional Law Found., Inc.* (“*Buckley II*”), 525 U.S. 182, 202-03 (1999), and provides the electorate with information necessary to make an educated decision after an “open” debate. *See McConnell v. Fed. Election Comm’n*, 540 U.S. 93, 196 (2003).

But as has been clearly stated above, the imposition of disclosure requirements is not without limitations. Because the First Amendment “guarantee has its fullest and most urgent application precisely to the conduct of campaigns,” *Buckley*, 424 U.S. at 15 (citation omitted), disclosure requirements may constitutionally be imposed only when they regulate activities that are unambiguously campaign related. *Id.* at 80.⁹ These include: (1) contributions made by individuals or entities to a campaign or in coordination with a campaign; (2) expenditures made by individuals or entities for communications that expressly advocate for a candidate or initiative – or its functional equivalent; and (3) expenditures made by candidates and political committees.

1. Utah’s Definitions of “Corporation” and “Political Issues Expenditure”

Section 20A-11-101(7) of Utah’s Election Code defines a “corporation” as a “domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for: (i) political purposes; or (ii) *the purpose of influencing* the approval or defeat of any ballot proposition.” UTAH CODE ANN. § 20A-11-101(7)(a) (emphasis added). The term “political issues expenditure” is defined using similar language: “a purchase, payment, distribution, loan, advance, deposit, or gift of money made *for the purpose of influencing* the approval or defeat of . . . a ballot proposition.” UTAH CODE ANN. § 20A-11-101(30)(a)(ii) (emphasis added). The

⁹The Lieutenant Governor contends that after *McConnell* rejected the ‘magic words’ test enunciated in *Buckley*, *McConnell*, 540 U.S. at 191-94, disclosure requirements are no longer constitutionally limited to unambiguously campaign related speech. Defendant’s Memo in Opposition, pp. 14-17. But the Defendant’s interpretation of *McConnell* is misguided. Although *McConnell* did expand the definition of express advocacy to encompass more than just ‘magic words,’ it did not overturn *Buckley*’s unambiguously campaign related standard. To the contrary, *McConnell* found that electioneering communications as defined under BCRA were the functional equivalent of express advocacy, and thus were unambiguously campaign related. *McConnell*, 540 U.S. at 206. It was on this basis that BCRA’s disclosure requirements were upheld.

phrase “for the purpose of influencing” is identical to that used in FECA to define the terms “contribution” and “expenditure,” and is the phrase that the *Buckley* Court found to be ambiguous, “pos[ing] constitutional problems.” *Buckley*, 424 U.S. at 77.

Similar to FECA, Utah’s statute imposes criminal liability on anyone who fails to comply with its disclosure requirements. UTAH CODE ANN. §§ 20A-11-703, 20A-11-803. “Due process requires that a criminal statute provide adequate notice to a person of ordinary intelligence that his contemplated conduct is illegal.” *Buckley*, 424 U.S. at 77. Therefore, to avoid facial invalidity based on grounds of vagueness and overbreadth, the court must do as the Supreme Court did in *Buckley* and narrowly construe the statute. *Id.* at 78.

In accordance with Supreme Court precedent, the court finds that the phrase “for the purpose of influencing” as used in UCA §§ 20A-11-101(7)(a) and 20A-11-101(30)(b) may constitutionally apply only to those expenditures that unambiguously relate to the enactment or defeat of a particular ballot measure. As in *Buckley*, this construction fulfills the primary purpose of the statute to deter corruption by requiring disclosure. Thus narrowly construed, the statute is facially valid.

Having saved these sections facially, the court must determine whether they are constitutional as applied to the Foundation. As previously stated, disclosure requirements may constitutionally be imposed on entities making independent campaign communications only when the communications either (1) expressly advocate – by using specific election-related words – for the enactment or defeat of a particular ballot measure, *Buckley*, 424 U.S. at 80, or (2) when the communication is the functional equivalent of express advocacy. *McConnell*, 540 U.S. at 206.

The advertisements at issue do not meet either requirement. Although the advertisements refer to Utah's school voucher law and may even suggest the Foundation's support for it, *see* Radio Advertisement, Verified Complaint, Exhibit D ("a popular new law meant to improve the quality of education"), nowhere in the advertisements does the Foundation expressly advocate for either the success of vouchers or the failure of the petition drive. The only express advocacy in the advertisements is that of the Foundation exhorting listeners to contact the Foundation for free legal aid. *Id.*

Neither do the advertisements constitute the functional equivalent of express advocacy. "To be considered the 'functional equivalent of express advocacy,' a communication must meet two separate requirements." *NCRTL*, 525 F.3d 274, 282 (4th Cir. 2008). First, the communication must be an "electioneering communication," defined under BCRA as a "communication which refers to a clearly identified [ballot measure]" within thirty days of a primary election or sixty days of a general election. *McConnell*, 540 U.S. at 194 (quoting 2 U.S.C. § 434(f)(3)(A)(i)). Second, the communication must be "susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific [ballot measure]." " *WRTL*, 127 S.Ct. 2652, 2667 (2007). *See also NCRTL*, 525 F.3d at 282-83 (4th Cir. 2008) (detailing the Supreme Court precedent as it relates to express advocacy and its functional equivalent).

The Foundation ran its advertisements in April 2007, seven months prior to the general election – the only election in which the initiative was on the ballot – and long before the time frame that would fit it within the definition of an "electioneering communication" under BCRA. Having failed the first requirement of the functional equivalent test, the Foundation's

advertisements are not unambiguously campaign related and thus cannot be constitutionally regulated.

The Lieutenant Governor argues that the Supreme Court precedent with respect to what constitutes the functional equivalent of express advocacy is not so limited. The Lieutenant Governor contends that after *McConnell*, any communication deemed to be the functional equivalent of express advocacy – whether it meets BCRA’s definition of “electioneering communication” or not – is constitutionally regulable. Defendant’s Memo in Opposition, pp. 15-17, Dkt. No. 22. Relying on this interpretation of *McConnell*, the Lieutenant Governor contends that when the Foundation’s ads are put in context, namely being “run in the midst of a contentious referendum signature gathering campaign,” a reasonable person hearing the ads would understand that a central purpose of the ads is to engender support for school vouchers. *Id.* Therefore, the Lieutenant Governor argues that, when taken as a whole and considered in context, the Foundation’s advertisements clearly constitute the functional equivalent of express advocacy and may constitutionally be regulated. *Id.*

The Lieutenant Governor’s functional equivalency argument is without merit. Even were the court to expand the functional equivalent test beyond “electioneering communications” as defined under BCRA, the state of Utah would still be required to show that the Foundation’s advertisements are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific [ballot measure].” *WRTL*, 127 S.Ct. at 2667. This is an objective test, “focusing on the substance of the communication rather than [the] amorphous” context-based, taken as whole considerations the state has proposed.¹⁰ *Id.* at 2666.

¹⁰The state’s proposed context-based, taken as a whole approach, flies in the face of the Supreme Court’s mandate for clarity. *Id.* at 2669 n.7. It provides no meaningful boundaries of

Applying this objective standard to the Foundation’s ads, the court finds that they are not the functional equivalent of express advocacy. Although the ads seem to support vouchers, the primary purpose of the ads was to solicit clients and inform workers of their rights with regard to union activity. The most reasonable interpretation of the ads is not as an appeal to vote for school vouchers, but rather as an appeal to contact the Foundation for free legal aid. “Because [the Foundation’s] ads may reasonably be interpreted as something other than as an appeal to vote for” school vouchers, they are not the functional equivalent of express advocacy. *Id.* at 2670.

The Lieutenant Governor’s argument of functional equivalency fails for a second and perhaps even more fundamental reason, which is that the vagueness of the statute does not allow for such an analysis. The only cases to engage in functional equivalent analysis are those cases interpreting statutes that are narrowly defined. *See, e.g., WRTL*, 127 S.Ct. 2652 (2007); *McConnell*, 540 U.S. 93 (2003); *NCRTL*, 525 F.3d 274 (4th Cir. 2008). For example, *McConnell* was interpreting BCRA’s definition of “electioneering communication,” which was neither vague nor overbroad. Rather, the statute clearly articulated the prohibited conduct and regulated a narrowly defined activity, namely the running of campaign ads close to an election, an activity Congress believed was the functional equivalent of express advocacy. *McConnell*, 540 U.S. at 204-06. Similarly in *NCRTL*, the Fourth Circuit was interpreting a law intended to expand and clearly define communications that were the functional equivalent of express advocacy. *NCRTL*, 525 F.3d at 280-81. In both *McConnell* and *NCRTL*, the courts understood

regulable versus non-regulable speech, and will only lead to further disputes and litigation, *NCRTL*, 525 F.3d at 283, a result the Supreme Court explicitly wanted to avoid. *WRTL*, 127 S.Ct. at 2666.

what activity was being regulated and could thus make a determination whether it was unambiguously campaign related as defined by Supreme Court precedent. It was because these statutes were “neither vague nor overbroad,” that they were not “required to toe the same express advocacy line” as in *Buckley*. *McConnell*, 540 U.S. at 192.

In the present case, however, the Utah statute does not even attempt to articulate what election-related activities it believes to be the functional equivalent of express advocacy and thus regulable. To the contrary, rather than proscribe specific election-related activities, the plain language of UCA §§ 20A-11-101(7) and 20A-11-101(30) attempts to reach every kind of political activity. Such a broadly worded statute cannot regulate the functional equivalent of express advocacy beyond that articulated by the Supreme Court. To allow such regulation would violate both fairness and due process. By its very nature, any functional equivalent analysis of conduct not previously proscribed will result in post-hoc determinations, and “no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed.” *Buckley*, 424 U.S. at 77 (quoting *United States v. Harriss*, 347 U.S. 612, 617 (1954)).

Therefore, where, as here, courts are applying a narrowly construed statute that previously suffered from the “shoals of vagueness,” *id.* at 78, a functional equivalent analysis beyond that articulated by the Supreme Court need not be reached, and *Buckley*’s express advocacy standard is still viable. *See Am. Civil Liberties Union of Nev. v. Heller*, 378 F.3d 979, 985 (9th Cir. 2004) (“*McConnell* ‘left intact the ability of courts to make distinctions between express advocacy and issue advocacy, where such distinctions are necessary to cure vagueness and over-breadth in statutes which regulate more speech than that for which the legislature has

established a significant governmental interest.’’) (quoting *Anderson v. Spear*, 356 F.3d 651, 664-65 (6th Cir. 2004)).

Even as thus narrowly and explicitly construed, UCA §§ 20A-11-101(7) and 20A-11-101(30) impermissibly burden the Foundation’s constitutional right of free expression. *Buckley*, 424 U.S. at 44. The Foundation’s ads do not expressly advocate for the enactment or defeat of school vouchers, nor are they otherwise unambiguously campaign related. Accordingly, Utah’s definitions of “corporation” (UCA § 20A-11-101(7)) and “political issues expenditure” (UCA § 20A-11-101(30)) as applied to the Foundation are unconstitutional.

2. Utah’s Definition of “Political Issues Committee”

The state of Utah defines “political issues committee” as:

(28)(a) an entity, or any group of individuals or entities within or outside this state, that solicits or receives donations from any other person, group, or entity or makes disbursements to influence, or to intend to influence, directly or indirectly, any person to:

(i) assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or refrain from voting or vote for or vote against any ballot proposition;

(b) “Political issues committee” does not mean:

...

(v) a corporation, except a corporation whose *apparent purpose* is to act as a political issues committee.

UTAH CODE ANN. § 20A-11-101(28)(a)-(b). The Foundation makes the same argument against UCA § 20A-11-101(28) as it has made against the prior two provisions. Specifically, that it is vague and overbroad.

The Foundation contends that the statute is vague because with respect to corporations, it fails to explain what amount of political activity a corporation may engage in before being

labeled a political issues committee. Plaintiff's Reply Memo, pp. 11-13, Dkt. No. 23 (interpreting UCA § 20A-11-101(28)(b)(v)'s "apparent purpose" standard). The statute is overbroad, the Foundation argues, because as it is currently written, all unincorporated organizations which make *any* disbursements to influence a ballot proposition will be considered political issues committees. *Id.* at 12 (interpreting UCA § 20A-11-101(28)(a)).

The analysis of the constitutionality of UCA § 20A-11-101(28) begins exactly where the analysis of UCA §§ 20A-11-101(7) and 20A-11-101(30) began, with a determination of whether it is unambiguously campaign related. *Buckley*, 424 U.S. at 80. As has been repeatedly explained, "this requirement ensures that the constitutional regulation of elections . . . does not sweep so broadly as to become an unconstitutional infringement on protected political expression." *NCRTL*, 525 F.3d. at 287.

Being designated a political issues committee in Utah imposes substantial burdens on organizations. Political issues committees must file a statement of registration, disclosing all of the organizations officers, board members, and any other entities or corporations the organization affiliates with or represents. UTAH CODE ANN. § 20A-11-801. Political issues committees must also file periodic and continuous financial statements, which detail the organization's contributors and the amount contributed. *Id.* at § 20A-11-802. These burdensome disclosure requirements may provide a disincentive for many individuals and entities to engage in activities that might classify them as a member of a political issues committee. Therefore, when the requirements for classification as a political issues committee are loosely defined, otherwise protected political speech, such as true issue advocacy, may be

self-censored as individuals and entities attempt to avoid a political issues committee designation.

Recognizing this, *Buckley* applied the same unambiguously campaign related standard to the permissible scope of political committee regulation. *Buckley*, 424 U.S. at 79. *Buckley* held that only those entities that are “under the control of a candidate or *the major purpose* of which is the nomination or election of a candidate,” could be designated as a political committee and thus regulated. *Id.* (emphasis added).

Subsequent cases have affirmed *Buckley*’s “major purpose” requirement. In *Fed. Election Comm’n v. Mass. Citizens for Life, Inc.*, 479 U.S. 238 (1986) [hereinafter *MCFL*], the Supreme Court described political committees as “those groups whose primary objective is to influence political campaigns,” and held that a corporation could be classified as such if its “major purpose may be regarded as campaign activity.” *Id.* at 262. See also *McConnell v. Federal Election Comm’n*, 540 U.S. 93, 170 n.64 (quoting *Buckley*’s analysis of political committees favorably). Similarly, the Tenth Circuit explained that under *Buckley*, “a group is not a ‘political committee’ unless its ‘major purpose’ is to influence federal elections.” *Colo. Right to Life Comm., Inc. v. Coffman*, 498 F.3d 1137, 1152 (10th Cir. 2007) (citation omitted) [hereinafter *CRTL*].

It is clear, therefore, that only those entities whose primary purpose is to engage in election-related activities may be constitutionally regulated as political committees. This narrow definition “ensures that the burdens of political committee designation only fall on entities whose primary, or only, activities are within the ‘core’ of Congress’s power to regulate

elections,” *NCRTL*, 525 F.3d at 288 (citing *Buckley*, 424 U.S. at 79), and politically protected speech is not unconstitutionally regulated.

a. § 20A-11-101(28)(a)(i) - General Definition of Political Issues Committee

Section 20A-11-101(28)(a)(i) of the Utah Election Code defines political issues committee as an entity that “makes disbursements to influence, or to intend to influence, directly or indirectly,” a ballot proposition. The court has already held that language such as “intended to influence” is impermissibly vague and must be narrowly construed to pass constitutional scrutiny. *See supra* at 23-24. However, Utah’s attempt to regulate entities making *any* such disbursements cannot be saved. With such a broad definition, Utah does not even attempt to comply with *Buckley’s* “major purpose” requirement, and has pushed the reach of political committee regulation beyond constitutional limits.

In *CRTL*, the Tenth Circuit was presented with a Colorado statute that imposed political committee status on any entity that spent more than \$200 a year to support or oppose the election of one or more candidates. *CRTL*, 498 F.3d at 1153. The Tenth Circuit held that this \$200 trigger, standing alone, was insufficient to satisfy *Buckley’s* “major purpose” requirement. *Id.* at 1154. So it is with Utah’s \$1 trigger. “By diluting *Buckley’s* test and regulating entities” that make *any* disbursement to influence a ballot proposition, Utah “runs the risk of burdening a substantial amount of constitutionally protected political speech.” *NCRTL*, 525 F.3d at 289. Accordingly, UCA § 20A-11-101(28)(a) is unconstitutional on its face.

b. § 20A-11-101(28)(b)(v) - Corporate Exception

Section 20A-11-101(28)(b)(v) of the Utah Election Code provides an exception to the political issues committee definition for all corporations, “except a corporation whose *apparent*

purpose is to act as a political issues committee.” *Id.* (emphasis added). Section 20A-11-101(28)(b)(v) provides no direction as to how the state of Utah will determine what a corporation’s apparent purpose is, or what activities will subject a corporation to the requirements imposed on political issues committees. One is left to speculate whether the phrase “apparent purpose,” as used in UCA § 20A-11-101(28)(b)(v), is limited to include only those corporations whose stated purpose is to influence elections or whose predominant expenditures are made for the purpose of influencing elections, as suggested by the Supreme Court.¹¹ 479 U.S. at 252. Or whether it encompasses more, to include – as Utah has suggested – any corporation generally acting as a political issues committee. Defendant’s Memo in Opposition, p. 9, Dkt. No. 22. No clear answers to these questions are provided.

Furthermore, a single corporation can have many “apparent purposes.” For example, the Foundation’s purposes include not only defending the rights of workers from employment discrimination based on unionism arrangements, but also providing information to the working public. Even if it is true in the present case that the Foundation, in addition to these purposes, was also expressing its support of school vouchers, it is pure speculation whether the statute would be interpreted by the State to find support of school vouchers as the Foundation’s “apparent purpose” for the ads. Accordingly, by using the ambiguous phrase “apparent purpose,” Utah fails to clearly mark the boundary between permissible and impermissible speech.” *Buckley*, 424 U.S. at 41.

¹¹In *MCFL*, the Supreme Court “suggested two methods to determine an organization’s ‘major purpose’: (1) examination of the organization’s central organizational purpose; or (2) comparison of the organization’s independent spending with overall spending to determine whether the preponderance of expenditures are for express advocacy or contributions to candidates.” *CRTL*, 498 F.3d at 1152 (citing *MCFL*, 479 U.S. at 252 n.6).

If Utah is allowed to impose political committee burdens on a multi-faceted organization simply because one of its “apparent purposes” – as perceived by the state of Utah – is to influence elections, Utah will end-up regulating “a relatively large amount of constitutionally protected speech unrelated to elections merely to regulate a relatively small amount of election-related speech.” *NCRTL*, 525 F.3d at 289. The court is convinced that “*Buckley* did indeed mean exactly what it said when it held that an entity must have ‘*the* major purpose’ of supporting or opposing [an election] to be designated a political committee.” *Id.* at 288. Therefore, because UCA § 20A-11-101(28)(b)(v) does not specifically limit political committee regulation to those corporations whose *predominant* purpose is to act as a political issues committee, or which has *the* apparent purpose to act as a political issues committee, it likewise fails constitutional scrutiny and is facially invalid.

V. CONCLUSION

For the foregoing reasons, the Court finds that UCA §§ 20A-11-101(7) and 20A-11-101(30) are facially valid so long as they are narrowly construed to apply only to those expenditures that unambiguously relate to the enactment or defeat of a particular ballot measure, either through express advocacy or its functional equivalent as defined by Supreme Court precedent. Even narrowly construed in this manner, however, UCA §§ 20A-11-101(7) and 20A-11-101(30) are unconstitutional as applied to the Foundation. The Foundation’s advertisements neither expressly advocate for the enactment of school vouchers, nor are they the functional equivalent of express advocacy as defined by Supreme Court precedent.

With respect to UCA § 20A-11-101(28), the court finds that it is facially invalid. Section 20A-11-101(28) fails to comply with *Buckley's* “major purpose” test, and in so doing runs the risk of regulating far too much ordinary political speech.

Accordingly, National Right to Work Legal Defense and Education Foundation, Inc.’s motion for summary judgment is GRANTED.

IT IS SO ORDERED.

DATED this 8th day of September, 2008.

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive style and is positioned above a horizontal line.

Dee Benson
United States District Judge

IN THE UNITED STATES JUDICIAL DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

KLEIN-BECKER USA, LLC,
KLEINBECKER IP HOLDINGS, LLC,

Plaintiffs,

v.

COLLAGEN CORPORATION; DOCTORS
SKIN CARE INSTITUTE MEDICAL
CLINIC, INC.; and LESLIE FEINSTEIN aka
L. LOUISE BRODY aka LOUISE BRODY
FEINSTEIN aka LOUISE LESLIE
FEINSTEIN,

Defendants.

MEMORANDUM DECISION and ORDER
GRANTING MOTION TO COMPEL,
IMPOSING SANCTIONS and REPORT
AND RECOMMENDATION

[Case No.2:07 CV 873 TS](#)

District Judge Ted Stewart

Magistrate Judge David Nuffer

On June 12, 2008, Plaintiffs filed their Motion to Compel Defendants Responses to Plaintiffs' First and Second Sets of Discovery Requests.¹ Defendants responded to Plaintiffs' discovery requests while Plaintiffs' motion to compel was pending and filed a memorandum opposing plaintiffs' motion² which outlined the responses made. Defendants' discovery responses, however, were inadequate and failed to include information concerning the most significant aspects of the case. Thus, Plaintiffs reply memorandum urged the court to compel responses.³

These discovery requests were very important to the case and responses critical to development of evidence. Document Request No. 3 requested information on packaging,

¹ Docket no. [10](#).

² Docket no. [13](#).

³ Docket no. [14](#).

essential to determination of liability issues.⁴ Document Request No. 4 requested correspondence that mentions packaging.⁵ Again, this is central to liability determination. Document Request No. 6 requests financial information, and Defendants responded that they have none, in spite of the fact that “Defendants identify no fewer than 13 locations at which Collagen Life is available for purchase.”⁶ Without this information, damages cannot be measured. Similarly, in response to Document Request No. 10 for financial statements, Defendants responded that there are none.⁷ Finally, Defendants produced nothing in response to Document Request No. 12 seeking tax records.⁸

On July 22, 2008, the court entered an order taking Plaintiffs’ motion to compel under advisement⁹ and requiring Defendants to respond to Plaintiffs’ discovery requests by July 31, 2008. The order stated:

IT IS HEREBY ORDERED that Defendants shall complete any production subject of this motion to compel on or before July 31, 2008. The record for compliance will close on that date. Defendants shall, on that date, file a surreply identifying all production made after July 21, 2008, as to the document requests outlined in pages 2-5 of [14] Reply Memorandum in Support of Plaintiff’s Motion to Compel Responses to Plaintiffs’ First and Second Discovery Requests. Plaintiff may file any Sur-surreply on before August 4, 2008.

Defendants ignored the deadline. Defendants did not complete any production as required and did not file a Sur-reply identifying all production made after July 21, 2008.¹⁰

⁴ Reply Memorandum in Support of Motion to Compel Responses to Plaintiffs’ First and Second Sets of Discovery Requests at 2-3, docket no. [14](#), filed July 21, 2008. Defendants’ Responses to Plaintiffs 1st and 3rd Set of Interrogatories and Requests for Production of Documents are attached to the Reply Memorandum as [Exhibit B](#).

⁵ *Id.* at 3.

⁶ *Id.* at 3-4.

⁷ *Id.* at 4.

⁸ *Id.* at 5.

⁹ [Docket no. 15](#).

¹⁰ Plaintiffs’ Sur-reply in Support of Motion to Compel Responses to Plaintiffs’ First and Second Discovery Request, docket no. [16](#), filed August 1, 2008.

Then, the court ordered that “on or before August 22, 2008 Defendants shall file any document showing cause why further sanctions under [Fed. R. Civ. P. 37](#) should not be imposed for failure to make the required production.”¹¹ This order also warned that

sanctions may include imposition of attorneys fees and the following:

- (i) directing that certain facts be taken as established for purposes of the action, as the Plaintiffs claim;
- (ii) prohibiting Defendants from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (iii) striking pleadings in whole or in part;
- (iv) rendering a default judgment against Defendants; or
- (v) treating as contempt of court the failure to obey.¹²

The order also provided that “Plaintiffs may file proof of expenses, including attorneys’ fees, incurred in this motion through today’s date and within five business days of that filing Defendants may file a response.”¹³ Plaintiffs filed an affidavit requesting attorney’s fees.¹⁴

Defendants again made no response. While they could have responded to show cause why sanctions should not be imposed, and could have objected to the request for fees, they did not. They have therefore forfeited any opportunity to (a) produce documents; (b) file documentation of their production; (c) show cause why sanctions should not be imposed; and (d) resist Plaintiffs’ request¹⁵ for \$3,768,75 expenses and attorney’s fees. They have ignored orders requiring production and explanation of their inaction. Defendants are thus thwarting the progress of the litigation. They have been warned of the sanctions that may result from their inactions.

¹¹ [Docket no. 17](#), filed August 8, 2008.

¹² *Id.*

¹³ *Id.*

¹⁴ Affidavit for Attorney’s Fees, docket no. [18](#), filed August 13, 2008.

¹⁵ *Id.*

ORDER

IT IS HEREBY ORDERED that the motion to compel¹⁶ is GRANTED.

IT IS FURTHER ORDERED that Defendants, jointly and severally, shall pay to Plaintiffs, the sum of \$3,768,75 on or before September 30, 2008.

RECOMMENDATION

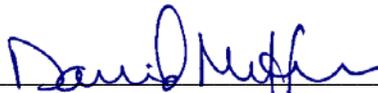
IT IS RECOMMENDED pursuant to [28 U.S.C. 636\(b\)\(1\)](#) that the district judge strike the answers of the Defendants for their failure to respond to discovery and to orders of the court. This will partially remediate the failure of Defendants to participate in the discovery process.

NOTICE TO PARTIES

Within 10 days after being served with a copy of this recommended disposition, a party may serve and file specific, written objections. A party may respond to another party's objections within 10 days after being served with a copy thereof. The rules provide that the district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject or modify the recommended decision, receive further evidence, or re-commit the matter to the magistrate judge with instructions.

Dated this 8th day of September, 2008.

BY THE COURT



Magistrate Judge David Nuffer

¹⁶ Motion to Compel Defendants Responses to Plaintiffs' First and Second Sets of Discovery Requests, docket no. [10](#), filed June 12, 2008.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

WALTER RAY REDMOND,)
)
 Plaintiff,) Case No. 2:07-CV-928 DAK
)
 v.) District Judge Dale A. Kimball
)
 UTAH WORKFORCE COMM'N et al.,) **O R D E R**
)
 Defendants.) Magistrate Judge David Nuffer

Proceeding *in forma pauperis*, Plaintiff, Walter Ray Redmond, filed a *pro se* prisoner civil rights complaint¹. He has since filed thirty-six motions to be dealt with in this Order. Several of the motions request appointed counsel and service of process.

First, the Court considers the motions for appointed counsel. Plaintiff has no constitutional right to counsel.² However, the Court may in its discretion appoint counsel for indigent inmates.³ "The burden is upon the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel."⁴

When deciding whether to appoint counsel, the district court should consider a variety of factors, "including 'the merits of the litigant's claims, the nature of the factual issues raised in

¹See 42 U.S.C.S. § 1983 (2008).

²See *Carper v. Deland*, 54 F.3d 613, 616 (10th Cir. 1995); *Bee v. Utah State Prison*, 823 F.2d 397, 399 (10th Cir. 1987).

³See 28 U.S.C.S. § 1915(e) (1) (2008); *Carper*, 54 F.3d at 617; *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

⁴*McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims.'"⁵

Considering the above factors, the Court concludes here that (1) it is not clear at this point that Plaintiff has asserted a colorable claim; (2) the issues in this case are not complex; and (3) Plaintiff is not incapacitated or unable to adequately function in pursuing this matter. Thus, the Court denies for now Plaintiff's motions for appointed counsel.

Second, the Court denies for now Plaintiff's motions for service of process. The Court may fully screen Plaintiff's complaint at its earliest convenience and determine whether to dismiss it or order it to be served upon Defendants.⁶ Plaintiff need do nothing further to trigger this process.

IT IS HEREBY ORDERED that:

(1) Plaintiff's requests for appointed counsel are DENIED, (see File Entry #s 17, 39, 47, & 58); however, if, after the case is fully screened, it appears that counsel may be needed or of specific help, the Court may ask an attorney to appear pro bono on Plaintiff's behalf.

(2) Plaintiff's motions for service of process are DENIED, (see File Entry # 35, 43, 54, 55, 57, & 61); however, if, after

⁵[Rucks v. Boergermann](#), 57 F.3d 978, 979 (10th Cir. 1995) (quoting [Williams](#), 926 F.2d at 996); accord [McCarthy](#), 753 F.2d at 838-39.

⁶See 28 U.S.C.S. § 1915A (2008).

the case is screened, it appears that this case has merit and states a claim upon which relief may be granted, the Court may order service of process.

(3) Plaintiff's motions for discovery are DENIED. (See File Entry #s 5, 6, 7, 10, 11, 12, 18, 22, 23, 24, 25, 26, 27, 28, 30, 32, 36, 60, & 63.) These are premature as the complaint has yet to be screened to determine whether to serve it upon Defendants.

(4) Plaintiff's motions to set a trial date are DENIED. (See File Entry #s 44 & 58.) These are premature as the complaint has yet to be screened to determine whether to serve it upon Defendants.

(5) Plaintiff's motions that the Court waive the costs of fees for copies of the docket are DENIED. (See File Entry #s 37 & 47.)

(6) Plaintiff's motion requesting that all future judges refrain from recusing is DENIED. (See File Entry # 38.) The Court cannot promise that a conflict of interest or some other reason for recusing may not surface in the future.

(7) Plaintiff's motion that no future time extensions be granted for Defendants is DENIED. (See File Entry # 42.)

(8) Plaintiff's motion that all prior motions be granted is DENIED. (See File Entry # 59.)

(9) Plaintiff's voluminous filings are deemed vexatious and are unduly taxing the Court's resources; thus,

(a) **Plaintiff shall refrain from filing further motions requesting appointed counsel and service of process.** These matters have been adequately brought to the Court's attention and will be continually evaluated as the case proceeds. The Clerk of Court shall reject future filings of such motions.

(b) **Plaintiff shall refrain from filing further motions for discovery and trial date.** These will be accepted by the Court only should the complaint be served upon and answered by Defendants.

DATED this 5th day of September, 2008.

BY THE COURT:



DAVID NUFFER
United States Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

Ami Sadler,

Plaintiff,

v.

General Motors Corporation,

Defendant.

No. 2:07cv956-DAK

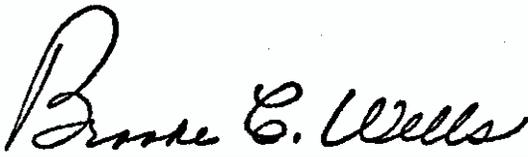
ORDER EXTENDING DATE FOR
FILING RESPONSE TO PLAINTIFF'S
MOTION TO COMPEL

(District Judge Dale A. Kimball)

PURSUANT TO STIPULATION OF THE PARTIES,

IT IS HEREBY ORDERED extending the deadline for Defendant's response to Plaintiff's motion to compel to September 12, 2008.

DONE this 8th day of September, 2008.



United States Magistrate Judge

Glenn C. Hanni, #A1327
Stuart H. Schultz, #2886
Byron G. Martin, #8824
STRONG & HANNI
Attorneys for Plaintiff
3 Triad Center, Suite 500
Salt Lake City, Utah 84180
Telephone: (801) 532-7080
Facsimile: (801) 323-2037

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

AMI SADLER,

Plaintiff,

vs.

GENERAL MOTORS CORPORATION,

Defendant.

ORDER

**STIPULATION AND MOTION
FOR AMENDED SCHEDULING
ORDER**

Case No. 2:07cv00956

District Judge Dale A. Kimball

The parties, through respective counsel, stipulate that the Scheduling Order in this case be amended as set forth below.

The parties so stipulate and move the Court for an order granting this amendment on the grounds that the parties are presently involved in settlement negotiations, that they are also involved in discovery matters that are in the process of being addressed either by Court hearing or through resolution between the parties, and that both parties believe it is in their best interests to make the

following extensions of time to allow for the settlement negotiations to continue as well as to complete or resolve issues relating to ongoing discovery.

The proposed amendments to the present Scheduling Order are as follows:

- | | |
|--|-------------|
| 4. Rule 26(a)(2) reports from experts | <u>Date</u> |
| a. Plaintiff | 12/17/08 |
| b. Defendant | 2/05/09 |
| c. Counter Reports | 2/26/09 |
| 5. Other Deadlines | <u>Date</u> |
| a. Discovery to be completed by: | |
| Fact discovery | 11/28/08 |
| Expert discovery | 3/06/09 |
| c. Deadline for filing dispositive or potentially
dispositive motions | 3/20/09 |

All other dates shall remain the same.

DATED this 4th day of September, 2008.

STRONG & HANNI

s/Stuart H. Schultz

By _____

Glenn C. Hanni
Stuart H. Schultz
Byron G. Martin
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

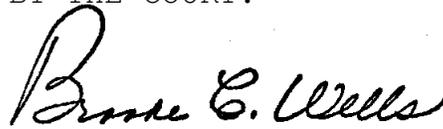
RICARDO RODRIGUEZ,)
)
 Plaintiff,) Case No. 2:07-CV-988 DAK
)
 v.) District Judge Dale A. Kimball
)
 STATE OF UTAH et al.,) **ORDER**
)
 Defendants.) Magistrate Judge Brooke Wells

Plaintiff, Ricardo Rodriguez, filed a *pro se* prisoner civil rights complaint¹ and successfully applied to proceed *in forma pauperis*. He then challenged the Court's assessment of a \$3.44 initial partial filing fee (IPFF).

IT IS HEREBY ORDERED that this motion is DENIED as moot. (See File Entry # 10.) Since Plaintiff filed the motion, he has paid his IPFF.

DATED this 8th day of September, 2008.

BY THE COURT:



BROOKE C. WELLS
United States Magistrate Judge

¹See 42 U.S.C.S. § 1983 (2008).

RICHARD P. MAURO (5402)
Lawyer for Angellia Conrad
43 East 400 South
Salt Lake City, Utah 84111
Telephone: (801) 363-9500

FILED
U.S. DISTRICT COURT

2008 SEP -8 A 2:15

DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
DEPUTY CLERK

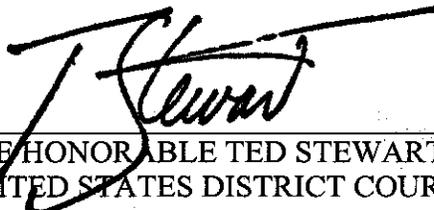
CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	ORDER CONTINUING
Plaintiff,	:	TRIAL
v.	:	
ANGELLIA CONRAD,	:	Case No. 2:08CR153
Defendant.	:	JUDGE TED STEWART

Based upon the motion of the defendant, Angellia Conrad, through her lawyer, Richard P. Mauro, stipulation of Scott Romney, Assistant United States Attorney and good cause appearing, it is hereby

ORDERED that the trial presently scheduled to begin September 8, 2008 be and is hereby continued. The trial will be re-scheduled *for 11/3/08 @ 8:30 a.m.* with the cooperation and availability of counsel for the parties.

Dated this 5th day of September, 2008.


THE HONORABLE TED STEWART
UNITED STATES DISTRICT COURT JUDGE

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

SHANE MEYER KENDALL,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT’S
MOTION TO REDUCE SENTENCE
WITHOUT PREJUDICE TO ITS
REFILING AS A § 2241 PETITION

Case No. 2:08-CR-155 TS

Defendant is serving an 23 month federal sentence. Defendant has written a letter to the Court requesting credit for the time he served in custody prior to his sentencing date.

The Court, having considered Defendant’s Motion, finds that Defendant’s Motion attacks the execution of his sentence and should have been filed as a Petition under 28 U.S.C. § 2241.¹ Section 2241(a) provides that a “[w]rit[] of habeas corpus may be granted by [one of the federal courts] within their respective jurisdictions.” The Tenth Circuit has clarified that “a petition

¹*See McIntosh v. United States Parole Comm’n*, 115 F.3d 809, 811 (10th Cir. 1997) (“Petitions under § 2241 are used to attack the execution of a sentence, . . . in contrast to § 2254 habeas and § 2255 proceedings, which are used to collaterally attack the validity of a conviction and sentence.”).

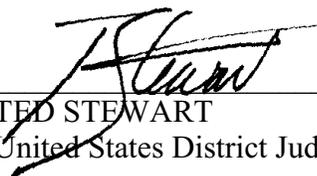
under 28 U.S.C. § 2241 attacks the execution of a sentence rather than its validity and *must be filed in the district where the prisoner is confined.*² The statute further provides that, if a petition is brought outside of the jurisdiction “wherein the restraint complained of is had,” the Court “may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.” 28 U.S.C. § 2241(b).

In this case, Defendant has filed his request by Motion, rather than by a Petition addressed to the district court in the jurisdiction where he is confined. Because it was filed as a Motion rather than a Petition, Defendant has not paid the filing fee necessary to file such a Petition, nor has he moved to proceed with a 2241 petition in forma pauperis, and, therefore, there is no Petition to transfer. Accordingly, it is

ORDERED that Defendant’s Motion for Credit for Time Served (Docket No. 26) is DENIED WITHOUT PREJUDICE to its refiling as a Petition under U.S.C. § 2241 in the federal district court in the district where he is currently confined.

DATED September 8, 2008.

BY THE COURT:



TED STEWART
United States District Judge

²*Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996) (emphasis added).

BRETT L. TOLMAN, United States Attorney (#8821)
JEANNETTE F. SWENT, Assistant United States Attorney (#6043)
Attorneys for the United States of America
185 South State Street, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Civil No. 2:08-CV-00025-TS
	:	
Petitioner,	:	ORDER
	:	
vs.	:	Honorable Ted Stewart
	:	
LINDA STAMM,	:	
Spence Auto Recovery Services, Inc.,	:	
	:	
Respondent.	:	

On March 27, 2008, this Court ordered Ms. Stamm to comply with the October 2007 Internal Revenue Summonses (“the Summonses”) “no later than 45 days from the date of this Order.” Docket No. 6. On September 8, 2008, this Court held a status conference pursuant to the United States’ motion at which Ms. Stamm appeared *pro se* and Jeannette F. Swent, Assistant United States Attorney, appeared on behalf of the United States. Based on the arguments and representations presented at the hearing and in the United States’ written submissions, this Court ORDERS the following:

Ms. Stamm must comply with the Court’s March 27, 2008 Order by providing all documents, testimony, and other information requested by the Summonses to the Internal Revenue Service (“IRS”) on or before September 15, 2008. The IRS offices are located at 50 South 200 East, Salt Lake City, Utah.

If Ms. Stamm fails to comply with the Court's March 27, 2008 Order, she will be assessed a daily fine of \$300.00 from September 15, 2008, until the date she complies with the Order.

ORDERED THIS 8th day of September 2008.

BY THE COURT:



TED STEWART, Judge
United States District Court

FILED
U.S. DISTRICT COURT

2008 SEP -8 A 9:40

DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

BY: _____
DEPUTY CLERK

CITY OF HOLLADAY, UTAH, a Utah
municipal corporation,

Plaintiff,

v.

Ina W. Tyler, an individual; the RICHARD H. AND
INA W. TYLER REVOCABLE TRUST DATED MARCH
18, 1992, a Utah trust; INA W. TYLER, Trustee of the
RICHARD H. AND INA W. TYLER REVOCABLE TRUST
DATED MARCH 18, 1992; TEE W. TYLER, Trustee of
the RICHARD H. AND INA W. TYLER REVOCABLE
TRUST DATED MARCH 18, 1992; TIMOTHY TYLER,
Trustee of the RICHARD H. AND INA W. TYLER
REVOCABLE TRUST DATED MARCH 18, 1992; THE
TYLER FAMILY LTD. PARTNERSHIP, a Utah limited
partnership; O.H.M. HOLLADAY, INC., a Utah
corporation; MARTIN FRANCHISES, INC., an Ohio
corporation; RED HANGER, INC., a Utah corporation;
KENDALL CLEANING, INC., a Utah corporation;
ADRIAN VAN HEYST, an individual, d/b/a DIRK'S
FINE DRAPERY/DRY CLEANERS and/or d/b/a DR
CLEAN; WILLIAM R. HIGH (aka WILLIAM R. DYKE);
and DOES 1 through 20, inclusive,

Defendants.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT**

Civil Case No. 2:08-CV-00075-TS

Judge Ted Stewart

Pending before the Court is plaintiff's motion, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, for leave to file a Second Amended Complaint in this action. No objection to the motion was submitted by the defendants.

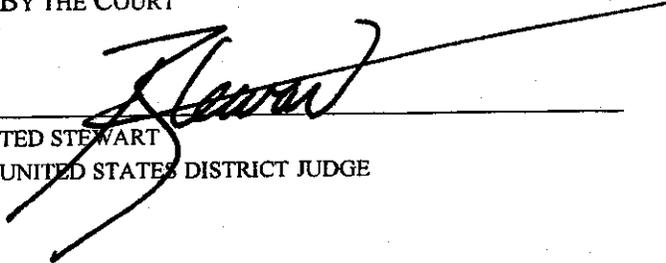
Based on the foregoing and good cause appearing therefore,

IT IS HEREBY ORDERED that Plaintiff's Motion for Leave to File Second Amended Complaint is GRANTED.

IT IS FURTHER ORDERED that defendants shall have ten (10) days after service of the First Amended Complaint in which to plead in response thereto, in accordance with Rule 15(a), Federal Rules of Civil Procedure.

DATED this 8th day of September, 2008.

BY THE COURT


TED STEWART
UNITED STATES DISTRICT JUDGE

ORDER PREPARED AND SUBMITTED BY:

H. CRAIG HALL (Utah Bar No. 1307)
THOMAS L. VAN WYNGARDEN (Utah Bar No. 11971)
BRET F. RANDALL (Utah Bar No. 6634)
CHAPMAN AND CUTLER LLP
201 South Main Street, Suite 2000
Salt Lake City, Utah 84111
Telephone: 801-320-6700
Facsimile: 801-320-6813

Attorneys for Plaintiff
CITY OF HOLLADAY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 2, 2008, a true and correct copy of the foregoing proposed **ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT** was served by United States first class mail, postage prepaid, on the following:

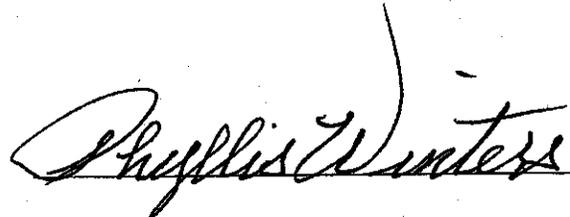
Vince Rampton
JONES WALDO HOLBROOK & McDONOUGH
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101

Brad Cahoon
SNELL & WILMER
15 W. South Temple, Suite 1200
Salt Lake City, Utah 84101

Camille Johnson
Jill Dunyon
Maralyn Reger
SNOW CHRISTENSEN & MARTINEAU
10 Exchange Place, Suite 1100
Salt Lake City, Utah 84111

P. Gerhardt Zacher
GORDON & REES
101 West Broadway, Suite 2000
San Diego, California 92101

Bill High
240 West 300 North
Lehi, Utah 84043



GRANT R. CLAYTON (Utah State Bar No. 4552)
WESLEY M. LANG (Utah State Bar No. 4613)
CLAYTON, HOWARTH & CANNON, P.C.
6965 Union Park Center, Suite 400
Cottonwood Heights, Utah 84047
P.O. Box 1909
Sandy, Utah 84091-1909
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

Attorneys for Plaintiff,
SANSEGAL SPORTSWEAR, INC.

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SEP 08 2008 DISTRICT COURT
OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS
SEP -8 A 10:02
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SANSEGAL SPORTSWEAR, INC.)
)
Plaintiff,)
)
vs.)
)
GEORGE B. LIPSON, JOHN DOES 1-5,)
and JANE DOES 1-5,)
)
Defendants.)

**ORDER EXTENDING TIME
TO ANSWER COMPLAINT**

Civil No. 2:08-cv-102
Honorable Bruce S. Jenkins

The court has considered the attached Motion, and IT IS ORDERED that Defendant,
George Lipson, shall have until September 29, 2008 in order to answer the Complaint in this
matter.

Dated this 8th day of Sept, 2008.



Bruce S. Jenkins
JUDGE

Robert G. Wing (4445)
Roger J. McConkie (5513)
James W. McConkie III (8614)
PRINCE, YEATES & GELDZAHLER
175 East 400 South, Suite 900
Salt Lake City, Utah 84111
Telephone: (801) 524-1000
Facsimile: (801) 524-1098
Electronic Mail:
rgw@prince.yeates.com
rjm@princeyeates.com;
jwm@princeyeates.com

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MADISON REAL ESTATE GROUP,
LLC, a Wyoming limited liability
company, RICHARD AMES HIGGINS,
BRANDON S. HIGGINS, and ALLAN D.
CHRISTENSEN,

Defendants.

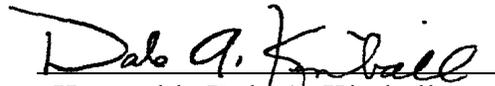
**ORDER AUTHORIZING RECEIVER
TO PAY INSURANCE PREMIUMS**

Case No. 2:08cv00243
Judge Dale A. Kimball

Having duly considered the Motion for Order Authorizing Receiver to Pay
Insurance Premiums, its accompanying memorandum and declaration, the Order
Appointing Receiver, and for good cause appearing;

IT IS HEREBY ORDERED that the Receiver is authorized to pay insurance premiums required to extend the general liability and property damage insurance policies covering the following real property of the Receivership Estate: Coronado Hills, Crosby Green, Lubbock Square, Overlake, Preserve at Prairie Point, Riviera, Town Plaza, Tree House, Wellington, and Westgate Villa. The Receiver is furthermore authorized to pay the premiums in a manner consistent with the best business interest of the Estate and as outlined in the Memorandum in Support of Motion for Order Authorizing Receiver to Pay Insurance Premiums.

Dated this 8th day of September, 2008.


Honorable Dale A. Kimball
U.S. District Court Judge

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
Central Division
SEP 04 2008
OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

<p>MICHAEL S. SOUDEN, Plaintiff, vs. HARMONS, Defendant.</p>	<p>BY: _____ DEPUTY CLERK SCHEDULING ORDER Case No. 2:08 cv 318 BSJ District Judge Bruce S. Jenkins</p>
--	---

An initial status and scheduling conference was held before the Honorable Bruce S. Jenkins on August 25, 2008 at 1:20 p.m. Plaintiff was represented by his counsel, David J. Holdsworth and defendant was represented by its counsel, John S. Chindlund. Based on the hearing and good cause appearing, the Court enters the following

SCHEDULING ORDER

~~**ALL TIMES 4:30 PM UNLESS INDICATED**~~

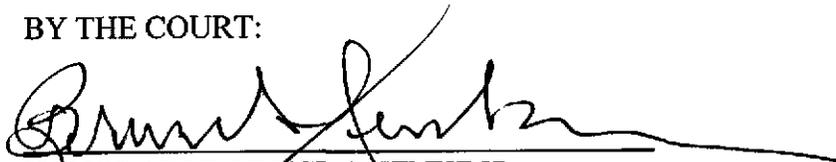
	DATE
DISCOVERY CUTOFF	
a. Fact discovery shall be completed by	December 29, 2008
b. Expert discovery will be completed by	February 16, 2009
c. Plaintiff's expert report(s) will be due by	November 28, 2008
d. Defendant's expert report(s) will be due by	December 29, 2008
e. Counter-expert report(s) will be due by	January 30, 2009
DISPOSITIVE MOTION CUTOFF	March 30, 2009

PRE-TRIAL CONFERENCE

A pre-trial conference will be held before the Court at **9:30 a.m.** on **May 11, 2009**. Counsel will be prepared to discuss their theories of the case, their witnesses, exhibits and any expert opinions at this pre-trial conference. The parties will file a proposed pre-trial order with the Court by **May 7, 2009** including lists of their witnesses and exhibits and setting forth all disputed issues.

Dated this ^{7th} 8 day of Sept, 2008.

BY THE COURT:



HONORABLE BRUCE S. JENKINS
U.S. District Court Judge

APPROVED AS TO FORM & CONTENT

/s/ David J. Holdsworth

(signed by filing attorney with permission of plaintiff's attorney)
Signature and typed name of Plaintiff(s) Attorney

Dated: August 28, 2008

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Central Division for the District of Utah

KEVIN THUR,

Plaintiff,

vs.

SEARS HOLDING CORP, et al

Defendant.

**SCHEDULING ORDER AND
ORDER VACATING HEARING**

Case No. 2:08-cv-00399

District Judge Dee Benson

Pursuant to Fed. R. Civ. P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #10). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for 09/09/2008, at 10:30 a.m. is VACATED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. PRELIMINARY MATTERS | <u>DATE</u> |
|---|--------------------|
| Nature of claim(s) and any affirmative defenses: | |
| a. Was Rule 26(f)(1) Conference held? | <u>09/03/2008</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>09/03/2008</u> |
| c. Was 26(a)(1) initial disclosure completed? | <u>10/31/2008</u> |
-
- | 2. DISCOVERY LIMITATIONS | <u>NUMBER</u> |
|---|----------------------|
| a. Maximum Number of Depositions by Plaintiff(s) | <u>7</u> |
| b. Maximum Number of Depositions by Defendant(s) | <u>7</u> |
| c. Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. Maximum Interrogatories by any Party to any Party | <u>35</u> |
| e. Maximum requests for admissions by any Party to any Party | <u>per rule</u> |

- f. **Maximum requests for production by any Party to any Party** *per rule*
DATE
3. **AMENDMENT OF PLEADINGS/ADDING PARTIES²**
- a. **Last Day to File Motion to Amend Pleadings**
- b. **Last Day to File Motion to Add Parties**
4. **RULE 26(a)(2) REPORTS FROM EXPERTS³**
- a. **Plaintiff** 08/31/2009
- b. **Defendant** 08/31/2009
- c. **Counter Reports** 09/30/2009
5. **OTHER DEADLINES**
- a. **Discovery to be completed by:**
- Fact discovery** 04/30/2009
- Expert discovery** 10/30/2009
- b. **(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)**
- c. **Deadline for filing dispositive or potentially dispositive motions** 10/30/2009
6. **SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION**
- a. **Referral to Court-Annexed Mediation**
- b. **Referral to Court-Annexed Arbitration**
- c. **Evaluate case for Settlement/ADR on** 04/30/2009
- d. **Settlement probability:**
7. **TRIAL AND PREPARATION FOR TRIAL:**
- a. **Rule 26(a)(3) Pretrial Disclosures⁴**
- Plaintiffs** **02/05/2010**
- Defendants** **02/19/2010**
- b. **Objections to Rule 26(a)(3) Disclosures**
(if different than 14 days provided in Rule)

			<u>DATE</u>
c.	Special Attorney Conference ⁵ on or before		03/05/2010
d.	Settlement Conference ⁶ on or before		03/05/2010
e.	Final Pretrial Conference	2:30 p.m.	03/23/2010
f.	<u>Trial</u>	<u>Length</u>	<u>Time</u>
	i. Bench Trial		
	ii. Jury Trial	<u>Two Days</u>	<u>8:30 a.m.</u>
			<u>04/05/2010</u>

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 8th day of September, 2008.

BY THE COURT:

David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special

equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

S:\IPT\2008\Thur v. Sears Holding et al 208cv399DB 0908 tb.wpd

SCOTT D. CHENEY (6198)
Assistant Attorney General
MARK L. SHURTLEFF (4666)
Utah Attorney General
Attorneys for Defendants
160 East 300 South, Sixth Floor
P.O. Box 140856
Salt Lake City, Utah 84114-0856

IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
CENTRAL DIVISION

MIGUEL DAVID GEDO,
Plaintiff,

v.

ALAN B. SEVISON, et al.,
Defendants.

**ORDER EXTENDING TIME TO
RESPOND TO AMENDED
COMPLAINT**

Case No. 2:08-CV-438

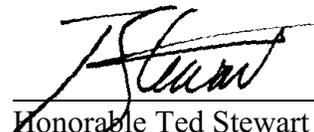
Judge Ted Stewart

Magistrate Judge Samuel Alba

Based on the defendants Bill Duncan and Kelly Frye-Glasser's *Ex Parte Motion For A Second Enlargement of Time to Respond to Plaintiff's Complaint*, the Court hereby enters the following order:

Defendants' motion is GRANTED. Defendants Duncan and Frye-Glasser shall file an answer or other response to plaintiff's *Amended Complaint* on or before September 15, 2008.

DATED this 5th day of September 2008.



Honorable Ted Stewart
District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL/NORTHERN DIVISION

Brad Carroll and Peter Sham,
Plaintiff,

v.

Ken Ludwig,
Defendant.

SCHEDULING ORDER AND
ORDER VACATING HEARING

Case No. 2:08cv00491

District Judge Dale Kimball

Pursuant to Fed. R. Civ. P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #12). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for 10/08/2008 at 11:00 a.m. is VACATED.

ALL TIMES 4:30 PM UNLESS INDICATED

Plaintiffs contend they have a valid and enforceable contract to produce musical versions of the defendant author's play *Lend Me A Tenor*. Defendant contends the contract between the parties has expired. The parties believe this matter is resolvable by the court on cross Motions for Judgment on the Pleadings.

1. PRELIMINARY MATTERS	DATE
Nature of claims and any affirmative defenses:	
a. Was Rule 26(f)(1) Conference held?	<u>8/25/08</u>
b. Has Attorney Planning Meeting Form been submitted?	<u>8/2708</u>
c. Was 26(a)(1) initial disclosure completed?	<u>N/A</u>

2. DEADLINES

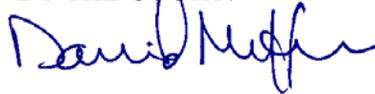
DATE

- a. The parties shall file cross motions for judgment on the pleadings in accordance with the following schedule:
 - i. Motions for Judgment on the Pleadings
 - ii. Opposition to Motions
 - iii. Replies
- b. Oral argument on the cross motions is set before Judge Dale Kimball on December 10, 2008 at 3:00 p.m.
- c. If necessary, the parties shall meet and confer within 10 days following a decision by Judge Kimball on the motions for judgment on the pleadings, and thereafter submit a subsequent Attorneys' Planning Meeting Report and revised Scheduling Order.

October 3,
2008
November
10, 2008
November
24, 2008

Dated this 8th day of September, 2008 .

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

FILED
U.S. DISTRICT COURT

2008 SEP -8 A 8:56

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Robert L. Janicki, #5493
Lance H. Locke, #9440
STRONG & HANNI
Attorneys for Defendant
American Professional Title Agency, Inc.
3 Triad Center, Suite 500
Salt Lake City, Utah 84180
Telephone: (801) 532-7080
Facsimile: (801) 323-2090

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

PAYOUTONE, LLC,

Plaintiff,

vs.

AMERICAN PROFESSIONAL TITLE
AGENCY, INC.,

Defendant.

**ORDER ON STIPULATED MOTION
FOR EXTENSION OF TIME TO
ANSWER PLAINTIFF'S COMPLAINT**

Federal Civil No.: 2:08-cv-652

Judge: Bruce S. Jenkins

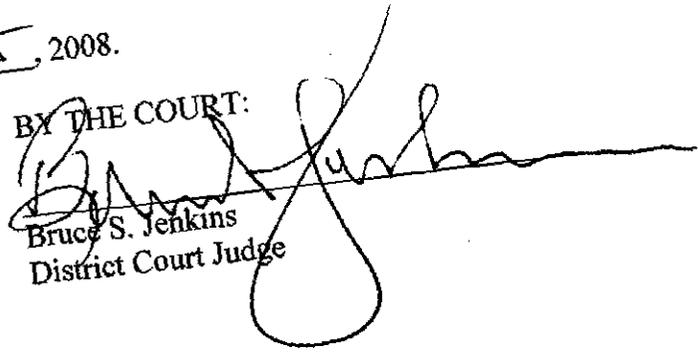
The Court, having received the parties' stipulated motion for extension of time to extend the date by which defendant is required to answer or other respond to plaintiff's Complaint, hereby Orders:

1. The stipulated motion is hereby granted, and
2. Defendant American Professional Title Agency, Inc., has until September 19, 2008, to answer or otherwise respond to plaintiff's Complaint.

2:08-cv-652 J

DATED this 8th day of Sept, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Bruce S. Jenkins", written over a horizontal line.

Bruce S. Jenkins
District Court Judge

FILED
U.S. DISTRICT COURT

2008 SEP -8 A 6:09

DISTRICT OF UTAH

BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FRANK PARKER,

Plaintiff,

vs.

MARK BRIENHOLT, et al.,

Defendants.

ORDER OF REFERENCE

Civil No. 2:08 CV 666 TC

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(B) and the rules of this court, the above entitled case is referred to United States Magistrate Judge Brooke C. Wells. Judge Wells is directed to manage the case, receive all motions, hear oral arguments, conduct evidentiary hearings as deemed appropriate, and to submit to the undersigned judge a report and recommendation for the proper resolution of dispositive matters presented.

DATED this 5th day of September, 2008.

BY THE COURT:



TENA CAMPBELL
Chief Judge

2008 SEP -8 A 11: 10

United States District Court
DISTRICT OF UTAH

Northern Division for the District of Utah

BY: _____
DEPUTY CLERK

Tyler Henderson

v.

Michael Astrue

**ORDER ON APPLICATION
TO PROCEED WITHOUT
PREPAYMENT OF FEES**

Case: 2:08cv00678

Assigned To : Kimball, Dale A.

Assign. Date : 9/8/2008

Description: Henderson v Astrue

Having considered the application to proceed without prepayment of fees under 28 U.S.C. 1915;

IT IS ORDERED that the application is:

GRANTED.

The clerk is directed to file the complaint.

DENIED, for the following reasons:

ENTER this 8th day of September, 20 08.



Signature of Judicial Officer

Magistrate Judge Samuel Alba

Name and Title of Judicial Officer