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**ATTORNEYS FOR PLAINTIFFS**

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

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**iMATTER UTAH**, an unincorporated  
association, **RYAN PLEUNE, LAUREN  
WOOD** and **LINDA PARSONS**,

Plaintiffs,

v.

**JOHN NJORD**, UDOT Executive  
Director; **MARK VELASQUEZ**, UDOT  
Right-of-Way Control Coordinator;  
**SCOTT HAYES**, UDOT Permit Officer,  
**NAZEE TREWEEK**, UDOT District  
Permits Officer, and **JOHN DOES I-V**,

Defendants.

**A M E N D E D  
C O M P L A I N T**

**Case No. 2:11cv00394**

**Judge Clark Waddoups**

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PLAINTIFFS, **iMATTER UTAH**, an unincorporated association, **RYAN PLEUNE**, **LAUREN WOOD** and **LINDA PARSONS**, by and through counsel, Darcy Goddard of the American Civil Liberties Union of Utah Foundation, Inc. and Brian M. Barnard and Stewart Gollan of Utah Legal Clinic, as Cooperating Attorneys for the Utah Civil Rights & Liberties Foundation, Inc., as an Amended Complaint and as causes of action against the Defendants state and allege as follows:

### **PRELIMINARY STATEMENT**

1. This 42 U.S.C. § 1983 action seeks declaratory, equitable and injunctive relief for improper interference with the constitutional rights of Plaintiffs. Plaintiffs seek monetary damages (at least nominal) from the individual defendants. Plaintiffs seek attorney fees and costs under 42 U.S.C. § 1983 and 42 U.S.C. § 1988.

### **JURISDICTION & VENUE**

2. Jurisdiction is proper in this Court under 42 U.S.C. § 1983 and § 1988, as well as 28 U.S.C. §§ 1331 and 1343, and seeks to enforce United States Constitutional provisions.

3. Declaratory relief is authorized by 28 U.S.C. § 2201 and § 2202 and Rule 57 of the Federal Rules of Civil Procedure.

4. Injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure.

5. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(b) because the claims herein arose in the Central District of Utah, the Defendants conduct business in the Central District of Utah, and Defendants are subject to personal jurisdiction within this District.

## PARTIES

6. **IMATTER UTAH (“iMatter Utah”)** is an unincorporated, voluntary association headquartered in Salt Lake City, Utah. Founded in February 2011, iMatter Utah is comprised of volunteer activists. It has no staff or paid employees.

7. iMatter Utah is an organization comprised largely of young people. They believe that since they will inherit this world, an organization like iMatter is needed and was created to reach across regional, ideological, and ethnic borders, to empower youth to organize, and be heard on the issue of global climate change. They believe they are the generation who will suffer most from its consequences. They believe they are the generation who can and will bring about the change needed to create a sustainable and just society that values nature and future generations as much as short term interests. They are inspired to step up and cause the needed change they want. iMatter Utah is part of a global campaign meant to unite and channel the voices of a young generation on the most urgent issue of our time. iMatter Utah pulls together young activists and gives them a platform to loudly and effectively raise their voices regarding climate change.

8. As a non-profit entity, iMatter Utah has no stockholders or owners; it has supporters and members. It has no assets, has received no financial contributions and does not engage in fund-raising. iMatter brings this lawsuit on its own behalf and on behalf of its members and supporters.

9. **RYAN PLEUNE** is an adult citizen and resident of Salt Lake County and the State of Utah. He is a founding member of iMatter Utah. He has acted in a coordinator role for iMatter Utah and as an event organizer for the May 7 Marade and the planned September 24 Marade. He supports the purposes, ideals and goals of iMatter Utah and the May 7 Marade and the September 24 Marade. He has participated in iMatter Utah meetings, has participated in the collective effort to organize the May 7 and September 24 Marades and plans to continue to participate in and organize future iMatter Utah events. He brings this action both on his own behalf and on behalf of iMatter Utah as an iMatter Utah member and event coordinator.

10. **LAUREN WOOD** is an adult citizen and resident of Salt Lake County and the State of Utah. She is a member of iMatter. She has acted in a coordinator role for iMatter Utah and as an event organizer for the May 7 and the planned September 24 Marades. She supports the purposes, ideals and goals of iMatter Utah and its Marades. She has participated in iMatter Utah meetings, has participated in the collective effort to organize the Marades and plans to continue to participate in and organize future iMatter Utah events. She brings this action both on her own behalf and on behalf of iMatter Utah as an iMatter Utah member and event coordinator.

11. **LINDA PARSONS** is an adult citizen and resident of Salt Lake County and the State of Utah. She is a member of iMatter. She participated in planning and organizing iMatter Utah's May 7 and September 24 Marades. She supports the purposes, ideals and goals of iMatter Utah and the Marades. She has participated in iMatter Utah meetings, has participated in the collective effort to organize the May 7 and September 24 Marades and plans to continue to

participate in and organize future iMatter Utah events. She brings this action both on her own behalf and on behalf of iMatter Utah in her capacity as an iMatter Utah member.

12. The UTAH DEPARTMENT OF TRANSPORTATION (“UDOT”) is a governmental entity created by the statutes of the State of Utah. It is the employer and principal of the individual defendants named in this action. It is not a defendant in this action.

13. **JOHN NJORD** is an adult citizen and resident of the State of Utah. He is the Executive Director and chief executive and administrative officer of UDOT. He is responsible for the implementation and enforcement of rules, priorities, and policies established by UDOT and the Utah Transportation Commission. He has supervisory control and authority over defendants **VELASQUEZ, HAYES, TREWEEK, and JOHN DOES I-V**.

14. **MARK VELASQUEZ** is an adult citizen and resident of the State of Utah. He is an agent and employee of the Utah Department of Transportation. He is a Right-of-Way Control Coordinator. He is the supervisor of **HAYES** and **TREWEEK**. He is charged with the duty and responsibility of issuing permits for special events (including free speech demonstrations) that occur in and on the right-of-way of state highways and roads owned and operated by the State of Utah in Salt Lake County.

15. **SCOTT HAYES** is an adult citizen and resident of the State of Utah. He is an agent and employee of the Utah Department of Transportation. He is a Permits Officer. He is charged with the duty and responsibility of issuing permits for special events (including free speech demonstrations) that occur in and on the right-of-way of state highways and roads owned and operated by the State of Utah in Salt Lake County. He is the supervisor of **TREWEEK**.

16. **NAZEE TREWEEK** is an adult citizen and resident of the State of Utah. She is an agent and employee of the Utah Department of Transportation. She is a Permits Officer. She is charged with the duty and responsibility of issuing permits for special events (including free speech demonstrations) that occur in and on the right-of-way of state highways and roads owned and operated by the State of Utah in Salt Lake County.

17. **JOHN DOES I - V** are adult citizens and residents of the State of Utah. They are agents and employees of the Utah Department of Transportation. They are charged with the duty and responsibility of issuing permits for special events (including free speech demonstrations) that occur in and on the right-of-way of state highways and roads owned and operated by the State of Utah in Salt Lake County.

18. The true, full and correct names of the defendants **JOHN DOES I - V** are currently unknown to Plaintiffs. When Plaintiffs discover the full, true, and correct names of those defendants, Plaintiffs will seek leave of the Court and amend this Amended Complaint.

19. The individual defendants are sued both personally as well as in their official capacity for declaratory, equitable and injunctive relief. The individual defendants are sued personally for monetary damages (at least nominal).

20. At all times pertinent to this action, Defendants were acting under color of state law, with powers vested in them by the State of Utah and within the scope of their authority granted by Utah State law, rules, regulations, policies and practices.

## **CHALLENGED PROVISIONS and PRACTICES**

### **Hold Harmless**

21. Utah Administrative Code Rule R920-4-1, Special Road Use requires as a condition of the issuance of a permit for a parade or march on a state highway that a person or entity granted the permit must hold harmless the Utah Department of Transportation in the event of litigation. Exhibit "E" attached. Provisions of the Utah Administrative Code have the force of law.

### **Liability Insurance**

22. As a condition for the issuance of a permit for a Special Road Use or Event on a state highway UDOT and the Defendants require the permit applicant to obtain a liability insurance policy with minimum coverage limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. Exhibits "B" and "G" attached.

### **Waiver & Release by All Participants**

23. As a condition for the issuance of a permit for a Special Road Use or Event on a state highway UDOT and the Defendants require all participants in the permitted special event to sign a "Waiver and Release of Damages." Exhibits "B" and "G" attached.

### **Advance Knowledge & Certification Re: Participants**

24. As a condition for the issuance of a permit for a Special Road Use or Event on a state highway UDOT and the Defendants require that the applicant know in advance the identity of all participants and certify at least fifteen (15) days prior to the event that all participants have signed a "Waiver and Release of Damages." Exhibits "B" and "D" attached.

## OPERATIVE FACTS

### MAY 7 MARADE

25. Plaintiffs planned and conducted a May 7 Marade in downtown Salt Lake City, Utah. The Marade included marching, carrying signs, chanting and displaying small human-powered floats.

26. The May 7 Marade route was from the Federal Building at 100 South State Street south on State Street to 500 South Street then east on 500 South to 200 East Street then north half a block on 200 East to the entrance to Salt Lake City Library Square on the east side of 200 East.

27. The goal of the May 7 Marade was to make a public statement, to engage the community on issues of climate change, to demonstrate a collective commitment to living as though our common future matters and to ask political leaders and elected officials in Utah to address the pressing issue of climate change.

28. Because the intended audience of the May 7 Marade was, in large part, political leaders and elected officials in Utah the site of the Marade was specifically selected. Plaintiffs wanted the public and the news media to relate plaintiffs' message to government action. Plaintiffs selected State Street which by its name connotes government. State Street in Salt Lake City is the location of federal, state, city and county government offices. State Street is symbolic because of its relationship to government and as a main thoroughfare in Salt Lake City.



29. Plaintiffs RYAN PLEUNE, LAUREN WOOD and LINDA PARSONS planned to join with other members and supporters of iMatter Utah on May 7 and participate in the Marade.

30. Plaintiffs applied for a free expression permit from Salt Lake City Corporation to conduct the May 7 Marade and were informed that a permit from UDOT would also be required because the planned route included marching in the road on a four (4) block portion of State Street in Salt Lake City that is a Utah State Highway (SR-186) and/or a United States Highway (US-89) and which is under the jurisdiction of Defendants and UDOT.

31. Plaintiffs received a permit approving the May 7 Marade from Salt Lake City Corporation. However, the permit issued by Salt Lake City was conditioned upon approval of Plaintiffs' permit application by UDOT and Defendants.

32. Plaintiffs applied to UDOT and Defendants for a permit for the May 7 Marade (UDOT application number 42048). Absent a permit issued by the UDOT, iMatter Utah could not legally conduct their May 7 Marade on the roadway of State Street.

33. The portion of State Street including the roadway upon which Plaintiffs desired to hold their May 7 Marade is a traditional public forum.

34. After the UDOT permit application was submitted, RYAN PLEUNE spoke with Defendant TREWEEK by telephone. Defendant TREWEEK informed PLEUNE that iMatter Utah would be required to obtain a liability insurance policy with minimum coverage limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate before a permit would be issued.

35. After being informed that they would be required to obtain liability insurance in order to obtain a permit from UDOT, Plaintiffs obtained quotes from insurance companies and learned that the premium for such a policy could cost as much as two thousand five-hundred dollars (\$2,500.00) if participants numbered a thousand or more. Plaintiffs have subsequently been informed that a policy may be available for a premium in a price range of \$300.00 - \$500.00 if participants numbered only between 100 and 200.

36. iMatter Utah is a voluntary association with no assets. It does not engage in fund-raising. iMatter Utah cannot afford the cost of the required insurance policy.

37. iMatter Utah anticipates many events, protests and demonstrations on government property in the future.

38. After learning that the cost of the required insurance policy was prohibitive, RYAN PLEUNE contacted Defendant TREWEEK by email on April 27, 2011 and requested that the insurance requirement be waived because the planned event is a “political and free speech First Amendment protected event being staged by a unincorporated association of non-profit groups and individuals that lack the funds to pay for an insurance policy.” A copy of that email is attached hereto, marked as Exhibit “A” and incorporated by reference.

39. The rules, policies and regulations of UDOT do not allow Defendants to waive the insurance requirements for a free speech or peaceful assembly event to be conducted by an indigent group or person.

40. UDOT and the Defendants provide no opportunity, no procedure and no mechanism by which iMatter Utah could establish that it is indigent and unable to pay the cost of a liability insurance policy for the May 7 Marade.

41. In response to his email requesting that the insurance requirement be waived, PLEUNE received an email on April 28, 2011 from Defendant VELASQUEZ, wherein VELASQUEZ denied PLEUNE's request for a waiver stating that "UDOT does not treat a political and free speech event any different from other events" and "your request to waive these requirements is denied." A copy of the email from VELASQUEZ to PLEUNE is attached hereto, marked as Exhibit "A" and incorporated by reference.

42. After this lawsuit was filed, in open court on May 5, 2011, Defendants and UDOT waived the requirements that iMatter Utah (a) have every participant sign a waiver and release in order to participate in the May 7 Marade and (b) that iMatter Utah certify that every participant had signed a waiver and release fifteen (15) days prior to the May 7 Marade.

43. For failure to provide liability insurance, Defendants and UDOT refused to issue a permit for the event, therefore the May 7 Marade was not conducted in the roadway of State Street as desired and requested by iMatter Utah.

44. The insurance requirement in operation bars iMatter Utah from obtaining the required UDOT permit for effective free expression events.

45. iMatter Utah conducted the May 7 Marade on the public sidewalk on the east side on State Street between 100 South and 500 South Streets. Approximately 150 - 200 people participated in that event. Because of the large number of people involved in that event, it was

impossible to contain the group to the narrow public sidewalk. Because of obstructions on the sidewalk, participants could not march in mass formation. On the sidewalk marchers had to dodge, snaking and weaving around light posts, bus benches, parking meters, fire hydrants, traffic signs and signals, bicycle racks, construction barriers, pedestrians, planter boxes and other obstacles. The group leading the Marade could not carry its unfurled six foot (6') banner down the sidewalk without going sideways between and around obstacles and on-coming pedestrians.

46. Plaintiffs suffered harm as a result of Defendants and UDOT not issuing the permit. Plaintiffs suffered harm as a result of being forced to conduct the May 7 Marade on the sidewalk rather than on the roadway of State Street. Attendance and participation would have been greater had the event been allowed in the street. News coverage would have been greater had the event been allowed in the street.

#### **SEPTEMBER 24 MARADE**

47. Plaintiffs plan to conduct an event on Saturday, September 24, 2011 in downtown Salt Lake City, Utah (“the September 24 Marade”). The September 24 Marade will include marching, carrying signs and banners, chanting, people riding bicycles and displaying small human-powered floats. The September 24 Marade will be similar to the May 7 Marade.

48. The individual named Plaintiffs RYAN PLEUNE, LAUREN WOOD and LINDA PARSONS plan to join with other members and supporters of iMatter Utah and participate in the September 24 Marade.

49. The September 24 Marade will begin with a rally on the front steps of the Utah State Capitol. The September 24 Marade will then be a procession from the Utah State Capitol south on State Street (SR-186 & US-89) to the Salt Lake City and County Building and Washington Square, 450 South State Street, Salt Lake City, Utah. A rally will then be held at Washington Square, the site of Salt Lake City government.

50. Absent extending the procession route approximately ~2.5 miles, iMatter Utah cannot march from the front steps of the Utah Capitol to the Salt Lake City and County Building without using some portion of Utah State Highway SR-186.

51. The route of the Marade was specifically selected because the intended audience of the September 24 Marade is, in large part, political leaders and elected officials in Utah. Plaintiffs want the public and the news media to relate their message to government action. The Marade will start at the State Capitol and end with a rally including speeches at the Salt Lake City Hall. Plaintiffs selected State Street which by its name connotes government. State Street in Salt Lake City is the location of federal, state, city and county government offices. The Marade needs to be in the roadway because the issues at hand involve, among other things, the over use of motor vehicles and their harm to the environment.

52. iMatter Utah desires that the September 24 Marade be in the roadway of State Street. Plaintiffs believe that more people will attend the September 24 Marade than attended and participated in the May 7 Marade (~150 - ~200). Plaintiffs believe that the number of people who will attend and participate in the September 24 Marade cannot be accommodated on the public sidewalk of State Street especially between the State Capitol and North Temple.

53. The roadway portion of State Street upon which Plaintiffs desire to hold their September 24 Marade is a traditional public forum.

54. Plaintiffs iMatter Utah applied for a free expression permit from Salt Lake City to conduct the September 24 Marade and was informed that a permit from UDOT would also be required because the planned route includes marching in the roadway on a portion of State Street in Salt Lake City, a Utah State and United States highway which is under the jurisdiction of Defendants and UDOT.

55. iMatter Utah applied to UDOT and Defendants for a permit for the September 24 Marade (Permit Application No. 43679). Absent a permit issued by UDOT, iMatter Utah may not legally conduct the planned September 24 Marade on portions of State Street.

56. On the date the application of iMatter Utah for the September 24 Marade was submitted to UDOT in effect were:

a. Utah Administrative Code Rule R920-4-1 requiring an applicant to hold UDOT harmless for liability resulting from the event;

b. the requirement that all participants sign releases and waivers; and,

c. the requirement that the applicant know the names of all participants fifteen (15) days in advance of the event and certify that all participants had signed releases and waivers.

Exhibits “B,” “D,” and “E” attached.

57. After the UDOT permit application was submitted for the September 24 Marade, RYAN PLEUNE communicated with Defendant TREWEEK. Defendant TREWEEK informed PLEUNE that iMatter Utah would be required to obtain a liability insurance policy with minimum coverage limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate before a permit would be issued.

58. RYAN PLEUNE contacted Defendant TREWEEK by email on June 27, 2011 and requested that the insurance requirement be waived for the September 24 Marade. A copy of that email is attached hereto, marked as Exhibit "F" and incorporated by reference.

59. In response to his request that the insurance requirement be waived, Defendant TREWEEK stated "UDOT will not waive the requirement for liability insurance." A copy of the email from TREWEEK to PLEUNE is attached hereto, marked as Exhibit "F" and incorporated by reference.

60. In addition to the liability insurance requirements described above, TREWEEK stated that the applicant, iMatter Utah, would be required to sign some type of "Waiver and Release of Damages," (the exact form is being revised / drafted) as a condition of the issuance of a permit for the free speech event, the September 24 Marade. A copy of the email from TREWEEK to PLEUNE is attached hereto, marked as Exhibit "F" and incorporated by reference.

#### **PLAINTIFFS' RIGHTS**

61. Plaintiffs desire to exercise their constitutional rights to free expression and to peacefully assemble as set forth above on September 24, 2011 during the September 24 Marade.

62. Plaintiffs desire to exercise their constitutional rights to free expression and to peacefully assemble in a meaningful way, at meaningful times and places and to a meaningful audience during the September 24 Marade.

63. Plaintiffs were entitled and are entitled to exercise the above-described constitutional rights at a place and during a time when meaningful communication with government officials and members of the public can occur during the May 7 and September 24 Marades without unreasonable government interference. 1<sup>st</sup> Amd., U.S. Const.

64. Plaintiffs were entitled and are entitled to exercise the above-described constitutional rights in a meaningful way, at meaningful times and places, and to a meaningful audience during the May 7 and September 24 Marades without unreasonable government interference. 1<sup>st</sup> Amd., U.S. Const.

### **FIRST CAUSE OF ACTION**

#### **Defendants' Insurance Requirement Violates Plaintiffs' Right to Free Expression and Right to Assembly Guaranteed by the United States Constitution**

65. Plaintiffs incorporate by reference all preceding allegations of this Amended Complaint.

66. Defendants cannot condition the issuance of a permit for the exercise of free speech and right to assembly on an indigent applicant's ability to secure and pay for a liability insurance policy.

67. The insurance requirement effectively bars iMatter Utah from obtaining the required UDOT permit for their free expression events.



68. The conduct of Defendants as set forth above constitutes an infringement of Plaintiffs' expressive and assembly rights as protected by the First Amendment to the United States Constitution.

### SECOND CAUSE OF ACTION

#### **Defendants' Waiver & Release Requirement Violates Plaintiffs' Right to Free Expression and Right to Assembly Guaranteed by the United States Constitution**

69. Plaintiffs incorporate by reference all preceding allegations of this Amended Complaint.

70. Defendants cannot condition the issuance of a permit for the exercise of free speech and right to assembly on participants signing a release and waiver of liability.

71. The conduct of Defendants as set forth above constitutes an infringement of Plaintiffs' expressive and assembly rights as protected by the First Amendment to the United States Constitution.

### THIRD CAUSE OF ACTION

#### **Defendants' Advance Identification and Certification Requirements Unconstitutionally Infringes on Plaintiffs' Rights Protected by the First Amendment to the United States Constitution.**

72. Plaintiffs incorporate by reference all foregoing paragraphs of this Amended Complaint.

73. Requiring that an event organizer identify and certify fifteen (15) days in advance that every person who is going to participate in a free speech event has signed a waiver requires

permit applicants to give advance notice of and certify to events that are unforeseeable. This unconstitutionally restricts spontaneous free expression and assembly rights safeguarded in the First Amendment to the United States Constitution.

74. The conduct of the Defendants as set forth above constitutes an infringement of Plaintiffs' rights to free expression and assembly protected by the First Amendment to the United States Constitution.

#### **FOURTH CAUSE OF ACTION**

##### **Defendants' Waiver Requirement Unconstitutionally Burdens Plaintiffs' Rights Protected by the First Amendment to the United States Constitution.**

75. Plaintiffs incorporate by reference all foregoing paragraphs of this Amended Complaint.

76. UDOT and Defendants require all participants in a permitted assembly and free expression special event, including the individual plaintiffs, to "release, remise, waive and forever discharge the State of Utah, the Utah Department of Transportation, the Utah Transportation Commission, the Utah Highway Patrol, and their officers, agents, and employees from all liability, claims, demands, actions or causes of action" that may arise from participation in the special event.

77. UDOT's and Defendants' release and waiver requirement has a chilling effect on Plaintiffs' and others' right to peacefully assemble and to freedom of speech and is not narrowly tailored to achieve the State's interest in protecting itself from liability for injuries associated with the use of its property and is unconstitutional.

78. The conduct of Defendants as set forth above constitutes an infringement of Plaintiffs' and others' right to free expression and to assembly protected by the First Amendment to the United States Constitution.

#### FIFTH CAUSE OF ACTION

##### **Defendants Unconstitutionally Refuse to Waive Insurance Requirement Without Due Process in Violation of Plaintiffs' Rights Protected by the Fifth and Fourteenth Amendments to the United States Constitution.**

79. Plaintiffs incorporate by reference all foregoing paragraphs of this Amended Complaint.

80. Plaintiff iMatter Utah as an indigent applicant has a right to exercise its right to free speech and to peacefully assemble in a traditional public forum. Plaintiff iMatter Utah as an indigent applicant has the right to secure a permit from UDOT and the Defendants to exercise its right to free speech and to peacefully assemble in a traditional public forum.

81. The foregoing rights are fundamental in nature and are protected by the First Amendment.

82. Defendants and UDOT cannot deprive Plaintiff iMatter Utah of the right to a permit and the right to free speech and to peacefully assemble without due process.

83. Defendants have refused to issue iMatter Utah a permit for the May 7 Parade and the September 24 Parade without providing iMatter Utah a hearing and opportunity to establish its indigency and entitlement to a permit.

84. The conduct of Defendants as set forth above constitutes an infringement of

iMatter Utah's right to due process protected by the Fifth and Fourteenth Amendments to the United States Constitution.

### **EQUITABLE RELIEF**

85. An actual controversy exists between the parties regarding the unconstitutionality of Defendants' permit requirements. Plaintiffs are entitled to a declaratory judgment that UDOT's and Defendants' rules and regulations violate the United States Constitution in that they fail to provide an exception from the insurance, etc. requirements for free speech and assembly events by indigent persons or entities, such as iMatter Utah, which seeks to engage in free speech and assembly activities.

### **IMMEDIATE EQUITABLE RELIEF**

86. Defendants' current, continuing and pending violations of Plaintiffs' rights as described above are real and substantial.

87. Plaintiffs anticipate that there will be a significant number (500+) of participants, protestors and demonstrators from their organization and from other organizations in Salt Lake City for the September 24 Marade.

88. Planning for and staging demonstrations and protests requires substantial coordination and organization. Plaintiffs need to know their rights immediately in order to plan and facilitate the September 24 Marade.

89. Harm has been and will be suffered by Plaintiffs because they have not been and are not being allowed to plan, organize, coordinate, etc. the September 24 Marade.

90. The requirements imposed by Defendants and UDOT have a chilling effect on Plaintiffs rights and those of other members and supporters of iMatter Utah.

91. Harm will be suffered by Plaintiffs and others by not being allowed to engage in the expressive and political activity described above, peacefully assembling, parading, carrying signs, demonstrating, etc. on State Street on September 24, 2011.

92. The harm being suffered and that will be suffered by Plaintiffs and others is immediate and irreparable in nature. That harm justifies and warrants the issuance of a preliminary injunction against Defendants and allowing Plaintiffs to engage in the expressive and political activity involved in the September 24 Marade.

#### **ATTORNEY FEES AND COURT COSTS**

93. Plaintiffs have incurred attorney fees and court costs in pursuit of this matter.

94. Plaintiffs will incur additional attorney fees and court costs in pursuit of this matter.

95. Plaintiffs are entitled to and seek reimbursement of their attorney fees and court costs pursuant to 42 U.S.C. § 1983 and § 1988.

### **RELIEF REQUESTED**

**WHEREFORE**, Plaintiffs demand the following relief:

1. For a preliminary injunction allowing Plaintiffs to engage in the expressive and political activity as described above in the public right-of-way and roadway of State Street in downtown Salt Lake City, Utah on Saturday, September 24, 2011, without first securing a liability insurance policy and without having to comply with UDOT's and Defendants' waiver and certification requirements and without having to comply with UDOT's and Defendants' hold harmless requirement.

2. For a permanent injunction allowing Plaintiffs to engage in the expressive and political activities such as those described above on the State Street right-of-way, without first securing a liability insurance policy and without having to comply with UDOT's and Defendants' waiver and certification requirements and without having to comply with UDOT's and Defendants' hold harmless requirement.

3. For a declaratory judgment that Defendants' conduct as described above, in requiring the securing of a liability insurance policy and demanding compliance with the waiver and certification requirements and having to comply with UDOT's and Defendants' hold harmless requirement., for a free speech activity organized by an indigent association, violates the constitutional rights of the Plaintiffs as protected by the United States Constitution.

4. For damages (at least nominal) for the harm they have suffered to date. The amount of damages (at least nominal) should be determined at trial. Plaintiffs claim no damages

as against the State of Utah but only against the individual defendants.

5. For an award of attorney fees and court costs under 42 U.S.C. § 1983 and § 1988.
6. For such other and further relief as the court deems just and proper in the premises.

DATED this 8<sup>th</sup> day of JULY 2011.

ATTORNEYS FOR PLAINTIFFS

*/s/ Brian M. Barnard*

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BRIAN M. BARNARD	USB # 00215
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## EXHIBITS

- Exhibit "A" -- Email from Pleune to Treweek April 27, 2011  
Email to Pleune from Velasquez April 28, 2011
- Exhibit "B" -- "UDOT Special Road Use Guidelines for All Events"
- Exhibit "C" -- "Waiver and Release of Damages"
- Exhibit "D" -- UDOT Special Event Permit Application
- Exhibit "E" -- Utah Administrative Code Rule R920-4-1.  
Special Road Use
- Exhibit "F" -- Email Pleune to Treweek June 27, 2011  
Email to Pleune from Treweek June 30, 2011
- Exhibit "G" -- UDOT Permit Liability Insurance Requirements

