

Robert P. Harrington (12541)  
**KUNZLER BEAN & ADAMSON, PC**  
50 W Broadway, Suite 1000  
Salt Lake City, Utah 84101  
Telephone: (801) 994-4646  
Email: [rharrington@kba.law](mailto:rharrington@kba.law)

Charles Miller (*pro hac vice* forthcoming)  
Courtney Corbello (*pro hac vice* forthcoming)  
**INSTITUTE FOR FREE SPEECH**  
1150 Connecticut Ave., NW, Suite 801  
Washington, D.C. 20036  
Tel: (202) 985-1644  
Fax: (202) 301-3399  
Email: [cmiller@ifs.org](mailto:cmiller@ifs.org)  
Email: [ccorbello@ifs.org](mailto:ccorbello@ifs.org)

*Attorneys for Plaintiffs Utah Political Watch, Inc.,  
and Bryan Schott*

---

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

---

UTAH POLITICAL WATCH, INC., and  
BRYAN SCHOTT,

Plaintiffs,

v.

ALEXA MUSSELMAN, Utah House of  
Representatives Communications  
Director and Media Liaison Designee;  
AUNDREA PETERSON, Utah Senate  
Deputy Chief of Staff and Media Liaison  
Designee; ABBY OSBORNE, Utah House  
of Representatives Chief of Staff; and  
MARK THOMAS, Utah Senate Chief of  
Staff, in their official and individual  
capacities;

Defendants.

---

**PLAINTIFFS' MOTION FOR  
TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY  
INJUNCTION AND  
MEMORANDUM IN SUPPORT**

**EXPEDITED TREATMENT  
REQUESTED**

Case No. 2:25-cv-00050-AMA

Judge Ann Marie McIff Allen

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... iii

INTRODUCTION ..... 1

SPECIFIC RELIEF SOUGHT AND GROUNDS THEREFORE ..... 3

STATEMENT OF FACTS..... 3

ARGUMENT ..... 13

    I.    PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS ..... 13

        A. Plaintiffs have a First Amendment right to  
           news gather ..... 12

        B. Defendants’ denial of Plaintiffs’ press credentials is content- and  
           viewpoint-based discrimination ..... 16

        C. Defendants’ Policy Constitutes a Prior Restraint.....20

        D. Defendants’ Policy is Vague ..... 21

    II.   PLAINTIFFS HAVE SUFFERED AND WILL SUFFER IRREPARABLE  
          HARM IF DEFENDANTS ARE PERMITTED TO CONTINUE TO DENY  
          THEM PRESS ACCESS AND NEWSGATHERING ABILITIES ..... 23

    III.  THE PUBLIC INTEREST AND BALANCE OF EQUITIES  
          FAVOR PLAINTIFFS ..... 24

    IV.  TEMPORARY RESTRAINING ORDER PRESERVES THE STATUS QUO ..... 25

    V.   THIS COURT SHOULD FOREGO THE BOND REQUIREMENT..... 25

CONCLUSION ..... 26

TABLE OF AUTHORITIES

CASES

*Am. Broad. Cos. v. Cuomo*,  
570 F.2d 1080 (2d Cir. 1977)..... 13

*Anderson v. Cryovac, Inc.*,  
805 F.2d 1 (1st Cir. 1986)..... 15

*Branzburg v. Hayes*,  
408 U.S. 665 (1972) ..... 13

*City of Lakewood v. Plain Dealer Publ’g Co.*,  
486 U.S. 750 (1988) ..... 17

*Consumers Union v. Periodical Correspondents’ Assoc.*,  
365 F. Supp. 18 (D.D.C. 1973) ..... 14

*Consumers Union v. Periodical Correspondents’ Assoc.*,  
515 F.2d 1341 (D.C. Cir. 1975) ..... 14

*Cont’l Oil Co. v. Frontier Ref. Co.*,  
338 F.2d 780 (10th Cir. 1964) ..... 24

*Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*,  
473 U.S. 788 (1985) ..... 16

*Elrod v. Burns*,  
427 U.S. 347 (1976) ..... 23

*George v. Davis Sch. Dist.*,  
No. 2:23-cv-00139-JNP-DBP, 2023 U.S. Dist. LEXIS 137409  
(D. Utah Aug. 4, 2023) ..... 12

*Getty Images News Servs. Corp. v. Dep’t of Def.*,  
193 F. Supp. 2d 112 (D.D.C. 2002) ..... 17

*Granny Goose Foods, Inc. v. Brotherhood of Teamsters*,  
415 U.S. 423 (1974) ..... 23

*Grayned v. City of Rockford*,  
408 U.S. 104 (1972) ..... 20

*Grosjean v. American Press Co.*,  
297 U.S. 233 (1936) ..... 15

*Heideman v. S. Salt Lake City*,  
348 F.3d 1182 (10th Cir. 2003) ..... 12

*Kolender v. Lawson*,  
461 U.S. 352 (1983) ..... 20

*Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*,  
508 U.S. 384 (1993) ..... 16

*Minnesota Voters All. v. Mansky*,  
138 S. Ct. 1876 (2018) ..... 16

*Ness v. City of Bloomington*,  
11 F.4th 914 (8th Cir. 2021)..... 13

*Nken v. Holder*,  
556 U.S. 418 (2009) ..... 23

*Pryor v. Sch. Dist. No. 1*,  
99 F.4th 1243 (10th Cir. 2024)..... 23

*Quad-City Cmty News Serv. v. Jebens*,  
334 F. Supp. 8 (S.D. Iowa 1971) ..... 13, 17

*Reno v. ACLU*,  
521 U.S. 844 (1997) ..... 20

*Roach v. Stouffer*,  
560 F.3d 860 (8th Cir. 2009) ..... 17

*Rodgers v. Bryant*,  
942 F.3d 451 (8th Cir. 2019) ..... 16

*Rosenberger v. Rector & Visitors of the Univ. of Va.*,  
515 U.S. 819 (1995) ..... 15, 16

*Schrier v. University of Colorado*,  
427 F.3d 1253 (10th Cir. 2005) ..... 24

*Sherrill v. Knight*,  
569 F.2d 124 (D.C. Cir. 1977) ..... 14, 23

*Tex. v. Johnson*,  
491 U.S. 397 (1989) ..... 15

*TGP Communs., Ltd. Liab. Co. v. Sellers*,  
No. 22-16826, 2022 U.S. App. LEXIS 33641 (9th Cir. Dec. 5, 2022)..... 14, 16, 22

*United States v. Williams*,  
553 U.S. 285 (2008) ..... 20

*United Utah Party v. Cox*,  
268 F. Supp. 3d 1227 (D. Utah 2017) ..... 24

*Westinghouse Broad. Co. Inc. v. Dukakis*,  
409 F. Supp. 895 (D. Mass. 1976) ..... 15

OTHER AUTHORITIES

*President Adams’ X Post*,  
Dec. 12, 2024, <https://perma.cc/Q5JN-7ZCX>..... 8, 18

Schott, Bryan, *Top Utah GOP lawmaker accused of skirting state laws on campaign finance disclosures*, Utah Political Watch, <http://bit.ly/4fYAYeH>..... 8

RULES

Fed. R. Civ. P. 65(c) ..... 24

## INTRODUCTION

This case presents a time-sensitive emergency, requiring interim relief so that Plaintiff Bryan Schott can receive press access during the Utah Legislative Session, occurring now. Notwithstanding over 25 years of news reporting experience in Utah, hundreds of articles to his name and years of prior access to the Utah Legislature press areas, Schott is being denied the ability to attend the 2025 Utah Legislative Session as a member of the press simply because the leadership disapproves of his point of view.

Schott is a seasoned, nationally recognized political reporter. He has reported on Utah politics and Utah legislative sessions for over 25 years. He has won numerous awards for his reporting, including from the Utah Broadcasters Association and the National Press Foundation. In fact, in 2022, he was named as the State's Best News Reporter by the Utah Society of Professional Journalists and won First Place for Politics Feature from Top of the Rockies.

From the time the Utah Legislature created a credentialing policy for news media, Schott received credentials every year. But that changed for the 2025 Legislative Session. After leaving his position as a reporter at the Salt Lake Tribune and venturing out to create his own independent news publication and podcast, Schott applied for credentials to the upcoming Utah Legislative Session as he always had. This time, he was denied. Suddenly, Schott, a left-leaning journalist that often reported critically on the right-leaning majority in the Utah legislature,

was no longer considered by Defendants to be “a professional member of the media associated with an established, reputable news organization or publication.” And, contrary to what the policy had been before 2025, journalists for “[b]logs, independent media outlets or freelance media” were now prohibited from obtaining credentials. From 2013-2019, Schott’s independent media status entitled him to media credentials. But after he returned to independent media in 2024, Defendants changed their policy with the intent of excluding him.

Without the First Amendment, government control over information would stifle public discourse and suppress dissent. Allowing government actors to pick and choose which reporters they deem “worthy” to report on their actions contradicts the framers’ undeniable understanding that free and open discussion is the only way in which to avoid authoritative governance. When officials who are the subject of reporting decide who is “worthy,” those decisions become based, not on the quality of the journalism nor the extent it uncovers corruption or keeps those in power in check, but on how much those in power approve of the content.

Without the Court’s immediate intervention, Defendants’ self-serving press corps selection process will continue, and Plaintiffs will be subject to arbitrary, vague and ever shifting criteria – for content- and viewpoint-based reasons - that denies them the ability to news gather and effectively report on the Utah Legislatures’ actions. And other media will be placed on notice: Report what we want or be excluded. There is absolutely no harm to others in granting this injunction, rather, all of us will benefit from a fully enforced First Amendment.

### **SPECIFIC RELIEF SOUGHT AND GROUNDS FOR RELIEF**

Plaintiffs will and hereby moves the Court under Rule 65 of the Federal Rules of Civil Procedure, for a temporary restraining order and for a preliminary injunction prohibiting Defendants and their officers, agents, divisions, commissions, and all persons acting under or in concert with them, from withholding press credentials and placement on the legislative press release distribution list from Schott and other journalists on the basis that (1) they write for “[b]logs, independent media or other freelance media;” (2) Defendants do not consider them to be “a professional member of the media associated with an established reputable news organization or publication;” and (3) they “[a]dhere to a professional code of ethics;” and further enjoined to grant Schott press credentials for the 2025 legislative session.

Expeditious resolution of this TRO application is requested given the beginning of the 2025 Utah legislative session, which began on January 21, 2025.

The grounds for this motion are set forth in the accompanying Brief, and declarations and exhibits in support which are filed together with this motion and are expressly incorporated by reference herein.

Copies of all filings are immediately being tendered to the Utah Attorney General’s Office and the Office of Legislative Research and General Counsel.

### **STATEMENT OF FACTS**

#### *Bryan Schott’s Reporting and Commentary*

Plaintiff Bryan Schott is the owner, publisher, editor, and primary reporter



for Utah Political Watch, a subscription-based digital newsletter focused on Utah politics. Schott Decl. ¶1. He is also the host of the podcast Special Session, which provides behind-the-scenes reporting on Utah politics and policy. *Id.* ¶9. Schott has been a political news reporter in Utah for over 25 years. *Id.* ¶3.

Schott established Utah Political Watch in September 2024. *Id.* ¶9. Prior to that, Schott was a Political Correspondent for the Salt Lake Tribune, a daily newspaper published in the city of Salt Lake City, Utah, with the largest paid circulation in the state. *Id.* ¶8. At the Salt Lake Tribune, Schott wrote articles regarding local news related to Utah politics and the Utah Legislature. *Id.* Between 2020 and 2024, Schott's byline appeared in 1,201 stories, almost all regarding Utah-based or national politics. *Id.* For more than a decade prior to joining the Tribune, Schott was managing editor of UtahPolicy.com, an independent web-based news platform, during which time Schott was a credentialed member of the Utah legislative press corps. *Id.* ¶¶5-6.

Since its establishment in September 2024, UPW has consistently grown in reputation and numbers. Utah Political Watch allows visitors to sign up for a daily newsletter covering Utah politics and to opt to engage in a paid subscription for additional content. *Id.* ¶9. There are currently approximately 1,000 subscribers to the Utah Political Watch daily newsletter, of which 25% pay to receive additional content. *Id.* ¶10. In addition to subscribers, the UPW website garners tens of thousands of pageviews per month. *Id.* ¶11. Top stories can receive 2,000 to 3,400 views each. *Id.* There are on average between 250 and 300 downloads of each

episode of the nascent podcast. *Id.* ¶12. Schott has over 11,000 followers on TikTok, where he receives on average between 4,500 and 10,000 views per video on Utah Politics. *Id.* ¶13.

Schott has received numerous awards and public accolades for his work as a journalist. *Id.* ¶14. He's the recipient of several Utah Broadcasters Association Awards, including for Best Feature Story or Program, Best News Reporting in a Series and Best Feature Story or Program. *Id.* In 2022, Schott was named as the State's Best Newspaper Reporter by the Utah Society of Professional Journalists. *Id.* On June 17, 2024, Schott was one of only 34 journalists nationwide who was granted the National Press Foundation's 2024 Elections Journalism Fellowship. *Id.*

#### *Defendants' Media Credentialing Policy*

In November 2024, after Schott had established UPW, Defendants substantially revised their "Utah Capitol Media Access and Credentialing Policy" for controlling media access to the Utah Legislature. *Compare* Exhibit A (2025 Utah Capitol Media Access and Credentialing Policy, also available at: <https://perma.cc/M77N-LWXV>) with Exhibit B (2024 policy); Schott Decl. ¶17.

While the 2024 Credentialing Policy does not contain any initial information about the application process prior to outlining what criteria a journalist must meet to obtain a credential, the 2025 Credentialing Policy contains the following preamble:

The Utah Capitol Media Credential application process, outlined below, is designed to give professional journalists and media representatives from reputable organizations access to cover the Legislature and other significant

events at the Utah State Capitol. This process aims to support informed reporting while maintaining the integrity and security of the Capitol.

Credentialed media members must primarily focus on gathering and reporting news that occurs at the Capitol. Completing an application does not guarantee that a credential will be issued. Having been previously credentialed does not guarantee that a credential will be granted in the future. A Utah Capitol Media Credential is valid for one calendar year\*. Organizations may request more than one media credential; however, Senate and House media liaison designees reserve the right to limit the number of credentials allocated to any media organization.

Moreover, while the 2024 policy stated that “[b]loggers representing a legitimate independent news organization may become credentialed under limited, rare circumstances,” Exh. B, the 2025 Policy instead provides that a credentialed journalist must be a “professional member of the media . . . [who] is part of an established reputable news organization or publication,” Exh. A. The 2025 Credentialing Policy further warns: “Blogs, independent media or other freelance media do not qualify for a credential.” *Id.* The 2025 policy provides no definition of “independent media,” “reputable news organization or publication,” or any other term.

The 2025 Credentialing Policy also contains five criteria in total that a journalist must meet to obtain press credentials: (1) “fill out an online application;” (2) “[b]e a professional member of the media (which includes journalists, photographers and videographers) who regularly covers the Legislature and Capitol in person and is part of an established reputable news organization or publication” (so long as one is not a blog, independent or freelance journalist) (3) “provide an annual background check;” (4) “[a]dhere to a professional code of ethics;” and (5)

“[c]omplete the yearly harassment prevention training.” Exh. A; Schott Decl. ¶23.

Additionally, if required by a media designee, the credential applicant must “submit a letter of introduction on official publication letterhead” that contains certain information verifying the applicants’ employment status and need for credentials.

Exh. A; Schott Decl. ¶24.

The 2025 Credentialing Policy dictates which areas of the Utah Legislature credentialed press are granted access to. Those areas include (1) “some secure areas of the Capitol, such as the press room and designated areas in the Senate and House chambers;” (2) “designated media workspaces in the Senate and House galleries;” (3) “set up in the Senate and House galleries for credentialed videographers and photographers;” (4) “[c]redentialed media may be permitted access to media availabilities and other press events with elected officials;” (5) “designated media parking;” (6) “the Capitol press room, which is equipped with internet access and an audio feed from both chambers;” (7) “designated areas in the galleries of the Senate and House;” and (8) “Committee Rooms.” Exh. A; Schott Decl. ¶25.

Finally, as Schott was informed by Defendants (*see infra*), Defendants have a policy or practice of not distributing legislative press releases to any press that is not credentialed under the 2025 Credentialing Policy. Schott Decl. ¶26.

*Schott’s Years of Press-Credentialed Access to the Utah Legislature*

Schott has covered the Utah Legislature since 1999 for various media outlets in Utah. *Id.* ¶15. Since the Utah Legislature began requiring press credentials for

reporters to access the House or Senate media areas in the Capitol, Schott has been granted those press credentials. *Id.* ¶27. Until now, the application process was no more than a formality. *Id.* ¶16. Applicants would have to pass a criminal background check by the Utah Highway Patrol and then have a House or Senate staffer sign off on the application. *Id.*

After Schott established UPW in September 2024, he assumed that, in keeping with the past decade, he would again be granted press credentials. *Id.* ¶27. He informed Defendants that he had begun reporting on behalf of UPW soon after its creation and asked for details on the upcoming credential application as well as to be placed on the legislative press release list. *Id.* ¶26. Defendants did not immediately respond but, when later pressed, informed Schott that the legislative press releases are only for credentialed media. *Id.*

#### *Schott's Reporting Angers Defendants*

After receiving his credentials for the 2024 Legislative Session, Schott made a lighthearted X.com post poking a little fun at media staffers who had difficulty setting up a backdrop. *Id.* ¶29. Defendant Osborn responded on X.com: “Bryan, you are a dick!” As a reporter, I can’t believe you think it’s okay to blast staff for doing their job. You could have got up and helped, but you chose to just tweet about it. #classless.” *Id.*

Schott continued, throughout the year, to report on the Utah legislature, and Defendants, in a manner that was not always favorable. *Id.* ¶30. In December 2024, reporting for UPW, Schott appeared to send Defendants over the edge when he

issued a story that a local nonprofit group had filed a complaint against Senate President Stuart Adams alleging he had violate campaign disclosure laws. *Id.* ¶30; Schott, Bryan, *Top Utah GOP lawmaker accused of skirting state laws on campaign finance disclosures*, Utah Political Watch, <http://bit.ly/4fYAYeH>.

On December 12, the day the article was posted, Senate President Adams took to X.com to criticize Schott’s reporting on Adams’ campaign finance disclosure, labeling Schott a “former media member” and called the story “part of a troubling pattern of neglectful journalism that undermines the profession's integrity.” *President Adams’ X Post*, Dec. 12, 2024, <https://perma.cc/Q5JN-7ZCX>; Schott Decl. ¶31.

Defendant Peterson, Adams’ Deputy Chief of Staff, was similarly unhappy with Schott’s reporting. Schott Decl. ¶32. Schott had reached out to Peterson via text just prior to publishing his story and asked if she had a comment. *Id.*; Exhibit C. Peterson, responding two hours later, criticized Schott for publishing his story without her comment as a “lack of professionalism” and “disregard for accurate reporting and ethical standards.” *Id.* “This is not the first time this has happened,” Peterson wrote, “it’s part of a troubling pattern of neglectful journalism.” Schott Decl. ¶33; Exh. C. Although being full of disdain and criticism, she didn’t provide a substantive comment in her initial response. *Id.*

Peterson chided Schott for “fail[ing] to obtain information from the Lieutenant Governor’s Office.” But, as Schott explained to Peterson, he had already sought comment from the Lieutenant Governor numerous times and asked for

clarification prior to publishing his story. Schott Decl. ¶34; Exh. C. He also explained that he had only learned of the complaint that same day, which accelerated his need to provide a breaking news report. *Id.* He offered to update his story with any comment offered and also clarified whether Peterson’s criticism of his story would lead to his press credential application being denied. *Id.*

But Peterson still refused to provide a substantive comment for over five hours, which, when finally sent, was merely the statement Peterson had released to another news organization in the interim, and which Schott had already seen. *Id.* ¶35. Even after sharing that “comment,” and while dismissively referring to UPW as a “blog,” Peterson continued to accuse Schott of having a “lack of journalistic ethics” and “failing to follow basic journalistic standards” because he had reported on a story that Peterson believed to be “inaccurate” and “unfair.” *Id.* ¶34. When asked what ethical standards Schott had violated, Peterson told him “If you have to be told, you aren’t a journalist.” *Id.* And, regarding the fate of Schott’s press credential application, Peterson would only state: “We will follow our policy when reviewing media credential applications.” *Id.*

#### *Schott is Denied Press Credentials*

Five days later, on December 17, 2024, Schott submitted his application for a press credential in keeping with his practice since credentialing began. *Id.* ¶38. He easily passed the background check, and then contacted Alexa Musselman, House Communications Director, regarding his application. *Id.* Musselman told him “We have to look it over for a bit . . . I’m going to go touch base with others, then we’ll

give you a call.” *Id.*

Schott had never received this additional level of scrutiny before. *Id.* ¶39. And he asked Musselman whether the same level of scrutiny was applied when Utah News Dispatch which, as a month-old organization, had applied for press credentials for the 2024 Legislature and was ultimately issued credentials for several reporters. *Id.* Musselman responded: “We did have conversations with them,” but she admitted being on leave from work during that time period. *Id.*

Schott waited for approximately 90 minutes, and then received a follow-up email from Musselman and Senate Deputy Chief of Staff Aundrea Peterson informing him that his application had been rejected. *Id.* ¶40. The reason Musselman and Peterson gave: “Utah Capitol media credentials are currently not issued to blogs, independent, or other freelance journalists.” *Id.*

What Schott did not know at the time, but later discovered, was that the policy for approving credentials - “Utah Capitol Media Access and Credentialing Policy” - had recently been revised. *Id.* ¶17. The revision occurred November 2024 (Exh. A), after Defendants became aware of Schott’s career move to UPW. *Id.*

Following this discovery of the policy changes, Schott appealed the decision to deny him press credentials. *Id.* ¶41; Exhibit D. On December 26, 2024, he received a letter in response from Abby Osborne and Mark Thomas upholding the decision. *Id.* ¶42; Exh. D.

#### *Schott’s Lack of Access During the 2025 Legislative Session*

The 2025 Utah Legislative Session began on January 21, 2025 and Schott has



no way of obtaining access to the areas of credentialed access in a manner equal to that of other members of the press. *Id.* ¶45. Schott was already denied access to a press conference about the House GOP legislative priorities on January 13, 2024. *Id.* ¶46. And Governor Cox has monthly press conferences, the first of which was the morning of January 16th, which Schott missed. *Id.*

On the first day of session, the Senate President and Speaker of the House delivered opening addresses. *Id.* ¶47 The press, except Schott, was able to report on those addresses from the press area on the floors of the House and Senate. *Id.* The press, other than Schott, was able to attend the media gathering with the Senate President after he delivers his remarks. *Id.* Each day going forward, Schott will miss access to events and newsworthy information that other press members do not. *Id.* ¶48. Every press member, except Schott, will be able to view and report on these events from the designated media areas throughout the Capitol and both legislative chambers. *Id.* ¶49. Every statehouse reporter, besides Schott, will be able to cover meetings, press conferences, press releases, legislative actions and other events that occur in media areas not accessible by the public. *Id.* ¶48-49. Those reporters will be able to obtain videos, photographs, and audio recordings as part of their reporting materials that Schott cannot obtain. *Id.* ¶49. Those reporters will speak to legislators and their staff, witnessed legislative action up close, be given legislative materials and attended impromptu press briefings; Schott will not. *Id.*

Schott's harm, and that to his readership and listenership, is occurring now. *Id.* ¶50. And every day from today until the end of the 2025 Legislative Session – if

this Court does not intervene – Schott will continue to be obstructed from the same news gathering opportunities as are afforded to his colleagues in the media. *Id.*

¶¶47-50. Defendants’ policy and actions impair Schott’s ability to gather news.

### ARGUMENT

“The requirements for issuance of a TRO are essentially the same as those for a preliminary injunction.” *George v. Davis Sch. Dist.*, No. 2:23-cv-00139-JNP-DBP, 2023 U.S. Dist. LEXIS 137409, at \*13 (D. Utah Aug. 4, 2023). Thus, a Court may grant a TRO or a preliminary injunction where “(1) the movant will suffer irreparable injury unless the injunction issues; (2) the threatened injury . . . outweighs whatever damage the proposed injunction may cause the opposing party; (3) the injunction, if issued, would not be adverse to the public interest; and (4) there is a substantial likelihood of success on the merits.” *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1188 (10th Cir. 2003).

#### I. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS

##### A. Plaintiffs have a First Amendment right to news gather.

The First Amendment provides Plaintiffs with a right to news gather. *Branzburg v. Hayes*, 408 U.S. 665, 728 (1972). News gathering is “entitled to First Amendment protection because [it is] an important stage of the speech process that ends with the dissemination of information about a public controversy.” *Ness v. City of Bloomington*, 11 F.4th 914, 923 (8th Cir. 2021) (citation omitted). Without “protection for seeking out the news, freedom of the press could be eviscerated.” *Branzburg*, 408 U.S. at 681.

The government may not exclude a publication because of its viewpoint or because it does not like how reporters choose to report on a story. *See Quad-City Cmty News Serv. v. Jebens*, 334 F. Supp. 8, 17 (S.D. Iowa 1971) (stating “any classification which serves to penalize or restrain the exercise of a First Amendment right, unless shown to be necessary to promote a compelling governmental interest, is unconstitutional”). “[O]nce there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media, or the rights of the First Amendment would no longer be tenable.” *Am. Broad. Cos. v. Cuomo*, 570 F.2d 1080, 1083 (2d Cir. 1977). Thus, any effort by the government to dictate what a news organization is must fail.

To the extent the critique is even valid, Defendants are not permitted to deny Schott press credentials on the basis that his reports for an “independent” news site. Exh. D. The targeted exclusion of journalists based on their reporting from legislative areas otherwise generally available to the news media violates the right of equal access inherent in the freedom of the press. *Sherrill v. Knight*, 569 F.2d 124, 129 (D.C. Cir. 1977) (emphasis in the original) (“White House press facilities having been made publicly available as a source of information for newsmen, the protection afforded newsgathering under the first amendment guarantee of freedom of the press requires that this *access not be denied* arbitrarily or for less than compelling reasons.”).

Moreover, reporters do not have any less right to news gather because they report on behalf of a publication that a government official does not respect or

consider “reputable” media. In *Consumers Union v. Periodical Correspondents’ Assoc.*, it was unconstitutional for the government to discriminate against Consumer Reports because it was “owned and operated” by a “self-proclaimed advocate of consumer interests.” 365 F. Supp. 18, 22-23 (D.D.C. 1973), *rev’d on other grounds*, 515 F.2d 1341 (D.C. Cir. 1975). The court also explained that “[a] free press is undermined if the access of certain reporters to facts relating to the public’s business is limited merely because they advocate a particular viewpoint.” *Id.* at 25.

The availability of alternative methods for a resourceful reporter – such as reporting from public areas of the Capitol – is of no consequence. *Consumers Union*, 365 F. Supp. at 25-26 (citations omitted) (“the elimination of some reporters from an area which has been voluntarily opened to other reporters for the purpose of news gathering presents a wholly different situation.”). Segregating media seating or press briefings into “preferred” and “unpreferred” viewing sections is not equal access and is unconstitutional. *See TGP Communs., Ltd. Liab. Co. v. Sellers*, No. 22-16826, 2022 U.S. App. LEXIS 33641, at \*15 (9th Cir. Dec. 5, 2022). This is because the “granting favorable treatment to certain members of the media. . . allows the government to influence the type of substantive media coverage that public events will receive.” *Anderson v. Cryovac, Inc.*, 805 F.2d 1, 9 (1st Cir. 1986).

Thus, second-class treatment does not satisfy the First Amendment. Reporters should “not only be given equal access, but within reasonable limits, access with equal convenience to official news sources.” *Westinghouse Broad. Co. Inc. v. Dukakis*, 409 F. Supp. 895, 896 (D. Mass. 1976). The government simply

cannot pick and choose which reporters are in their favor based on how positive the coverage is. “[S]ince informed public opinion is the most potent of all restraints upon misgovernment, the suppression or abridgement of the publicity afforded by a free press cannot be regarded otherwise than with grave concern.” *Grosjean v. American Press Co.*, 297 U.S. 233, 250 (1936).

**B. Defendants’ denial of Plaintiffs’ press credentials is content- and viewpoint-based discrimination.**

Plaintiffs will succeed on their First Amendment claims because Defendants have engaged in content and viewpoint discrimination to deny them press credentials. “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea offensive or disagreeable.” *Tex. v. Johnson*, 491 U.S. 397, 414 (1989). The Free Speech Clause thus prohibits suppressing speech ‘because of its message.’” *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 828-29 (1995). Content-based restrictions are subject to strict scrutiny, which “requires a state to show that its law is narrowly tailored to serve a compelling interest.” *Rodgers v. Bryant*, 942 F.3d 451, 456 (8th Cir. 2019).

“And the First Amendment provides even stronger protection against viewpoint discrimination, which is an egregious form of content discrimination[.]” *TGP Communs.*, 2022 U.S. App. LEXIS 33641 at \*10 (internal quotation marks omitted); *Minnesota Voters All. v. Mansky*, 138 S. Ct. 1876, 1885 (2018). The government cannot “den[y] access to a speaker solely to suppress the point of view

[s]he espouses.” *Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 393 (1993) (quotation and citation omitted). A restriction is viewpoint-based if it “denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject.” *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 806 (1985).

It is not only in traditional public forums where restrictions based on content must satisfy strict scrutiny and those based on viewpoint are prohibited. *Mansky*, 138 S. Ct. at 1885. Even in limited public forums where the government opens a traditionally private place for speech on limited topics the First Amendment’s protections against content-based and viewpoint-based restrictions remain robust. *See Rosenberger*, 515 U.S. at 829. “Once it has opened a limited forum, . . . the State must respect the lawful boundaries it has itself set” and “may [not] discriminate against speech on the basis of its viewpoint.” *Id.*

The indication that a government official’s inconsistent application of a policy is discriminatory is reinforced where the policy leaves the determination of “who may speak and who may not . . . to the unbridled discretion of a government official.” *City of Lakewood v. Plain Dealer Publ’g Co.*, 486 U.S. 750, 763 (1988). The government “must not only have some criteria to guide its determinations[ ]” as to who receives limited available press access, but it also “must have a reasonable way of assessing whether the criteria are met.” *Getty Images News Servs. Corp. v. Dep’t of Def.*, 193 F. Supp. 2d 112, 121 (D.D.C. 2002). When there is no policy and, hence, no discernible “standards governing the exercise of discretion,” government officials

have free reign to choose which reporters gain access “based upon the content of the speech or viewpoint of the speaker.” *Roach v. Stouffer*, 560 F.3d 860, 869 (8th Cir. 2009) (quoting *Lakewood*, 486 U.S. at 763–64).

Additionally, the government’s focus on the nature of the publication is an additional indicator of a discriminatory motive. *Quad-City Community News Service, Inc.*, for example, held a police department never “defin[ed] what constitutes or qualifies one to be a member of the ‘established’ press.” 334 F. Supp. at 12. In that case, the policy had not been applied uniformly to other reporters; instead, the Department was “funneling information to the public through only certain representatives who are considered more responsible because they ‘cooperate’ in presenting what the Department believes to be appropriate.” *Id.* at 14. This was unconstitutional.

Here, the facts surrounding Defendants’ denial of Plaintiffs press credentials points to clear viewpoint discrimination and, at minimum, content discrimination. Prior to this legislative session, Schott easily obtained press credentials since the policy was first established. Schott Decl. ¶16. But Schott’s reporting on the majority-Republican legislature was not always favorable and, once he left the safety of a large news organization and established his own independent news site, Defendants quickly altered their policy to ensure independent journalists were not allowed credentials. Exh. A; Exh. B; Schott Decl. ¶17.

Moreover, only 5 days before Schott applied for credentials, he received criticism from Senate President Adams, who was angered by Schott’s reporting on

Adams' campaign finance disclosure. Schott Decl. ¶¶30-31. Adams took to X.com, where he labeled Schott a "former media member" and called the story "part of a troubling pattern of neglectful journalism that undermines the profession's integrity." *President Adams' X Post*, Dec. 12, 2024, <https://perma.cc/Q5JN-7ZCX>; Schott Decl. ¶31. And Defendant Peterson followed closely along, using language that was notably consistent with the 2025 Credentialing Policy to accuse Plaintiffs of wrongdoing, including "lack of professionalism," "disregard for accurate reporting and ethical standards," and being merely a "blog." Exh. C; Schott Decl. ¶¶32-36.

It was only five days later that Peterson and the other Defendants denied Schott press credentials. Suddenly, Schott – after over 25 years of journalism, journalistic awards and years of obtaining press credentials – was once again an "independent" journalist for a "blog" who was no longer recognized as a "professional member of the media associated with an established, reputable news organization." Exh. D; Schott Decl. ¶¶40-42.

These instances make clear that those in power dislike the topics, editorial slant, and techniques Plaintiffs use to report on the legislature. But they cannot deny Plaintiffs' importance and relevance as a member of the media when they respond to Plaintiffs' stories so strongly, immediately, and passionately, both publicly and privately. This is clearly viewpoint discrimination. Defendants did not like Plaintiffs prior coverage of the majority of the Utah Legislature and are punishing Plaintiffs as a result. Other than insisting Plaintiffs no longer meet credential policy criteria, none of the Defendants have provided Plaintiffs any



explanation as to why they were denied access to the media areas of the 2025 Legislative Session despite years of prior access. Schott Decl. ¶40-42.

Defendants have not treated other news media in this way when they apply for credentials as “independent” media. Schott Decl. ¶44. Utah News Dispatch, for example, launched just days before the 2024 session started, yet all of its staff was credentialed for the 2024 session. Schott Decl. ¶44. The Salt Lake Tribune has received credentials for its journalists for the 2025 Legislative Session despite proudly stating it is an “independent” news organization. *Id.*

Defendants’ erratic, unsupportable denial of only Plaintiffs from press credentials, as well as the obvious viewpoint-based labeling of Plaintiffs as “independent” and not “a professional member of the media” or “established, reputable news organization” demonstrates that, absent immediate intervention by this court, Defendants will continue to deny Plaintiffs the ability to news gather for content- and viewpoint-based reasons.

### **C. Defendants’ Policy Constitutes a Prior Restraint.**

Defendants’ policy of denying press credentials and access to the legislature to independent news organizations, such as UPW, constitutes a prior restraint on those publications. *Detroit Free Press v. Ashcroft*, 303 F.3d 681, 695 (6th Cir. 2002) (“there is a limited First Amendment right of access to certain aspects of the executive and legislative branches.”) “While it is perfectly true that reporters do not have an unrestricted right to go where they please in search of news, the elimination of some reporters from an area which has been voluntarily opened to

other reporters for the purpose of news gathering presents a wholly different situation.” TGP Communs., Ltd. Liab. Co. v. Sellers, No. 22-16826, 2022 U.S. App. LEXIS 33641, at \*15-16 (9th Cir. 2022) (citation omitted); see also Alaska Landmine, LLC v. Dunleavy, 514 F. Supp. 3d 1123, 1131 (D. Ala. 2021) (“the First Amendment provides at least some degree of protection for gathering news and information, particularly news and information about the affairs of the government, [so] Plaintiffs’ attendance at the Governor’s press conferences certainly is protected.”). The denial of access to Plaintiffs here, constitutes an unconstitutional prior restraint on their ability to obtain, write about, and publish news of public import on the activities of the Utah legislature.

**D. Defendants’ Policy is Vague.**

A policy is impermissibly vague if it (1) “fails to provide a person of ordinary intelligence fair notice of what is prohibited,” or (2) “is so standardless that it authorizes or encourages seriously discriminatory enforcement.” *United States v. Williams*, 553 U.S. 285, 304 (2008). “[W]here a vague statute abuts upon sensitive areas of basic First Amendment freedoms, it operates to inhibit the exercise of those freedoms.” *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) (internal citations and quotations omitted). And the Supreme Court is particularly sensitive to laws that are vague due to the lack of guiding standards or the potential for arbitrary enforcement. See *Kolender v. Lawson*, 461 U.S. 352, 357-58 (1983). Lack of notice and arbitrary enforcement are concerns because of the “obvious chilling effect on speech” they create. *Reno v. ACLU*, 521 U.S. 844, 872 (1997).

Defendants' credential policy, and their own interpretation of the policy, uses several unconstitutionally vague criteria to justify the denial of press credentials. *See* Exh. A. The press credential policy's limitation of credentials to those who report for "an established reputable news organization or publication," "[a]dhere to a professional code of ethics" and are not "[b]logs, independent media or other freelance media," are not clearly defined. Defendants can readily modify what it means to be "established," "reputable," "a blog," "freelance" or "independent" to fit their own motivations. And Defendants never indicate what "ethics" they are policing journalists' adherence to.

Moreover, what qualifies as a publication that is "established" or "reputable" is often in the eye of the consumer, and the entire public has access to publications distributed by ordinary channels, such as broadcast radio and the internet. It is also unclear what may count as "independent" media, particularly given that few news organizations openly characterize themselves as "non-independent" or "partisan."

Nor is it clear how "freelance" journalists are meant to be defined since many journalists are able to report as a "freelancer" for one publication while also being regularly employed by another publication. Finally, it is unclear what qualifies as a "blog" and whether it is only journalists who report exclusively on a "blog," as opposed to in conjunction with other media formats, cannot have credentials.

It is inexplicable how Defendants have permitted other "independent," "reputable" journalists to obtain press credentials at the same time Schott was denied. This policy is intentionally, and unconstitutionally, vague, which allows

Defendants to apply their policy against Schott in a way that deprives him of proper notice of how to comply and chills his speech.

**II. PLAINTIFFS HAVE SUFFERED AND WILL SUFFER IRREPARABLE HARM IF DEFENDANTS ARE PERMITTED TO CONTINUE TO DENY THEM PRESS ACCESS AND NEWSGATHERING ABILITIES.**

Plaintiffs have been, and will continue to be, irreparably harmed by Defendants' arbitrary and discriminatory denial of press credentials. The Utah Legislative Session began on January 21, 2025. Schott Decl. ¶45. Schott has already missed the press conference about the House GOP legislative priorities on January 13th. Schott Decl. ¶46. Additionally, Governor Cox is holding a monthly press conference for credentialed media on January 16th, which Schott cannot attend in person or ask questions. *Id.* On the day the session started, numerous statehouse reporters, besides Schott, were able to cover the opening addresses by the Senate President and Speaker of the House from a position of privileged access. *Id.* ¶47.

As session goes on, media members, except Schott, will be able to report on legislative actions, press releases, speeches, impromptu press conferences, statements to the press, and other events that occur in media areas of the Capitol, including obtaining the necessary photos, audio, or video. *Id.* ¶48. Schott will be denied entry to the daily meetings with Senate leadership in the Senate President's office, Friday media availabilities with the Speaker of the House, and House or Senate rules committee meetings. *Id.* Schott has already missed two legislative press releases, and, given his lack of credentials, will miss many more. *Id.* ¶46.

The 2025 Legislative Session continues until March 7, 2025 (not including

any special sessions). *Id.* ¶50. Each day that Schott is denied access is a day Plaintiffs’ readers are denied complete news coverage. *Id.* Thus, if this Court does not act immediately, Plaintiffs are likely to be deprived of the ability to news gather in a manner equal to that granted to other statehouse reporters for the entire legislative session. *Id.*

This Court cannot grant access retrospectively. This viewpoint discrimination as to in-person access to such areas designated for the news media is not a de minimis injury. *TGP Communs., Ltd. Liab. Co.*, 2022 U.S. App. LEXIS 33641, at \*16. The Supreme Court has acknowledged that “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

### III. THE PUBLIC INTEREST AND BALANCE OF EQUITIES FAVOR PLAINTIFFS<sup>1</sup>

The balance of harms favors Plaintiffs, and neither a TRO nor a MPI disserves the public interest. On the one hand, Plaintiffs face the prospect of continued unconstitutional exclusion in violation of the First Amendment. On the other hand, allowing Plaintiffs access imposes no discernible harm on Defendants, aside from those typically associated with free speech and press.

And “[i]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *Pryor v. Sch. Dist. No. 1*, 99 F.4th 1243, 1254 (10th Cir. 2024) (internal quotation marks omitted). It is “[n]ot only newsmen and the publications

---

<sup>1</sup> The balance of equities and public interest factors “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

for which they write, but also the public at large [that] have an interest protected by the [F]irst [A]mendment in assuring that restrictions on newsgathering be no more arduous than necessary, and that individual newsmen not be arbitrarily excluded from sources of information.” *Sherrill*, 569 F.2d at 129-30.

#### **IV. A TEMPORARY RESTRAINING ORDER PRESERVES THE STATUS QUO.**

The purpose of a TRO is to preserve the status quo between the parties and prevent irreparable harm pending an evidentiary hearing regarding whether injunctive relief should be ordered. *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 439 (1974). The “status quo” is the last peaceable or uncontested status between the parties prior to the conflict at issue. *Schrier v. University of Colorado*, 427 F.3d 1253, 1260 (10th Cir. 2005).

Here, the last uncontested status between the parties before Defendants chose to start denying them access equal to that of other news media is that Plaintiffs held press credentials that permitted them access to media areas within the Capitol. Schott Decl. ¶16. Additionally, granting the TRO prevents additional irreparable harm as previously discussed. Therefore, this Court should issue a TRO to allow the status quo to be restored.

#### **V. THIS COURT SHOULD FOREGO THE BOND REQUIREMENT**

Under Fed. R. Civ. P. 65(c), “the trial judge has wide discretion in the matter of requiring security and if there is an absence of proof showing a likelihood of harm, certainly no bond is necessary.” *Cont’l Oil Co. v. Frontier Ref. Co.*, 338 F.2d 780, 782 (10th Cir. 1964). Where an injunction issues that “enforces fundamental

constitutional rights against the government[,] [w]aiving the security requirement best accomplishes the purposes of Rule 65(c).” *United Utah Party v. Cox*, 268 F. Supp. 3d 1227, 1260 (D. Utah 2017).

A bond requirement would negatively impact Plaintiffs’ rights by requiring them to pay a fee to engage in free speech and free press. It would also negatively impact the rights of the public to be free from government enforcement of unconstitutional policies. And an injunction requiring Defendants to respect the First Amendment would not harm them. Thus, no bond should be required here.

#### CONCLUSION

This Court should grant Plaintiffs’ motion for a temporary restraining order. Following notice to Defendants, and the opportunity for Defendants to be heard, this Court should also grant Plaintiffs’ motion for preliminary injunction immediately ordering Defendants grants Plaintiffs press credentials to the 2025 Utah Legislative Session and access on equal terms with every other credentialed member of the press corps.

DATED: January 22, 2025.

**KUNZLER BEAN & ADAMSON, PC**

/s/ Robert P. Harrington  
Robert P. Harrington

**INSTITUTE FOR FREE SPEECH**

Charles Miller (*pro hac vice* pending)  
Courtney Corbello (*pro hac vice* pending)

*Attorneys for Plaintiffs Utah Political Watch,  
Inc., and Bryan Schott*

**CERTIFICATE OF WORD LIMIT COMPLIANCE**

I hereby certify that the foregoing **PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION AND MEMORANDUM IN SUPPORT**, including footnotes, but exclusive of caption, signature block, certificate of service, and word-count certification, contains 6,662 words, as tracked by Microsoft Word and is in compliance with the applicable 7,750-word limit set out in DUCivR 7-1(a)(4)(C)(i).

/s/ Robert P. Harrington  
Robert P. Harrington



# **EXHIBIT A**

## **to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction**

## **Utah Capitol Media Access and Credentialing Policy**

### **Utah Capitol Media Credential Application**

The Utah Capitol Media Credential application process, outlined below, is designed to give professional journalists and media representatives from reputable organizations access to cover the Legislature and other significant events at the Utah State Capitol. This process aims to support informed reporting while maintaining the integrity and security of the Capitol.

Credentialed media members must primarily focus on gathering and reporting news that occurs at the Capitol. Completing an application does not guarantee that a credential will be issued. Having been previously credentialed does not guarantee that a credential will be granted in the future. A Utah Capitol Media Credential is valid for one calendar year\*. Organizations may request more than one media credential; however, Senate and House media liaison designees reserve the right to limit the number of credentials allocated to any media organization.

### **Utah Capitol Media Credential Credentialing Criteria**

To apply for a Utah State Capitol Media Credential, an applicant needs to:

- Complete the online application.
- Be a professional member of the media (which includes journalists, photographers and videographers) who regularly covers the Legislature and Capitol in person and is part of an established reputable news organization or publication.
  - A journalist intern or student who works for an established reputable media organization or institution and has a supervisor may be eligible to receive a credential. Intern/student media credentials are only valid for three months (January-March).\*\*
  - Blogs, independent media or other freelance media do not qualify for a credential.
- Provide an annual background check.
- Adhere to a professional code of ethics.
- Complete the yearly harassment prevention training.
- If required by a media designee, submit a letter of introduction on official publication letterhead, signed by the managing editor, may be required. If multiple applicants from the same publication are applying, one letter will suffice.
  - The letter must include the following:
    - Verification of full-time employment.
    - Justification for the need for a Utah Capitol Media Credential.
    - Affirmation that the applicant has read and agrees to abide by the applicable legislative rules, statutes and policies, including those described in this document.

### **Credential Privileges**

- Utah Capitol Media Credentials provide access to some secure areas of the Capitol, such as the press room and designated areas in the Senate and House chambers, if the credentialed news media follow applicable legislative rules, statutes and/or policies, including the policies of each chamber.
- Credentialed media has access to designated media workspaces in the Senate and House galleries.
- Credentialed videographers and photographers may be allowed to set up in the Senate and House galleries.
- Credentialed media may be permitted access to media availabilities and other press events with elected officials.
- Access to designated media parking.
  - Due to limited space, designated parking does not extend to interns or students.
- A Utah Capitol Media Credential provides access to the Capitol press room, which is equipped with internet access and an audio feed from both chambers.
  - Interns and students must remain in designated areas in the press room.
- Approved and designated areas for media:
  - Designated areas in the galleries of the Senate and House
  - Committee Rooms – designated area behind the dais in committee rooms, up to the discretion of the chair of the committee. Reach out to media liaison designees to request access.
  - Press Room

### **Media Liaison Designees**

- Utah Senate media liaison designee:
  - Deputy Chief of Staff Aundrea Peterson: [aundreapeterson@le.utah.gov](mailto:aundreapeterson@le.utah.gov) – 801-791-3365
- Utah House of Representative media liaison designee:
  - Communications Director Alexa Musselman: [amusselman@le.utah.gov](mailto:amusselman@le.utah.gov) – 801-865-5882

### **Senate Policy**

- Except as provided below, credentialed news media may not be admitted to the Senate floor when the Senate is convened in session.
  - Credentialed news media members who are photographers or videographers may be permitted to enter the Senate floor with permission from a Senate media liaison designee when the Senate is convened in session if the news media members comply with the applicable dress requirements and other rules of decorum.
    - The dress requirements: coat and tie for men and professional business attire for women.

- View news media access rules for the Senate floor, committee rooms and designated areas here.

### **House Policy**

- News media may not be admitted to the House floor when the House is convened in formal session.
- Credentialed news media members who are photographers or videographers may be permitted to enter the House floor with permission from a House liaison media designee.
- For House Floor rules, click here.
- For House Committee rules, click here.

### **Credentials may be denied or revoked for any reason, such as the following:**

- Fails to complete the workplace harassment prevention training.
- Engages in unlawful discrimination or harassment.
- Presents a security risk, as demonstrated by past action or criminal record.
- Does not represent an established reputable news organization or publication.
- Does not regularly cover the Legislature in person at the Capitol.
- Fails to adhere to standards of professional conduct.
- Fails to follow the rules and regulations outlined in this document.
- Engages in lobbying.
- Holds government employment.
- Provides consulting or public relations services to clients in relation to the Legislature or matters under consideration by the Legislature.

### **Right of Appeal**

- If credentials are denied or revoked, the applicant may appeal by submitting a written appeal to the Senate or House chief of staff. Appeals will be decided within five business days unless the Senate or House chief of staff notifies the appellant that a longer period will be required to resolve the appeal.
  - Senate Chief of Staff Mark Thomas: [mthomas@le.utah.gov](mailto:mthomas@le.utah.gov) – 801-673-8587
  - House Chief of Staff Abby Osborne: [aosborne@le.utah.gov](mailto:aosborne@le.utah.gov) – 801-831-6116

### **Other Important Information**

- Utah Capitol Media Credentials must be worn and visible when at the Capitol complex to gain entrance to the Senate and House floors, committee rooms and media availabilities.

*\* Press credentials are valid for one calendar year unless revoked or surrendered.*

*\*\*Intern/student press credentials are valid for three months, January–March, unless revoked or surrendered.*

*Revised – November 2024*

# **EXHIBIT B**

## **to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction**

## **Utah Capitol Media Access and Credentialing Policy**

### **Credentialing Criteria**

Utah Capitol media credential application requires an annual background check and harassment prevention training.

To receive and maintain a Utah State Capitol media credential, an applicant must:

- Be a professional journalist (which includes photographers, videographers, etc)\* who regularly covers the Legislature and Capitol in person.
  - A media intern/student can receive a credential but must work for an organization or institution and have a supervisor.
  - Intern/student media credentials are only valid for three months (January-March).
- Present a background check.
- Adhere to a professional code of ethics.
- Represent an established, reputable news organization or publication.
- Complete the harassment prevention training.

### **Credential Privileges**

- Capitol media credentials provide access to some secure areas of the Capitol, such as the press room, designated areas in the Senate and House chambers if the credentialed news media follow applicable legislative rules, statutes and/or policy of each chamber.
- Credentialed media has access to designated media workspaces in the Senate and House galleries.
- Videographers and photographers are allowed to set up in the Senate and House galleries.
- Credentialed media are allowed access to media availabilities and other press events with elected officials.
- Designated media parking.
  - Due to limited space, designated parking does not apply to interns or students.
- Capitol media credentials provide access to the Capitol press room. The press room is equipped with internet access and audio feed from both chambers.
  - Interns and students must remain in designated areas in the press room.
- Approved and designated areas for media:
  - Designated areas in the galleries of the Senate and House
  - Committee Rooms – the area behind the dais in committee rooms is up to the discretion of the chair of the committee.
  - Press Room

### Media Designees

- Utah Senate media designees:
  - Chief of Staff Mark Thomas: [mthomas@le.utah.gov](mailto:mthomas@le.utah.gov) – 801-673-8587
  - Deputy Chief of Staff Aundrea Peterson: [aundreapeterson@le.utah.gov](mailto:aundreapeterson@le.utah.gov) – 801-791-3365
  
- Utah House of Representative media designees:
  - Chief of Staff Abby Osborne: [aosborne@le.utah.gov](mailto:aosborne@le.utah.gov) – 801-831-6116
  - Communications Director Alexa Musselman: [amusselman@le.utah.gov](mailto:amusselman@le.utah.gov) – 801-865-5882

### Senate Policy

- Except as provided below, credentialed news media may not be admitted to the Senate floor when the Senate is convened in session.
  - Credential news media photographers and videographers may be permitted to enter the Senate floor with permission from the Senate media designee when the Senate is convened in session if the news media comply with the applicable dress requirements and other rules of decorum.
    - The dress requirements: coat and tie for men and professional business attire for women.
  
  - View news media access rules for the [Senate floor](#), [committee](#) rooms and designated areas [here](#).

### House Policy

- News media may not be admitted to the House floor when the House is convened in formal session.
  
- Credential news media photographers and videographers may be permitted to enter the House floor with permission from House media designee.
  
- For House Floor rules, click [here](#).
  
- For House Committee rules, click [here](#).

### Credentials may be denied or revoked for any reason, such as the following:

- Applicant fails to complete the workplace harassment prevention training.
  
- Applicant presents a security risk, as demonstrated by past action or criminal record.
  
- Applicant does not represent a professional media organization.
  
- Applicant does not regularly cover the Legislature in person at the Capitol.



- Journalists, photographers or videographers fail to adhere to standards of professional conduct.
- Journalists, photographers or videographers fail to follow rules and regulations outlined in this document.

**Right of Appeal**

- If credentials are denied or revoked, the applicant may appeal in writing to the Senate and House of Representative chiefs of staff, who will respond within five business days.

**Other Important Information**

- Utah State Capitol media credentials should be worn and visible when at the Capitol complex to gain entrance to the Senate and House floors and committee rooms.
- Bloggers representing a legitimate independent news organization may become credentialed under limited, rare circumstances.

*Revised – October 2023*

# **EXHIBIT C**

## **to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction**

Thu, Dec 12 at 1:01PM

Asking for a comment.

Alliance for a Better Utah has filed a complaint with the LG's office about President Adams' financial disclosures.

According to the complaint, his financial disclosures from his campaign and the two PACs he's listed as the primary officer of show \$428,000 in payments to financial institutions and credit card companies going back to 2014.

Utah law requires that financial disclosures "reveal...the actual person or entity to whom the disbursement is ultimately made" and "may not merely list disclose, or report the transactional intermediary."

The FAQ from the LG's office for candidates says "Be sure you report the ultimate payee of an expenditure, and not a transactional intermediary, such as American Express. You didn't pay American Express for your campaign signs, you paid Office Warehouse using American Express."

None of the transactions on his disclosures provide those details. They simply show a payment to American Express or AMEX, the amount of the payment, and how those transactions are categorized. No other details.

Does President Adams have a response to this complaint?

Why was he not following Utah law for financial disclosures.

I've often heard President Adams talk about the need for transparency in government. How does this situation square with being transparent?

In the most recent financial disclosure for the Adams Leadership PAC, there's a \$16,134 payment to AMEX on Jan. 4, 2024 that is simply categorized as "other." What was that payment for?

Thu, Dec 12 at 2:56 PM

As someone who claims to be a journalist, it's disappointing to see such a lack of professionalism. Sending a request for comment and immediately publishing the story is not only irresponsible but also reflects a disregard for accurate reporting and ethical standards. Your story is not only misleading; it is factually inaccurate. You even failed to obtain information from the Lieutenant Governor's Office and didn't even allow those named in your story to respond. This is not the first time this has happened; it's part of a troubling pattern of neglectful journalism.

I asked the Lt. Gov. for comment at least 5 times.

Please tell me how my story is "factually inaccurate" and "misleading."

It certainly sounds like you're going to use your criticism of this story you don't like to deny me a press credential next week.

You still failed to allow us time to respond. Why didn't you reach out to us for comment five times?

Because I was trying to get clarification on this story before moving forward.

I only learned that ABU had filed the complaint today, which accelerated my timeline.

You are trying to divert attention from your lack of journalistic ethics. We will follow our policy when reviewing media credential applications

If you have a response or wish to refute anything in my story, I'll be happy to include it.

Please elaborate how you feel like I've breached journalistic ethics.

I'm always open to legitimate criticism.

Publishing at the same time you reach out is not seeking clarification; it is failing to follow basic journalistic standards that ensure a fair, accurate and balanced story. This is not the first time you have done this in the past few months.

Can you point me to where that ethical standard comes from?

If you have to be told you aren't journalist.

If you can't cite that source, then you're making it up.

Thu, Dec 12 at 6:27 PM

Earlier today, former media member Bryan Schott published a blog post that failed to include information from the Lt. Governor's Office or those named in the story before publishing the blog. Unfortunately, this is not the first time this has occurred; it is part of a troubling pattern of neglectful journalism that undermines the profession's integrity, which is one of the cornerstones of our republic.

As someone who claims to be a journalist, it is disappointing to see such a lack of professionalism. Sending a request for comment and immediately publishing the story is irresponsible and reflects a disregard for accurate reporting. The story is not only misleading but factually inaccurate.

Had he taken the time to get facts from the Lt. Governor's Office or allowed those named in the blog a chance to respond, he would have learned that the information was accurately reported and in compliance with the statute with no attempt to skirt the law. Instead, he published an inaccurate and misleading blog that omits critical details and essential context.

"Last year, following an inquiry by the Lt. Governor's Office into how I reported certain transactions on my disclosure report, I received an email confirming I was "compliant with state disclosure law." I have relied on this guidance as I continued to report transactions. This fall, the Lt. Governor's Office conducted a further inquiry into my disclosure report. After their review, I received an email stating that "no further action is required on your part until we have adequately reviewed the relevant statutes." Last week, the Lt. Governor's Office issued clarifying instructions to all candidates and officeholders, providing better instructions and requirements on how to disclose transactions. The letter indicated they will begin implementing these new requirements beginning in January 2025.

"I have always been, and remain, fully committed to complying with campaign disclosure requirements. Additionally, I will adhere to the updated guidelines issued by the Lt. Governor's Office last week.

"The claim that I failed to follow campaign disclosure requirements is not just inaccurate but a blatant falsehood. This is nothing more than misleading rhetoric, with Alliance for Better Utah once again resorting to desperate fundraising efforts built on misinformation. These kinds of deceitful tactics are intended to distract from the real work of improving our state." – President J. Stuart Adams

I saw the statement that you provided to KUTV.

Can you provide a copy of the communications from the lieutenant governor's office claiming that he was in compliance?

I'll be happy to include his statement in my story, minus the petty insults.

I'm assuming that since you included it in the statement, you would have that documentation from the lieutenant governor readily available.

I can certainly GRAMA the Lieutenant governor's office, but it seems like you have this at hand. I hope you see your way to share it with me.

Y

You know, in the interest of accuracy

You can certainly provide it now, or I can get a copy when I come up to get my media credential on Wednesday

Also, I would like to point out that I am not the one who made the allegations. I just reported on the allegations from ABU.

If you would have done your due diligence you wouldn't have reported inaccurate information that falsely states "one of the top Republicans in the legislature has not been following Utah law for more than a decade." That is strong and false statement without even trying to gather the facts. You publish the blog before asking for documentation from us though just run with anything Better Utah sends you.

Please provide that documentation.

My story has been updated.

And I've submitted a GRAMA to the Lt. Governor's office for those communications.

I don't have immediate access to his campaign account, but working on it.

So your idea of an "update" is to leave uncorrected the false and misleading claim that "one of the top Republicans in the legislature has not been following Utah law for more than a decade" and then simply add the word "update" at the bottom of the page? A real update would include a clear and accurate correction of inaccurate and misleading information in your blog, not just a vague note at the end.

It's curious that you can't find that email since you quoted directly from it.  
I have a copy of the complaint filed with the Lt. Governor's office.  
What I DON'T have is documentation to back up Adams's claim.  
I'm not going to take your word for it until I see that - which is what responsible journalists do.

It is a statement from President Adams, who has the documents. As I told you, I don't have access, but working on getting the documents.  
You wrote a story based on claims from Better Utah without hesitation or concern. It's clear you accept their claims as facts but then claim to be a responsible journalist when it comes to confirming information with us.

I've been looking into this for more than 2 months. My first outreach to the Lt. Gov.'s office was on Oct. 7. The fifth and final one was on Monday.  
Like I said, I'm not going to take your word for it.  
Would you like to see a copy of the complaint from ABU?  
I have it right here.

And, as I made it clear throughout the story, the allegations were made by ABU.

What is your excuse for failing to reach out to us until 1:01 p.m. today? It is ridiculous and unacceptable that, after working on this story for two months, you did not contact us until you published the blog. This highlights your lack of journalist integrity.

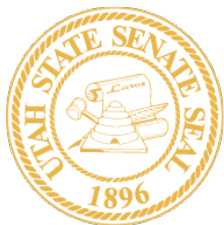
Because I didn't know if I had a story or not until I heard back from the Lt. Gov.  
As I said before, when I found out about the ABU complaint, it changed my timeline.

Again, they made the allegations in a complaint that they gave me a copy of. I did not make the allegations.  
I'll be waiting for a copy of those emails.  
I find it interesting that you're focusing on how I wrote the story, and not the allegations themselves.

Again, you wrote inaccurate information and falsely stated, "one of the top Republicans in the legislature has not been following Utah law for more than a decade." That is written as a fact when it is blatantly inaccurate.

# **EXHIBIT D**

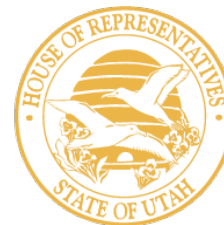
## **to Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction**



## UTAH STATE LEGISLATURE

STATE CAPITOL • SALT LAKE CITY, UTAH 84114

WWW.LE.UTAH.GOV



December 26, 2024

Bryan Schott,

After a careful review and thoroughly considering your appeal regarding the denial of your Utah Capitol Media Credential application, we are writing to inform you that the original decision stands, and your appeal has been denied. Your application does not meet the criteria outlined in the Utah Capitol Media Access and Credentialing Policy (policy), including:

- Being a professional member of the media associated with an established, reputable news organization or publication.
- Blogs, independent media outlets or freelance media do not qualify for credentials.

We want to provide insight and transparency into the review process. The claim that the denial was "based on retribution" is categorically false and without merit. Earlier this year, we were notified by your former employer, the Salt Lake Tribune, that you were no longer affiliated with that publication, an established Utah news organization. As a result, your Capitol Media Credential, which was issued based on your employment with the Tribune, no longer met the requirements.

The media liaison designees reviewed your recent submission and determined that the organization you named in your application, Utah Political Watch, was a blog, independent media outlet, or freelance media and therefore did not qualify for credentialing. This decision is consistent with the policy authorizing established, reputable news organizations, such as the Salt Lake Tribune, and prohibiting blogs, independent media outlets or freelance media. We reach the same conclusion on your appeal.

We receive numerous inquiries for credentials each year. The longstanding policy creates consistency for members of the media. The policy is regularly reviewed and updated, often in response to journalists' feedback. Any claim that recent updates to the policy were intended to prevent targeted individuals from obtaining credentials is inaccurate and completely unfounded.

Finally, nothing prevents individuals from reporting on the proceedings of the Utah Legislature, regardless of whether they hold a media credential. The Utah Legislature is dedicated to maintaining a transparent government, and the Capitol is open to all. Committee meetings,

legislative floor debates, agenda items and materials are readily accessible on the legislative website, and everyone is welcome to attend committee meetings and floor time.

We greatly value journalists' role in informing the public about government actions. This is vital for maintaining transparency and a healthy republic. We have built strong, collaborative relationships with the Utah Media Coalition and journalists based on mutual respect. We remain committed to fostering open and transparent communication with journalists and supporting the principles of a free press. Utah is a leader in government accountability, and we will continue to uphold these values in all interactions.

The decision to deny your appeal is in accordance with clearly established, and consistently applied, policies.

Sincerely,

Abby Osborne  
Chief of Staff  
Utah House of Representatives

Mark Thomas  
Chief of Staff  
Utah Senate



UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

UTAH POLITICAL WATCH, INC., and  
BRYAN SCHOTT,

*Plaintiff,*

v.

Case No. 2:25-cv-00050-AMA

ALEXA MUSSELMAN, in her official  
capacity as Utah House of  
Representatives Communications  
Director and Media Liaison Designee;  
AUNDREA PETERSON, in her official  
capacity as Utah Senate Deputy Chief of  
Staff and Media Liaison Designee; ABBY  
OSBORNE, in her official capacity as  
Utah House of Representatives Chief of  
Staff; and MARK THOMAS, in his official  
capacity as Utah Senate Chief of Staff,

*Defendants.*

DECLARATION OF BRYAN SCHOTT

I, Bryan Schott, declare the following based on my personal knowledge:

1. I am the owner, full-time editor, publisher and reporter for Utah Political Watch (UPW), a subscription-based newsletter service that provides independent news and analysis on politics in Utah.

2. UPW is an entity incorporated in the State of Utah. I established UPW in September 2024.

3. I have been an award-winning political journalist in Utah for over 25 years.

4. I began my career in Utah in local radio acting as a producer, anchor, reporter,

and program director for numerous radio stations between 1995 and 2008.

5. In 2008, I joined the independent news website, UtahPolicy.com, where I was a Managing Editor and Reporter until 2020.

6. During my decade-long tenure with UtahPolicy.com, I had full access to the Utah Legislature both before and after the Legislature began issuing media credentials.

7. From 2014 to 2020, I was the Host and Producer of the “Bernick and Schott on Politics” podcast in which I engaged in reasoned debate regarding Utah politics with my co-host Bob Bernick - the Contributing Editor for Utah Policy. I also ran websites UtahPulse.com and Idaho Politics Weekly during this same time period in which I also published my own stories regarding the Utah Legislature and related political events.

8. In 2020, I became a Political Correspondent for the Salt Lake Tribune, a daily newspaper published in the city of Salt Lake City, Utah, with the largest paid circulation in the state. At the Salt Lake Tribune, I wrote articles regarding local news related to Utah politics and the Utah Legislature. During my tenure, my byline appeared on 1,201 stories, almost all regarding Utah-based or national politics.

9. I founded UPW in September 2024 after departing the Salt Lake Tribune. UPW allows visitors to sign up for a daily newsletter covering Utah politics and to opt to engage in a paid subscription for additional content. I also host a podcast – “Special Session” – through UtahPoliticalWatch.news where I talk about events that occur during the Utah Legislative Session as well as other relevant Utah political news.

10. There are currently approximately 1,000 subscribers to the UPW daily newsletter, of which 25% pay to receive additional content.

11. In addition to subscribers, the UPW website garners tens of thousands of pageviews per month. Top stories can receive 2,000 to 3,400 views each.

12. There are on average between 250 and 300 downloads of each episode of the nascent podcast.

13. I have over 11,000 followers on TikTok, where I receive on average between 4,500 and 10,000 views per video on Utah Politics.

14. I have received numerous awards and public accolades for my work as a journalist. I am the recipient of several Utah Broadcasters Association Awards, including for Best Feature Story or Program, Best News Reporting in a Series and Best Feature Story or Program. In 2022, I was named as the State's Best Newspaper Reporter by the Utah Society of Professional Journalists. On June 17, 2024, I was one of only 34 journalists nationwide who was granted the National Press Foundation's 2024 Elections Journalism Fellowship.

15. I have covered the Utah Legislature since 1999 for various media outlets in Utah.

16. By 2013, the Utah Legislature had begun requiring press credentials for reporters to access the House or Senate media areas. Up until the previous year, the application process was no more than a formality and I easily obtained credentials each year. Applicants would have to pass a criminal background check by the Utah Highway Patrol and then have a House or Senate staffer sign off on the application.

17. In November 2024, after I had established UPW and made Defendants aware of that fact, Defendants substantially revised their “Utah Capitol Media Access and Credentialing Policy” for controlling media access to the Utah Legislature. Compare Exhibit A (2025 Utah Capitol Media Access and Credentialing Policy, also available at: <https://perma.cc/M77N-LWXV>) with Exhibit B (2024 policy).

18. The 2025 Credentialing Policy had been revised from the 2024 Credentialing Policy in several ways.

19. First, the 2024 Credentialing Policy did not contain any initial information about the application process prior to outlining what criteria a journalist must meet to obtain a credential. In the 2025 Credentialing Policy, however, the following preamble had suddenly appeared:

The Utah Capitol Media Credential application process, outlined below, is designed to give professional journalists and media representatives from reputable organizations access to cover the Legislature and other significant events at the Utah State Capitol. This process aims to support informed reporting while maintaining the integrity and security of the Capitol.

Credentialed media members must primarily focus on gathering and reporting news that occurs at the Capitol. Completing an application does not guarantee that a credential will be issued. Having been previously credentialed does not guarantee that a credential will be granted in the future. A Utah Capitol Media Credential is valid for one calendar year\*. Organizations may request more than one media credential; however, Senate and House media liaison designees reserve the right to limit the number of credentials allocated to any media organization.

20. Second, the 2024 Credentialing Policy stated: “Bloggers representing a legitimate independent news organization may become credentialed under limited, rare circumstances.”

21. But, in the 2025 Credentialing Policy, that statement is gone. Instead, under

the criteria that a credentialed journalist must be a “professional member of the media . . . [who] is part of an established reputable news organization or publication,” the 2025 Credentialing Policy warns: “Blogs, independent media or other freelance media do not qualify for a credential.”

22. No definition of “blog,” “independent,” “professional member of the media,” “reputable news organization or publication” or any other term is provided.

23. The 2025 Credentialing Policy also contains five criteria in total that a journalist must meet to obtain press credentials: (1) “fill out an online application;” (2) “[b]e a professional member of the media (which includes journalists, photographers and videographers) who regularly covers the Legislature and Capitol in person and is part of an established reputable news organization or publication” (so long as one is not a blog, independent or freelance journalist) (3) “provide an annual background check;” (4) “[a]dhere to a professional code of ethics;” and (5) “[c]omplete the yearly harassment prevention training.”

24. Additionally, if required by a media designee, the credential applicant must “submit a letter of introduction on official publication letterhead” that contains certain information verifying the applicants’ employment status and need for credentials.

25. The 2025 Credentialing Policy dictates which areas of the Utah Legislature credentialed press are granted access to. Those areas include (1) “some secure areas of the Capitol, such as the press room and designated areas in the Senate and House chambers;” (2) “designated media workspaces in the Senate and House galleries;” (3)

“set up in the Senate and House galleries for credentialed videographers and photographers;” (4) “[c]redentialed media may be permitted access to media availabilities and other press events with elected officials;” (5) “designated media parking;” (6) “the Capitol press room, which is equipped with internet access and an audio feed from both chambers;” (7) “designated areas in the galleries of the Senate and House;” and (8) “Committee Rooms.”

26. In addition, I informed Defendants that I had begun reporting on behalf of UPW soon after its creation and asked for details on the upcoming credential application as well as to be placed on the legislative press release list. Defendants did not immediately respond but eventually told me they have a policy or practice of not distributing legislative press releases to any press that is not credentialed under the 2025 Credentialing Policy.

27. Throughout the time credentialing has been required, I had no problems either passing the background check or receiving a staffer signature approving my application. I did not think my career move to UPW would change that. But it did.

28. As explained further below, Defendants denied my press credential application for the 2025 Legislative Session. But prior to that occurring, a few incidents took place that I believe may have solidified Defendants’ decision.

29. Last year, after receiving my credentials for the 2024 Legislative Session, I made a lighthearted post on X.com poking a little fun at media staffers who had difficulty setting up a backdrop. Defendant Osborn had publicly replied:



30. I continued, throughout the year, to report on the Utah legislature, and Defendants, and my stories were honest, but not always favorable. In December 2024, reporting for UPW, I appeared to significantly anger Defendants when I issued a story that a local nonprofit group had filed a complaint against Senate President Stuart Adams alleging he had violated campaign disclosure laws. *See* Schott, Bryan, *Top Utah GOP lawmaker accused of skirting state laws on campaign finance disclosures*, Utah Political Watch, <http://bit.ly/4fYAYeH>.

31. On December 12, the same day the article was posted, Senate President Adams took to X.com to criticize my reporting, labeling me a “former media member” and called the story “part of a troubling pattern of neglectful journalism that undermines the profession's integrity.” President Adams’ X Post, Dec. 12, 2024, <https://perma.cc/Q5JN-7ZCX>. This same statement was originally published verbatim on the Utah Senate’s official Twitter and Facebook Pages before they took them down because of complaints.

32. Adams was not the only one in the Senate who was upset. I reached out to Defendant Peterson, just prior to the story being published, for comment the same day. Defendant Peterson responded two hours later, criticizing me for publishing the story in the interim, and stating that failing to obtain her comment beforehand

exhibited a “lack of professionalism” and “disregard for accurate reporting and ethical standards.”

33. “This is not the first time this has happened,” Peterson told me, “it’s part of a troubling pattern of neglectful journalism.”

34. She chided me for “fail[ing] to obtain information from the Lieutenant Governor’s Office.” But I explained to Peterson that I had already sought comment from the Lieutenant Governor 5 times and asked for clarification. I also explained that I had only learned of the complaint being filed that same day, which meant I needed to file the story before it was no longer breaking news. I offered to update my story with any comment Peterson wanted to offer and also asked Peterson to clarify whether her criticism of my story would lead to my press credential application being denied. But Peterson still refused to offer me a substantive comment. Dismissively referring to UPW as a “blog,” Peterson continued to accuse me of having a “lack of journalistic ethics” and “failing to follow basic journalistic standards” because I had reported on a story that Peterson believed to be “inaccurate” and “unfair.” When I asked what ethical standards I had violated, Peterson told me “If you have to be told, you aren’t a journalist.” And, in regards to the fate of my press credential application, Peterson would only tell me: “We will follow our policy when reviewing media credential applications.”

35. Peterson waited over five hours before finally providing a substantive response, which was to merely send to me a statement Peterson had released to another news organization in the interim, and which I had already seen published



therein.

36. I took screenshots of my text exchange with Peterson. True and correct copies of those screenshots are contained in Exhibit C to the Motion for Temporary Restraining Order and Preliminary Injunction (“Plaintiffs’ Motion”).

37. With this backdrop, I, having started my own publication, then turned to the very same people who detested my reporting and asked them for press credentials to the 2025 Legislative Session.

38. On December 17, 2024, I submitted my application for a press credential in keeping with my practice over the past decade. I easily passed the background check, and then contacted Alexa Musselman, House Communications Director, regarding my application. Musselman responded: “We have to look it over for a bit . . .I’m going to go touch base with others, then we’ll give you a call.”

39. I had never received this additional level of scrutiny before. And I asked Musselman whether the same level of scrutiny was applied when Utah News Dispatch which, as a month-old news website publication, had applied for press credentials for the 2024 Legislature and was ultimately issued credentials for several reporters. Musselman could only state: “We did have conversations with them” although she admitted to being on leave from work during that time period.

40. I waited for approximately 90 minutes more before, ultimately, I received a follow-up email from Musselman, now with Peterson copied, informing me that my application had been rejected. The reason Musselman and Peterson gave: “Utah Capitol media credentials are currently not issued to blogs, independent, or other

freelance journalists.”

41. I appealed the denial of press credentials. On December 26, 2024, I received a letter in response from Abby Osborne and Mark Thomas, a true and correct copy of which is attached as Exhibit D to Plaintiffs’ Motion.

42. In the letter, Osborne and Thomas informed me that “the original decision stands, and your appeal has been denied.” The reason for the denial, the letter stated, was twofold. First, I apparently did not meet the criteria of “being a professional member of the media associated with an established, reputable news organization or publication.” Second, I did not meet the credentialing criteria because “[b]logs, independent media outlets or freelance media do not qualify for credentials.”

43. This denial occurred despite the fact that I am an award-winning political journalist who has been previously credentialed every year credentials have been required for over a decade.

44. To my knowledge, Defendants have not treated other journalists in this way when they apply for credentials as part of an “independent” news organization. Utah News Dispatch, for example, launched just days before the 2024 session started, yet I know that all its staff was credentialed for the 2024 session. And the Salt Lake Tribune has received credentials for its journalists for the 2025 Legislative Session despite proudly stating it is an “independent” news organization on its website.

45. The 2025 Utah Legislative Session began on January 21, 2025.

46. I have already missed the press conference about the House GOP legislative priorities on January 13<sup>th</sup>. And Governor Cox holds monthly press conferences, the

first of which occurred on the morning of January 16<sup>th</sup>. I cannot, and could not, attend these press conference in person or ask questions given my current lack of press credentials. I have also already missed at least two legislative press releases, and will miss more given Defendants' policy of only providing press releases to credentialed media.

47. On the day Session started, numerous statehouse reporters, besides myself, were able to cover the opening addresses by the Senate President and Speaker of the House from the House and Senate floors on that date. The Senate President delivered remarks at a media gathering afterwards; I missed that as well.

48. As session goes on, many statehouse reporters, except me, will be able to report on legislative actions, press releases, speeches, impromptu press conferences, statements to the press, and other events that occur via access to the media areas within the Capitol, including obtaining the necessary photos, audio, or video. I will be denied entry to the daily meetings with Senate leadership in the Senate President's office, Friday media availabilities with the Speaker of the House in his office, and House or Senate rules committee meetings.

49. Every one of my colleagues in the media, but not me, will be able to view and report on these events from the designated media areas throughout the Capitol and both legislative chambers. Those reporters will be in a better position than myself to obtain videos, photographs, and audio recordings as part of their reporting materials. Those reporters will be able to speak to legislators and their staff, witnessed legislative action up close, be given legislative materials and attend spontaneous

press briefings that I cannot.

50. Every day of the 2025 Legislative Session that this Court does not intervene, I will continue to be obstructed from the same news gathering opportunities as are afforded to my colleagues in the media. The 2025 Legislative Session continues until March 7, 2025, not considering any potential special sessions that may need to occur. Without court intervention, I will be completely prevented from obtaining the press credentials, and access that those credentials provide, that I need to satisfy my duties as a member of the press and exercise my First Amendment rights.

51. Utah politics is something I report on frequently and in depth. Using press credentials to access areas and information within the Capitol are the primary way I do that. Without press credentials to the 2025 Utah Legislative Session, I will not be able to gather news or information on equal footing with other reporters concerning the Utah Legislature. I will continue to be separated from my colleagues and designated by Defendants as undeserving of entry into the areas they are permitted to occupy and use so to fulfill their obligations to the public as members of the press.

52. Additionally, UPW and I are harmed by being labeled by Defendants as “unprofessional,” “unethical” and not “reputable.” I have no way of growing UPW’s reader-base or obtaining access to the necessary people and events for complete coverage of a news story if I am continuously burdened with Defendants’ harmful characterizations of my reporting and subsequent denial of my credentials. Being deprived of journalistic access harms my news gathering abilities, which, in turn, destroys my attempts to establish my own independent news publication.

53. To this day, I have never received an explanation from Defendants as to how I do not meet the press credential policy. The only criticisms I have received are that I am not a “a professional member of the media associated with an established, reputable news organization” apparently because I now work for a “blog, independent media outlet, or freelance media.” But the credential policy does not explain what any of these terms mean. And Defendants have not told me how these terms are defined. Therefore, I am unable to determine how I can modify my speech or reporting in a way that satisfies Defendants and compels them to grant me a permit for media access.

54. I also cannot discern the meaning of the criteria found in Defendants’ 2025 Credentialing Policy that requires any journalist seeking credential to “[a]dhere to a professional code of ethics.” But I have no idea what ethical standards Defendants are holding me to and my personal experience is that what is considered “ethical” can vary significantly from journalist to journalist.

55. The ambiguity and vagueness of the press credential policy chills my speech. Just as with Defendants’ arbitrary, viewpoint-discriminatory criteria, the press credential policy leaves me without notice as to how I can conform my reporting or UPW as a publication in order to satisfy the criteria. I believe the terms are purposefully broad, which allows their application to reporters like myself that Defendants do not want to gain access to Utah Legislature for viewpoint- and content-based reasons.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 22, 2025.

/s/ Bryan Schott\*

(\*I certify that I have the signed original of this document, which is available for inspection during normal business hours by the court or a party to this action)

/s/ Charles Miller

Attorney for Plaintiffs

---

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

---

UTAH POLITICAL WATCH, INC., and  
BRYAN SCHOTT,

Plaintiffs,

v.

ALEXA MUSSELMAN, Utah House of  
Representatives Communications  
Director and Media Liaison Designee;  
AUNDREA PETERSON, Utah Senate  
Deputy Chief of Staff and Media Liaison  
Designee; ABBY OSBORNE, Utah  
House of Representatives Chief of Staff;  
and MARK THOMAS, Utah Senate  
Chief of Staff, in their official and  
individual capacities;

Defendants.

**TEMPORARY RESTRAINING  
ORDER**

Case No. 2:25-cv-00050-AMA

Judge Ann Marie McIff Allen

---

This matter came before the Court on Plaintiffs' motion for a temporary restraining order. After consideration of the briefs and arguments of counsel, the evidence filed in support of and opposition to this motion, and being fully advised, the Court finds that:

Findings

This Court has jurisdiction over the subject matter of this case and there is good cause to believe that it will have jurisdiction over Defendants. Venue is proper in this district.

Defendants' actions in denying press credentials to Schott deprive Plaintiffs of the First Amendment rights to news gather and access information equal to that

afforded by Defendants to other statehouse reporters. A temporary restraining order must be issued to remedy Plaintiffs' injuries because Utah's 2025 legislative session is currently ongoing. Thus, Plaintiffs' news gathering capabilities are irreparably harmed each day that session continues, and they are denied equal access to media areas in the Capitol and press releases issued to credentialed reporters. Accordingly, Plaintiffs have demonstrated a likelihood of success on the merits. Additionally, Plaintiffs have identified a constitutionally significant injury caused by Defendants' denial of their press credentials. Because this case raises serious questions of constitutional importance, the balance of equities tips sharply in Plaintiffs' favor and a preliminary injunction is in the public interest.

Accordingly, it is hereby ORDERED and ADJUDGED that the motion for TRO is GRANTED.

#### Order

The Court ORDERS that Defendants and their officers, agents, divisions, commissions, and all persons acting under or in concert with them, are hereby enjoined from withholding press credentials and placement on the legislative press release distribution list from Schott and other journalists on the basis that (1) they write for "[b]logs, independent media or other freelance media;" (2) Defendants do not consider them to be "a professional member of the media associated with an established reputable news organization or publication;" and (3) they "[a]dhere to a professional code of ethics." Defendants are further enjoined to grant Schott press credentials for the 2025 legislative session.



The Court further ORDERS that no security bond is required under Federal Rule of Civil Procedure 65(c).

#### Service of this Order

Copies of this Order may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or FedEx, by agents and employees of Plaintiffs, by the Receiver, by any law enforcement agency, or by private process server, upon Defendants or any person that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure.

#### Preliminary Injunction Hearing

Pursuant to Fed. R. Civ. P. 65(b), Defendants shall appear before this Court on the \_\_\_\_\_, 2025, at \_\_\_\_\_ a.m./p.m., to show cause, if there is any, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint against Defendants, enjoining the violations of the law alleged in the Complaint.

Defendants shall file with the Court and serve on Plaintiffs' counsel any answering pleadings, affidavits, motions, expert reports or declarations, or legal memoranda no later than \_\_\_\_\_ days prior to the order to show cause hearing scheduled pursuant to this Order. Plaintiffs may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Defendants no later than \_\_\_\_\_ days prior to the order to show Cause hearing.

Duration of the Order

Accordingly, and pursuant to Rule 65 of the Federal Rules of Civil Procedure, Defendants are enjoined as dictated above for 14 days from the date of this Order.

IT IS SO ORDERED.

Dated this the \_\_\_ day of \_\_\_\_\_, 2025.

---

Judge / Magistrate Judge