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IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

EPILEPSY ASSOCIATION OF UTAH, a Utah non-profit corporation; DOUGLAS ARTHUR RICE; TRUCE, a Utah non-profit corporation; CHRISTINE STENQUIST, Plaintiffs, v. GARY R. HERBERT, Governor of the State of Utah, in his official capacity; JOSEPH K. MINER, M.D., MSPH, Executive Director, Utah Department of Health, in his official capacity, Defendants.	**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** TIER 2 Case No.: Judge:

Plaintiffs, by and through counsel, bring this action seeking (1) a declaratory judgment that 2018 Utah H.B. 3001 ("H.B. 3001"), which was passed by the Utah Legislature and signed into law by Governor Herbert on December 3, 2018, and extensively amended the Utah Medical Cannabis Act ("Initiative Statute"), which was enacted pursuant to the 2018 Utah Proposition 2 ballot initiative ("Proposition 2"), and the enactment of H.B. 3001, violate Article I, Section 4 and Article VI, Section 1 of the Utah Constitution; (2) a declaratory judgment that the Initiative Statute,

as enacted by a majority of voters voting on Proposition 2, is reinstated as effective law, and of the same status it had as law from December 1, 2018, until the enactment of H.B. 3001 on Dec. 3, 2018; and (3) temporary, preliminary, and permanent injunctive relief prohibiting Defendants from enforcing, giving effect to, or otherwise taking action pursuant to H.B. 3001 and mandating that the Defendants enforce and give effect to the Initiative Statute.

INTRODUCTION

1. This is an action for declaratory and injunctive relief arising from, first, the unconstitutional violation by the Utah Legislature of the constitutional right of the People to directly pass legislation through the initiative process under Article VI, Section 1 of the Utah Constitution and, second, the unconstitutional domination of the State, and interference with the State's functions, by The Church of Jesus Christ of Latter-day Saints ("the Church"), in violation of Article I, Section 4 of the Utah Constitution.

2. The People of the state of Utah exercised their constitutionally vested legislative power by passing, through a majority vote at the most recent election, Proposition 2, which vastly expanded access for patients to medical cannabis; authorized the establishment of private facilities to grow, process, test, and sell medical cannabis; and set forth limited circumstances in which patients could grow cannabis plants for personal medicinal use.

3. In direct contravention of the expressed will of the People, Governor Gary Herbert, at the behest of the Church, called a special session of the Utah Legislature on the earliest possible date—a mere two days after the effective date of the Initiative Statute—with the intent of undermining core purposes of Proposition 2 by radically reducing and burdening the access of patients to medical cannabis.

4. In further direct contravention of the expressed will of the People, as reflected in the majority vote for Proposition 2, the Legislature, at the behest of the Church and as a result of the Church's domination and interference, voted to dramatically undermine core purposes of Proposition 2 and the Initiative Statute by radically amending, and essentially replacing, the Initiative Statute with the passage of H.B. 3001, which deprives, reduces, and unreasonably burdens access to medical cannabis; drastically reduces the authorization for private facilities to sell medical cannabis; and completely eliminates the opportunity for any patients to grow cannabis for their personal medicinal use, regardless of their lack of reasonable access to a medical cannabis dispensing facility.

PARTIES

5. Plaintiff TRUCE (also known as "Together for Responsible Use and Cannabis Education") is a Utah non-profit corporation. TRUCE is a group of concerned patients and caregivers that advocates for safe, legal access to medical cannabis in Utah. TRUCE and members of TRUCE are directly and adversely affected by H.B. 3001 because (1) it severely reduces or eliminates their access, or the access of people in their care, to medical cannabis and (2) it unconstitutionally undermines or entirely defeats core purposes of Proposition 2, which was advocated by TRUCE and its members and for which TRUCE and many of its members worked extremely hard and successfully through signature-gathering and the campaign leading up to the passage of Proposition 2.

6. Plaintiff Epilepsy Association of Utah ("EAU") is a Utah non-profit corporation headquartered in Lehi, Utah. The EAU is dedicated to enhancing the quality of life for all individuals living with epilepsy and seizure disorders and supporting people who provide care for people with epilepsy and seizure disorders. EAU and its members of EAU are directly affected by

H.B. 3001 because (1) it severely reduces or eliminates their access, or the access of people in their care, to necessary medical cannabis and (2) it unconstitutionally undermines or entirely defeats core purposes of Proposition 2, which was advocated by EAU and its members and for which EAU and many of its members worked extremely hard and successfully through signature-gathering and the campaign leading up to the passage of Proposition 2.

7. Plaintiff Christine Stenquist ("Stenquist") is and was at all material times a resident of Kaysville, Utah. Stenquist is the President and Executive Director of TRUCE. Stenquist suffered an acoustic neuroma, then, following unsuccessful surgery, was later diagnosed with fibromyalgia, migraine headaches, occipital neuralgia, and trigeminal neuralgia, which is known as the "suicide disease" because of the extreme and often unrelenting pain it causes. As a result of her medical condition, and despite prescription medications, Stenquist was in chronic pain, nauseated, and bed-ridden for the majority of time during a 16-year period. Stenquist was able to find enough relief from her symptoms through the use of cannabis that she was able to again keep liquids down and eat solid foods, was no longer bed-ridden, and is able to advocate for safe, legal access to medical cannabis for herself and other people of Utah. Stenquist was a sponsor of the "Application for an Initiative or Referendum," filed on June 26, 2017, with the Office of the Lieutenant Governor, and which led to Proposition 2. Stenquist canvassed for petition signatures in support of Proposition 2 and worked vigorously for many months to encourage others to vote in support of Proposition 2. Stenquist is directly and adversely affected by H.B. 3001 because (1) it severely reduces or eliminates her access to necessary medical cannabis and (2) it unconstitutionally undermines or entirely defeats core purposes of Proposition 2, which was advocated by Stenquist and for which Stenquist worked extremely hard and successfully through signature-gathering and the campaign leading up to the passage of Proposition 2.

8. Plaintiff Douglas Arthur Rice ("Rice") is and was at all material times a resident of West Jordan, Utah. Rice is the President of EAU. Rice and his wife are full-time caregivers to their adult special-needs daughter, who suffers from Angelman syndrome and epilepsy. Their daughter requires cannabis to control her seizures. With prescription medications, she was having between eight and twenty-four seizures each day, usually two to five minutes in length. Adding THC (one of the cannabinoids identified in cannabis) to her daily regimen in Colorado allowed his daughter to have her first seizure-free day in years. Rice is an advocate for enhancing the quality of life for all individuals living with epilepsy and seizure disorders. Rice was a sponsor of the "Application for an Initiative or Referendum," which was filed on June 26, 2017, with the Office of the Lieutenant Governor, and which led to Proposition 2. Rice canvassed for petition signatures in support of Proposition 2 and encouraged others to vote in support of Proposition 2. Rice is directly and adversely affected by H.B. 3001 because (1) it severely reduces or eliminates his access to necessary medical cannabis for his daughter and (2) it unconstitutionally undermines or entirely defeats core purposes of Proposition 2, which was advocated by Rice and for which Rice worked extremely hard and successfully through signature-gathering and the campaign leading up to the passage of Proposition 2.

9. Defendant Gary Herbert ("Governor Herbert") is the Governor of the State of Utah. Governor Herbert has campaigned publicly, including in March of 2018, against Proposition 2. Under Article VII, Section 5 of the Utah Constitution, the Governor is vested with the executive power of the state and has a duty to see that its laws are faithfully executed. Governor Herbert is a member of the Church and served as a missionary for the Church. Members of the Church are directed by the Church to always trust and follow the words and directions of the President of the Church, who caused other leaders of the Church to instruct members of the Church to oppose

Proposition 2. Leaders of the Church made clear that they would "call[] upon our Legislature and local leaders" to "quickly find an appropriate resolution." In fact, leaders of the Church, even before passage of Proposition 2, announced the Church's "hope" for a "special session by the end of the year" and that "[the Church] is working to find responsible legislation . . . ."

10. Defendant Joseph K. Miner, MD, MSPH, is the Executive Director of the Utah Department of Health. As Executive Director of the Utah Department of Health, Mr. Miner is responsible for the implementation of aspects of the Utah Medical Cannabis Act, under either the version enacted through Proposition 2 or the version created in H.B. 3001.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this matter pursuant to Utah Code § 78A-5-102(1).

12. This Court has jurisdiction to issue the declaratory judgement sought in this Complaint pursuant to Utah Code § 78B-6-401.

13. Venue is proper in this Court pursuant to Utah Code § 78B-3-307 because the cause of action arose, and Defendant Governor Herbert resides, in Salt Lake County.

GENERAL FACTUAL ALLEGATIONS

THE LEGISLATURE'S REPEATED REFUSALS TO PASS MEDICAL CANNABIS LEGISLATION

14. Advocates for the use of medical cannabis by patients have unsuccessfully attempted to pass several medical cannabis bills in Utah. In 2015, Senator Mark B. Madsen sponsored S.B. 259, which would have allowed individuals with a qualifying illness to, under certain circumstances, possess and use cannabis and cannabis products. In 2016, Senator Mark B. Madsen and Representative Gage Froerer sponsored S.B. 73, which was opposed by the Church. S.B. 73, the progenitor of Proposition 2, which passed the Senate and was tabled in the House Health and Human Services Committee. Also in 2016, Senator Evan Vickers and Representative

Brad Daw sponsored S.B. 89, which would have provided a system permitting certain uses of medical cannabis. Each of those bills was defeated.

15. Because the Utah Legislature had refused to pass legislation providing for reasonable access to medical cannabis, Plaintiffs and others supported and campaigned for Proposition 2.

THE PASSAGE OF PROPOSITION 2

16. Plaintiffs Stenquist and Rice, and others, signed "Sponsor Statements" in an "Application for an Initiative or Referendum," which was filed with the Office of the Lieutenant Governor on June 26, 2017, for The Utah Medical Cannabis Act initiative.

17. Plaintiffs and other supporters of Proposition 2 canvassed the state, gathering 153,894 validated signatures, which surpassed the state law requirement that the number of valid signatures must equal 10% of all votes cast for president in the 2016 general election statewide and in at least 26 of 29 state senate districts.

18. On May 29, 2018, Lieutenant Governor Spencer Cox declared that The Utah Medical Cannabis Act initiative was sufficient to be submitted to the voters of Utah for their approval or rejection. The initiative was placed on the Utah general election ballot for November 6, 2018, and was identified as Proposition 2.

19. On November 6, 2018, Proposition 2 was approved with a vote of approximately 562,072 in favor and 503,558 opposed.

20. The Initiative Statute became effective on December 1, 2018.

THE CHURCH'S RESISTANCE TO PROPOSITION 2 PRIOR TO THE ELECTION

21. On June 7, 2018, Marty Stephens, who is a former Speaker of the Utah House of Representatives and is currently employed by the Church as its Director of Community and

Government Relations, wrote an email to members of TRUCE and EAU, and others, that evidenced: (a) an effort by Mr. Stephens and the Church to derail Proposition 2; (b) a palpable disregard by Mr. Stephens and the Church for the democratic process by which the People are to have the legislative power to pass laws pursuant to initiatives; (c) the presumptuous and antidemocratic contemplation by Mr. Stephens and the Church that they would not accept the result if a majority of voters supported Proposition 2; (d) a threat that a "long political and legislative fight . . . lies ahead if we cannot find some room to work together"; (e) a belief that Mr. Stephens and the Church wield the power to decide "how and when we involve elected officials, the medical association, and other community groups . . . ."; (f) an intended substitution of the Church's ideas, and the ideas of those invited by the Church to attend exclusive and private meetings, of what best serves the public for the views and votes of a majority of voters by stating that "before the election" they can "join forces in messaging that . . . there is no need for the initiative"; (g) the threat of a "5-10 million dollar" expenditure "fighting about this initiative," which amount was intended by the Church to be raised from wealthy members of the Church; (h) a suggestion that the closed group would meet at the offices of the Church, while noting Mr. Stephens would "consider" meeting somewhere else "that will be private"; and (i) an implicit threat that if an agreement was not reached among the closed, secret group, "[t]here are things organizing behind the scenes that will make a compromise difficult in the not too distant future."

22. On August 23, 2018, the Church, through Elder Craig C. Christensen, President of the Church's Utah Area, sent an email to members of the Church urging them to vote against Proposition 2 under the letterhead "THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS" and "Official Church Announcement."

23. On November 4, 2018, two days before the election, Marty Stephens, who is also a Stake President of the Church, told a large gathering of multiple "ward" congregations of the Church to vote against Proposition 2. He instructed the members of the Church to "Follow the prophet" and vote against Proposition 2. In response to a question about whether a member of the Church could exercise "free agency" to vote for Proposition 2, Mr. Stephens suggested members should vote against Proposition 2 and elaborated on his call for blind obedience as follows: "Some have even criticized members of the church for following the words of the prophets by saying they're like sheep, simply doing what they're told. To this, I plead guilty." Mr. Stephens went on to further encourage blind obedience in opposing Proposition 2 by quoting apostle Neil L. Anderson as follows: "Don't be surprised if at times your personal views aren't initially in harmony with the teachings of the Lord's prophet. These are moments of humility. These are moments of learning, of humility, when we go to our knees in prayer."

24. The members of both houses of the Legislature are predominantly and, compared with Utah's population, disproportionately members of the Church. As of December 12, 2016, at least 87.5% of the members of the Utah Legislature were members of the Church, compared to approximately 62.9% of Utah's population.

THE SPECIAL SESSION CALLED AT THE BEHEST OF THE CHURCH TO SUBVERT PROPOSITION 2

25. On October 4, 2018, Governor Herbert announced a special session of the Utah Legislature to be held on December 3, 2018, for the purpose of enacting a substitute for the Initiative Statute.

26. After the election, on November 15, 2018, Senator Wayne Niederhauser, a member of the Church, sent an email to all Utah senators demanding attendance at the special session, saying that "It is important to have every Senator attend the special session. . . . [T]his will be a

critical special session and requires each of you to attend. . . . As Senate President, I can compel attendance of absent senators. . . . [D]ue to the importance of the special session, I will not hesitate to order the sergeant-at-arms to find and ensure your attendance . . . . [T]his is one of the few times I'm willing to exercise my discretion to ensure your attendance."

27. The primary purpose of the special session was to drastically alter the system to provide relief from human suffering contemplated by Proposition 2 and radically obstruct and reduce access to medical cannabis.

28. On December 3, 2018, H.B. 3001 was passed by the House of Representatives and the Senate and was signed into law by Governor Herbert.

29. H.B. 3001, with the exception of a few of its provisions that were identified in the text of the bill as going into effect at a later date, went into effect on December 3, 2018.

THE LEGISLATURE'S HISTORIC AND CONTINUING CONTEMPT FOR THE PEOPLE'S RIGHT TO LEGISLATE THROUGH INITIATIVE

30. For many years, the Utah Legislature has demonstrated contempt for citizens' initiatives, abusing its power by endeavoring to enhance its own power while depriving the people of their political power, contrary to the statement in Article I, section 2 of the Utah Constitution that "[a]ll political power is inherent in the people, and all free governments are founded on their authority . . . ." The Utah Legislature has repeatedly placed onerous limitations on the People's power to legislate through initiative, as provided by Article VI, section 1 of the Utah Constitution, including a limitation that was deemed unconstitutional by the Utah Supreme Court. As a result of those onerous limitations, from 1952 through 2014, Utahns have succeeded only 20 times in achieving placement of initiatives on ballots, for a vote by the People. From 1977 through 2017, only two citizen initiatives passed and became law, one of which, providing for protections against civil forfeitures, was later substantially undermined by the Legislature.

31. At the December 3, 2018, special session, numerous legislators communicated their views that it is the Legislature's prerogative to decide policy for the state, irrespective of law created through a citizens' initiative. For instance, Representative Merrill Nelson stated, "We have the right to override what the people do by initiative. . . . We have a right to moderate the excesses of the initiative." Representative Nelson further stated the Legislature has the right to modify the people's law where the legislators judge it to be necessary.

THE CORE PURPOSES OF PROPOSITION 2

32. Among the core purposes of Proposition 2, as reflected in the official Ballot Title and Impartial Analysis of Proposition 2, were the aims to (emphasis added):

a. "establish a state-controlled process that **allows persons with certain illnesses to acquire and use medical cannabis** and, in certain limited circumstances, **to grow up to six cannabis plants for personal medical use**;" and

b. "authoriz[e] the establishment of **private facilities** that grow, process, test, and sell medical cannabis"

33. The core purposes of Proposition 2 are fully reflected in the twenty-eight-page Initiative Statute.

MATERIAL WAYS IN WHICH H.B. 3001 UNDERMINES AND DEFEATS THE CORE PURPOSES OF PROPOSITION 2

34. H.B. 3001 is 199 pages long and provides for an exceedingly complicated system for the recommendation, cultivation, distribution, and administration of medical cannabis, which is a complete departure from Proposition 2, for which the People voted.

35. Contrary to the core purpose of Proposition 2 to provide a free-market system for the delivery of cannabis, which currently works well in nearly all other states that have some form of decriminalized or legalized medical cannabis, H.B. 3001:

a. provides for an untested, cumbersome, bureaucratic mixed system that includes a state "Central Fill Pharmacy" that will ostensibly route product as ordered to publicly-funded health centers;

b. replaces the provision for up to more than 30 regulated but privately established dispensaries, which would number up to one per county and up to one per 150,000 people in populous counties, with (1) far fewer Department of Health "shipment distribution locations," which may never actually be operational and which may be prohibited under federal law, (2) up to 7 private "medical cannabis pharmacies," and (3) eventually, up to 3 additional private "medical cannabis pharmacies" if the state central fill medical cannabis pharmacy is not operational by certain dates.

36. Contrary to the core purpose of Proposition 2 to vastly increase convenient and inexpensive access to medical cannabis and allow persons with certain illnesses to beneficially acquire and use medical cannabis, H.B. 3001 greatly reduces and unreasonably burdens access in many ways, wholly at odds with Proposition 2, including the following:

a. Under H.B. 3001, specialists certified in neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology may only recommend medical cannabis treatment to up to 300 patients at any given time, with an invasive and burdensome petition process available to the specialist to increase the number of patients to whom medical cannabis can be recommended by increments of 100 patients, never to exceed a total of 600 patients, while under the Initiative

Statute, there was no arbitrary, paternalistic limit on the number of patients for whom such specialists could recommend medical cannabis.

b. The Initiative Statute provides that an "autoimmune disorder" is a qualifying condition for which a patient can be recommended medical cannabis treatment. H.B. 3001 removes "autoimmune disorder" as a qualifying condition, thus requiring patients suffering from most autoimmune disorders, which affect 8% of the U.S. population (of whom 78% are women), to seek approval from a "Compassionate Use Board," without a requirement that the Board be assembled in a timely fashion, nor even to meet more often than quarterly.

c. The Initiative Statute provides that patients living more than 100 miles from a medical cannabis dispensary may grow their own cannabis plants, limited to two flowering plants and four in a vegetative state, for their personal medicinal use, but H.B. 3001 removes all avenues by which a patient could grow cannabis for the patient's own use, instead requiring many patients, some of whom have difficulty with travel, to travel several hours to receive care and medicine.

d. H.B. 3001 imposes an additional onerous burden, nowhere found in the Initiative Statue, that medical providers must register to become qualified medical providers before recommending a medical cannabis treatment, which requires a detailed application, a fee, and completion of four hours of continuing education prior to registration and another four hours of continuing education prior to renewal every two years.

e. The Initiative Statute provided a simple affirmative defense, available effective December 1, 2018, for the use and possession of marijuana if "the individual

would be eligible for a medical cannabis card" and if the individual's "conduct would have been lawful, after July 1, 2020," but H.B. 3001 provides an extremely complex affirmative defense that imposes several additional arbitrary conditions, such as specifying that the cannabis be in a medicinal dosage form, which is defined to exclude unprocessed cannabis flower unless it is in individualized blister packs and specially barcoded for Utah—which means, because there is currently no place to acquire cannabis meeting those specifications, that patients whose medical conditions require the use of unprocessed flower will be unprotected by the affirmative defense provisions of H.B. 3001.

f. H.B. 3001 requires that businesses selling medical cannabis retain the services of licensed pharmacists, two to three per facility, who, while they are normally trained to distribute many thousands of different drugs and be alert to dangerous interactions, will instead oversee only the distribution of cannabis products, none of which have life-threatening side effects.

g. H.B. 3001, in stark contrast to the Initiative Statute, imposes highly restrictive, arbitrary limits on the forms of medical cannabis allowed to be consumed, including (1) the exclusion of unprocessed cannabis flower unless it is in individualized blister packs and specially barcoded for Utah—which currently is not available for purchase anywhere and (2) the prohibition of some of the more common, palatable, and effective forms, which are commonly supplied to medical cannabis patients and are necessary for some patients.

h. The Initiative Statute prohibits landlords, except in certain extraordinary and limited circumstances, from refusing to lease to a person solely because of the person's status as a medical cannabis card holder, but H.B. 3001 entirely removes any tenant protections, discriminating against those who rent their homes and unfairly targeting poor people.

i. The Initiative Statute provided access to cannabis for qualifying patients over eighteen years of age. H.B. 3001 significantly restricts access to medical cannabis for young patients by imposing a new requirement, nowhere found in the Initiative Statute, that those under 21 must obtain approval from a state-appointed Compassionate Use Board—an entity which has no time-line for being operational, and no requirement for meetings more often than quarterly—which will effectively eliminate access until the "Compassionate Use Board" is fully operational and, thereafter, create unreasonable delays and obstacles that are likely to drive many young people to the illegal market for cannabis.

j. H.B. 3001 depersonalizes medical care by disconnecting patients from the ongoing counseling and adjustments they need from a provider of medical cannabis, as well as conversations about strain, strength, and dosage form, that have been long-proven to be an important component of titrating dosages and meeting a patient's needs, and, instead, sends them to a "shipment distribution location" to merely pick up an order shipped out from the central fill pharmacy.

k. The Initiative Statute provided that "post-traumatic stress disorder" was a qualifying condition, but H.B. 3001 adds fifteen lines of text specifically limiting access to medical cannabis for patients with post-traumatic stress

disorder, including requiring that the patient "is being treated and monitored by a licensed mental health therapist" and, for non-veterans, requiring "face-to-face or telehealth evaluation" with a provider with a doctorate-level degree—thereby excluding all patients who have received a recommendation by a qualified medical provider but who, for any reason, are not currently being treated and monitored by a therapist and all patients whose mental health treatment has been provided by someone without a doctorate-level degree, such as the vast majority of certified mental health counselors and licensed clinical social workers providing mental health services across Utah.

l. The Initiative Statute allowed medical providers to "recommend" cannabis treatment in certain circumstances, which is protected by the First Amendment to the U.S. Constitution, but H.B. 3001 added that medical providers may also recommend "dosing parameters" (defined as the "quantity, routes, and frequency of administration for a recommended treatment . . ."), which is equivalent, or perilously close, to "prescribing", which is not constitutionally protected and will dissuade medical providers and pharmacists from recommending or providing medical cannabis because they risk criminal liability under federal law—the ultimate effect of which is to burden and reduce or deprive the access patients have to medical cannabis.

THE CONTINUING IRREPARABLE HARM TO PLAINTIFFS AND THEIR ENTITLEMENT TO INJUNCTIVE RELIEF

37. As a result of the passage of H.B. 3001, Plaintiff Stenquist has suffered, continues to suffer, and will in the future suffer irreparable harm, including as follows:

a. Stenquist has a continuing medical need for cannabis to treat pain associated with trigeminal neuralgia and migraines, as well as numerous other symptoms.

b. Stenquist has a continuing medical need for unprocessed cannabis flower as well as medicinal cannabis wax and resin.

c. As of December 1, 2018, until the enactment of H.B. 3001, under the Initiative Statute, Stenquist was free to acquire and use medicinal unprocessed cannabis flower, cannabis wax, and cannabis resin without fear of arrest and criminal conviction under state law.

d. By reason of the passage of H.B. 3001 on December 3, 2018, Stenquist faces, and will continue to face, the possibility of arrest and criminal conviction under state law (1) if she chooses to acquire or use medicinal unprocessed cannabis flower or (2) if she chooses to acquire or use medicinal cannabis wax or resin but is unable to establish that her medical condition failed to substantially respond to at least two other medicinal dosage forms allowed by H.B. 3001.

e. Because of the passage of H.B. 3001, Stenquist's access in the future to medicinal unprocessed cannabis flower, cannabis wax, and cannabis resin is, and will continue to be, substantially and unreasonably burdened and delayed.

f. Stenquist, in reliance on the constitutional right to legislate by initiative, devoted a great deal of her life over the course of one and a half years to see that Proposition 2 was passed for the benefit of herself and patients across Utah and, by reason of H.B. 3001, is deprived, and will continue to be deprived, of the legal effectiveness of Proposition 2.

g. H.B. 3001 materially defeats, and will continue to materially defeat, numerous core purposes of Proposition 2.

h. Stenquist's right to be governed without domination of the State by the Church, and without interference with the State's functions by the Church, has been and continues to be violated by the Church's orchestration of opposition to Proposition 2, and the passage of H.B. 3001, and its direction to legislators regarding Proposition 2 and medical cannabis generally.

38. As a result of the passage of H.B. 3001, Plaintiff Rice has suffered, continues to suffer, and will in the future suffer irreparable harm, including as follows:

a. Rice is a caregiver and legal guardian to his adult daughter, who has a continuing need for medicinal cannabis to treat symptoms of Angelman syndrome and epilepsy.

b. Rice's daughter has a continuing medical need for unprocessed cannabis flower.

c. As of December 1, 2018, under the Initiative Statute, Rice was free to acquire, and his daughter was free to use, medicinal unprocessed cannabis flower without fear of arrest and criminal conviction under state law.

d. Because of the passage of H.B. 3001 on December 3, 2018, Rice faces, and will continue to face, the possibility of arrest and criminal conviction under state law if he acquires, possesses, or administers medicinal unprocessed cannabis flower for his daughter.

e. Because of the passage of H.B. 3001, Rice's access in the future to medicinal unprocessed cannabis flower for his daughter will be substantially and unreasonably burdened and delayed.

f. Rice, in reliance on the constitutional right to legislate by initiative, devoted a great deal of his life over the course of one and a half years to see that Proposition 2 was passed for the benefit of his daughter and patients across Utah and, by reason of H.B. 3001, is deprived and will continue to be deprived, of the legal effectiveness of Proposition 2.

g. H.B. 3001 materially defeats, and will continue to materially defeat, numerous core purposes of Proposition 2.

h. Rice's right to be governed without domination of the State by the Church, and without interference with the State's functions by the Church, has been and continues to be violated by the Church's orchestration of opposition to Proposition 2, and the passage of H.B. 3001, and its direction to legislators regarding Proposition 2 and medical cannabis generally.

39. As a result of the passage of H.B. 3001, Plaintiffs TRUCE and EAU have suffered, and will continue to suffer, irreparable harm, including as follows:

a. TRUCE's and EAU's members have continuing medical needs for cannabis to treat numerous conditions and symptoms.

b. TRUCE's and EAU's members have a continuing medical need for cannabis in all forms that medicinal cannabis is normally available, including unprocessed cannabis flower, cannabis wax, cannabis resin, and cannabis edibles that do not contain gelatin.

c. As of December 1, 2018, under the Initiative Statute, members of TRUCE and EAU were free to acquire and use all commonly available medicinal forms of cannabis, including unprocessed cannabis flower, cannabis wax, cannabis resin, and non-gelatin cannabis edibles, without fear of arrest and criminal conviction under state law.

d. As of the passage of H.B. 3001 on December 3, 2018, members of TRUCE and EAU face the possibility of criminal arrest and conviction under state law if they acquire or use medicinal cannabis in a form proscribed by H.B. 3001, including any unprocessed cannabis flower, any cannabis edibles that are not gelatin cubes, and, if the patient's condition has not yet failed to substantially respond to at least two of the medicinal dosage forms allowed by H.B. 3001, any cannabis wax or resin.

e. As of the passage of H.B. 3001, TRUCE's and EAU's members' access in the future to medicinal cannabis will be substantially and unreasonably burdened and delayed.

f. TRUCE's and EAU's members, in reliance on the constitutional right to legislate by initiative, devoted a great deal of their lives over the course of one and a half years to see that Proposition 2 was passed for the benefit of themselves, their family members, and patients across Utah and, by reason of H.B. 3001, are deprived and will continue to be deprived, of the legal effectiveness of Proposition 2.

g. H.B. 3001 materially defeats, and will continue to materially defeat, numerous core purposes of Proposition 2.

h. TRUCE's and EAU's members' rights to be governed without domination of the State by the Church, and without interference with the State's functions by the Church, have been and continue to be violated by the Church's orchestration of opposition to Proposition 2 and its direction to legislators regarding Proposition 2 and medical cannabis generally..

40. Remedies at law are not adequate to remedy Plaintiffs' past and ongoing injuries.

41. Injunctive relief will not cause hardship to anyone but will protect the rights of Plaintiffs and other residents of Utah (1) to exercise the constitutional right to legislate through initiative; (2) to receive the freedoms and medicinal and economic benefits sought by voters in passing Proposition 2; and (3) to be governed without domination and interference by the Church.

42. The public interest is benefitted by vindication of the People's constitutional right to legislate through initiative.

43. The public interest is benefitted by vindication of the People's constitutional right to be governed without domination of the State and interference in the State's functions by the Church.

44. The public interest is benefitted by restoring access to medical cannabis, as provided by the Initiative Statute, to all qualifying patients.

45. Plaintiffs are entitled to temporary, preliminary, and permanent injunctive relief prohibiting Defendants from enforcing, giving effect to, or otherwise taking action pursuant to H.B. 3001 and mandating that the Defendants enforce and give effect to the Initiative Statute.

FIRST CLAIM FOR RELIEF

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

46. For and in support of this cause of action, Plaintiffs incorporate by this reference the allegations in the preceding paragraphs.

47. The Utah Constitution, Article I, Section 27, compels "[f]requent recurrence to fundamental principles," which is "essential to the security of individual rights and the perpetuity of free government."

48. The Utah Constitution, Article I, Section 2, provides, as one of those fundamental principles, that "[a]ll political power is inherent in *the people*; and all free governments are founded on *their* authority for *their* equal protection and benefit . . . ." (emphasis added).

49. Through the Utah Constitution, Article VI, Section I, the People vested the Utah Legislature with legislative power, but the People also *retained their power* to legislate through the initiative and referendum process.

50. Article VI, Section I of the Utah Constitution prohibits the Utah Legislature from materially undermining, by repeal or amendment, the core purposes of legislation passed through the initiative process.

51. H.B. 3001 substantially and materially defeats numerous core purposes of the Initiative Statute and is therefore unconstitutional.

52. Plaintiffs are entitled to (1) temporary, preliminary, and permanent injunctive relief prohibiting Defendants from enforcing, giving effect to, or otherwise taking action pursuant to H.B. 3001 and mandating that the Defendants enforce and give effect to the Initiative Statute and (2) the entry of a declaratory judgment declaring that H.B. 3001 violates Article VI, Section 1 of the Utah Constitution and that the Initiative Statute, as enacted by a majority of voters voting on

Proposition 2, is reinstated as Utah law and of the same status it had as law on December 1 and 2 of 2018.

SECOND CLAIM FOR RELIEF

Violation of the Right to Governance Free of Domination and Interference by the Church – Article I, Section 4 of the Utah Constitution

53. For and in support of this cause of action, Plaintiffs incorporate by this reference the allegations in the preceding paragraphs.

54. The Utah Constitution, Article I, Section 4, provides that "[t]here shall be no union of Church and State, *nor shall any church dominate the State or interfere with its functions*." (Emphasis added.)

55. In violation of Article I, Section 4 of the Utah Constitution, the Church has dominated the State and interfered with its functions by directing and orchestrating the actions, strategies, goals, and methods of Governor Herbert and members of the Legislature.

56. As a result of the Church's domination of the State, and interference with the State's functions, Governor Herbert called a special session of the Utah Legislature to replace in many material ways the Initiative Statute and the Utah Legislature voted in favor of H.B. 3001 to amend the Initiative Statute and materially defeat numerous core provisions of Proposition 2.

57. Plaintiffs are entitled to (1) temporary, preliminary, and permanent injunctive relief prohibiting Defendants from enforcing, giving effect to, or otherwise taking action pursuant to H.B. 3001 and mandating that the Defendants enforce and give effect to the Initiative Statute and (2) the entry of a declaratory judgment declaring that H.B. 3001 violates Article I, Section 4 of the Utah Constitution and that the Initiative Statute, as enacted by a majority of voters voting on Proposition 2, is reinstated as Utah law and of the same status it had as law on December 1 and 2 of 2018.

PRAYER FOR RELIEF

WHEREFORE, pursuant to the claims for relief set forth hereinabove, Plaintiffs are entitled to:

(1) a declaratory judgment that H.B. 3001 violates, and that the enactment of H.B. 3001 violated, Article I, Section 4 of the Utah Constitution;

(2) a declaratory judgment that H.B. 3001 violates, and that the enactment of H.B. 3001 violated, Article VI, Section 1 of the Utah Constitution;

(3) a declaratory judgment that the Initiative Statute, as enacted by a majority of voters voting on Proposition 2, is reinstated as effective law and of the same status it had as law on December 1 and 2 of 2018;

(4) temporary, preliminary, and permanent injunctive relief prohibiting Defendants from enforcing, giving effect to, or otherwise taking action pursuant to, H.B. 3001;

(5) temporary, preliminary, and permanent injunctive relief mandating that the Defendants enforce and give effect to the Medical Cannabis Act as enacted by Proposition 2; and

(6) all further relief as deemed just and equitable.

DATED this 5th day of December 2018.

/s/ Ross C. Anderson
Ross C. Anderson

Attorney for Plaintiffs