

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

SOUTHERN UTAH DRAG STARS;

MITSKI AVALŌX,

Plaintiffs,

v.

CITY OF ST. GEORGE;

CITY COUNCIL OF ST. GEORGE;

COUNCILMEMBER JIMMIE HUGHES, in his
official capacity;

COUNCILMEMBER DANNIELLE LARKIN in her
official capacity;

COUNCILMEMBER NATALIE LARSEN in her
official capacity;

COUNCILMEMBER GREGG MCARTHUR in his
official capacity;

COUNCILMEMBER MICHELLE TANNER in her
official capacity;

MAYOR MICHELE RANDALL in her official
capacity;

CITY MANAGER JOHN WILLIS in his official
capacity,

Defendants.

Case No. 4:23-cv-00044-PK

**DECLARATION OF MITSKI AVALŌX
IN SUPPORT OF A PRELIMINARY
INJUNCTION**

I, Mitski Avalōx, hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief:

1. I am a resident of Hurricane, in Washington County, Utah, where I have lived for more than a decade. I am a transgender woman. I am the founder, Chief Executive Officer, and sole employee of Southern Utah Drag Stars, LLC (“Drag Stars”).

2. I registered Drag Stars as a limited liability company in Hurricane, Utah. Through Drag Stars, I host LGBTQ+-affiliated events, including drag performances, across Southern Utah. I not only organize the events that Drag Stars hosts but also perform in them as a drag performer.

3. Last year, the HBO show *We’re Here* taped an episode in St. George. The show features drag queens who are famous from having competed on *RuPaul’s Drag Race*. The three queens travel to small towns across America to speak with members of the local LGBTQ+ community and perform in drag shows. For the St. George episode, the show held a filmed a drag show in one of the City’s public parks.

4. Unfortunately, the taping generated a lot of controversy with the leadership of the City and portions of the community. I decided to form Drag Stars shortly after people responded very negatively to the *We’re Here* taping. It was clear in the fallout from *We’re Here* that certain members of the City Council did not want drag events in St. George because they disapproved of a message that welcomed and supported the LGBTQ+ community in St. George. The City’s reaction to *We’re Here* was covered publicly by local press, which I have followed.

5. After seeing the City’s disappointing reaction to the *We’re Here* taping, I felt that it was important for the City to be reminded that there is a strong LGBTQ+ community in St. George, and I created Drag Stars to give a voice and visibility to that community. I would say that Drag Stars’s political and social mission is “Rebelling by Existing.” I believe that public drag

shows, like those I host through Drag Stars, convey a valuable political message to convey that individuals with gender presentation and identities outside the majoritarian norm are welcome in public places.

6. Drag Stars empowers and celebrates rural communities through the art of drag, creating spaces for self-expression and fostering inclusivity and diversity. Drag Stars aims to provide educational resources and support for individuals to explore and celebrate their identities, while highlighting the unique experiences and challenges faced by those living in rural areas. Through events and community outreach, Drag Stars strives to promote acceptance, visibility, and unity within rural communities, while breaking down barriers and promoting understanding.

7. St. George is a relatively small and conservative city. While the city has made some strides in recent years towards becoming more inclusive and accepting, LGBTQ+ individuals and allies still face many challenges and barriers to full acceptance and equal treatment. In this context, the importance of drag in St. George can be seen in a number of different ways, including its role in promoting visibility, community building, and empowerment. As it is widely known, rural communities lack many resources and embrace traditional values. Being part of the LGBTQ+ and celebrating LGBTQ+ culture is seen as nontraditional and even vulgar. Going up against a majority that does not see the value of their fellow LGBTQ+ neighbors can take a toll on the rural LGBTQ+ community.

8. The common theme in small conservative communities like St. George is to push members of the LGBTQ+ community to leave for bigger cities with more tolerable neighbors, with more representation, with more queer people they can look up to. For more than a decade I thought I wanted to leave as well, to ensure my safety and emotional well-being. But now I have seen that

there is a choice to stay and to build a community from the ground up. For me, that is a better option than being forced to move away to a city that I do not know.

9. Drag can play an important role in promoting visibility for LGBTQ+ individuals and communities in St. George. While there are certainly LGBTQ+ individuals living and working in the City, they may not always feel safe or comfortable being open about their identities in public. Drag performers, on the other hand, are often more visible and conspicuous, presenting themselves in ways that challenge traditional gender norms and stereotypes. By putting themselves out there in this way, drag performers can help to make LGBTQ+ identities more visible and normalized, encouraging greater acceptance and understanding in the broader community.

10. Drag can also be a powerful tool for community building in St. George. For LGBTQ+ individuals and allies who may feel isolated or marginalized in the city, drag shows and events can provide a space for connection and socialization. Drag performers and audience members can come together in a spirit of celebration and solidarity, finding common ground and shared experiences in their love of drag and performance. This sense of community can be especially important in a city like St. George, where LGBTQ+ individuals may feel isolated or excluded from mainstream social networks.

11. Drag can be a source of empowerment for LGBTQ+ individuals and allies in St. George. By taking on exaggerated personas and costumes, drag performers are able to challenge traditional gender norms and expectations, presenting themselves in ways that are unconventional and subversive. This can be particularly important for LGBTQ+ individuals who may feel constrained or limited by societal expectations and norms. By expressing themselves through drag, they are able to assert their own identities and take control of their own narratives, finding strength and empowerment in the process.

12. The importance of drag in St. George can be seen in its role in promoting visibility, community building, and empowerment for LGBTQ+ individuals and allies in the city. While there are certainly challenges such as censorship that still need to be overcome, drag can be a powerful force for change and acceptance, encouraging greater understanding and inclusivity in the broader community. As the popularity of drag continues to grow, it is important to recognize and celebrate the important role that it plays in promoting acceptance, creativity, and joy in all communities, regardless of size or location.

13. Through Drag Stars, I have organized and helped support several drag events in St. George starting in December 2022, including by booking drag performers. In several instances, those events were disrupted or threatened by City Council members and other City officials.

14. For example, in January 2023, Councilmember Michelle Tanner attempted to revoke the City's sponsorship of a popular St. George farmers market because the individuals who organize the farmer's market, had, at an event at their separate business, Modern Farm and Artisan Co-Op (MoFACo), hosted two Christmas elves in drag as part of a photo booth. I helped coordinate the two drag performers through Drag Stars.

15. More recently, on March 17, 2023, I arranged for Drag Stars to host a themed drag show at a private venue in St. George. That event was protested by the Liberty Action Coalition, a far-right political organization that I understand is associated and acts in coordination with Councilmember Tanner.

16. In February 2023, I reached out to Sarah Reber, the City Special Events Coordinator, on behalf of Drag Stars to reserve Vernon Worthen Park, a City-owned park, for a family friendly drag event called "Our Allies & Community Drag Show." I planned to hold the event April 28, 2023, and I expected 500 or more attendees and several vendors. I also planned to

perform in the event. I hoped the event would build community among LGBTQ+ persons in the area, and particularly to affirm their LGBTQ+ identity after last summer's drag show controversy.

17. The event would have included sets from several music artists, with drag performances from a number of artists interspersed in between. I took care when planning the event to ensure it would be family friendly, without any age-inappropriate, sexual, or bawdy content. I made sure that the performers understood and agreed to these family friendly expectations with respect to costumes, content, dancing, etc.

18. For the next several weeks, I coordinated with Sarah Reber to plan the event. On February 22, 2023, Ms. Reber sent me an email stating that Drag Stars had "a hold on Vernon Worthen." I filed a formal application for a special event permit on March 3, 2023. I had extensive discussions with Ms. Reber about the location for the show (which was moved from Vernon Worthen Park to another City-owned park, J.C. Snow Park), the height of the stage Drag Stars would erect for its performance (four feet), security arrangements and barricades, and the setup of booths in relation to the park's parking lot. These emails are included in the City's response to a public records request that I was able to obtain, attached as an Exhibit B to this declaration.

19. On March 16, 2023, Ms. Reber notified me by email that Drag Star's complete permit application and related documents were "good" and that she would "finish things up and get back to" me. The next day, March 17, 2023, Ms. Reber explained by email that she was "just waiting for the sign offs. Then we can get insurance and all those things figured out and make the payments (permit and park reservation)." Ms. Reber never gave me any impression that there was real risk that Drag Stars's permit application would be denied. She repeatedly assured me that there were no concerns with my application eventually being accepted once the logistics and were finalized.

20. The next week, I went to City Hall to talk with Ms. Reber in person. I met Ms. Reber in the basement of the City Hall building, where her department is located. During this conversation, I asked Ms. Reber if I could begin advertising for the event on behalf of Drag Stars, and she confirmed that I could begin advertising. As I understood the conversation, Ms. Reber, the City official responsible for special event permits and planning, did give me the go-ahead to advertise the event to the public.

21. After that conversation with Ms. Reber, I organized a Drag Stars photoshoot to create a graphic for the April 28 event. I posted a flyer through Drag Stars's website and social media platforms on March 30. Prior to that date, I had planned for the event by reaching out to local vendors and sponsors to secure funding and place deposits on necessary equipment and services.

22. Shortly after I posted the flyer on March 30, the City Council and Mayor began receiving complaints from St. George residents that opposed Drag Stars hosting a drag event in the City park. I am aware of these comments based on public records the City has released that I have reviewed.

23. On March 29, I received an email seeking payment from Drag Stars for reserving the event space. On March 31, I visited City Hall again to speak with Sarah Reber in person. She assured me that the City's special events committee was still reviewing and signing off on Drag Stars application.

24. About an hour after I spoke with Ms. Reber, I received a permit denial letter under her signature. The denial letter explained that Drag Stars's application was denied for the sole reason of "advertising prior to receiving city approval and/or a special event permit is issued." The denial letter stated that I had five calendar days to submit a written appeal.

25. I prepared and timely submitted a written appeal, explaining that the rule against advertising prior to receiving a permit was not being consistently enforced, as I knew that other events were also advertising before receiving a final permit. I believe, as I explained in the appeal, that the City was selectively enforcing the advertising rule to stop Drag Stars's event while giving preferential treatment to events with a message that the City approved.

26. On April 7, 2023, the Friday before Easter weekend, I was notified in a letter from the City Recorder, Christina Fernandez, that the City Council would hear Drag Stars's appeal the following Tuesday, April 11, 2023.

27. I appeared at the appeal hearing. The City released a publicly available hearing package with documentation relevant to the appeal, attached as Exhibit A to this declaration.

28. Indigo Klabanoff, who runs a semiannual market in St. George, also appeared at the hearing to appeal the City's denial of her application for a permit for a separate event. I believe Ms. Klabanoff was collateral damage in the City's campaign against drag performances, and that the City denied Ms. Klabanoff a permit to give itself cover to deny Drag Stars's application as well.

29. From the discussion at the appeal hearing and the documents I have obtained through public records requests, I understand that the City Council decided to start strictly enforcing the special event advertising prohibition shortly after I submitted Drag Stars's special event application on March 3, 2023.

30. The public records I received show that on March 21, 2023 the current City Manager and Assistant City Manager met with Ms. Reber and attorneys for the City to discuss certain City Council members' request that City officials begin stringently enforcing the City Code provisions concerning special events, particularly the advertising rule. I am also aware based on

publicly available video records that during an April 6 City Council meeting, Councilmember Danielle Larkin observed that, because a permit usually does not issue until a day or two before the event, the prohibition on advertising, if taken literally, would prevent many events from taking place altogether. To my understanding, prior to these efforts in March 2023, the City had never before strictly enforced the advertising provision or denied a permit application based on early advertising.

31. At the April 11 appeal hearing about Drag Stars's permit application, where I was present and spoke to present my appeal, Councilmember Larkin raised concerns that the advertising provision in the City Code was insufficiently clear; for example, it was not obvious whether Drag Stars's had violated the Code by seeking vendors or by posting about the event without specifying that it would take place in St. George. I understand that Councilmember Larkin has also expressed concern that, because event permits are often not issued until the day of the event or the day before, the advertising provision was effectively a nearly-complete ban on advertising.

32. The City Council denied Drag Stars's appeal, with all but Councilmember Larkin voting against Drag Stars's permit, prohibiting me from moving forward with the April 28 event. I understand the City has also enacted a six month moratorium for special events that are not included on a special list. I have never seen the list, and I am not aware of any way to have Drag Stars included on the list. By denying Drag Stars's permit application and appeal, and then prohibiting special events for six months, the City has stopped Drag Stars from hosting the April 28 event and prevented Drag Stars from hosting any event in a public park through the Fall of 2023. The moratorium effectively prohibits me, through Drag Stars, from discussing and

celebrating gender nonconformity and from providing a welcoming message and support network to other LGBTQ+ members of their predominantly-conservative community.

33. The City's actions have also impacted Drag Stars ability to host private drag events in St. George. Since the City took steps to deny my permit, I have been unable to secure private venues within the City for separate family friendly drag events. A venue I previously used is no longer willing to host events. Additionally, as a backup to the public "Our Allies & Community Drag Show" event on City property, I attempted to organize a separate all family friendly event at a private venue, Siva Pasefika, to take place on April 28, 2023. However, after the City denied Drag Stars's permit application, the owners of Siva Pasefika rescinded their offer to host the drag brunch. I understand that one reason the venue backed out was because of anti-queer threats that had been directed towards its employees.

34. If Drag Stars is able to host the "Our Allies & Community Drag Show" in a City park by June 30, before the summer heat becomes too intolerable for outdoor events, I am optimistic that many of the customers, vendors, and sponsors that committed to the April 28 event will still be willing and able to attend and participate. That will also signal to other private venues in St. George that the City will not retaliate against them for hosting drag events that promote their affiliation with the LGBTQ+ community.

35. If Drag Stars is not permitted to host its "Our Allies & Community Drag Show" before July, Drag Stars will almost certainly lose its current commitments from important customers, vendors, and sponsors. These are valuable relationships that depend on my (and Drag Stars's) reputation and goodwill in the St. George LGBTQ+ community. If the event does not go forward, my personal reputation as a reliable and professional event planner is at risk with the vendors and sponsors that I arranged to support Drag Stars and the "Our Allies & Community

Drag Show.” If my reputation and relationships are so undermined, that will in turn diminish my ability moving forward to organize events for and thereby support the LGBTQ+ community in St. George and across Southern Utah.

36. If the City’s unspoken moratorium against Drag Stars and drag events is allowed to persist, Drag Stars will almost certainly fail as a limited liability corporation in Utah, driven out of business because the City Council seeks to silence Drag Stars’s message. St. George is a central and important location in Southern Utah. Inability to host events there will limit our ability to connect with and reach many regional businesses and individuals.

37. To my knowledge, Drag Stars is the only organization hosting family friendly drag events in Washington County, Utah. If the City is able to silence Drag Stars and effectively prohibit family friendly drag events, it would be a profound loss for me personally and the LGBTQ+ community in St. George. As discussed above, public, family friendly drag events serve a uniquely important purpose of providing a welcoming message, safe venue, and support network for younger members of the LGBTQ+ community that often have no other refuge in small, predominantly-conservative communities like St. George, where individuals who do not conform to traditional gender norms are often isolated and face high risk of self-harm and suicide.

38. By prohibiting Drag Stars from hosting a public, family friendly drag event, the City is signaling that the City can and will use its authority to stifle events, both public and private, that celebrate and openly discuss gender identity. Rather than protecting the rights of all members of the St. George community, the City is helping a faction of the community attempt to silence and intimidate the LGBTQ+ community and its allies.

May 26, 2023

/s/ Mitski Avalōx

Mitski Avalōx