

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

---

<p>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.</p>	<p><b>ATTORNEY PLANNING MEETING REPORT</b></p> <p>Case No. 4:23-cv-00044-PK-DN</p> <p>District Judge David Nuffer</p> <p>Magistrate Judge Paul Kohler</p>
--	---

**1. PRELIMINARY MATTERS:**

- a. Describe the nature of the claims and affirmative defenses:
- Violation of the First Amendment Freedom of Speech – Content-Based and Viewpoint-Based Discrimination, Exclusion from a Public Forum, Prior Restraint, Overbreadth and Vagueness

- Violation of the Equal Protection Clause of the Fourteenth Amendment – Sex and LGBTQ+ Discrimination
- Violation of Article I, § 24 of the Utah Constitution, Uniform Operation of Laws Clause – Sex and LGBTQ+ Discrimination
- Violation of Article IV, § 1 of the Utah Constitution, Equal Protection Rights – Sex and LGBTQ+ Discrimination
- Defendants’ affirmative defenses are set forth in their Answer and include, but are not limited to, that they did not violate the Constitution, they are entitled to qualified immunity, and they are entitled to judgment under *Monell* and its progeny.

b. This case is referred to magistrate judge Paul Kohler under 636(b)(1)(A).

c. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on \_\_\_\_\_ (specify date) at \_\_\_\_\_ (specify location).

The following attended:

\_\_\_\_\_ name of attorney,  
counsel for \_\_\_\_\_ name of party  
\_\_\_\_\_ name of attorney,  
counsel for \_\_\_\_\_ name of party

d. The parties will exchange by **September 5, 2023**, the initial disclosures required by Rule 26(a)(1).

e. Pursuant to Fed. R. Civ. P. 5(b)(2)(D), the parties agree to receive all items required to be served under Fed. R. Civ. P. 5(a) by either (i) notice of electronic filing, or (ii) email transmission. Such electronic service will constitute service and notice of entry as required by those rules. Any right to service by USPS mail is waived.

**2. DISCOVERY PLAN:** The parties jointly propose to the court the following discovery plan: *Use separate paragraphs or subparagraphs as necessary if the parties disagree.*

- a. Discovery is necessary on the following subjects:
- Defendants’ actions surrounding the denial of Plaintiffs’ application for an event permit;
  - Defendants’ decision to begin enforcing City Code § 3-10-4(C);
  - Defendants’ decision to enact a six-month moratorium on special events;

- Defendants' anti-drag statements and activity.<sup>1</sup>
- Plaintiffs' actions regarding the permit application.
- Plaintiffs' representations to St. George City.
- Plaintiffs' alleged damages.
- Plaintiffs' actions leading up to and during the event on June 30, 2023.

b. Discovery Phases

Discovery will not be phased or limited, and should be conducted on an expedited basis given the important constitutional issues at stake.

c. Designate the discovery methods to be used and the limitations to be imposed.

- (1) *For oral exam depositions, (i) specify the maximum number for the plaintiff(s) and the defendant(s), and (ii) indicate the maximum number of hours unless extended by agreement of the parties.*

Plaintiffs' Proposal

Oral Exam Depositions

Plaintiffs: 15

Defendants: 15

Defendants' Proposal

Oral Exam Depositions

Plaintiffs: 10

Defendants: 10

Maximum number of hours per deposition: 7

- (2) *For interrogatories, requests for admissions, and requests for production of documents, specify the maximum number that will be served on any party by any other party.*

Plaintiffs' Proposal

Interrogatories: 25

Admissions: 100

Requests for production of documents: 50

Defendants' Proposal

Interrogatories: 25

Admissions: 25

---

<sup>1</sup> The parties note that the recitation of discovery issues does not preclude a party's ability to contest discovery.

Requests for production of documents: 25

- (3) Other discovery methods: *Specify any other methods that will be used and any limitations to which all parties agree.*
- d. Discovery of electronically stored information should be handled as follows: *The parties will discuss ESI at the next meet and confer.*
- e. The parties have agreed to an order regarding claims of privilege or protection as trial preparation material asserted after production, as follows: *The parties will discuss this at the next meet and confer.*
- f. Last day to file written discovery: *Plaintiffs' Proposal: December 22, 2023*  
*Defendants' Proposal: February 26, 2024*
- g. Close of fact discovery: *Plaintiffs' Proposal: January 25, 2024*  
*Defendants' Proposal: March 25, 2024*

**3. AMENDMENT OF PLEADINGS AND ADDITION OF PARTIES:**

- a. The cutoff dates for filing a motion to amend pleadings are:  
*Plaintiffs' Proposal: November 20, 2023*  
*Defendants' Proposal: January 25, 2024*
- b. The cutoff dates for filing a motion to join additional parties are:  
*Plaintiffs' Proposal: November 20, 2023*  
*Defendants' Proposal: January 25, 2024*

*(NOTE: Establishing cutoff dates for filing motions does not relieve counsel from the requirements of Fed. R. Civ. P. 15(a)).*

**4. EXPERT REPORTS:**

- a. The parties will disclose the subject matter and identity of their experts on Party(ies) bearing burden of proof:  
*Plaintiffs' Proposal: February 23, 2024*  
*Defendants' Proposal: April 25, 2024*  
Counter Disclosures:  
*Plaintiffs' Proposal: March 22, 2024*  
*Defendants' Proposal: May 24, 2024*
- b. Reports from experts under Rule 26(a)(2) will be submitted on (*specify dates*):

Party(ies) bearing burden of proof:

Plaintiffs' Proposal: February 23, 2024

Defendants' Proposal: April 26, 2024

Counter Reports:

Plaintiffs' Proposal: March 22, 2024

Defendants' Proposal: May 24, 2024

**5. OTHER DEADLINES:**

a. Expert Discovery cutoff:

Plaintiffs' Proposal: April 26, 2024

Defendants' Proposal: June 28, 2024

b. Deadline for filing dispositive<sup>2</sup> or potentially dispositive motions including motions to exclude experts where expert testimony is required to prove the case.

Plaintiffs' Proposal: June 25, 2024

Defendants' Proposal: August 23, 2024

c. Deadline for filing partial or complete motions to exclude expert testimony:

Plaintiffs' Proposal: May 24, 2024

Defendants' Proposal: July 26, 2024

**6. ADR/SETTLEMENT:**

*Use separate paragraphs/subparagraphs as necessary if the parties disagree.*

a. The potential for resolution before trial is:   X   good    fair    poor

b. The parties intend to file a motion to participate in the Court's alternative dispute resolution program for: settlement conference (with magistrate judge):        
arbitration:    mediation:   

---

<sup>2</sup> Dispositive motions, if granted, resolve a claim or defense in the case; nondispositive motions, if granted, affect the case but do not resolve a claim or defense.

- c. The parties intend to engage in private alternative dispute resolution for:  
arbitration: \_\_\_\_\_ mediation:  N/A
- d. The parties will re-evaluate the case for settlement/ADR resolution on (*specify date*):  If settlement discussions are unsuccessful.

**7. TRIAL AND PREPARATION FOR TRIAL:**

- a. The parties should have  14 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3) (if different than the 14 days provided by Rule).
- b. This case should be ready for trial by:  Plaintiffs' Proposal: October 14, 2024  
 Defendants' Proposal: December 16, 2024  
Specify type of trial: Jury \_\_\_\_\_ Bench  \_\_\_\_\_
- c. The estimated length of the trial is: 7 days

Jeremy Creelan /s/ Jeremy Creelan Date: 08 / 08 / 23  
Signature and typed name of Plaintiff(s) Attorney

Scott Young /s/ Scott Young Date: 08 / 08 / 23  
Signature and typed name of Defendant(s) Attorney

---

---

**NOTICE TO COUNSEL**

Instructions to file the Attorney Planning Meeting Report can be found on the court's Civil Scheduling webpage.