In the Utah Supreme Court

Utahns for Representative Government, *Petitioner*, v. Lieutenant Governor Deidre Henderson, et al., *Respondents.*	No. 20260168-SC

Response to Emergency Petition for Extraordinary Relief

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Introduction

Petitioner Utahns for Representative Government (UFRG) requests an extension of the statutory February 15, 2026 deadline to collect and submit signatures in support of its initiative petition that seeks to repeal 2018's Proposition 4. UFRG contends that because of (1) incorrect signature thresholds listed on the Lieutenant Governor's website for two senate districts, and (2) threats and violence directed at signature gatherers, enforcing the February 15 deadline would infringe their constitutional right to initiative under article VI, section 1.

The Lieutenant Governor strongly condemns the violence and threats UFRG describes. Still, the Court should deny the Petition. And it should deny it by UFRG's requested deadline—5 pm on February 13. The February 15 deadline falls on a Sunday of a holiday weekend. The county clerks have already made plans, including approving overtime, for employees to be in the office that day to receive signature packets.[1] They must know before the close of business on Friday about any changes to the current schedule.

[1] In an email sent to the Lieutenant Governor this morning, counsel for UFRG expressed concern about the Sunday deadline. As discussed in note 3, the February 15 deadline specified in the statute is not extended to the next business day. And the LGO has already coordinated with the county clerks to ensure that someone will be present in their offices to accept signature packets.

First, UFRG filed its Petition too late. The last event that UFRG cites as affecting its ability to collect signatures occurred on February 5. And most of the incidents occurred in January. Yet UFRG waited until late at night on February 11 to file its Petition and Motion to Expedite seeking a decision from this Court less than two days later. Given the impending deadline, UFRG waited too long.

Second, the Court lacks authority to grant UFRG's requested relief. UFRG doesn't attempt to satisfy Rule 65B's requirements. It thus must show that the relief it seeks falls under the Court's "original jurisdiction" under article VIII, section 3 "to issue all extraordinary writs." UFRG has not provided any authority to show that its requested relief falls under that jurisdiction.

Third, UFRG does not explain how posting incorrect numbers for the signature threshold for senate districts 8 and 9 infringes on the initiative right. The total number of required signatures was correct and did not change. Nor does UFRG say that it relied on that information in any way. But even if UFRG was somehow prejudiced by this now-corrected error, extending the February 15 deadline is not an appropriate remedy. If the Court determines that UFRG was prejudiced by the error, the Lieutenant Governor does not object to an order declaring that previously posted threshold numbers for senate districts 8 and 9 should govern.

Fourth, the Lieutenant Governor strongly condemns the threats and violence described in the Petition. But that cannot be used as a justification for extending the February 15 deadline. Many issues go into whether a party can collect the required number of signatures by the deadline. The alleged "shadow of violence" that UFRG alleges has plagued its signature gathering efforts is just one of those reasons. What's more, the extension UFRG requests is arbitrary and belies public statements from one of the sponsors that it is having no problems gathering the required signatures.

List of Respondents and Interested Parties

The Lieutenant Governor notes that UFRG did not list as interested parties the supporters of Proposition 4 or any of the parties (other than the Lieutenant Governor) to the case challenging, among other things, the Legislature's repeal of Proposition 4, *League of Women Voters v. Utah State Legislature*, No. 220901712 (Utah 3d Dist.) and 20260019-SC (current appeal).

Background

I. Utah law governing statewide initiatives.

The Utah Constitution gives the people the right to "initiate any desired legislation and cause it to be submitted to the people for adoption upon a majority votes of those voting on the legislation." Utah Const. art. VI, § 1(2)(a)(i). To be submitted to a vote of the people, the initiative's sponsor

must obtain "legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election." Utah Code § 20A-7-201(2)(a)(i). The sponsor must meet the same 8% threshold in at least 26 of the state's 29 senate districts. *Id.* § 20A-7-201(2)(a)(ii). The Lieutenant Governor is required to provide "to any interested person," the number of active voters in the state and in each senate district as of the January 1 immediately following the last general election. *Id.* § 20A-7-201(3).

An individual may submit an initiative application at any time. After the Office of the Legislative Fiscal Analyst prepares a fiscal impact statement and the sponsors hold required public hearings, *id.* §§ 20A-7-202.5, -204.1, the sponsors may begin collecting signatures, *id.* § 20A-7-204. The deadline to submit signatures depends on when the initiative application was submitted. Sponsors must submit signatures by 5 pm, "no later than the earlier of" "the last business day that is no more than 316 calendar days after the day on which the application for the initiative petition is filed" or "the February 15 immediately before the next regular general election immediately after the

application is filed.[2] *Id.* § 20A-7-105(5)(a)(i).[3] The way the deadline is structured means that an initiative sponsor who files an initiative application earlier in the year (but not before February 15) will have more time to gather signatures than one who files later in the year.

Signatures must be submitted "to the county clerk of the county in which the packet was circulated." *Id.* § 20A-7-105(5)(a). The county clerks calculate the number of signatures collected in their counties. *Id.* § 20A-7-207(2). Based on this information, the Lieutenant Governor is then responsible for declaring that the initiative sponsor has collected the required number of signatures. *Id.* § 20A-7-207(3).

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[2] There is an additional requirement that a signature packet must be submitted within "30 calendar days after the day on which the first individual signs the initiative packet." Utah Code § 20A-7-105(5)(a)(i)(A). That part of the deadline is not at issue here.

[3] February 15 is the deadline even if that day falls on a weekend or holiday. Section 20A-1-104 governs computation of time for the Election Code. Unlike some other sections in the code, section 20A-1-104 does not allow for a deadline falling on a weekend or holiday to be extended to the next business day, unless specifically noted. In case there was any doubt as to this construction, 2025's S.B. 164, which enacted section 20A-1-104, repealed the previous version of the statute that *did* extend deadlines that fall on weekends or holidays until the next business day. *See* Utah Code § 20A-1-104 (2024), available at https://le.utah.gov/xcode/historical.html?date=2/13/2026&oc=/xcode/Title20A/Chapter1/C20A-1-S104_2019051420190514.html.

II. Factual background.

UFRG submitted its initiative application seeking to repeal Proposition 4 on October 24, 2025.[4] Because UFRG submitted the petition less than 316 calendar days before February 15, February 15, 2026 is the date-certain deadline for UFRG to submit signatures in support of the petition.

The Lieutenant Governor's Office (LGO) maintains data on the number of eligible voters statewide and in each senate district. It posts this data, including the signature thresholds for initiatives, on its website.[5] In early February, the LGO realized that the threshold numbers listed for two senate districts—districts 8 and 9—were incorrect and did not represent 8% of the total registered voters in those districts.[6] The threshold for district 8 was incorrectly listed as 4,890 and was corrected to 4,910. The threshold for district 9 was incorrectly listed as 4,431 and was corrected to 4,805. The total number of registered voters in the state and the total number of required

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[4] https://vote.utah.gov/wp-content/uploads/2025/10/Repeal-of-Independent-Redistricting-Commission-Direct-Initiative_Final.pdf

[5] https://vote.utah.gov/wp-content/uploads/2025/01/2026-Petition-Sig-Requirements-1.pdf

[6] Senate district 8 covers portions of north Salt Lake City, North Salt Lake, Woods Cross, and Bountiful. Senate district 9 covers downtown Salt Lake City, the avenues, portions of east Salt Lake City, and Emigration Canyon. Utah State Legislative Maps, https://le.utah.gov/GIS/findDistrict.jsp

signatures was correct and did not change. Upon learning of this mistake, the LGO contacted UFRG on February 5, to inform it of the change.

UFRG filed its Petition on February 11. But it was not received by the Court until February 12 and was not served on counsel for the Lieutenant Governor until it was circulated by the Court at approximately 9:30 am that morning.

Argument

"The decision to grant or deny a petition for extraordinary writ is discretionary." *Krejci v. City of Saratoga Springs*, 2013 UT 74, ¶ 10, 322 P.3d 662. This Court should not exercise its discretion and should deny the Petition. It's untimely. This Court lacks jurisdiction to enter the writ UFRG seeks. And the relief is otherwise unwarranted.

I. The Petition is not timely.

A petitioner requesting extraordinary relief "must demonstrate the timeliness of the petition." *Utah Democratic Party v. Henderson*, 2022 UT 41, ¶ 10, 523 P.3d 180. In the Petition, UFRG describes violence that occurred on January 23, 24, 27, and February 3, and says that the LGO informed it of the mistakes in the posted signature thresholds on February 5. Yet UFRG waited until the night of February 11[7]—just four days before the February 15

[7] As the Court noted in its February 12 Order, although the Court accepted the Petition as filed on February 11 based on a late-night issue with

deadline—to file its Petition. Although only six days passed after the last event on which they base their Petition, UFRG now requests the Court to enter an order in less than two days. Given this short timeline, UFRG should have filed its Petition sooner.

UFRG's delay also causes another problem. Rule 19 of the Utah Rules of Appellate Procedure requires that there is "no other plain, speedy, and adequate remedy . . . available." And a petitioner must explain "why it is impractical or inappropriate to file the petition in the trial court." Utah R. App. P. 19(e)(6). Even though UFRG is likely correct that there is *currently* not enough time to first seek relief in the district court, there was likely enough time when UFRG first learned of the issues it raises in the Petition. Emergency relief is not warranted where the "'emergency' has arisen from petitioners' own unjustified delay in seeking relief." *Cf. Snow Christensen & Martineau v. Lindberg*, 2009 UT 72, ¶ 7 n.2, 222 P.3d 1141. And as this Court has explained, "parties in some election cases appear to have failed to appreciate the importance of timely initiation of proceedings in the proper forum and of anticipating the practical requirements of meeting the timeline for an ultimate resolution." *Zonts v. Pleasant Grove City*, 2017 UT 71, ¶ 5 n.2,

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the filing system, it was not received by the Court until February 12. And it was not served on counsel until approximately 9:30 am February 12.

416 P.3d 360; *see also Brown v. Cox*, 2017 UT 3, ¶ 30 n.9, 387 P.3d 1040 (explaining that the proper procedure is generally to seek emergency injunctive relief at the district court and then seek expedited review). Because UFRG's delay is what caused it to be impracticable to file first in the district court, relief under Rule 19 should be unavailable.

UFRG's failure to timely file its Petition should foreclose relief.

II. UFRG cannot show it is entitled to relief under Rule 65B or the Court's constitutional authority to issue extraordinary writs.

Under Rule 19(a) of the Utah Rules of Appellate Procedure, "[w]hen no other plain, speedy, or adequate remedy is available, a person may petition an appellate court for extraordinary relief referred to in Rule 65B of the Utah Rules of Civil Procedure." To obtain extraordinary relief, a petitioner must show that the relief it seeks falls under either Rule 65B or the Court's article VIII, section 3 authority to issue extraordinary writs. *Erda Cmty. Ass'n, Inc. v. Baugh*, 2025 UT 56, ¶ 39, --P.3d--.

UFRG doesn't argue that the relief it seeks falls under Rule 65B.[8] Instead, UFRG says that it is asking the "Court to invoke its traditional

[8] Alternatively, UFRG says that if Rule 65B applies, "it 'need not show' each of the 'multiple factors' this Court considers in its review." Pet. at 15 n.5 (quoting *State v. Henriod*, 2006 UT 11, ¶¶ 20-21, 131 P.3d 232). That's not what *Henriod* said. The quote from *Henriod* was referring to the discretionary factors the Court considers when determining whether to grant extraordinary relief, not Rule 65B. 2006 UT 11, ¶¶ 20-21.

constitutional authority to grant equitable relief." Pet. at 15 n.5. The Constitution gives this Court "original jurisdiction to issue all extraordinary writs." Utah Const. art. VIII, § 3. But to invoke this jurisdiction outside of Rule 65B, a petitioner must "show that the writ authority enshrined in [the] constitution would permit such relief." *Erda Cmty. Ass'n*, 2025 UT 56, ¶ 39. A petitioner must demonstrate that "the relief [it] seek[s] was available at common law when the people of Utah constitutionalized the judiciary's writ power in 1895 and whether the people of Utah would have understood the term 'all extraordinary writs' to include [the requested relief] when they inserted that phrase into the constitution in 1984."[9] *Id.* ¶ 40 (internal quotation marks omitted).

Although UFRG cites cases where this Court recognized its power to grant equitable relief,[10] Pet. at 14-16, none of those cases was brought under

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[9] The constitution was amended in 1984 to "remove[] antiquated references to historical writs in favor of a more generic and modern 'all extraordinary writs.'" *Patterson v. State*, 2021 UT 52, ¶ 131, 504 P.3d 92.

[10] UFRG's cases largely don't even stand for this. In *Utah Coal and Lumber Restaurant, Inc. v. Outdoor Endeavors Unlimited*, this Court considered the bounds of the doctrine of "equitable excuse" and whether it should apply to a failure to timely exercise an option to renew a lease. 2001 UT 100, ¶¶ 1, 10, 40 P.3d 581. This Court held that "the failure to strictly comply with a lease's option renewal terms may be equitably excused only" in certain circumstances that were not present in that case. *Id.* ¶¶ 18-19. In *Bissland v. Bankhead*, referendum sponsors sued a city and its recorder after the recorder refused to place a referendum on the ballot because the sponsors had not timely submitted the required signatures. 2007 UT 86, ¶ 6, 171 P.3d

Rule 65B or invoked the Court's constitutional authority to issue extraordinary writs and thus say nothing about bounds of the Court's authority under article VIII, section 3. *See Erda Cmty. Ass'n*, 2025 UT 56, ¶ 37 (explaining that authorities not involving petitions under Rule 65B or extraordinary writs were irrelevant). Because UFRG did not make the required showing, this Court lacks authority to grant the requested relief. *See id.* ¶¶ 40-42 (affirming dismissal of claims because sponsors had not "delved into the historical record to provide information on how the people of Utah would have understood the writ power at various times in our history" or "engaged with the original understanding of the constitutional language." (internal quotation marks omitted)).

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430. Considering the matter as an expedited appeal from the district court's grant of summary judgment, this Court refused to allow the late filing. *Id.* ¶¶ 7, 18. Although the Court stated that it could "imagine circumstances that might justify suspending the deadline," such as due process concerns, the alleged notice issues in that case were not sufficient to do so. *Id.* ¶¶ 13, 18. Finally, in *Spackman v. Bd. of Educ.*, this Court considered the certified question of whether the constitution's Equal Public Education and Due Process Clauses were self-executing provisions that could be directly enforced by a private suit for damages. 2000 UT 87, ¶ 1, 16 P.3d 533. This Court held that one of the three elements a plaintiff must establish before proceeding with a suit for money damages was "that equitable relief, such as an injunction, was and is wholly inadequate to protect the plaintiff's rights or redress his or her injuries." *Id.* ¶ 25.

III. The mistaken signature thresholds for districts 8 and 9 do not warrant extraordinary relief.

UFRG says that the incorrect published signature thresholds for districts 8 and 9 "compounds the difficulties UFRG is facing in exercising its fundamental right to initiate." Pet. at 1. But UFRG does not explain how this error infringes on the initiative right. Indeed, as UFRG acknowledges, the total number of required signatures was correctly listed and did not change. Pet. at 10. Nor does UFRG explain how it is prejudiced by this error. UFRG says that the error led "to a mistaken belief" that it "was several hundred signatures closer" in the affected senate districts. Pet. at 10. But UFRG does not say that it relied on the incorrect numbers by, for example, stopping or reducing its signature gathering efforts in those districts. Nor does it say that it would meet the lower thresholds.

Despite UFRG's failure to explain how the LGO's error infringes on the right to initiate legislation or otherwise prejudice UFRG, the Lieutenant Governor does not oppose a court order granting UFRG an alternative remedy recognizing the lower (though inaccurate) signature thresholds that were originally published for senate districts 8 and 9—4,890 in district 8 and 4,431 in district 9. Because the posted total number of required signatures was correct, the total number of required signatures should not change. The

Lieutenant Governor has no authority to change these thresholds without a court order.

IV. The reported threats and violence against signature gatherers do not warrant extraordinary relief.

The Lieutenant Governor strongly condemns the threats and violence described in the Petition. But these threats and violence, while reprehensible, are just one of many factors that have affected UFRG's ability to collect the required number of signatures and do not justify extending the February 15 deadline.

Having a firm time limit for collecting signatures "ensures that there is an orderly, known, and efficient process" for initiatives. *Utah Safe to Learn-Safe to Worship Coal., Inc. v. State*, 2004 UT 32, ¶ 52, 94 P.3d 217. A signature gathering deadline does not violate the right to initiate legislation so long as the deadline is "reasonable."[11] *Id.*

[11] Challenges to signature deadlines and requests to extend them are common, and almost always denied. *See Utah Safe to Learn-Safe to Worship Coal., Inc. v. State*, 2004 UT 32, ¶¶ 50-52, 94 P.3d 217 (considering whether previous one year deadline to collect signatures violated initiative right); *Cook v. Bell*, 2014 UT 46, ¶¶ 22-23, 344 P.3d 634 (rejecting complaint that timeline "has the effect of forcing initiative circulators to gather most of their signatures during the oppressive winter months"); *Are You Listening Yet Pac v. Henderson*, No. 24-cv-104, 2024 WL 1051984, at *14 (D. Utah Mar. 11, 2024) (rejecting challenge that deadlines are "'baseless' and 'unreasonably restrictive' on initiative sponsors who wish to gather signatures . . . closer to election day").

UFRG does not argue that the February 15 deadline is unreasonable. Instead, it wants more time because it "is struggling to gather sufficient signatures to meet the February 15 deadline." Pet. at 13. But that's not what the initiative sponsors have been stating publicly. Just this week, Rob Axson, one of the initiative's sponsors, said that UFRG has not "struggled to get enough signatures" for the initiative. RadioWest, *The Battle Over Prop 4 Being Fought on Utah's Streets*, (Apple Podcasts, Feb. 12, 2026), at 25:50.

Many factors go into whether an initiative sponsor can collect sufficient signatures, including when the initiative is filed, the popularity of the initiative, weather, number of signature gatherers, media coverage of the initiative, and other factors. The threats and violence alleged in the Petition may have been just one such factor here, albeit an ugly and unfortunate one. Conversely, the LGO has received dozens of complaints from signers and potential signers that signature gatherers have been harassing citizens and using deceptive tactics.[12]

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[12] *See* Robert Gehrke*, Some voters say they were tricked into signing petitions to repeal Utah's anti-gerrymandering law*, Salt Lake Trib., Dec. 26, 2025, updated Feb. 3, 2026, available at https://www.sltrib.com/news/politics/2025/12/26/some-voters-say-they-were-tricked/; *"I felt tricked": KSL investigates some misleading claims from those working to repeal Prop 4*, KSL.com, Jan. 29, 2026, available at https://www.ksl.com/article/51440458/i-felt-tricked-ksl-investigates-some-misleading-claims-from-those-working-to-repeal-prop-4

Despite the issues UFRG raises, UFRG has had reasonable time to collect signatures. The reported incidents all happened in the last month of UFRG's signature gathering effort. But a bigger factor is that UFRG was already working on a compressed timeline due to when it chose to file its initiative application. Because UFRG chose to file its initiative application in late October, it had far less time to gather signatures than it would have if it had filed earlier.

Finally, UFRG's requested relief appears to be arbitrary. It asks for three extra days to gather and submit signatures. Pet. at 2. In the alternative, it requests two extra days in Salt Lake, Davis, Utah, Washington, Summit, and Weber counties. Pet. 2 at 3. It is unclear how this relief will remedy their purported constitutional injury. It likely won't do anything to eliminate the "shadow of violence" that UFRG complains of. Instead, it will simply give UFRG additional time not otherwise allowed under the law that no other initiative sponsors enjoy.

Conclusion

For these reasons, the Lieutenant Governor requests that the Court deny the Petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February 2026, I delivered the foregoing **Response to Petition for Extraordinary Relief and Motion for Expedited Review** by electronic filing and/or electronic mail to the following:

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