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and Bryan Schott*

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

UTAH POLITICAL WATCH, INC., and
BRYAN SCHOTT,

Plaintiffs,

v.

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

Defendants.

**PLAINTIFFS' AMENDED MOTION
FOR PRELIMINARY INJUNCTION
AND MEMORANDUM IN SUPPORT**

**EXPEDITED TREATMENT
REQUESTED**

Case No. 2:25-cv-00050-RJS-CMR

Hon. Robert J. Shelby

Hon. Cecilia M. Romero

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... iv

INTRODUCTION 1

SPECIFIC RELIEF SOUGHT AND GROUNDS THEREFORE 2

STATEMENT OF FACTS 3

ARGUMENT 14

 I. PLAINTIFFS SEEK A PROHIBITIVE INJUNCTION THAT WOULD RESTORE THE STATUS QUO, NOT A MANDATORY ONE 15

 II. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS 17

 A. The First Amendment protects Plaintiffs’ rights to observe and gather information in Utah’s Capitol, and to exercise editorial judgment in reporting and commenting on events 17

 B. Defendants’ restrictions fail forum analysis, regardless of whether the State Capitol is a nonpublic or limited public forum 20

 1. *Defendants’ restrictions are unreasonable in light of the forum’s purpose* 22

 2. *Defendants’ restrictions are not viewpoint-neutral* 23

 C. Alternatively, Defendants’ restrictions fail strict scrutiny 26

 D. Defendants’ policy constitutes a prior restraint 30

 E. Defendants’ policy is vague 32

 III. PLAINTIFFS HAVE SUFFERED AND WILL SUFFER IRREPARABLE HARM IF THIS COURT PERMITS DEFENDANTS TO CONTINUE TO DENY THEM THEIR FREE PRESS RIGHTS 34

 IV. THE PUBLIC INTEREST AND BALANCE OF EQUITIES FAVOR PLAINTIFFS 35

 V. THIS COURT SHOULD FOREGO THE BOND REQUIREMENT 35

CONCLUSION..... 36

TABLE OF AUTHORITIESCASES

<i>Am. Broad. Cos. v. Cuomo</i> , 570 F.2d 1080 (2d Cir. 1977).....	19
<i>Anderson v. Cryovac, Inc.</i> , 805 F.2d 1 (1st Cir. 1986).....	19
<i>Blue Moon Entm't, LLC v. City of Bates City</i> , 441 F.3d 561 (8th Cir. 2006)	31
<i>Branzburg v. Hayes</i> , 408 U.S. 665 (1972).....	17, 26
<i>Brown v. Entm't Merchs. Ass'n</i> , 564 U.S. 786 (2011).....	28, 30
<i>Citizens United v. FEC</i> , 558 U.S. 310 (2010).....	26
<i>City of Lakewood v. Plain Dealer Publ'g Co.</i> , 486 U.S. 750 (1988).....	30, 31
<i>Cont'l Oil Co. v. Frontier Ref. Co.</i> , 338 F.2d 780 (10th Cir. 1964)	36
<i>Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.</i> , 473 U.S. 788 (1985).....	21, 22
<i>Dominion Video Satellite, Inc. v. Echostar Satellite Corp.</i> , 269 F.3d 1149 (10th Cir. 2001)	16
<i>Elrod v. Burns</i> , 427 U.S. 347 (1976).....	35
<i>Equitable Nat'l Life Ins. Co. v. AXA Equitable Life Ins. Co.</i> , 434 F. Supp. 3d 1227 (D. Utah 2020).....	15, 17
<i>Evans v. Fogarty</i> , 44 F. App'x 924 (10th Cir. 2002)	15
<i>FCC v. Fox TV Stations, Inc.</i> , 567 U.S. 239 (2012).....	32

First Nat’l Bank of Boston v. Bellotti,
435 U.S. 765 (1978)..... 18

Flamm v. Am. Ass’n of Univ. Women,
201 F.3d 144 (2d Cir. 2000)..... 18

Forsyth Cty. v. Nationalist Movement,
505 U.S. 123 (1992)..... 30, 31

Garcia v. Bd. of Educ.,
777 F.2d 1403 (10th Cir. 1985) 19

Gay Lib v. Univ. of Mo.,
558 F.2d 848 (8th Cir. 1977) 30

Good News Club v. Milford Cent. Sch.,
533 U.S. 98 (2001)..... 21

Grayned v. City of Rockford,
408 U.S. 104 (1972)..... 32

Heideman v. S. Salt Lake City,
348 F.3d 1182 (10th Cir. 2003) 14

Hurley v. Irish-American Gay,
515 U.S. 557 (1995)..... 20

In re IBP Confidential Bus. Documents Litig.,
797 F.2d 632 (8th Cir. 1986) 19

John K. Maciver Inst. for Pub. Policy, Inc. v. Evers,
994 F.3d 602 (7th Cir. 2021) 22, 26, 28

Kolender v. Lawson,
461 U.S. 352 (1983)..... 32

Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.,
508 U.S. 384 (1993)..... 23

Make the Rd. by Walking, Inc. v. Turner,
378 F.3d 133 (2d Cir. 2004)..... 21

McDonough v. Garcia,
116 F.4th 1319 (11th Cir. 2024) 21

McIntyre v. Ohio Elections Comm’n,
514 U.S. 334 (1995)..... 18

Miami Herald Pub. Co., Div. of Knight Newspapers, Inc. v. Tornillo,
418 U.S. 241 (1974)..... 20

Ness v. City of Bloomington,
11 F.4th 914 (8th Cir. 2021) 17

NetChoice, LLC v. Reyes,
No. 2:23-cv-00911-RJS-CMR, 2024 U.S. Dist. LEXIS 163294
(D. Utah Sep. 10, 2024) passim

Nken v. Holder,
556 U.S. 418 (2009)..... 35

O Centro Espirita Beneficente Uniao do Vegetal v. Ashcroft,
389 F.3d 973 (10th Cir. 2004) 15

Obsidian Fin. Group, LLC v. Cox,
740 F.3d 1284 (9th Cir. 2014) 18

Pollak v. Wilson,
No. 22-8017, 2022 WL 17958787 (10th Cir. Dec. 27, 2022)..... 21

Pryor v. Sch. Dist. No. 1,
99 F.4th 1243 (10th Cir. 2024) 35

Reed v. Town of Gilbert,
576 U.S. 155 (2015)..... 26, 27

Reno v. ACLU,
521 U.S. 844 (1997)..... 32

Rodgers v. Bryant,
942 F.3d 451 (8th Cir. 2019) 27

Rosenberger v. Rector & Visitors of the Univ. of Va.,
515 U.S. 819 (1995)..... 23, 27

Sable Commc’ns of Cal. Inc. v. F.C.C.,
492 U.S. 115 (1989)..... 28

Sherrill v. Knight,
569 F.2d 124 (D.C. Cir. 1977)..... 35

Shuttlesworth v. Birmingham,
394 U.S. 147 (1969)..... 31

Snyder v. Phelps,
562 U.S. 443 (2011)..... 18

Snyder v. Phelps,
580 F.3d 206 (4th Cir. 2009) 18

Szymakowski v. Utah High Sch. Activities Ass’n,
No. 2:24-cv-00751-RJS, 2025 U.S. Dist. LEXIS 503 (D. Utah Jan. 2, 2025) 14

Tex. v. Johnson,
491 U.S. 397 (1989)..... 23

TGP Communs., Ltd. Liab. Co. v. Sellers,
No. 22-16826, 2022 U.S. App. LEXIS 33641 (9th Cir. Dec. 5, 2022)..... 19, 35

Turner Broad. Sys. v. FCC,
512 U.S. 622 (1994)..... 23

United States v. Williams,
553 U.S. 285 (2008)..... 32

United Utah Party v. Cox,
268 F. Supp. 3d 1227 (D. Utah 2017)..... 36

Verlo v. Martinez,
820 F.3d 1113 (10th Cir. 2016) 20

Walker v. Tex. Div., Sons of Confederate Veterans, Inc.,
576 U.S. 200 (2015)..... 21

OTHER AUTHORITIES

11A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane,
Federal Practice and Procedure § 2948 (2d ed. 1995) 15

About Us, The City Journal,
<https://www.davisjournal.com/pages/about-us> 12

<i>About, Building Salt Lake,</i> https://buildingsaltlake.com/about/	12
<i>About, Utah Policy,</i> https://utahpolicy.com/about	12
<i>President Adams' X Post, Dec. 12, 2024,</i> https://perma.cc/Q5JN-7ZCX	9
Schott, Bryan, <i>Top Utah GOP lawmaker accused of skirting state laws on campaign finance disclosures</i> , Utah Political Watch, http://bit.ly/4fYAYeH	9
Schott, Bryan, <i>Utah House GOP dodges questions on anti-DEI bills during rollout of 2024 legislative priorities</i> , Salt Lake Tribune, https://bit.ly/41oVTUh	8
<i>Sessions, Utah State Legislature,</i> https://bit.ly/4i7DpNB	34
<u>RULES</u>	
Fed. R. Civ. P. 65(c)	24

INTRODUCTION

Defendants have now denied Plaintiff Bryan Schott press access for the 2025 Utah Legislative Session. Barring this Court's immediate intervention, they will deny him access permanently. Notwithstanding hundreds of articles to his name and years of prior access to the Utah Legislature press areas, Defendants deny Schott the ability to attend the 2025 Utah Legislative Session as a member of the press simply because the leadership disapproves of his viewpoint.

A seasoned, nationally recognized political reporter, Schott has reported on Utah politics and Utah legislative sessions for over 25 years. And from the time the Utah Legislature created a credentialing policy for news media, Schott received credentials every year. But that changed for the 2025 Legislative Session. After Schott left his position as a reporter at the Salt Lake Tribune and ventured out to create his own independent news publication and podcast, Defendants denied his application. Suddenly, Defendants no longer consider Schott – a left-leaning journalist who often reported critically on the right-leaning majority in the Utah legislature – to be “a professional member of the media associated with an established, reputable news organization or publication.” Contrary to the pre-2025 policy, Defendants now prohibit journalists for “[b]logs, independent media outlets or freelance media” from obtaining credentials.

From 2013-2019, Schott's independent media status entitled him to media credentials. From 2019-2024, the legislative policy expressly allowed for independent media to be credentialed. During this time, Schott worked for the Tribune. Suddenly, after Schott returned to independent media in 2024, Defendants changed their policy to exclude independent media for the first time. This change is intended to exclude Schott, who appears to be the only person

affected by the change. On top of the policy change, Defendants applied different, unwritten standards to deny him credentials.

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

Without the Court’s immediate intervention, Defendants’ self-serving press corps selection process will continue, and Plaintiffs will be subject to arbitrary, vague and ever shifting criteria – for content- and viewpoint-based reasons – that deny them the ability to news gather and effectively report on the Utah Legislature’s actions. Plaintiffs are not the only reporters impacted. Other media will be placed on notice: Report what we want or be excluded. This Court should enjoin Defendants’ new, unconstitutional policy.

SPECIFIC RELIEF SOUGHT AND GROUNDS FOR RELIEF

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

code of ethics;” and further enjoining Defendants to restore Schott’s press credentials. Plaintiffs further seek an injunction prohibiting Plaintiffs from applying criteria not contained in the written policy.

Expeditious resolution of this MPI is requested because the ongoing 2025 Utah legislative session is set to end March 7, 2025, with the expectation of special sessions occurring thereafter. Additionally, without media credentials, Plaintiffs are excluded from legislative and gubernatorial press conferences and distribution lists.

STATEMENT OF FACTS

Bryan Schott’s Reporting and Commentary

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

Schott established Utah Political Watch in September 2024, *id.* ¶10 and incorporated it as an S Corp the following month. *Id.* Schott is a paid employee of UPW. *Id.* Prior to that, Schott was a Political Correspondent for the Salt Lake Tribune, a daily newspaper published in Salt Lake City, Utah, with the largest paid circulation in the state. *Id.* ¶9. At the Salt Lake Tribune, Schott wrote articles regarding local news related to Utah politics and the Utah Legislature. *Id.* Between 2020 and 2024, Schott’s byline appeared on 1,201 stories, almost all regarding Utah-based or national politics. *Id.* For more than a decade prior to joining the Tribune, Schott served as managing editor of UtahPolicy.com, an independent web-based news platform, during which time Schott was a credentialed member of the Utah legislative press corps. *Id.* ¶¶6-7. Schott is a

long-time member of the Society of Professional Journalists and abides by its code of ethics. *Id.* ¶4.

Since its establishment in September 2024, UPW has consistently grown in reputation and readership. Utah Political Watch allows visitors to sign up for a free daily newsletter covering Utah politics, and to buy a paid subscription for additional content. *Id.* ¶11. The UPW daily newsletter has approximately 1,200 subscribers, 25% of whom pay to receive additional content. *Id.* ¶12. Beyond subscribers, the UPW website garners tens of thousands of pageviews per month. *Id.* ¶13. Top stories can receive 4,000 to 5,000 views each. *Id.* Each episode of the nascent podcast averages between 250 and 300 downloads of each episode of the nascent podcast. *Id.* Schott has over 12,000 followers on TikTok, where he receives on average between 4,500 and 10,000 views per video on Utah Politics. *Id.* ¶14. Over the last 60 days his videos have been viewed more than 214,000 times. *Id.*

UPW is insured by a Media Liability Policy with \$2 million per occurrence coverage. *Id.* ¶10. Additionally, UPW has Malissa Morrell officially listed as its editor on its website. *Id.* ¶15 (citing *Staff*, Utah Political Watch, available at: <https://www.utahpoliticalwatch.news/staff/>). Morrell has served as Schott's editor in an unofficial capacity since at least 2015. *Id.* During that time, she has helped Schott with story selection, improving his stories (grammar, clarity, brevity) and headline writing. *Id.* While she was not often utilized during Schott's tenure with the Tribune, given its team of dedicated editors at that organization, Morrell has played a prominent role in UPW's output since its launch. *Id.* Prior to this litigation, Defendants never notified Plaintiffs that they were denied credentials for lack of an editor, nor did they ask Plaintiffs whether UPW employed an editor. *Id.*

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

Defendants’ Media Credentialing Policy

Defendants have utilized a written media credentialing policy since 2018. Exhibit 1. From 2019 through 2024, the policy expressly permitted bloggers and independent media to receive media credentials, albeit after additional scrutiny. The 2019 policy stated “a blog site owner or organization not bound by a code of ethics” could receive a credential upon signing a document agreeing to abide by an ethics code. Exhibit 2. Schott received credentials as a blog site organization representative under the policy in 2018 and 2019. Schott Decl. ¶7.

In 2020 the policy did not mention bloggers or independent media of any kind. *See* Exhibit 3 (2020 Policy). In 2021, the policy was amended to state that “[b]loggers representing a legitimate independent news organization may become credentialed under some circumstances.” Exhibit 4 (2021 Policy). That language remained in place in 2022. *See* Exhibit 5 (2022 Policy). In 2023, Defendants edited the above sentence to replace “some circumstances” with “limited, rare circumstances.” *See* Exhibit 6 (2023 Policy). That change remained in 2024. *See* Exhibit 7 (2024 Policy).

In November 2024, after Schott had established UPW, Defendants substantially revised their “Utah Capitol Media Access and Credentialing Policy” for controlling media access to the Utah Legislature to – for the first time – completely bar blogs and independent media from

receiving press credentials under any circumstance. *See* Exhibit 8 (2025 Utah Capitol Media Access and Credentialing Policy, also available at: <https://perma.cc/M77N-LWXV>); Schott Decl. ¶¶20-24.

The 2025 Credentialing Policy also added the following preamble:

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

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

The 2025 Credentialing Policy also reversed course in stating that “[b]logs, independent media or other freelance media do not qualify for a credential.” *Id.*

The 2025 policy provides no definition of “independent media,” “reputable news organization or publication,” or any other term. However, through this litigation, Defendants have stated they changed the credentialing policy to exclude blogs and independent media, paradoxically, because of “an uptick in nontraditional, independent media.” Dkt. 26 at 14 (citing Peterson Decl. ¶32). In other words, because a larger portion of the media is now “nontraditional” or “independent,” that growing, influential segment of the media would be excluded.

The 2025 Credentialing Policy also contains five criteria that a journalist must meet to obtain press credentials: (1) “fill out an online application;” (2) “[b]e a professional member of the media (which includes journalists, photographers and videographers) who regularly covers the Legislature and Capitol in person and is part of an established reputable news organization or

publication” (3) “provide an annual background check;” (4) “[a]dhere to a professional code of ethics;” and (5) “[c]omplete the yearly harassment prevention training.” Exh. 8; Schott Decl.

¶23. Additionally, if required by a media designee, the credential applicant must “submit a letter of introduction on official publication letterhead” that contains certain information verifying the applicants’ employment status and need for credentials. Exh. 8; Schott Decl. ¶26.

The 2025 Credentialing Policy provides that credentialed press are granted access to (1) “some secure areas of the Capitol, such as the press room and designated areas in the Senate and House chambers;” (2) “designated media workspaces in the Senate and House galleries;” (3) “set up in the Senate and House galleries for credentialed videographers and photographers;” (4) “[c]redentialed media may be permitted access to media availabilities and other press events with elected officials;” (5) “designated media parking;” (6) “the Capitol press room, which is equipped with internet access and an audio feed from both chambers;” (7) “designated areas in the galleries of the Senate and House;” and (8) “Committee Rooms.” Exh. 8; Schott Decl. ¶28. Finally, as Defendants informed Schott (*see infra*), Defendants have a policy or practice of not distributing legislative press releases to any press that is not credentialed under the 2025 Credentialing Policy. Schott Decl. ¶29.

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

Schott has covered the Utah Legislature since 1999 for various media outlets in Utah. *Id.* ¶18. Schott received press credentials every year that the Utah Legislature issued them. *Id.* ¶19. Until now, the application process was largely a formality. *Id.* Applicants would have to pass a criminal background check by the Utah Highway Patrol and then have a House or Senate staffer sign off on the application. *Id.*

After Schott established UPW in September 2024, he assumed that, in keeping with Defendants' practice over the past decade, that he would again be granted press credentials. *Id.* ¶30. He informed Defendants that he had begun reporting on behalf of UPW soon after its creation and asked for details on the upcoming credential application as well as to be placed on the legislative press release list. *Id.* ¶29. Defendants did not immediately respond but, when later pressed, informed Schott that the legislative press releases are only for credentialed media. *Id.*

Schott's Reporting Angers Defendants

In 2024, Schott's reporting on the Utah legislature, and Defendants, was not always favorable. *Id.* ¶35. On January 10, 2024, Schott made a lighthearted X.com post poking a little fun at legislative staffers who had difficulty setting up a backdrop. *Id.* ¶34. Defendant Osborn responded on X.com: "Bryan, you are a dick! As a reporter, I can't believe you think it's okay to blast staff for doing their job. You could have got up and helped, but you chose to just tweet about it. #classless." *Id.*

The backdrop was set up for a House Republican pre-session press conference to lay out their legislative priorities. *Id.* ¶32. Once it started, a reporter from KUTV asked about the effort to ban DEI at state colleges and universities. *Id.* Rep. Katy Hall, the bill's sponsor, was in attendance, but Schultz would not let her speak about the issue. *Id.* Schott wrote an article the next day stating that Schultz dodged questions about the issue. Schott, Bryan, *Utah House GOP dodges questions on anti-DEI bills during rollout of 2024 legislative priorities*, Salt Lake Tribune, <https://bit.ly/41oVTUh>. Schott received several angry messages from Schultz following publication accusing Schott of bias. One message was to the effect of: "You used to be the best reporter in the Legislature. It's sad how far you've fallen." Schott Dec. ¶33.

On December 12, 2024, reporting for UPW, Schott issued a story that a local nonprofit group had filed a complaint against Senate President Stuart Adams alleging he had violated campaign disclosure laws. *Id.* ¶35; Schott, Bryan, *Top Utah GOP lawmaker accused of skirting state laws on campaign finance disclosures*, Utah Political Watch, <http://bit.ly/4fYAYeH>. The same day, Senate President Adams took to X.com, labeling Schott a “former media member” and calling the story “part of a troubling pattern of neglectful journalism that undermines the profession's integrity.” *President Adams’ X Post*, Dec. 12, 2024, <https://perma.cc/Q5JN-7ZCX>; Schott Decl. ¶36.

Defendant Peterson, Adams’ Deputy Chief of Staff, was similarly unhappy with Schott’s reporting. Schott Decl. ¶37. Schott had reached out to Peterson via text several hours prior to publishing his story and asked if she had a comment. *Id.*; Exhibit 9. Peterson, responding two hours later, criticized Schott for publishing his story without awaiting her comment as a “lack of professionalism” and “disregard for accurate reporting and ethical standards.” *Id.* “This is not the first time this has happened,” Peterson wrote, “it’s part of a troubling pattern of neglectful journalism.” Schott Decl. ¶38; Exh. 9.

Peterson chided Schott for “fail[ing] to obtain information from the Lieutenant Governor’s Office.” Schott Decl. ¶39; Exh. 9. But, as Schott explained to Peterson, he had already sought comment from the Lieutenant Governor numerous times and asked for clarification prior to publishing his story. *Id.* Schott also explained that he had only learned of the complaint that same day, which accelerated his need to provide a breaking news report. *Id.* He offered to update his story with any comment offered and asked whether Peterson’s criticism of his story would lead to his press credential application being denied. *Id.*

But Peterson still refused to provide a substantive comment for over five hours from Schott's first request, which, when finally sent, was merely the statement Peterson had previously released to another news organization in the interim, and which Schott had already seen. Schott Decl. ¶40; Exh. 9. Even after sharing that "comment," and while dismissively referring to UPW as a "blog," Peterson continued to accuse Schott of having a "lack of journalistic ethics" and "failing to follow basic journalistic standards" because he had reported on a story that Peterson believed to be "inaccurate" and "unfair." *Id.*

When asked what ethical standards Schott had violated, Peterson responded, "If you have to be told, you aren't a journalist." *Id.* And, regarding the fate of Schott's press credential application, Peterson would only state: "We will follow our policy when reviewing media credential applications." *Id.*

Defendants Deny Plaintiffs Press Credentials Application

Five days later, on December 17, 2024, Schott applied for a press credential on the first day applications were accepted. *Id.* ¶43. He passed the background check, and then contacted Alexa Musselman, House Communications Director, regarding his application. *Id.* Musselman told him "We have to look it over for a bit . . . I'm going to go touch base with others, then we'll give you a call." *Id.* Schott responded that he would wait there for a decision. *Id.*

Schott had never received this additional level of scrutiny before. *Id.* ¶44. When he asked Musselman whether the same level of scrutiny was applied to Utah News Dispatch, a month-old organization that had applied for press credentials for the 2024 Legislature and was ultimately issued credentials for several reporters, Musselman responded that, "We did have conversations with them," but said she was on leave from work during that time. *Id.* While Schott waited,

several other applicants walked in and out of Musselman’s office and had their applications quickly signed off by Musselman or her designees. *Id.* ¶45.

Schott waited in person for approximately 90 minutes. *Id.* ¶46. Schott then texted Musselman to inquire about the delay. *Id.* Shortly after, Schott received a follow-up email from Musselman and Senate Deputy Chief of Staff Aundrea Peterson informing him that they had rejected his application because “Utah Capitol media credentials are currently not issued to blogs, independent, or other freelance journalists.” *Id.*

Schott appealed the decision to deny him press credentials. *Id.* ¶47; Exhibit 10. On December 26, 2024, he received a letter in response from Abby Osborne and Mark Thomas upholding the decision. *Id.*

Neither in the email denying his application, nor in the letter denying his appeal, did Defendants inform Plaintiffs the standards they used to determine that UPW is not “an established, reputable news organization” and is a “[b]log[], independent media outlet[.]” Schott Decl. ¶¶43-48; Exh. 10. However, after Schott filed this suit, Defendant Musselman provided the following post hoc reasoning in her declaration: “Schott is not responsible to an editor and is the final arbiter and executioner of his stories, and thus represents his own stream of consciousness.” Dkt. 26 at 15 (citing Musselman Decl. ¶4). Musselman also declared that because UPW had only existed for three months, it “did not have any institutional framework or a sufficiently established track record.” *Id.* Defendants indicate that “institutional framework” is something that shows “the applicant can be held responsible for actions.” *See* Peterson Decl. ¶39 (Doc 27 at 12).

None of this was communicated to Schott prior to Defendants filing their opposition to the TRO motion. Nowhere does the 2025 credentialing policy indicate that it requires a separate

editor, or that Defendants disallow “stream of consciousness” reporting. As to Plaintiffs’ lack of an editor, this assertion is untrue. UPW does have an editor that assists in reviewing and editing Schott’s work prior to it being published. Schott Decl. ¶15. Additionally, UPW carries Media Liability Insurance, which allows it to “be held responsible for actions.” *Id.* ¶10.

Defendants have issued credentials to reporters and interns from fewer than 20 organizations. *See* Exhibit 13; Schott Decl. ¶55. Under the 2025 credentialing policy, Defendants issued media credentials for at least one reporter from a blog and/or independent media outlet, and several depending how “independent media outlet” is defined. *Id.* Specifically, Defendants issued media credentials this year for the first time to a reporter from Building Salt Lake. *Id.* Building Salt Lake describes itself as “locally owned, independent media,” and touts that “Building Salt Lake is a nationally recognized Top-100 Urban Planning Blog.” *About*, Building Salt Lake, <https://buildingsaltlake.com/about/>. Thus, Building Salt Lake is both a blog and an independent media outlet. Press Credentials have been issued to reporters from multiple organizations that call themselves independent, including Building Salt Lake, Gephardt Daily, The Salt Lake Tribune, Utah Policy, and Utah News Dispatch. Exh. 13.

In addition, Defendants issued media credentials to Becky Ginos of the Davis Journal. *Id.* Ginos is the editor and sole staff member of the Davis Journal. *About Us*, The City Journal, <https://www.davisjournal.com/pages/about-us>. Ginos is self-edited, but credentialled. Exh. 13. Defendants also issued a press credential to Holly Richardson, the editor and sole employee of Utah Policy. *Id.* Utah Policy describes itself as a news aggregator. *About*, Utah Policy, <https://utahpolicy.com/about>. It primarily carries news releases and guest opinions. *Id.* To the extent Utah Policy produces original stories, Holly Richardson would be self-edited.

Accordingly, Defendants do not treat being a blog or being independent as absolute bars to issuing credentials to reporters from other news organizations. Being “self-edited” or subsequently reporting in a “stream of consciousness” due to lack of editing is also not a bar for other journalists who seek credentials from Defendants.

Schott’s Lack of Access During the 2025 Legislative Session

The 2025 Utah Legislative Session began on January 21, 2025 and Schott has no way of obtaining access to the areas of credentialed access in a manner equal to that of other members of the press. *Id.* ¶59. Defendants denied Schott access to a press conference about the House GOP legislative priorities on January 13, 2024. *Id.* ¶60. And Governor Cox holds monthly press conferences, the first of which took place on the morning of January 16th, which Schott missed. *Id.* Absent intervention by the court, Schott will miss Governor Cox’s press conferences for the remainder of the year.

On the first day of session, the Senate President and Speaker of the House delivered opening addresses. *Id.* ¶61 The press, except Schott, were able to report on those addresses from the press area on the floors of the House and Senate. *Id.* The press, other than Schott, were able to attend the media gathering with the Senate President after he delivered his remarks. *Id.* Each day going forward, Schott will miss access to events and newsworthy information that other press members access. *Id.* ¶62. Every press member, except Schott, will be able to view and report on these events from the designated media areas throughout the Capitol and both legislative chambers. *Id.* ¶¶62-63. Every statehouse reporter, besides Schott, will be able to cover meetings, press conferences, press releases, legislative actions and other events that occur in media areas not accessible by the public. *Id.* Those reporters will be able to obtain videos, photographs, and audio recordings as part of their reporting materials that Schott cannot obtain.

Id. Those reporters will speak to legislators and their staff, witnessed legislative action up close, be given legislative materials and attended impromptu press briefings; Schott will not. *Id.* After the close of this session, there are likely to be special sessions called, from which Schott will also be denied credentialed access. *Id.* ¶64.

It appears, based upon the information provided by Defendants, and the contents of their filings in this case, that no other applicant has been denied credentials for the 2025 legislative year—and certainly none who are similarly situated to Schott.

Schott’s harm, and that to his readership and listenership, is occurring now. *Id.* ¶69. And every day from today until the end of the 2025 Legislative Session—if this Court does not intervene—Schott will continue to be obstructed from the same news gathering opportunities as are afforded to his colleagues in the media. *Id.* ¶¶69-71. Defendants’ policy and actions impair Schott’s ability to gather news.

ARGUMENT

A Court may grant a preliminary injunction where “(1) the movant will suffer irreparable injury unless the injunction issues; (2) the threatened injury . . . outweighs whatever damage the proposed injunction may cause the opposing party; (3) the injunction, if issued, would not be adverse to the public interest; and (4) there is a substantial likelihood of success on the merits.” *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1188 (10th Cir. 2003). This Court applies a “heightened standard” for a preliminary injunction that “(1) mandates action (rather than prohibiting it), (2) changes the status quo, or (3) grants all the relief that the moving party could expect from a trial win.” *Szymakowski v. Utah High Sch. Activities Ass’n*, No. 2:24-cv-00751-RJS, 2025 U.S. Dist. LEXIS 503, at *20 (D. Utah Jan. 2, 2025) (internal citations omitted). The heightened standard does not apply to this request for a prohibitive injunction. *See Equitable*

Nat'l Life Ins. Co. v. AXA Equitable Life Ins. Co., 434 F. Supp. 3d 1227, 1239 (D. Utah 2020) (explaining heightened standard is applied in action for mandatory injunction that would alter status quo or grant all the relief the moving party could expect from a trial win).

I. PLAINTIFFS SEEK A PROHIBITIVE INJUNCTION THAT WOULD RESTORE THE STATUS QUO, NOT A MANDATORY ONE.

Plaintiffs seek a prohibitive injunction that prevents Defendants from applying their unconstitutional policy against them, not a mandatory injunction. *See, supra*, “SPECIFIC RELIEF SOUGHT AND GROUNDS FOR RELIEF.” Specifically, Plaintiffs seek to prohibit Defendants from applying the unconstitutional portions of the 2025 Credentialing Policy against Schott. The other terms would remain in effect, including the constitutional requirements to obtain credentials, and those policies that apply to a credentialed reporter.

The injunction will restore the status quo ante the policy was changed—Schott (likely) qualifying for press credentials, a condition which existed for decades. Relief that “require[s] a party who has recently disturbed the status quo to reverse its actions . . . restores, rather than disturbs, the status quo ante, and is thus not an exception to the rule.” *O Centro Espirita Beneficente Uniao do Vegetal v. Ashcroft*, 389 F.3d 973, 1013 (10th Cir. 2004) (*quoting* 11A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 2948 (2d ed. 1995)). “‘Status quo’ does not mean the situation existing at the moment the lawsuit is filed, but the ‘last peaceable uncontested status existing between the parties before the dispute developed.’” *Id.*

A “preliminary injunction in this case [would] not require defendants to do something that they were not doing during the last uncontested period.” *Evans v. Fogarty*, 44 F. App’x 924, 928 (10th Cir. 2002). During the last uncontested period, Defendants considered applications from independent reporters on their merits. “In determining the status quo for preliminary

injunctions, this court looks to the reality of the existing status and relationship between the parties and not solely to the parties' legal rights." *Dominion Video Satellite, Inc. v. Echostar Satellite Corp.*, 269 F.3d 1149, 1155 (10th Cir. 2001). The reality here is that Schott has had press access to the State Capitol in every year of the 21st Century.

Dominion involved a commercial dispute over whether Echostar (Dish Network) had to activate services for Dominion customers. There, "the last uncontested status of the parties was the four years in which EchoStar activated Dominion subscribers regardless of whether the subscriber had met the QRS criteria. Even if EchoStar had the legal right under the contract to refuse activating new, non-QRS Dominion subscribers, the reality was that EchoStar activated Dominion subscribers whether or not they qualified for QRS status." *Id.* The Court was not persuaded by the defendants "contention that the status quo was defined immediately before the action [was] unavailing" because that status was "contested by [the plaintiff]" and "the impetus for [the] litigation." *Id.* Further, the Court reasoned that "adopting [defendant's] position would imply that any party opposing a preliminary injunction could create a new status quo immediately preceding the litigation merely by changing its conduct toward the adverse party," which "would unilaterally empower the party opposing the injunction to impose a heightened burden on the party seeking the injunction." *Id.*

Here, the last uncontested status of the parties is not, as Defendants suggest (Dkt. 26 at 40), the time at which Schott's credentials were revoked, because Schott contests that status. The last uncontested status existed when Schott was credentialed to report from the Capitol, throughout the entire decade or more that Utah had used credentials. Also, for years prior to now, independent media were able to receive credentials. Plaintiffs seek a prohibitive injunction that would restore that status.

Finally, the injunction is one that, if Plaintiffs do not succeed on the merits, can be easily undone—Defendants will just effectuate their policy once again. As this Court has said: “[I]f the court ‘probably can put the toothpaste back in the tube,’ then the heightened standard does not apply.” *Equitable Nat’l Life Ins. Co.*, 434 F. Supp. 3d at 1239 (internal citations omitted).

II. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS

Plaintiffs bring this First Amendment suit under 42 U.S.C. § 1983¹ to challenge Defendants’ Media Credentialing Policy, which governs media access to designated press areas within the Utah State Capitol.

A. The First Amendment protects Plaintiffs’ rights to observe and gather information in Utah’s Capitol, and to exercise editorial judgment in reporting and commenting on events.

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

Defendants have asserted they are within the bounds of the First Amendment by “[d]enying credentials to bloggers and other independent media” so they can “reasonably ensure[] professional journalists and established media maintain sufficient access.” Dkt. 26 at 25. But freedom of press belongs to every journalist, not just those who work for “established”

¹ “By the plain terms of § 1983, two – and only two – allegations are required in order to state a cause of action under that statute. First, the plaintiff must allege that some person has deprived him of a federal right. Second, he must allege that the person who has deprived him of that right acted under color of state or territorial law.” *Gomez v. Toledo*, 446 U.S. 635, 640 (1980). The second factor is not in dispute. Defendants are state actors. As to the first factor, this brief thoroughly discusses Defendants deprivation of Plaintiffs’ First Amendment rights.

corporate-owned news organizations with deep pockets and multiple stages of editorial review. “When the Framers thought of the press, they did not envision the large, corporate newspaper and television establishments of our modern world. Instead, they employed the term ‘the press’ to refer to the many independent printers who circulated small newspapers or published writers’ pamphlets for a fee.” *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 360 (1995) (Thomas, J., concurring). The Supreme Court has long recognized that “[t]he inherent worth of the speech in terms of its capacity for informing the public does not depend upon the identity of its source, whether corporation, association, union, or individual.” *First Nat’l Bank of Boston v. Bellotti*, 435 U.S. 765, 777 (1978); *Branzburg*, 408 U.S. at 705 (“informative function” of the “organized press . . . is also performed by lecturers, political pollsters, novelists, academic researchers, and dramatists”). The recent resurgence in independent media brings us closer to the press environment the founders experienced and protected.

Lower courts have also understood that the extent of a journalist’s free press rights is not based on whether they write for an independent or mainstream media organization. *See, e.g., Obsidian Fin. Group, LLC v. Cox*, 740 F.3d 1284, 1291 (9th Cir. 2014) (“The protections of the First Amendment do not turn on whether the defendant was a trained journalist, formally affiliated with traditional news entities, engaged in conflict-of-interest disclosure, went beyond just assembling others’ writings, or tried to get both sides of a story.”); *Snyder v. Phelps*, 580 F.3d 206, 219 n.13 (4th Cir. 2009), *aff’d*, 562 U.S. 443 (2011) (“Any effort to justify a media/nonmedia distinction rests on unstable ground, given the difficulty of defining with precision who belongs to the ‘media.’”); *Flamm v. Am. Ass’n of Univ. Women*, 201 F.3d 144, 149 (2d Cir. 2000) (“a distinction drawn according to whether the defendant is a member of the media or not is untenable”); *In re IBP Confidential Bus. Documents Litig.*, 797 F.2d 632, 642

(8th Cir. 1986) (“To recognize the existence of a First Amendment right and yet distinguish the level of protection accorded that right based on the type of entity involved would be incompatible with the fundamental first amendment principle that [the value of speech is not speaker dependent]”) (citation omitted); *Garcia v. Bd. of Educ.*, 777 F.2d 1403, 1410 (10th Cir. 1985) (“First Amendment protection should not depend on whether the criticism is in the form of speech by a private individual or publication by the institutional press.”).

Thus, all members of the media have an equal right to news gather regardless of the amount of financial backers or corporate oversight they have. While that right is not absolute, it does exist “once there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media, or the rights of the First Amendment would no longer be tenable.” *Am. Broad. Cos. v. Cuomo*, 570 F.2d 1080, 1083 (2d Cir. 1977). Reporters should “not only be given equal access, but within reasonable limits, access with equal convenience to official news sources.” *Westinghouse Broad. Co. Inc. v. Dukakis*, 409 F. Supp. 895, 896 (D. Mass. 1976).

Segregating media seating or press briefings into “preferred” and “unpreferred” viewing sections is not equal access and is unconstitutional. *See TGP Communs., Ltd. Liab. Co. v. Sellers*, No. 22-16826, 2022 U.S. App. LEXIS 33641, at *15 (9th Cir. Dec. 5, 2022). This is because the “granting favorable treatment to certain members of the media. . . allows the government to influence the type of substantive media coverage that public events will receive.” *Anderson v. Cryovac, Inc.*, 805 F.2d 1, 9 (1st Cir. 1986).

Moreover, the First Amendment right to report news includes the right to exercise independent editorial judgment. This Court has recently noted that “[t]he Supreme Court has long held that an entity exercising editorial discretion in the selection and presentation of content

is engaged in speech activity protected by the First Amendment.” *NetChoice, LLC v. Reyes*, No. 2:23-cv-00911-RJS-CMR, 2024 U.S. Dist. LEXIS 163294, at *22 (D. Utah Sep. 10, 2024) (internal quotations and citations omitted). “A private speaker does not forfeit constitutional protection simply by combining multifarious voices, or by failing to edit their themes to isolate an exact message as the exclusive subject matter of the speech.” *Hurley v. Irish-American Gay*, 515 U.S. 557, 569-70 (1995). The Supreme Court “held that ‘the choice of material . . . and the decisions made as to limitations on the size and content . . . and treatment of public issues . . . - whether fair or unfair-constitute the exercise of editorial control and judgment’ upon which the State cannot intrude.” *Id.* at 575 (internal quotation marks omitted). The term ‘editorial discretion’ is a derivative of ‘journalistic discretion,’ *See e.g., Miami Herald Pub. Co., Div. of Knight Newspapers, Inc. v. Tornillo*, 418 U.S. 241, 261 (1974) (“the elementary First Amendment proposition [is] that government may not force a newspaper to print copy which, in its journalistic discretion, it chooses to leave on the newsroom floor.”) The term should not be misread to require editorial staff for press rights to apply.

The choice to include or exclude an editor in the writing process or write in a “stream of consciousness” style is no different than other choices that may be made while exercising journalistic discretion.

B. Defendants’ restrictions fail forum analysis, regardless of whether the State Capitol is a nonpublic or limited public forum.

“To determine when and to what extent the Government may properly limit expressive activity on its property, the Supreme Court has adopted a range of constitutional protections that varies depending on the nature of the government property, or forum.” *Verlo v. Martinez*, 820 F.3d 1113, 1129 (10th Cir. 2016). “The Supreme Court has sorted government property into the following categories: traditional public forums, designated public forums, limited public forums,

and nonpublic forums.” *Pollak v. Wilson*, No. 22-8017, 2022 WL 17958787, at *1 (10th Cir. Dec. 27, 2022) (unpublished) (brackets and internal quotation marks omitted). To be sure, Plaintiffs’ primary expression occurs online, not in the Utah statehouse. But because Plaintiffs’ First Amendment-protected news gathering function occurs on public property, the regulation of which is at issue, forum analysis may well be required.

A limited public forum “exists where a government has reserved a forum for certain groups or for the discussion of certain topics.” *Walker v. Tex. Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 215 (2015) (brackets and internal quotation marks omitted). When a forum is “generally available for the discussion of certain topics” and open to the public, “it is a limited public forum.” *Make the Rd. by Walking, Inc. v. Turner*, 378 F.3d 133, 145 (2d Cir. 2004).

The media spaces at issue in this case are limited public fora. Defendants appear to agree, although they also posit that the forums could be considered “nonpublic.” Dkt. 26 at 23. Not so. Nonpublic forums exist “[w]here the government is acting as a proprietor, managing its internal operations.” *Walker*, 576 U.S. at 216. Here the Utah Legislature is opening its meetings, committee hearings, workspaces, and press room for comment on a specific subject matter by the public, including the press. Exh. 8 at 3.

Ultimately, however, the distinction makes no difference. In both nonpublic and limited public fora, regulations must be reasonable in light of the forum’s purpose and viewpoint-neutral. *See Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 806 (1985) (nonpublic forum); *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106-07 (2001) (limited public forum); *see also McDonough v. Garcia*, 116 F.4th 1319, 1322-25 (11th Cir. 2024)

(detailing evolution of Supreme Court’s forum analysis). The challenged restrictions fail forum analysis on both prongs.

1. *The restrictions are unreasonable in light of the forum’s purpose*

The reasonableness of a restriction “must be assessed in light of the purpose of the forum and all the surrounding circumstances.” *Cornelius*, 473 U.S. at 809. Defendants have not identified any space constraints (fewer than twenty organizations have credentialed staff), or security concerns that make it reasonable to impose the credentialing criteria that they do. This is precisely why *John K. Maciver Inst. for Pub. Policy, Inc. v. Evers*, 994 F.3d 602, 610 (7th Cir. 2021) is inapposite. There, the forum at issue was closed door, off-the-record meetings the Governor held with selected reporters. *Id.* The Seventh Circuit panel deemed them to be nonpublic based on their off-the-record nature. *Id.* As the Court explained it, the Governor excluded the plaintiff journalists from “an event that is not open to the public and not held on government property dedicated to open communication.” *Id.* There were also “space constraints and security concerns” proven by the record. *Id.* Based on these facts, as well as the content-neutral criteria used by the Governor, it was reasonable for the plaintiff journalists to be excluded. *Id.*

Defendants’ given reason for the policy—to “eliminate discretion”—is unavailing. Their policy remains full of discretionary decisions Defendants can make such as what a “blog” or “independent” media even is, how a journalist “adheres to a professional code of ethics” or what makes a journalist “reputable” or a part of “established” media. That independent media is ascendant is a reason to welcome, not exclude it. Moreover, because Defendants are not up against space constraints, there is no justification to “eliminate discretion” in a way that reduces access to professional press.

2. *The restrictions are not viewpoint-neutral*

“If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea offensive or disagreeable.” *Tex. v. Johnson*, 491 U.S. 397, 414 (1989). “The government must abstain from regulating speech when the specific motivating ideology or the opinion or *perspective* of the speaker is the rationale for the restriction.” *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995) (emphasis added). The government cannot “den[y] access to a speaker solely to suppress the point of view he espouses.” *Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 393 (1993) (quotation and citation omitted).

Defendants’ viewpoint-based discriminatory motives for denying Plaintiffs’ credentials are clear in several ways. First, as explained, *supra*, Defendants’ post-hoc complaints that Plaintiffs do not have an editor, or their reporting is a “stream of consciousness” indicates that Defendants have denied Plaintiffs’ credentials based on their use of editorial discretion to present their news pieces in a particular way. Dkt. 26 at 15 (citing Musselman Decl. ¶4). By “exercising editorial discretion” journalists “seek to communicate messages on a wide variety of topics and in a wide variety of formats.” *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 636 (1994). Defendants’ policy ensures that Plaintiffs are completely barred from being able to communicate their messages and views in the manner and form they want to. This is viewpoint discrimination.

Moreover, viewpoint discrimination is clear given that Defendants made no efforts to determine whether the reasons they proffer in their declarations were applicable before denying Schott’s application. To be sure, they were not valid. Defendants did not inquire whether UPW had an editor. Schott Decl. ¶15. Had they done so, Schott would have notified them that UPW employs Malissa Morrell to review his work. *Id.* She assists in story selection, improving the

grammar, clarity and brevity of articles, and in headline writing. *Id.* Defendants also did not inquire about Schott’s writing process before deeming all current and future UPW reporting to be done in a “stream of consciousness” style. *Id.* ¶16. Had they made the effort to do so, Schott would have informed them of the in-depth reporting processes he utilizes to put stories together, many of which take days or weeks to build and include input from multiple sources and are not stream of conscious writings. *Id.* Defendants’ failure to inquire or validate their post-litigation reasons before denying Schott’s application indicates these reasons are merely pretext to discriminate against Plaintiffs for their viewpoints.

Other facts surrounding Defendants’ denial of Plaintiffs’ press credentials further point to viewpoint discrimination. Prior to this legislative session, Schott easily obtained press credentials since the policy was first established. Schott Decl. ¶30. But Schott’s reporting on the majority-Republican legislature was not always favorable and in early 2024, Defendants and their colleagues put Schott on notice that he fell out of favor of the legislature. Once Schott left the safety of a large news organization and established his own independent news site, Defendants quickly altered their policy to ensure independent journalists were not allowed credentials. Exh. 7; Exh. 8; Schott Decl. ¶¶20-24. And this policy change appears to only impact Plaintiffs.

Moreover, only five days before Schott applied for credentials, Senate President Adams criticized him, expressing anger about Schott’s reporting on Adams’ campaign finance disclosure. Schott Decl. ¶¶35-36. And Defendant Peterson followed closely along, using language that was notably consistent with the 2025 Credentialing Policy to accuse Plaintiffs of wrongdoing, including “lack of professionalism,” “disregard for accurate reporting and ethical standards,” and being merely a “blog.” Exh. 9; Schott Decl. ¶¶37-40.

It was only five days later that Peterson and the other Defendants denied Schott press credentials. Suddenly, Schott – after over 25 years of journalism, journalistic awards and years of obtaining press credentials – was once again an “independent” journalist for a “blog” who was no longer recognized as a “professional member of the media associated with an established, reputable news organization.” Exh. 10; Schott Decl. ¶¶43-48. Then, post-litigation, Defendants reasoned that Plaintiffs were properly excluded for not having an editor and having a “stream of consciousness” style of reporting. Dkt. 26 at 15 (citing Musselman Decl. ¶4).

These instances make clear that those in power dislike the focus, editorial slant, and techniques Plaintiffs use to report on the legislature. But they cannot deny Plaintiffs’ importance and relevance as a member of the media when they respond to Plaintiffs’ stories so strongly, immediately, and passionately, both publicly and privately.

The open hostility and stonewalling evidence clear viewpoint discrimination. Defendants did not like Plaintiffs’ “pattern” of prior coverage of the majority of the Utah Legislature and are punishing Plaintiffs as a result. Other than insisting Plaintiffs no longer meet credential policy criteria, none of the Defendants provided Plaintiffs any explanation as to why they were denied access to the media areas of the 2025 Legislative Session despite years of prior access, or steps that could be taken to remedy the situation. Schott Decl. ¶¶43-48; Exh. 10.

Defendants have not treated other news media in this way when they apply for credentials as “independent” media. Schott Decl. ¶¶50-58; Exh. 12; Exh. 13. Utah News Dispatch, for example, launched just days before the 2024 session started, yet all of its staff were credentialed for the 2024 session. Schott Decl. ¶58. Utah Policy received credentials for the 2025 legislative session, and their organization consists of one full-time employee/editor and interns. Exh. 13. The Davis Journal also has one employee/editor, and it, too, received 2025 credentials. *Id.* The

Salt Lake Tribune has received credentials for its journalists for the 2025 Legislative Session despite proudly stating it is an “independent” news organization. *Id.* The Daily Utah Chronicle also purports to be “independent” news and is run entirely by a staff of college students at the University of Utah, including its editor. *Id.* Plaintiffs do not question their reputations as journalists, but it stands to reason that Schott, with his 25 years of experience and decade as a legislative press credential holder, would also be considered reputable if Defendants’ metrics were consistently applied. This shows arbitrary application of the policies and points to pretext.

C. Alternatively, Defendants’ restrictions fail strict scrutiny.

Of course, “[t]he First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally.” *Branzburg*, 408 U.S. at 684. And so, “reporters are not cloaked with automatic ‘strict scrutiny protection’ merely because they are members of the press.” *Evers*, 994 F.3d at 612. But once the state denies press credentials for content- or viewpoint-based reasons, strict scrutiny applies. *See id.* at 613 (distinguishing from cases where “the court applied strict scrutiny, not simply because the plaintiffs were members of a free press, but because the press in those cases were being subject to differential treatment,” including “differential treatment based on content.”).

Defendants’ policy, which distinguishes between speakers based on the content and editorial decisions in their reporting, is content based. The Supreme Court has urged courts to recognize that “[s]peech restrictions based on the identity of the speaker are all too often simply a means to control content.” *Citizens United v. FEC*, 558 U.S. 310, 340 (2010). When the Government applies a policy that “identifies certain preferred speakers” – such as “established” media journalists versus bloggers – it commits “a constitutional wrong.” *Id.* Such a policy “draws distinctions based on the message a speaker conveys[,]” even if not “obvious” at first blush. *Reed v. Town of Gilbert*, 576 U.S. 155, 163-64 (2015). While some policies “define

regulated speech by particular subject matter, . . . others are more subtle, defining regulated speech by its function or purpose.” *Id.* Regardless, though, “[b]oth are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny.” *Id.*

Defendants’ policy is content- and viewpoint-based. By prohibiting “independent” journalists and “bloggers” from the State Capitol but allowing other corporate, “established” media in, Defendants make a clear distinction based on the function and purpose of each journalist’s reporting. Those who function without an editor or in a “stream of consciousness” reporting style are banned. Those who serve the purpose of reporting on behalf of an independent or blog media source are banned. That is content and viewpoint discrimination.

Content-based restrictions are subject to strict scrutiny, which “requires a state to show that its law is narrowly tailored to serve a compelling interest.” *Rodgers v. Bryant*, 942 F.3d 451, 456 (8th Cir. 2019). And the First Amendment provides even stronger protection against viewpoint discrimination, which is “an egregious form of content discrimination.” *Rosenberger*, 515 U.S. at 829. Because Defendants’ policy is content- and viewpoint-based, it is “presumptively unconstitutional and may be justified only if the government proves that [it is] narrowly tailored to serve compelling state interests.” *Reyes*, 2024 U.S. Dist. LEXIS 163294, at *28 (quoting *Reed*, 576 U.S. at 163). Defendants bear the burden of meeting this “demanding standard.” *Id.*

Defendants may assert they do not have to meet strict scrutiny based on Plaintiffs’ right to newsgather being violated but they would misunderstand case law to do so. Although, in *Evers*, the Court stated “reporters are not cloaked with automatic “strict scrutiny protection” merely because they are members of the press” it in no way rejected Plaintiffs’ position: that once the state is rejecting press credentials for viewpoint-based reasons, strict scrutiny is applied.

994 F.3d at 612. The Court, in fact, explained this distinction. *See id.* at 613 (distinguishing from cases where “the court applied strict scrutiny, not simply because the plaintiffs were members of a free press, but because the press in those cases were being subject to differential treatment, and in the case of the Arkansas Writers’ Project, differential treatment based on content.”).

To survive strict scrutiny, Defendants must “articulate a compelling government interest warranting the [policy’s] intrusion on [Plaintiffs’] First Amendment rights.” *Reyes*, 2024 U.S. Dist. LEXIS 163294, at *28. They cannot do so. Defendants lack a compelling state interest justifying the challenged policy’s enforcement. Defendants acknowledge their exclusion of certain categories of journalists, but they never “specifically identify an ‘actual problem’ in need of solving.” *Id.* (quoting *Brown v. Entm’t Merchs. Ass’n*, 564 U.S. 786, 799 (2011)). At most, Defendants simply say they wanted to eliminate “discretion” by their media designees but never explain why that discretion was an issue or how the policy eliminates that discretion. Dkt. 26 at 26. And, aside from this claim, Defendants make no effort to discuss why “independent” or “blogger” journalist without an editor or who reports in a “stream of consciousness” are causally connected to any issues the legislature or Defendants are having regarding press credentials. *See id.* Defendants do not allege that the policy corrects a space, security or other problem, nor can they.

Even assuming the existence of an “‘actual problem in need of solving,’ the [policy] fails strict scrutiny because Defendants have not shown it is ‘carefully tailored to achieve those ends.’” *Reyes*, 2024 U.S. Dist. LEXIS 163294 at *34 (quoting *Sable Commc’ns of Cal. Inc. v. F.C.C.*, 492 U.S. 115, 126 (1989)). First, Defendants have no way of showing that a complete barring of “independent” media and “blogs” or those they deem to not be “reputable” is the least restrictive means to accomplish whatever post-hoc problem they identify. As Defendants admit,

their policy differed significantly for years prior to their November 2024 policy change, and they allowed both Schott and independent journalists to be credentialed. Dkt. 26 at 12-14, 28-29. Thus, there are clearly alternative ways to structure their policy so that the “problems” they have can be resolved without infringing on First Amendment rights.

Second, the policy is “underinclusive or overinclusive” when judged against any State interest. *See Reyes*, 2024 U.S. Dist. LEXIS 163294 at *35. It is overinclusive in that it bars *all* media that is independent or a blog regardless of any other criteria met. Independent journalism has such a growing influence and role in news media that the White House has created seats in its press room just to accommodate them. And influential blogs and independent journalists abound in this country – Law360, The Gateway Pundit, Daily Wire, The Volokh Conspiracy, Ben Shapiro, Matt Walsh, Tucker Carlson, Taegan Goddard, and Candace Owens, to name a few. But, based on Defendants’ policy, they would *all* be denied the ability to hold a press credential in the Utah State Capitol building. Certainly, Defendants cannot identify a problem that would warrant barring entire categories of media personnel.

The policy is also potentially underinclusive if Defendants’ claim of requiring “less discretion” is to be believed. Dkt. 26 at 14. If Defendants were truly concerned about the use of discretion when granting press credentials, they would not permit their media designees to determine whether journalists were “established” or “reputable” or “adher[ing] to a professional code of ethics.” But they do. Thus, any claims that the policy serves to “*eliminate any discretion*” to solve a problem is belied by how much discretion remains in the policy itself. Additionally, the policy does not prohibit credentialed media from conducting “stream-of-consciousness” reporting through social media posts or otherwise.

Thus, the over- and underinclusive nature of this policy should cause the Court to do as it has before: have “serious doubts about whether the government [was] in fact pursuing the interest it invoke[d], rather than disfavoring a particular speaker or viewpoint.” *Reyes*, 2024 U.S. Dist. LEXIS 163294 at *35 (quoting *Brown*, 564 U.S. at 802).

Given this combination of shortcomings Defendants cannot meet their burden. This Court should determine Defendants’ policy fails strict scrutiny and Plaintiffs are likely to prevail.

D. Defendants’ policy constitutes a prior restraint.

To facially challenge a credentialing policy as an unlawful prior restraint, a plaintiff must demonstrate that the policy “vests unbridled discretion in a government official over whether to permit or deny expressive activity[.]” *City of Lakewood v. Plain Dealer Publ’g Co.*, 486 U.S. 750, 755-56 (1988). “The Supreme Court has long adhered to the principle that any system of prior restraint of expression bears a heavy presumption against its constitutional validity.” *Gay Lib v. Univ. of Mo.*, 558 F.2d 848, 855 n.14 (8th Cir. 1977) (collecting cases).

Unbridled discretion poses significant risks. First, “[i]f the permit scheme involves appraisal of facts, the exercise of judgment, and the formation of an opinion, by the licensing authority, the danger of censorship . . . is too great[.]” *Forsyth Cty. v. Nationalist Movement*, 505 U.S. 123, 130 (1992) (internal citations and quotations omitted). Second, “the absence of express standards makes it difficult to distinguish . . . between a licensor’s legitimate denial of a permit and its illegitimate use of censorial power.” *Lakewood*, 486 U.S. at 758. Thus, a facial challenge based on unbridled discretion can be successful so long as the challenged policy “ha[s] a close enough nexus to expression, or to conduct commonly associated with expression, to pose a real and substantial threat of the identified censorship risks.” *Id.* at 759.

To curtail the risks identified by the Supreme Court, “a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license” must contain “narrow, objective,

and definite standards to guide the licensing authority.” *Shuttlesworth v. Birmingham*, 394 U.S. 147, 150-151 (1969). If, after considering the government’s “authoritative constructions of the ordinance, including its own implementation and interpretation of it,” *Forsyth Cty.*, 505 U.S. at 131, a court determines the licensing scheme “vest[s] unbridled discretion in the hands of a government official,” it must be held unconstitutional. *Blue Moon Entm’t, LLC v. City of Bates City*, 441 F.3d 561, 565 (8th Cir. 2006).

It is undeniable that the legislative press credential has a “nexus to expression” such that its regulation “pose[s] a real and substantial threat of . . . censorship risks.” *Lakewood*, 486 U.S. at 759. As explained above, Plaintiffs engage in expressive activities protected under the First Amendment when they news gather and exercise editorial discretion; those arguments are incorporated herein. *See, supra*, Sections II.A.

Neither the credential policy itself, nor Defendants’ application of it, contains narrow, objective, and definite standards. As the policy reads, credentials will only be given to a reporter whom the legislature deems “professional member of the media” who “is part of an established reputable news organization or publication.” Exh. 8. The policy does not explain how “professionalism” is measured and how to determine the validity of one’s “repute.” *Id.* The policy demands applicants meet other subjective, undefined standards like being a “blog,” “independent” or “adher[ing] to a professional code of ethics.” *Id.* In sum, there are no “express standards” that Defendants must employ, which makes it “difficult to distinguish” between a “legitimate” denial of a press credential and the “illegitimate abuse of censorial power.” *Lakewood*, 486 U.S. at 758.

These arbitrary standards leave Defendants with unbridled discretion. Pre-litigation, the only reasons Defendants gave Plaintiffs for denying their press credentials was that they were not

“a professional member of the media associated with an established, reputable news organization or publication” and they were a “blog” or “independent media.” Post litigation, they now claim the problem lies with Plaintiffs engage in “stream of consciousness” reporting, lack an additional editor and aren’t dependent on a “nationally established media group.” Dkt. 26 at 27-28 (citing Peterson Decl. ¶20), 32 (citing Peterson Decl. ¶52). In other words, Defendants’ authority to enforce the policy is so untethered by any standards within the policy that, even if those standards were narrow and definite – they are not – they obviously do not base their decision to deny a press application on them. Defendants’ self-created, unexplained criteria make it impossible to determine whether they deny applications for legitimate or impermissible reasons and, thus, their policy constitutes a prior restraint.

E. Defendants’ policy is vague.

“A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.” *FCC v. Fox TV Stations, Inc.*, 567 U.S. 239, 253 (2012). A policy is impermissibly vague if it (1) “fails to provide a person of ordinary intelligence fair notice of what is prohibited,” or (2) “is so standardless that it authorizes or encourages seriously discriminatory enforcement.” *United States v. Williams*, 553 U.S. 285, 304 (2008). “[W]here a vague statute abuts upon sensitive areas of basic First Amendment freedoms, it operates to inhibit the exercise of those freedoms.” *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) (internal citations and quotations omitted). And the Supreme Court is particularly sensitive to laws that are vague due to the lack of guiding standards or the potential for arbitrary enforcement. *See Kolender v. Lawson*, 461 U.S. 352, 357-58 (1983). Lack of notice and arbitrary enforcement are concerns because of the “obvious chilling effect on speech” they create. *Reno v. ACLU*, 521 U.S. 844, 872 (1997).

Defendants' policy, and their own interpretation of the policy, uses several unconstitutionally vague criteria to justify the denial of press credentials. *See* Exh. 8. The policy's limitations of credentials to those who report for "an established reputable news organization or publication," "[a]dhere to a professional code of ethics" and are not "[b]logs, independent media or other freelance media," are not clearly defined. *Id.* Defendants can readily modify what it means to be "established," "reputable," "a blog," "freelance" or "independent" to fit their own motivations. And Defendants never indicate what "ethics" they are policing journalists' adherence to.

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

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

It is inexplicable how Defendants have permitted other "independent," "reputable" journalists to obtain press credentials at the same time the denied Schott's application. *See* Exh. 13. This policy is intentionally, and unconstitutionally, vague, which allows Defendants to apply their policy against Schott in a way that deprives him of proper notice of how to comply and chills his speech.

III. PLAINTIFFS HAVE SUFFERED AND WILL SUFFER IRREPARABLE HARM IF THIS COURT PERMITS DEFENDANTS TO CONTINUE TO DENY THEM THEIR FREE PRESS RIGHTS.

Plaintiffs have been, and will continue to be, irreparably harmed by Defendants' arbitrary and discriminatory denial of press credentials. The Utah Legislative Session began on January 21, 2025. Schott Decl. ¶59. Schott has already missed the press conference about the House GOP legislative priorities on January 13th. *Id.* ¶60. Additionally, Governor Cox holds a monthly press conference for credentialed media, the first of which occurred on January 16th, that Schott cannot attend in person or ask questions. *Id.* On the day the session started, numerous statehouse reporters, besides Schott, were able to cover the opening addresses by the Senate President and Speaker of the House from a position of privileged access. *Id.* ¶61.

As the session goes on, media members, except Schott, will be able to report on legislative actions, press releases, speeches, impromptu press conferences, statements to the press, and other events that occur in media areas of the Capitol, including obtaining the necessary photos, audio, or video. *Id.* ¶62. Defendants will continue to deny Schott entry to the daily meetings with Senate leadership in the Senate President's office, media availabilities with the Speaker of the House, and House or Senate rules committee meetings. *Id.* Schott has already missed several legislative press releases, and, given his lack of credentials, will miss many more. *Id.* ¶60.

The 2025 Legislative Session continues until March 7, 2025, and special sessions can occur thereafter. *Id.* ¶50. In fact, the Utah Legislature has had one or more special sessions every year since 2001 except for 2014. *Sessions*, Utah State Legislature, <https://bit.ly/4i7DpNB>. Each day that Defendants deny Schott access is a day Plaintiffs' readers are denied complete news coverage. *Id.* Thus, if this Court does not act immediately, Defendants will continue to deprive

Plaintiffs of the ability to news gather in a manner equal to that granted to other statehouse reporters for the entire legislative session, including special sessions. *Id.*

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

IV. THE PUBLIC INTEREST AND BALANCE OF EQUITIES FAVOR PLAINTIFFS²

The balance of harms favors Plaintiffs, and a MPI serves the public interest. On the one hand, Plaintiffs face the prospect of continued unconstitutional exclusion in violation of the First Amendment. On the other hand, allowing Plaintiffs access imposes no discernible harm on Defendants, aside from those typically associated with free speech and press.

And “[i]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *Pryor v. Sch. Dist. No. 1*, 99 F.4th 1243, 1254 (10th Cir. 2024) (internal quotation marks omitted). It is “[n]ot only newsmen and the publications for which they write, but also the public at large [that] have an interest protected by the [F]irst [A]mendment in assuring that restrictions on newsgathering be no more arduous than necessary, and that individual newsmen not be arbitrarily excluded from sources of information.” *Sherrill v. Knight*, 569 F.2d 124, 129-30 (D.C. Cir. 1977).

V. THIS COURT SHOULD FOREGO THE BOND REQUIREMENT

Under Fed. R. Civ. P. 65(c), “the trial judge has wide discretion in the matter of requiring security and if there is an absence of proof showing a likelihood of harm, certainly no bond is

² The balance of equities and public interest factors “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

necessary.” *Cont’l Oil Co. v. Frontier Ref. Co.*, 338 F.2d 780, 782 (10th Cir. 1964). Where an injunction issues that “enforces fundamental constitutional rights against the government[,] [w]aiving the security requirement best accomplishes the purposes of Rule 65(c).” *United Utah Party v. Cox*, 268 F. Supp. 3d 1227, 1260 (D. Utah 2017). A bond requirement would negatively impact Plaintiffs’ rights by requiring them to pay a fee to engage in free speech and free press. It would also negatively impact the rights of the public to be free from government enforcement of unconstitutional policies. And an injunction requiring Defendants to respect the First Amendment would not harm them. Thus, no bond should be required here.

CONCLUSION

This Court should grant Plaintiffs’ motion for preliminary injunction immediately prohibiting Defendants from denying Plaintiffs press credentials based on the status of Schott or UPW being independent, a blog, unedited, not reputable or not sufficiently established.

DATED: February 26, 2025.

INSTITUTE FOR FREE SPEECH

/s/ Charles Miller

Charles Miller (admitted *pro hac vice*)

Courtney Corbello (admitted *pro hac vice*)

KUNZLER BEAN & ADAMSON, PC

Robert P. Harrington

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

CERTIFICATE OF WORD LIMIT COMPLIANCE

I hereby certify that the foregoing **PLAINTIFFS' AMENDED MOTION FOR PRELIMINARY INJUNCTION AND MEMORANDUM IN SUPPORT**, including footnotes, but exclusive of caption, signature block, certificate of service, and word-count certification, contains 10,989 words, as tracked by Microsoft Word and is in compliance with the Court's order granting an overlength motion of 40-pages or 12,400-words (Dkt. 35).

/s/ Charles Miller
Charles Miller

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and Bryan Schott*

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

UTAH POLITICAL WATCH, INC., and
BRYAN SCHOTT,

Plaintiffs,

v.

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

Defendants.

**AMENDED DECLARATION OF
BRYAN SCHOTT IN SUPPORT OF
PLAINTIFFS' AMENDED MOTION
FOR PRELIMINARY INJUNCTION
AND MEMORANDUM IN SUPPORT**

**EXPEDITED TREATMENT
REQUESTED**

Case No. 2:25-cv-00050-RJS-CMR

Hon. Robert J. Shelby

Hon. Cecilia M. Romero

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

1. I am the owner, full-time editor, publisher and reporter for Utah Political Watch (UPW), a

subscription-based newsletter service that provides independent news and analysis on politics in Utah.

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

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

4. I am a long-time member of the Society of Professional Journalists, abides by its code of ethics, and have been awarded by the organization. I am also a member of the Online News Association (ONA) and Radio Television Digital News Association (RTDNA).

5. I began my career in Utah in local radio acting as a producer, anchor, reporter, and program director for numerous radio stations between 1995 and 2008.

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

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

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

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

10. I founded UPW in September 2024 and incorporated it as an S Corp the following month. I am a paid employee of UPW. UPW holds a \$2,000,000 media liability insurance policy.

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

12. There are currently approximately 1,200 subscribers to the UPW daily newsletter, of which 25% pay to receive additional content.

13. In addition to subscribers, the UPW website garners tens of thousands of pageviews per month. Top stories can receive 4,000 to 5,000 views each. There are on average between 250 and 300 downloads of each episode of the nascent podcast.

14. I have over 12,000 followers on TikTok, where I receive on average between 4,500 and 10,000 views per video on Utah Politics. Over the last 60 days my videos have been viewed more than 214,000 times.

15. UPW employs an editor, Malissa Morrell, to review my work. Morrell has served as my editor in an unofficial capacity since at least 2015. *Id.* During that time, she has helped me with story selection, improving my stories (grammar, clarity, brevity) and headline writing. While she was not often utilized during my tenure with the Tribune, given its team of dedicated editors at that organization, Morrell has played a prominent role in UPW’s output since its launch. Prior to filing suit, Defendants never notified me that I was denied credentials on the basis that UPW lacks an editor. Had they done so, I would have informed them of Morrell’s role. Once I was made aware of this unwritten criterion, I listed Morrell as an editor on the UPW website. *Staff*, Utah Political Watch, available at: <https://www.utahpoliticalwatch.news/staff/>.

16. I understand that, after filing suit, Defendants indicated that I was denied credentials, in part, because of my “stream of consciousness” reporting style. I am not clear on what that means. I do know, however, that Defendants did not inquire about my writing style before denying my application. Had they made the effort to do so, I would have informed them of the in-depth reporting processes I utilize to put stories together, many of which take days or weeks to build and include input from multiple sources and are not what I consider to be stream of consciousness writings.

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

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

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

20. In November 2024, after I had established UPW and made Defendants aware of that fact, Defendants substantially revised their “Utah Capitol Media Access and Credentialing Policy” for controlling media access to the Utah Legislature. The 2025 Credentialing Policy is attached as Exhibit 8 to Plaintiffs’ Amended Motion for Temporary Restraining Order and Preliminary

Injunction (“Plaintiffs’ Amended Motion”) (Dkt. 37). The 2024 Credentialing Policy is attached as Exhibit 7 to Plaintiffs’ Amended Motion.

21. The 2025 Credentialing Policy had been revised from the 2024 Credentialing Policy in several ways. *Compare* Exh. 8 (also available at: <https://perma.cc/M77N-LWXV>) *with* Exh. 7.

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

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

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

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

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

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

26. The 2025 Credentialing Policy also contains five criteria in total that a journalist must meet to obtain press credentials: (1) “fill out an online application;” (2) “[b]e a professional member of

the media (which includes journalists, photographers and videographers) who regularly covers the Legislature and Capitol in person and is part of an established reputable news organization or publication” (so long as one is not a blog, independent or freelance journalist) (3) “provide an annual background check;” (4) “[a]dhere to a professional code of ethics;” and (5) “[c]omplete the yearly harassment prevention training.”

27. Additionally, if required by a media designee, the credential applicant must “submit a letter of introduction on official publication letterhead” that contains certain information verifying the applicants’ employment status and need for credentials. I have never been asked to submit such a letter.

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

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

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

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

32. On January 10, 2024, House Republicans held a pre-session press conference to lay out their legislative priorities, which I attended. A reporter from KUTV asked about the effort to ban DEI at state colleges and universities. The legislator who was sponsoring that bill, Rep. Katy Hall, was in attendance, but Schultz would not let her speak about the issue. I subsequently wrote an article the next day that said he dodged questions about the issue. *See* Schott, Bryan, *Utah House GOP dodges questions on anti-DEI bills during rollout of 2024 legislative priorities*, Salt Lake Tribune, <https://bit.ly/41oVTUh>.

33. I received several angry messages from Schultz following publication accusing me of bias. One message was to the effect of: "You used to be the best reporter in the Legislature. It's sad how far you've fallen."

34. Also on January 10th, I was covering an event at the Utah State Capitol and I made a lighthearted post on X.com poking a little fun at media staffers who had difficulty setting up a backdrop. Defendant Osborn had publicly replied:



35. Throughout the year, I continued to report on the Utah legislature, and Defendants, and my stories were honest, but not always favorable. On December 12, 2024, reporting for UPW, I appeared to significantly anger Defendants when I issued a story that a local nonprofit group had filed a complaint against Senate President Stuart Adams alleging he had violated campaign disclosure laws. *See Schott, Bryan, Top Utah GOP lawmaker accused of skirting state laws on campaign finance disclosures*, Utah Political Watch, <http://bit.ly/4fYAYeH>.

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

37. Adams was not the only one in the Senate who was upset. I reached out to Defendant Peterson, just prior to the story being published, for comment the same day. Defendant Peterson responded two hours later, criticizing me for publishing the story in the interim, and stating that failing to obtain her comment beforehand exhibited a “lack of professionalism” and “disregard for accurate reporting and ethical standards.”

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

39. She chided me for “fail[ing] to obtain information from the Lieutenant Governor’s Office.” But I explained to Peterson that I had already sought comment from the Lieutenant Governor 5 times and asked for clarification. I also explained that I had only learned of the complaint being filed that same day, which meant I needed to file the story before it was no longer breaking news.

I offered to update my story with any comment Peterson wanted to offer and also asked Peterson to clarify whether her criticism of my story would lead to my press credential application being denied. But Peterson still refused to offer me a substantive comment for over five hours from the time of my first request.

40. The response Peterson eventually sent me was a statement she had released to another news organization in the interim, and which I had already seen published therein. Even after sharing that “comment,” Peterson continued to dismissively refer to UPW as a “blog” and accuse me of having a “lack of journalistic ethics” and “failing to follow basic journalistic standards” because I had reported on a story that Peterson believed to be “inaccurate” and “unfair.” When I asked what ethical standards I had violated, Peterson told me “If you have to be told, you aren’t a journalist.” And, in regards to the fate of my press credential application, Peterson would only tell me: “We will follow our policy when reviewing media credential applications.”

41. I took screenshots of my text exchange with Peterson. True and correct copies of those screenshots are contained in Exhibit 9 to Plaintiffs’ Amended Motion.

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

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

44. I had never received this additional level of scrutiny before. And I asked Musselman

whether the same level of scrutiny was applied when Utah News Dispatch which, as a month-old news website publication, had applied for press credentials for the 2024 Legislature and was ultimately issued credentials for several reporters. Musselman could only state: “We did have conversations with them” although she admitted to being on leave from work during that time period.

45. While I waited, several other applicants walked in and out of Musselman’s office and had their applications quickly signed off by Musselman or her designees.

46. I waited in person for approximately 90 minutes more and then texted Musselman to ask about the delay. Soon after, I received a follow-up email from Musselman, now with Peterson copied, informing me that my application had been rejected. The reason Musselman and Peterson gave: “Utah Capitol media credentials are currently not issued to blogs, independent, or other freelance journalists.”

47. I appealed the denial of press credentials. On December 26, 2024, I received a letter in response from Abby Osborne and Mark Thomas, a true and correct copy of which is attached as Exhibit 10 to Plaintiffs’ Amended Motion.

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

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

50. To my knowledge, Defendants have not treated other journalists in this way when they apply for credentials as part of an “independent” news organization.

51. On December 31, 2024, I filled out and submitted the form titled “Utah State Legislature Request for a Record” to the Utah Senate at senaterecords@le.utah.gov. I sent the same form to the Utah House of Representatives at houserecords@le.utah.gov on January 2, 2025. My request on both forms was stated as follows: “Please provide a list of all news organizations that have been either granted or denied press credentials for the following years: 2025, 2024, 2023, 2022 and 2021. Please include the number of credentials given to each outlet. This request does NOT include the names of individuals given credentials, just how many were granted to each outlet.”

52. True and correct copies of the “Utah State Legislature Request for a Record” forms I submitted to the Utah House and Senate are provided herein as Exhibit 11 to Plaintiffs’ Amended Motion (Dkt. 37).

53. On January 13, 2025, I received responses to my request from both the House and Senate. Both responses had the same document enclosed, which was an eight-page list of Utah Legislature press credentials granted and denied between 2021 and 2025.

54. True and correct copies of the House and Senate responses and the attached list are provided herein as Exhibit 12 to Plaintiffs’ Amended Motion (Dkt. 37).

55. On February 5, 2025, Defendants produced a list of media credentials issued for the 2025 session. *See* Exhibit 13 to Plaintiffs’ Amended Motion (Dkt. 37).

56. The lists I received are indicative of the fact that Defendants’ do not uniformly or clearly apply their Policy to journalists who apply for media credentials.

57. Looking at the 2025 list (Exh. 13), it is clear that credentials have been issued to reporters and interns from less than 20 organizations, including for at least one reporter from a blog and/or

independent media outlet, and several depending how “independent media outlet” is defined. *Id.*

58. As another example, Utah News Dispatch launched just days before the 2024 session started (Exh. 12), yet I know that all its staff was credentialed for the 2024 session. And the Salt Lake Tribune has received credentials for its journalists for the 2025 Legislative Session despite proudly stating it is an “independent” news organization on its website.

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

60. I have already missed the press conference about the House GOP legislative priorities on January 13th. And Governor Cox holds monthly press conferences, the first of which occurred on the morning of January 16th. I could not, and cannot, attend these press conferences in person or ask questions given my current lack of press credentials. I have also already missed several legislative press releases, and will miss more given Defendants’ policy of only providing press releases to credentialed media.

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

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

63. Every one of my colleagues in the media, but not me, will be able to view and report on

these events from the designated media areas throughout the Capitol and both legislative chambers. Those reporters will be in a better position than myself to obtain videos, photographs, and audio recordings as part of their reporting materials. Those reporters will be able to speak to legislators and their staff, witness legislative action up close, be given legislative materials and attend spontaneous press briefings that I cannot.

64. After the close of this session, there are likely to be special sessions called, from which I will also be denied credentialed access.

65. I understand Defendants believe that the use of live streams and online-accessible videos and press releases somehow alleviates the burdens on my First Amendment rights that occur as a result of being denied press credentials. This is untrue for several reasons. As to the live streams and archived videos of the live streams, they are not a substitute for being in person. Watching a live stream or archived video, I am beholden to the livestream camera person and their decisions on where to aim the camera and how often to move it. I am deprived of the ability to observe anything other than what the livestream camera chooses to focus on, and the focus is very often a closer up shot that places the speaker, and no one else, prominently on the screen. In other words, I cannot use my own observation skills and focus on the events I need to in order to report stories in the manner that I want to. I am at a disadvantage to every one of my journalist colleagues that are credentialed and able to report from live events. The livestream and archived videos, and examples of how little one can observe when watching those videos, can be found here: <https://le.utah.gov/av/nowPlaying.html>.

66. Video recordings of press conferences, committee meetings, House debates, Senate debates, etc. that are available on the Utah Legislature's website are additionally insufficient because they are posted on a delay and, sometimes, not at all. Again, I, and UPW's reporting, are

at the mercy of someone else – whoever handles the availability of archived videos – and their decisions on when and how often to post those videos. And they aren't always posted. For example, as to the Senate's daily media availability, those are posted to the Utah Senate's Facebook page. But not always. So far this session, the recordings of the Utah Senate's media availabilities from January 22nd, 29th and February 3rd were not posted, and so I missed the ability to view those not only live but after-the-fact.

67. Ultimately, videos of the events I used to report live on – whether live streamed or archived – are not equivalent of observing events with my own eyes, being able to communicate with those in the room contemporaneously and reporting on what I am experiencing first hand. It is certainly not the equivalent of what my colleagues at other media organizations are able to do. Being treated as an “unpreferred” member of the media that is not credentialed and, therefore, required to find these alternative, inadequate ways to report on legislative events affects the quality and accuracy of my reporting and my First Amendment rights.

68. The delayed availability of press releases on the Utah legislature's website are similarly insufficient to provide me access equal to that of other credentialed reporters. The fact is, I do not receive those press releases at the same time as credentialed media. I receive them later. This impacts my ability to report on breaking news and provide current stories to my readers.

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

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

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

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

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

is that what is considered “ethical” can vary significantly from journalist to journalist.

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

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

Executed on February 21, 2025.

/s/ Bryan Schott

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

/s/ Charles Miller

Attorney for Plaintiffs

EXHIBIT 1

To Plaintiffs' Amended Motion
for Preliminary Injunction

Utah Capitol Media Credentialing Policy

At this point, Utah Media Credentials will be given to representatives of Media Institutions, who are authorized by the chiefs of staff as an acceptable security risk.

Criteria

1. Must present a background check and represent an acceptable security risk.
2. Must demonstrate appropriate relationship to media institution. See notes, below.
3. Final discretion is given to the Chief of Staff of the Senate and Chief Deputy of the House, who are responsible for security within legislative areas.

Credential Privileges

- * Access to some secure areas of the Capitol. For example, at the Chiefs' instruction, Sgts at arms may wave credentialed media back to the President or Speaker's Office for press briefings.
- * Allowed access to the senate chamber floor when the senate adjourns. Lobbyists, and uncredentialed citizens are not given this access.
- * Access to the media workspace in the House and Senate Galleries.
- * Media parking
- * Capitol press room access
- * Access to other venues with hosts that choose to honor the Utah Capitol Media Credential.

Credentials may be denied for any of the following reasons:

- * Reasonable safety risk - demonstrated by past action or criminal record.
- * Journalist does not represent a media organization (as defined below)
- * Chiefs of Staff are not convinced the individual seeking credentials should have access to secure legislative space, for security reasons or any other reason.

Credentials can be revoked for the following reasons:

1. Chiefs of Staff believe the person may present a security risk to people at the capitol.
2. Reporter fails to adhere to standards of professional ethics.
3. Change in reporter status.

Definition of a Reporter / Defining Characteristics of those eligible

Defining characteristics of reporters to whom we have issued credentials:	Characteristics of people to whom we have NOT issued credentials:
<ul style="list-style-type: none"> * Credentialed reporters represent institution that hire and fire, can be held responsible for actions, sued for libel, etc. * Credentialed reporters have editors, to whom they are responsible. They aren't the final arbiter and executioners of their own stories. They don't just represent their own stream of consciousness. * Reporters have some degree of education and/or professional training in journalism. * Credentialed reporters adhere to a defined professional code of ethics * Credentialed reporters represent institutions with a track record. As in, they have been in the business for a period of time and have established they are not lobbyist organizations, political parties, or flash-in-the-pan charlatans with blog sites. 	<ul style="list-style-type: none"> * Blog site owners. The writing is essentially their own stream of consciousness, with little or no editorial oversight. * Little or no institutional framework. * Organizations with no history or track record * Institution and reporters whose main purpose seems to be Lobbying or pushing a particular point of view (examples: Sutherland Institute media staff, Utah Political Capitol, ULCT blog, etc.) * Organizations not bound by a journalistic code of ethics * People with a history that would present a reasonable concern for the order of the institution or the safety of personnel within secure areas.
<p>NOTE: We recognize these defining characteristics can be debated. For practical purposes, we need to create a clear definition, so this is the starting point. These characteristics will likely</p>	

change as the characteristics of the media industry evolve and become more clear.	
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Right of Appeal

If credentials are is denied by the Chiefs of Staff, the applicant may appeal in writing to Speaker of the House and Senate President, who will respond within 90 days.

If credentials are revoked by the Chiefs of Staff, the person who was denied credentials may appeal in writing to the Speaker of the House and Senate President, who will respond within 90

EXHIBIT 2

To Plaintiffs' Amended Motion
for Preliminary Injunction

Utah Capitol Media Credentialing Policy

To receive a Utah media credentials, which includes access to secure areas, an applicant must be

1. A reporter (see policy notes for definitions), and
2. Representatives of media institutions who are authorized by the chiefs of staff as an acceptable security risk.

Criteria

1. Must present a background check and represent an acceptable security risk.
2. Must demonstrate an appropriate relationship to media institution. See notes below.
3. Final discretion is given to the chiefs of staff of the Senate and House, who are responsible for security within legislative areas.

Credential Privileges

- Access to some secure areas of the Capitol. For example, at the chiefs' instruction, sergeant-at-arms may allow credentialed media back to the President's or Speaker's Office for press briefings.
- Allowed access to the Senate and House chamber floor when the Senate and House adjourns. Lobbyists, and non-credentialed citizens are not given this access.
- Access to the media workspace in the Senate and House Galleries.
- Media parking.
- Capitol press room access.
- Access to other venues with hosts that choose to honor the Utah Capitol Media Credential.

Credentials may be denied for any of the following reasons:

- Reasonable safety risk - demonstrated by past action or criminal record.
- Journalist does not represent a media organization (as defined below).
- Chiefs of staff are not convinced the individual seeking credentials should have access to secure legislative space, for security reasons or any other reason.

Credentials can be revoked for the following reasons:

1. Chiefs of staff believe the person may present a security risk to people at the capitol.

2. Reporter fails to adhere to standards of professional ethics.
3. Change in reporter status.

Definition of a Reporter / Defining Characteristics of those eligible

Defining characteristics of reporters to whom we have issued credentials:	Characteristics of people to whom we have NOT issued credentials:
<ul style="list-style-type: none"> * Credentialed reporters represent institutions that hire and fire, can be held responsible for actions, sued for libel, etc. * Credentialed reporters have editors to whom they are responsible. They aren't the final arbiter and executioners of their own stories. They don't just represent their own stream of consciousness. * Reporters have some degree of education and/or professional training in journalism. * Credentialed reporters adhere to a defined professional code of ethics * Credentialed reporters represent institutions with a track record. As in, they have been in the business for a period of time and have established they are not lobbyist organizations, political parties, or flash-in-the-pan charlatans with blog sites. 	<ul style="list-style-type: none"> * Blog site owners. The writing is essentially their own stream of consciousness, with little or no editorial oversight. * Little or no institutional framework. * Organizations with no history or track record * Institutions and reporters whose main purpose seems to be Lobbying or pushing a particular point of view (examples: Sutherland Institute media staff, Utah Political Capitol, ULCT blog, etc.) * Organizations not bound by a journalistic code of ethics * People with a history that would present a reasonable concern for the order of the institution or the safety of personnel within secure areas.
<p>NOTE: We recognize these defining characteristics can be debated. For practical purposes, we need to create a clear definition, so this is the starting point. These characteristics will likely change as the characteristics of the media industry evolve and become more clear.</p>	<p>*If there is a blog site owner or organization not bound by a code of ethics, they may sign a document stating they will abide by the journalistic code of ethics. If they then receive credentials and are caught breaking the contract, they will be required to remove the post, and their media credentials will be revoked.</p>

Right of Appeal

- If credentials are denied by the chiefs of staff, the applicant may appeal in writing to Senate President and Speaker of the House and, who will respond within 90 days.

- If credentials are revoked by the chiefs of staff, the person who was denied credentials may appeal in writing to the Senate President and Speaker of the House and, who will respond within 90 days.

EXHIBIT 3

To Plaintiffs' Amended Motion
for Preliminary Injunction

Utah Capitol Media Credentialing Policy

Criteria

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

- § Be a professional journalist, which includes photographers, videographers, etc.
- § Present a background check.
- § Adhere to a professional code of ethics.
- § Represent news organizations or publications that have a track record.
- § Complete unlawful harassment prevention training.

Credential Privileges

- § Access to some secure areas of the Capitol.
- § Access to the Senate and House chamber floors when the Senate and House adjourn.
- § Access to the media workspaces in the Senate and House galleries.
- § Designated media parking.*
- § Capitol press room access.

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

- § Applicant presents a security risk, as demonstrated by past action or criminal record.
- § Applicant does not represent a professional media organization.
- § Journalist fails to adhere to standards of professional conduct.

Right of Appeal

- § If credentials are denied or revoked, the applicant may appeal in writing to the Senate and House of Representatives chiefs-of-staff, who will respond within 90 days.

*Does not apply to interns or students.

EXHIBIT 4

To Plaintiffs' Amended Motion
for Preliminary Injunction

Utah Capitol Credentialing Policy

Credentialing Criteria

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

- Be a professional journalist (which includes photographers, videographers, etc).*
 - A media intern/student must work for an organization or institution and have a supervisor.
- Present a background check.
- Adhere to a professional code of ethics.
- Represent an established, reputable news organization or publication.
- Complete the unlawful harassment prevention training.

Credential Privileges

- Capitol media credentials provide access to some secure areas of the Capitol, such as the press room, designated areas in the Senate and House chambers that follow state rule and/or statute.
 - Interviews may be conducted in the lounge area when accompanied by a lawmaker or staff member.
 - No interviews are to be conducted on the Senate or House floors while adjourned.
- Credentialed media has access to media workspaces in the Senate and House galleries and committee rooms during committee hearings.
 - Space is limited in chambers and preference will be given to full-time media.
- Designated media parking.
 - Due to limited space, designated parking does not apply to interns or students.
- Media credentials allow members of the media Capitol press room access. The press room is equipped with internet access and audio feed from both chambers.
 - Interns and students must remain in designated areas in the press room.
- Videographers and photographers are allowed to set up in the House and Senate galleries.
- Members of the media must remain in designated areas.
 - With special permission, videographers and photographers may be allowed to set up on the Senate or House floor during floor time at designated locations in the rear of the chambers.
- Photos may be taken from perimeter aisles on the sides of the Senate and House and chamber floors during floor time.
 - Proper attire is required.
 - Men: Suit coat and tie.
 - Women: Business attire.

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

- Applicant presents a security risk, as demonstrated by past action or criminal record.
- Applicant does not represent a professional media organization.
- Journalist, photographer or videographer fails to adhere to standards of professional conduct.

- Journalist, photographer or videographer fails to follow rules and regulations outlined in this document.

Right of Appeal

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

Other Important Information

- Due to COVID-19 health concerns and physical distancing measures, media will have designated areas in chambers and committee rooms. The area behind the dais in committee rooms is temporarily unavailable. Please note, virtual equipment may obstruct camera views.
- Utah State Capitol media credentials should be worn and visible when at the Capitol complex to gain entrance to the Senate and House floors and committee rooms.
- Bloggers representing a legitimate independent news organization may become credentialed under some circumstances.

EXHIBIT 5

To Plaintiffs' Amended Motion
for Preliminary Injunction

Utah Capitol Media Access and Credentialing Policy 2022 *(Nov. 2021)*

Credentialing Criteria

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

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

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

Credential Privileges

- Capitol media credentials provide access to some secure areas of the Capitol, such as the press room, designated areas in the Senate and House chambers that follow state rule and/or statute.
- Credentialed media has access to media workspaces in the Senate and House galleries and committee rooms during committee hearings.
- Videographers and photographers are allowed to set up in the House and Senate galleries.
- Designated media parking.
 - Due to limited space, designated parking does not apply to interns or students.
- Media credentials allow members of the media Capitol press room access. The press room is equipped with internet access and audio feed from both chambers.
 - Interns and students must remain in designated areas in the press room.
- Approved and designated areas for media:
 - House and Senate galleries
 - Committee Rooms – the area behind the dais in committee rooms is unavailable without permission.
 - Press Room

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

- Applicant fails to complete the workplace harassment prevention training.
- Applicant presents a security risk, as demonstrated by past action or criminal record.
- Applicant does not represent a professional media organization.
- Applicant does not regularly cover the Legislature in person at the Capitol.
- Journalists, photographers or videographers fail to adhere to standards of professional conduct.
- Journalists, photographers or videographers fail to follow rules and regulations outlined in this document.

Right of Appeal

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

Other Important Information

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

*Interns/students media credential will be valid for three months (January-March).

EXHIBIT 6

To Plaintiffs' Amended Motion
for Preliminary Injunction

Utah Capitol Media Access and Credentialing Policy

Credentialing Criteria

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

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

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

Credential Privileges

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

Media Designees

- Utah Senate media designees:
 - Chief of Staff Mark Thomas: mthomas@le.utah.gov – 801-673-8587
 - Deputy Chief of Staff Aundrea Peterson: aundreapeterson@le.utah.gov – 801-791-3365

- Utah House of Representative media designees:
 - Chief of Staff Abby Osborne: aosborne@le.utah.gov – 801-831-6116
 - Communications Director Alexa Musselman: amusselman@le.utah.gov – 801-865-5882

Senate Policy

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

 - View news media access rules for the [Senate floor](#), [committee](#) rooms and designated areas [here](#).

House Policy

- News media may not be admitted to the House floor when the House is convened in formal session.

- Credential news media photographers and videographers may be permitted to enter the House floor with permission from House media designee.

- For House Floor rules, click [here](#).

- For House Committee rules, click [here](#).

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

- Applicant fails to complete the workplace harassment prevention training.

- Applicant presents a security risk, as demonstrated by past action or criminal record.

- Applicant does not represent a professional media organization.

- Applicant does not regularly cover the Legislature in person at the Capitol.

- Journalists, photographers or videographers fail to adhere to standards of professional conduct.

- Journalists, photographers or videographers fail to follow rules and regulations outlined in this document.

Right of Appeal

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

Other Important Information

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

Revised – October 2022

EXHIBIT 7

To Plaintiffs' Amended Motion
for Preliminary Injunction

Utah Capitol Media Access and Credentialing Policy

Credentialing Criteria

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

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

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

Credential Privileges

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

Media Designees

- Utah Senate media designees:
 - Chief of Staff Mark Thomas: mthomas@le.utah.gov – 801-673-8587
 - Deputy Chief of Staff Aundrea Peterson: aundreapeterson@le.utah.gov – 801-791-3365

- Utah House of Representative media designees:
 - Chief of Staff Abby Osborne: aosborne@le.utah.gov – 801-831-6116
 - Communications Director Alexa Musselman: amusselman@le.utah.gov – 801-865-5882

Senate Policy

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

 - View news media access rules for the [Senate floor](#), [committee](#) rooms and designated areas [here](#).

House Policy

- News media may not be admitted to the House floor when the House is convened in formal session.

- Credential news media photographers and videographers may be permitted to enter the House floor with permission from House media designee.

- For House Floor rules, click [here](#).

- For House Committee rules, click [here](#).

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

- Applicant fails to complete the workplace harassment prevention training.

- Applicant presents a security risk, as demonstrated by past action or criminal record.

- Applicant does not represent a professional media organization.

- Applicant does not regularly cover the Legislature in person at the Capitol.

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

Right of Appeal

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

Other Important Information

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

Revised – October 2023

EXHIBIT 8

To Plaintiffs' Amended Motion
for Preliminary Injunction

Utah Capitol Media Access and Credentialing Policy

Utah Capitol Media Credential Application

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

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

Utah Capitol Media Credential Credentialing Criteria

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

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

Credential Privileges

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

Media Liaison Designees

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

Senate Policy

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

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

House Policy

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

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

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

Right of Appeal

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

Other Important Information

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

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

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

Revised – November 2024

EXHIBIT 9

To Plaintiffs' Amended Motion
for Preliminary Injunction

Thu, Dec 12 at 1:01PM

Asking for a comment.

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

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

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

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

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

Does President Adams have a response to this complaint?

Why was he not following Utah law for financial disclosures.

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

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

Thu, Dec 12 at 2:56 PM

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

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

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

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

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

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

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

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

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

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

I'm always open to legitimate criticism.

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

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

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

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

Thu, Dec 12 at 6:27 PM

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

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

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

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

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

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

I saw the statement that you provided to KUTV.

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

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

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

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

Y

You know, in the interest of accuracy

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

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

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

Please provide that documentation.

My story has been updated.

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

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

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

It's curious that you can't find that email since you quoted directly from it.

I have a copy of the complaint filed with the Lt. Governor's office.

What I DON'T have is documentation to back up Adams's claim.

I'm not going to take your word for it until I see that - which is what responsible journalists do.

It is a statement from President Adams, who has the documents. As I told you, I don't have access, but working on getting the documents.

You wrote a story based on claims from Better Utah without hesitation or concern. It's clear you accept their claims as facts but then claim to be a responsible journalist when it comes to confirming information with us.

I've been looking into this for more than 2 months. My first outreach to the Lt. Gov.'s office was on Oct. 7. The fifth and final one was on Monday.

Like I said, I'm not going to take your word for it.

Would you like to see a copy of the complaint from ABU?

I have it right here.

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

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

Because I didn't know if I had a story or not until I heard back from the Lt. Gov.

As I said before, when I found out about the ABU complaint, it changed my timeline.

Again, they made the allegations in a complaint that they gave me a copy of. I did not make the allegations.

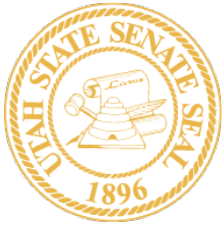
I'll be waiting for a copy of those emails.

I find it interesting that you're focusing on how I wrote the story, and not the allegations themselves.

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

EXHIBIT 10

To Plaintiffs' Amended Motion
for Preliminary Injunction



UTAH STATE LEGISLATURE

STATE CAPITOL • SALT LAKE CITY, UTAH 84114
WWW.LE.UTAH.GOV



December 26, 2024

Bryan Schott,

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

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

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

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

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

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

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

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

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

Sincerely,

Abby Osborne
Chief of Staff
Utah House of Representatives

Mark Thomas
Chief of Staff
Utah Senate

EXHIBIT 11

To Plaintiffs' Amended Motion
for Preliminary Injunction

UTAH STATE LEGISLATURE REQUEST FOR A RECORD¹

Date: 01/02/2025

Requester Information

Bryan Schott
Name of individual or entity submitting the record request

Name of entity's contact individual, if the request is submitted by an entity

Mailing address of individual or entity submitting record request

City State Zip code

schott@utahpoliticalwatch.news
Email address of individual submitting record request or, if the request is submitted by an entity, email address of the entity's contact individual

By providing an email address, the requester is indicating that the requester is willing to receive communications by email regarding this record request.

Daytime telephone number of the individual submitting the record request or, if the request is submitted by an entity, daytime telephone number of the contact individual for the entity

Specify the legislative office believed to be the office that retains the record(s) being requested:²

- Utah House of Representatives (houserecords@le.utah.gov)
- Utah Senate (senaterecords@le.utah.gov)
- Office of the Legislative Auditor General (lagrecords@le.utah.gov)
- Office of the Legislative Fiscal Analyst (lfarecords@le.utah.gov)
- Office of Legislative Research and General Counsel (olrgcrecords@le.utah.gov)
- Legislative Services (Human Resources, IT, Printing) (lsrecords@le.utah.gov)

Certifications required for an in-state request

1) I certify that:

(if this request is submitted by an individual) I live in Utah or am a legal resident of Utah

- or -

(if this request is submitted by an entity) the entity has its principal place of business or principal operations in Utah

2) I also certify that:

I am submitting this record request on my own behalf or for the requester entity and not on behalf of an individual who does not live in Utah or is not a legal resident of Utah, or on behalf of an entity that does not have its principal place of business or principal operations in Utah

(A request without these certifications will be considered to be an out-of-state request)

Description of the record(s) being requested (must identify the record(s) with reasonable specificity): Please provide a list of all news organizations that have been either granted or denied press credentials for the following years: 2025, 2024, 2023, 2022 and 2021.

Please include the number of credentials given to each outlet. This request does NOT include the names of individuals given credentials, just how many were granted to each outlet.

I am requesting only records³ sent, received, or created from 1/01/2021 to 01/02/2025
(Date) (Date)

If you are requesting email or other electronic records, please specify the search terms⁴ you would like us to use to identify the records you are requesting: _____

I request an expedited response based on the following (you must demonstrate that an expedited response benefits the public rather than yourself -- an expedited response request is not automatically granted): I am a journalist and this is for a news story.

1. This record request and the legislative office's response to it are governed by Utah Code Title 63G, Chapter 2, Government Records Access and Management Act, and Legislative Management Committee Policy L. Legislative Records.

2. A record request submitted by email should be sent to the email address indicated in parentheses for the legislative office believed to be the office that retains the record(s) being requested and to which the request is being submitted.

3. Declining to limit your request to a specific time period may increase the volume of records and the amount of staff time required to identify, segregate, and classify the records, resulting in a higher fee.

4. Declining to identify search terms may increase the volume of records and the amount of staff time required to identify, segregate, and classify records, resulting in a higher fee.

UTAH STATE LEGISLATURE
REQUEST FOR A RECORD¹

Date: 12/31/2024

Requester Information
Bryan Schott
Name of individual or entity submitting the record request
Name of entity's contact individual, if the request is submitted by an entity
Mailing address of individual or entity submitting record request
City State Zip code
schott@utahpoliticalwatch.news
Email address of individual submitting record request or, if the request is submitted by an entity, email address of the entity's contact individual
By providing an email address, the requester is indicating that the requester is willing to receive communications by email regarding this record request.
Daytime telephone number of the individual submitting the record request or, if the request is submitted by an entity, daytime telephone number of the contact individual for the entity

Specify the legislative office believed to be the office that retains the record(s) being requested:²
Utah House of Representatives (houserecords@le.utah.gov)
Utah Senate (senaterecords@le.utah.gov)
Office of the Legislative Auditor General (lagrecords@le.utah.gov)
Office of the Legislative Fiscal Analyst (lfarecords@le.utah.gov)
Office of Legislative Research and General Counsel (olrgcrecords@le.utah.gov)
Legislative Services (Human Resources, IT, Printing) (lsrecords@le.utah.gov)

Certifications required for an in-state request
1) I certify that:
(if this request is submitted by an individual) I live in Utah or am a legal resident of Utah
- or -
(if this request is submitted by an entity) the entity has its principal place of business or principal operations in Utah
2) I also certify that:
I am submitting this record request on my own behalf or for the requester entity and not on behalf of an individual who does not live in Utah or is not a legal resident of Utah, or on behalf of an entity that does not have its principal place of business or principal operations in Utah
(A request without these certifications will be considered to be an out-of-state request)

Description of the record(s) being requested (must identify the record(s) with reasonable specificity): Please provide a list of all news organizations that have been either granted or denied press credentials for the following years: 2025, 2024, 2023, 2022 and 2021.

Please include the number of credentials given to each outlet. This request does NOT include the names of individuals given credentials, just how many were granted to each outlet.

I am requesting only records³ sent, received, or created from 1/01/2021 to 12/30/2024 (Date) (Date)

If you are requesting email or other electronic records, please specify the search terms⁴ you would like us to use to identify the records you are requesting:

I request an expedited response based on the following (you must demonstrate that an expedited response benefits the public rather than yourself -- an expedited response request is not automatically granted): I am a journalist and this is for a news story.

1. This record request and the legislative office's response to it are governed by Utah Code Title 63G, Chapter 2, Government Records Access and Management Act, and Legislative Management Committee Policy L. Legislative Records.
2. A record request submitted by email should be sent to the email address indicated in parentheses for the legislative office believed to be the office that retains the record(s) being requested and to which the request is being submitted.
3. Declining to limit your request to a specific time period may increase the volume of records and the amount of staff time required to identify, segregate, and classify the records, resulting in a higher fee.
4. Declining to identify search terms may increase the volume of records and the amount of staff time required to identify, segregate, and classify records, resulting in a higher fee.

EXHIBIT 12

To Plaintiffs' Amended Motion
for Preliminary Injunction



UTAH STATE SENATE

320 STATE CAPITOL · P.O. BOX 1451115

SALT LAKE CITY, UTAH 84114

801-538-1035 · SENATE.UTAH.GOV

January 13, 2025

Bryan Schott



schott@utahpoliticalwatch.news

RE: Records Request - Response

Mr. Schott:

I am writing with respect to the record request you submitted on December 31, 2024, under Utah Code Title 63G, Chapter 2, Government Records Access and Management Act, and Legislative Management Committee Policy L. Legislative Records (“Records Policy”).

In your record request, you request access to the following records:

“Please provide a list of all news organizations that have been either granted or denied press credentials for the following years: 2025, 2024, 2023, 2022 and 2021.”

I have identified a record that is responsive to your request and have enclosed an electronic copy of this record.

Sincerely,

A handwritten signature in cursive script that reads "Phalin Flowers".

Phalin Flowers
Records Coordinator
Utah Senate



House of Representatives *State of Utah*

UTAH STATE CAPITOL • PO BOX 145030
350 N STATE STREET, SUITE 350
SALT LAKE CITY, UTAH 84114-5030 • (801) 538-1029

January 13, 2025

Bryan Schott


schott@utahpoliticalwatch.news

Subject: GRAMA Request – Response

Mr. Schott,

I am writing in response to the record request submitted on January 2, 2025, to the Utah House of Representatives under Title 63G, Chapter 2, Government Records Access and Management Act, and Legislative Management Committee Policy L. Legislative Records (“Records Policy”).

In your record request, you request access to the following record produced between January 1, 2021, and January 2, 2025:

“...a list of all news organizations that have been either granted or denied press credentials for the following years: 2025, 2024, 2023, 2022, and 2021. Please include the number of credentials given to each outlet. This request does NOT include the names of individuals given credentials, just how many were granted to each outlet.”

I have identified a record responsive to your request and have enclosed an electronic copy of the record.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Glenn".

Jacob Glenn
Records Coordinator
Utah House of Representatives

Name	Year
ABC4	2021
ABC4	2021
ABC4 News	2021
ABC4 News	2021
ABC4 News	2021
ABC4 Utah	2021
Associated Press	2021
City Weekly	2021
Daily Herald	2021
Deseret News	2021
Deseret News	2021
Deseret News	2021
FOX 13 KSTU	2021
Fox 13 News	2021
FOX13	2021
FOX13	2021
KCPW	2021
KPCW-FM	2021
KSL	2021
KSL Newsradio	2021
KSL TV	2021
KSL-TV	2021
KSL-TV	2021
KSL.com	2021
KSTU - Fox 13	2021
KSTU FOX 13 News	2021
KTVX	2021
KTVX (ABC4)	2021
KTVX - ABC4 News	2021
KTVX/ABC4	2021
KUER	2021
KUTV	2021
KUTV	2021
KUTV	2021
KUTV	2021
KUTV	2021
KUTV	2021
KUTV	2021
KUTV	2021
KUTV 2News	2021
KUTV 2News	2021
KUTV 2News	2021
KUTV/2News	2021
NBC Telemundo	2021
NBC Telemundo Utah	2021

Telemundo	2021
TELEMUNDO UTAH	2021
Telemundo Utah	2021
The Daily Utah Chronicle	2021
The Daily Utah Chronicle	2021
The Daily Utah Chronicle	2021
The Deseret News	2021
The Salt Lake Tribune	2021
Univision	2021
Univision 32	2021
Univision32 KUTH	2021
Deseret News	2022
FOX 13 News	2022
KUER	2022
Salt Lake Tribune	2022
The Salt Lake Tribune	2022
ABC 4	2022
ABC 4 KTVX	2022
ABC 4 KTVX	2022
ABC 4 News	2022
ABC4	2022
Abc4 News	2022
ABC4 News	2022
ABC4 News Utah	2022
ABC4 Utah - KTVX	2022
abc4news	2022
Associated Press	2022
Deseret News	2022
Deseret News	2022
KCPW	2022
KSL	2022
ksl	2022
KSL 5 TV	2022
KSL Television	2022
KSTU	2022
KSTU	2022
KSTU - Fox13	2022
KTVX	2022
KUER	2022
KUER	2022
KUTV	2022
KUTV	2022
KUTV	2022
KUTV	2022
KUTV	2022

KUTV 2 Newd	2022
ABC4/On spec	2022
The Daily Utah Chronicle	2022
The Salt Lake Tribune	2022
The Salt Lake Tribune	2022
Great Salt Lake Collaborative	2023; 3 months
Great Salt Lake Collaborative	2023; 3 months
ABC4	2023
ABC4 News	2023
ABC4 News	2023
ASSOCIATED PRESS	2023
Deseret News	2023
Deseret News	2023
Deseret News	2023
Deseret News	2023
Deseret News / KSL	2023
Fox 13 KSTU, Scripps Television	2023
FOX 13 News	2023
FOX 13 NEWS	2023
Fox News	2023
KSL	2023
KSL	2023
KSL	2023
KSL	2023
KSL	2023
KSL 5 News	2023
KSL 5 TB	2023
KSL Newsradio	2023
KSL Newsradio	2023
KSL TV	2023
KSL TV	2023
KSL TV	2023
kstu fox 13	2023
KSTU Fox 13	2023
KSTU News	2023
KUER	2023
KUTV	2023
KUTV	2023
KUTV	2023
KUTV 2 News	2023
KUTV Television	2023
ABC 4	2023
PBS Utah	2023
PBS Utah	2023
The Tribune	2023

KUTV	2024
KUTV	2024
KUTV	2024
KUTV 2 News	2024
KUTV 2 News	2024
KUTV 2 NEWS	2024
KUTV 2 News	2024
KUTV 2 News	2024
KUTV 2 News	2024
KUTV Channel 2	2024
NBC TELEMUNDO UTAH	2024
NBC Telemundo Utah	2024
Salt Lake City Weekly	2024
Salt Lake Tribune	2024
Salt Lake Tribune	2024
Salt Lake Tribune	2024
Salt Lake Tribune	2024
Telemundo	2024
Telemundo Utah	2024
The Associated Press	2024
The Daily Herald	2024
The Daily Utah Chronicle	2024
The Daily Utah Chronicle	2024
The Daily Utah Chronicle	2024
The Salt Lake Tribune	2024
The Salt Lake Tribune	2024
The Salt Lake Tribune	2024
The Salt Lake Tribune	2024
The Salt Lake Tribune	2024
The Salt Lake Tribune	2024
The Salt Lake Tribune	2024
The Salt Lake Tribune	2024
Utah News Dispatch	2024
Utah News Dispatch	2024
Utah Policy/Deseret News	2024
Davis Journal	2025
Deseret News	2025
Deseret News	2025
Deseret News	2025
FOX 13 News (KSTU-TV)	2025
AP	2025
Gephardt Daily	2025
KSL	2025
KSL	2025
KSL News	2025
KSL TV News	2025

KSL.com	2025
KUTV	2025
KUTV 2 News	2025
KUTV2News	2025
Salt Lake Tribune	2025
The Deseret News	2025
The Salt Lake Tribune	2025
The Salt Lake Tribune	2025
The Salt Lake Tribune	2025
The Salt Lake Tribune	2025
The Salt Lake Tribune	2025
The Salt Lake Tribune	2025
Utah News Dispatch	2025
Utah News Dispatch	2025
Utah News Dispatch	2025
Utah Policy/Deseret News	2025

Name	Supervisor	Status
Freelance reporter	myself	denied
Capitol Press Corps	Self	denied
fnews	myself	denied
Utah Political Watch	Self	denied

EXHIBIT 13

To Plaintiffs' Amended Motion
for Preliminary Injunction

KUTV	12/31/25
KUTV	12/31/25
KUTV 2 News	12/31/25
KUTV 2 News	12/31/25
KUTV 2 News	12/31/25
KUTV 2 News	12/31/25
KUTV 2 News	12/31/25
KUTV 2 NEWS	12/31/25
KUTV CBS2	12/31/25
KUTV Channel 2	12/31/25
KUTV2News	12/31/25
NBC TELEMUNDO UTAF	12/31/25
Nexstar	12/31/25
Salt Lake City Weekly	12/31/25
Salt Lake Tribune	12/31/25
Salt Lake Tribune	12/31/25
Salt Lake Tribune	12/31/25
Salt Lake Tribune	12/31/25
The Associated Press	12/31/25
The Daily Utah Chronicle	12/31/25
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Utah News Dispatch	12/31/25
Utah News Dispatch	12/31/25
Utah Policy	12/31/25
KUER	3/31/25

KUER, NPR Utah	3/31/25
The Deseret News	3/31/25
The Salt Lake Tribune	3/31/25