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

UTAH PHYSICIANS FOR A HEALTHY
ENVIRONMENT; CENTER FOR
BIOLOGICAL DIVERSITY,

Plaintiffs,

v.

UTAH INLAND PORT AUTHORITY, a
political subdivision existing under the laws of
the State of Utah; SPENCER J. COX, in his
official capacity as the Governor of the State
of Utah; J. STUART ADAMS, in his official
capacity as the President of the STATE
SENATE OF UTAH; and MIKE SCHULTZ,
in is official capacity as the SPEAKER OF
THE UTAH HOUSE OF
REPRESENTATIVES,

Defendants.

COMPLAINT

(Tier 2 Discovery)

Case No.: _____

Honorable: _____

Plaintiffs Utah Physicians for a Healthy Environment and the Center for Biological Diversity (together, “Plaintiffs”), by and through their undersigned counsel, hereby complain against the Utah Inland Port Authority, a political subdivision existing under the laws of the State Of Utah; Spencer J. Cox, in his official capacity as the governor of the State Of Utah; J. Stuart Adams, in his official capacity as the President of the State Senate of Utah; and Mike Schultz, in his official capacity as the Speaker of the Utah House of Representatives (collectively, “Defendants”). Plaintiffs allege as follows:

INTRODUCTION

1. This lawsuit seeks to enforce the foundational constitutional requirement of separation of powers between the legislative and executive branches. The Utah Inland Port Authority (“UIPA” or “board”) functions to create massive “dry-land ports,” within Utah’s existing cities and counties, by incentivizing the concentrated development of dry-land logistics businesses—such as freight trains and trucks, warehouses, distribution and manufacturing centers, and other industrial businesses—within geographic boundaries known as “project areas.”¹ UIPA’s authority flows from its organic statute, the Utah Inland Port Authority Act. Utah Code § 11-58 *et seq.* Since 2018, UIPA has authorized the development of 95,511 acres of land across 11 project areas, over half of which are in the Great Salt Lake Basin in and adjacent to 73,000 acres of Great Salt Lake biological wetlands. The project areas directly threaten the natural values and ecosystem health of the Great Salt Lake, the public health and safety of local

¹ Larsen Leia, The Salt Lake Tribune, *Utah Inland Port Authority has a new look, but why does Utah have an inland port in the first place?* (May 20, 2023), available at: <https://www.sltrib.com/news/environment/2023/05/20/utah-inland-port-authority-has/>.

residents, the public's recreational, educational, spiritual, scientific and recreational interests, and nearby homeowners' enjoyment of their homes and home values.

2. By creating, financing, and controlling many aspects of development in these project areas, UIPA exercises core executive functions. But those actions have been directed by an unconstitutionally formed board under the control of the Utah legislature.

3. Specifically, in 2022, the legislature amended UIPA's organic statute by empowering the Utah Senate president and the speaker of the House to appoint and remove a majority of the board's voting members. *See Utah Code § 11-58-302 (2022)*. This change effectively handed over control of executive functions to the legislature, in violation of the separation of powers enshrined in the Utah Constitution. *See Utah Const. art. V, § 1*. Because Utah Code § 11-58-302 usurps the governor's executive authority, both to make appointments and to execute the law through executive agencies (in this case, UIPA), it is unconstitutional.

4. A violation of the separation of powers principle undermines the foundations of our democratic government. The principle protects "the stability and continuance of this form of government and [] secure[s] unto [the people] enduring liberty and freedom from tyranny." *Rampton v. Barlow*, 23 Utah 2d 383, 390 (Utah 1970). It ensures that no one branch of government can achieve the power of a king or tyrant, by functioning as "the control gate harnessing the reservoir of powers of a government which functions at the will of the people." *Timpanogos Planning & Water Mgmt. Agency v. Cent. Utah Water Conservancy Dist.*, 690 P.2d 562, 565 (Utah 1984).

5. The constitutional violation undermines the electorate's ability to hold state officials accountable. UIPA's decision to approve the development of a project area has severe

consequences on local communities, which face an entirely new reality in the wake of concentrated industrial development on lands that are often wetlands, currently used for agriculture, or open space. Families that moved to these typically rural areas, specifically seeking peace and quiet, have had their lives upended by the rush to develop project areas. Once a project area is created, UIPA funnels significant taxpayer resources to the development of the area. But the public cannot hold any official accountable for these actions, because the majority of the UIPA voting board members are appointed by the House speaker and Senate president. Neither the House speaker nor Senate president are accountable to the general public in same way as the governor, who holds the appointment power under the Utah Constitution. *See* Utah Const., art. VII, § 10. Accordingly, neither the speaker, president, nor their appointees have a political incentive to be responsive to the public's concerns about UIPA's actions affecting local communities. Indeed, UIPA has taken and will continue to take actions significantly affecting local communities, important ecosystems, and taxpayer resources without providing adequate opportunities for public participation or considering public input.

6. In sum, Utah Code § 11-58-302 unconstitutionally creates a board of five unelected officials, with the voting majority appointed by the legislature, to carry out executive functions and disempowers the state's electorate from exercising their political power to influence how the law is executed. *See Timpanogos*, 690 P.2d at 565. This, in turn, impinges on the public's ability to ensure for themselves a healthful and aesthetically pleasant environment through checks on agencies, like UIPA, that make decisions affecting the environment, public health and safety, and the quality of life in local communities.

7. Accordingly, and for the reasons described more fully herein, Plaintiffs are entitled to the relief requested, including a declaration that Utah Constitution Article V, section 1 has been violated, injunctive relief enjoining the UIPA board from taking further action until it is constitutionally formed, and invalidation of previous actions the board has taken while unconstitutionally formed, and any other relief the Court deems appropriate.

THE PARTIES

8. Plaintiff Utah Physicians for a Healthy Environment (“UPHE”), founded in 2007, is dedicated to protecting the natural environment on which the public health of Utahns largely depends. UPHE is the largest civic organization of health care professionals in Utah. Its members and supporters include approximately 430 physicians and over 3,500 members of the public who are also advocates for clean air, clean water, and healthy, functioning ecosystems. UPHE members include non-physician health care professionals, biologists, toxicologists, engineers, and air quality specialists. UPHE strives to convince local business and government leaders to prioritize the health of the public and the natural environment in their policy decisions.

9. Since UIPA’s creation, UPHE has opposed projects proposed by the UIPA board that have harmful effects on the surrounding communities and environment and has educated members of the public up and down the Wasatch Front regarding the hidden costs of UIPA development proposals on the quality of life, air, water, and ecosystems in these communities.

10. Plaintiff Center for Biological Diversity (“Center”) is a non-profit membership corporation with offices in Alaska, Arizona, California, Colorado, Florida, Hawaii, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Washington D.C., and Mexico. The Center is actively involved in species and habitat protection issues worldwide, including throughout the

Great Basin, and advocates for increased protections for species and their habitats in Utah, including many of its public lands. A primary focus of the Center's work in Utah is protection of the Great Salt Lake and surrounding wetlands. The Center also works to reduce air pollution and greenhouse gas emissions to protect biological diversity, the environment, and public health. The Center has over 68,000 members, including more than 770 members living in Utah.

11. Since UIPA's inception, the Center has commented on environmentally harmful projects proposed by UIPA and mobilized public opposition to these projects.

12. Plaintiffs are founding members of Stop the Polluting Ports, a coalition of about two dozen nonprofit organizations and hundreds of individual members and volunteers. The coalition started as a grassroots movement in 2018 by Utahans concerned about the significant authority wielded by UIPA and the dramatic impact the board's decisions have on the integrity of Utah's communities. The coalition has striven to educate the public about the significant environmental, economic, and social harm that UIPA's activities have had, and will continue to have, on local communities, generally by concentrating industrial development and logistics infrastructure without necessary protections for the environment, respect for adjacent or otherwise impacted private property, or adequate opportunity for public participation in decision-making around the project areas. The coalition has become increasingly concerned about UIPA's failure to meaningfully address serious environmental concerns that attend their actions and has taken every opportunity to bolster public participation and influence the board's decision-making.

13. Since UIPA's inception, the coalition's work has included persistent advocacy at the state legislature, including advocating for reforms to UIPA's governing statute that would

increase opportunities for public participation and strengthen protections for the environment. The coalition's public education campaign is a critical component of its mission and includes authoring letters to the editor and op-eds in local newspapers, hosting press conferences and public forums, and a robust social media presence. The coalition believes that better decision-making by the board—and, in turn, greater public health and environmental protections—can be achieved by a more transparent and accountable inland port board.

14. Plaintiffs' members include local residents who live within, adjacent to, or nearby UIPA project areas in Tooele, Weber, and Spanish Fork, among other project areas, and individuals who utilize lands within or adjacent to those project areas for economic (e.g., agricultural), educational, scientific, recreational, conservation, spiritual, and/or aesthetic interests. These members' health and well-being, economic and property interests, and recreational, spiritual, and aesthetic enjoyment of their environments are threatened by or have been and continue to be adversely affected by UIPA's decisions to create project areas and by its ongoing efforts to incentivize and facilitate intensive industrial development in the project areas. UIPA's actions have resulted in or will result in increased air, water, and noise pollution, and destruction of sensitive local ecosystems, among other negative impacts harmful to Plaintiffs' interests.

15. Plaintiffs bring this action on behalf of their adversely affected members. Plaintiffs' members could bring this action in their individual capacity. None of the claims asserted or relief requested, however, requires that Plaintiffs' members bring such an action in their individual capacity.

16. Plaintiffs also bring this action on their own behalf. Plaintiff organizations have a sufficient interest in this lawsuit and are capable of raising and explaining the constitutional violations, detailed further below, for the Court. No other party is likely to raise these issues if Plaintiffs do not.

17. Defendant Utah Inland Port Authority is a political subdivision of the state of Utah created by the Utah Inland Port Authority Act, Utah Code § 11-58-101 *et. seq.*

18. Defendant Spencer J. Cox is the Governor of the State of Utah.

19. Defendant J. Stuart Adams is the President of the Utah Senate.

20. Defendant Mike Schultz is the Speaker of the Utah House of Representatives.

JURISDICTION AND VENUE

21. This Court has jurisdiction over this matter pursuant to Utah Constitution Article V, section 1, Utah Code §§ 78A-5-102(1) and 78B-6-401, and Utah R. Civ. P. 57.

22. This Court has personal jurisdiction over the Defendants. *See* Utah R. Civ. P. 17. Defendants are state government entities and officials, sued in their official capacities, who reside and conduct their official business in the State of Utah.

23. Venue properly lies in this Court pursuant to Utah Code § 78B-3a-201.

24. This case is subject to the Tier 2 limits on standard fact discovery. Utah R. Civ. P. 26(c)(3), (5).

LEGAL BACKGROUND

25. Utah Constitution Article V, section 1 separates governmental powers among the three branches (legislative, executive, and judicial) and cabins the exercise of powers to their coordinate branches. This separation of powers principle is fundamental to the structure of

Utah's government, and is a restriction on, as relevant here, legislative activity that improperly impinges on executive powers.

26. In general, “the legislative branch should make the law, the judicial branch should be confined to interpreting it and all other power must of necessity be vested in the executive branch, which is charged with the enforcement of the law, the protection of the state’s property, and the looking after the health, welfare, and peace of the people.” *Rampton*, 23 Utah 2d at 390.

27. The Utah Constitution vests in the governor the power to “appoint all State and district officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for,” art. VII, § 10.

28. Accordingly, the power to appoint and remove officers has been historically treated as executive in nature, and statutes that empower the legislature to make appointments of officers, including within the executive branch, have been found to violate Article V, section 1. *See, e.g., Timpanogos*, 690 P.2d at 565-68 (citing *Rampton*, 23 Utah 2d 383) (additional citation omitted).

29. Further, Article V, section 1 is violated if a statute gives one branch of government “effective control” over the functions of another branch. *Matheson v. Ferry*, 641 P.2d 674, 677 (Utah 1982).

FACTUAL BACKGROUND

The Utah Inland Port Authority

30. UIPA was created under the authority of Article XI, section 8 of the Utah Constitution. UIPA is “an independent, nonprofit, separate body corporate politic,” “a political subdivision of the state,” and “a public corporation.” Utah Code § 11-58-201(2).

31. UIPA was created to facilitate logistical and commercial development within the state of Utah by coordinating and providing monetary incentives for the development of lands known generally as “project areas.” *See id.* at §§ 11-58-201(3), 11-58-102(16), 11-58-603. Logistical and commercial development that may take place in a project area can include freight rail-lines, trucking, warehouses, data centers, manufacturing facilities, and more, as determined by UIPA’s goals for a particular project area and decisions to award monetary incentives to individual businesses and developers for the project area’s development.

32. In 2021, UIPA’s board consisted of eleven members and included local, elected officials from Salt Lake County, Salt Lake City, West Valley City, and the Magna Metro Township. *Id.* at § 11-58-302(2) (2021).

33. In 2022, the Legislature amended UIPA’s governing statute to, among other things, decrease the total number of voting board members from eleven to five members. H.B. 443 Utah Inland Port Authority Amendments (2022); codified, in relevant part, at Utah Code § 11-58-302(2).

34. On March 21, 2022, Governor Cox signed the 2022 amendments into law and they immediately took effect.

35. The 2022 amendments entirely removed or stripped the voting power of the local, elected officials who were previously voting board members. H.B. 443 Utah Inland Port Authority Amendments (2022); *see* Utah Code § 11-58-302(2).²

² The 2022 statute provides for three nonvoting members of the board. *Id.* at § 11-58-302(3)(a).

36. Since 2022, UIPA’s statute has provided for only five voting board members. Two voting board members are appointed by the governor, one is appointed by the president of the Senate, one is appointed by the speaker of the House of Representatives, and the fifth and final voting board member is appointed jointly by the president of the Senate and speaker of the House of Representatives. Utah Code § 11-58-302(2). Each board member serves “at the pleasure of” the person who appointed her, and “may be removed and replaced at any time, with or without cause” by the person who appointed her. *Id.* at § 11-58-302(6).

37. Unlike prior iterations of UIPA’s board, the 2022 amendments gave members of the state legislature authority to both appoint and remove *a majority* of voting board members. *Compare id.* at § 11-58-302(2) (2021), *with* § 11-58-302(2) (2022) (emphasis added).

38. UIPA’s board is charged with the responsibility of executing the law, as enacted by the legislature.

39. In carrying out its statutory obligations, UIPA is authorized to create “project areas” within the boundaries of any Utah city or county, provided the relevant municipality consents. *Id.* at § 11-58-501(2)(a).

40. Prior to creating a project area, the UIPA board must make certain factual findings, including “(i) there is a need to effectuate a public purpose; (ii) there is a public benefit to the proposed development project; (iii) it is economically sound and feasible to adopt and carry out the project area plan; and (iv) that the project carrying out the project area plan will promote” a list of “goals and objectives” found in § 11-58-203(1). *Id.* at § 11-58-501(3)(c)(iv).

41. The statute’s goals and objectives require UIPA to demonstrate sensitivity to the health of local communities and to protect the environment from degradation. For example,

UIPA's "objectives" include "improv[ing] air quality" and "encourag[ing] the development and use of cost-efficient clean energy in project areas." *Id.* at § 11-58-203(d), (q).

42. Once a project area is created, UIPA obtains significant authority within the geographic boundaries of the project area, such as the ability to receive and spend taxpayer money and to incentivize and direct industrial development activities.

43. For example, UIPA has the "exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to . . . plan and facilitate the development of inland port uses," "manage any inland port," and establish foreign trade zones. *Id.* at § 11-58-202(1)(b)-(d).

44. UIPA can buy, sell or lease real property, enter into contracts, receive and spend taxes, hire employees, control public infrastructure development, and sue and be sued. *Id.* at §§ 11-58-202(2), 602, 603.

45. Indeed, UIPA collects 75% of the annual increase in property tax revenue that is generated within a project area for up to 40 years. *Id.* at §§ 11-58-600.5(1), 11-58-601(4).

46. UIPA then uses the property tax differential to "provide funding for the development of land in the project area, including the development of public infrastructure and improvements." *Id.* at § 11-58-202(2)(b).

47. One way that UIPA provides funding generated from the tax differential is through "business recruitment incentives," which can include payments to individual persons to incentivize development if the board determines they meet certain criteria. *Id.* at § 11-58-603.

48. As the non-exhaustive list of activities in the above paragraphs demonstrates, UIPA exercises essential, core, and inherent executive functions. The amendments to UIPA's board to make the majority of its voting members appointed by the legislature, entirely at the discretion of the Senate president and House speaker, improperly usurp the executive appointments power and confer legislative control over an entity that exercises traditional executive functions, in violation of the Utah Constitution's separation of powers.

Community and Environmental Impacts of UIPA's Project Areas

49. Since 2022, UIPA's unconstitutionally formed board has created ten project areas, mostly concentrated along the Wasatch Front. Current and future development of these project areas jeopardizes sensitive ecosystems, public health and safety, public recreational and aesthetic enjoyment, and the property values and quality of life for local homeowners.

50. Plaintiffs' members live and recreate in the communities where UIPA has created project areas. Plaintiffs' members regularly bird watch, explore and hike, and enjoy clean air, clean water, and the peace and quiet of the Great Salt Lake and its wetlands, including lands adjacent to or overlapping with project areas. These members' recreational, aesthetic, spiritual, educational, and scientific interests and their health are threatened by or are currently being, and will continue to be, harmed by the project areas and the board's ongoing efforts to incentivize concentrated industrial development in project areas that consist primarily of wetlands and lands used for agricultural purposes. Industrial development in these areas results in both direct and indirect harms to members' interests by, for example, creating increased noise, light, truck and rail traffic, visual blight, and air pollution. Plaintiffs' members suffer or are concerned that they will suffer from a reduced quality of life, enjoyment of life or spiritual and aesthetic enjoyment,

from the increased pollution levels at their homes and places of recreation. The additional pollution from these developments and the industry and traffic they bring has forced Plaintiffs' members to avoid activities, such as walking, working outside, using their yards and properties, viewing wildlife, and peacefully enjoying the serene and untouched landscapes and views that rural, undeveloped land provides, and/or threatens Plaintiffs' members' enjoyment of these activities. The project areas that UIPA, through its board, have approved and facilitated have caused these adverse effects and/or threatens to cause these adverse effects.

51. The home values and quality of life of Plaintiffs' members living within or near project areas are and will continue to be similarly adversely impacted by increased noise, light, traffic, visual blight, and air pollution taking place within project areas. Plaintiffs' members include ranchers and agricultural landowners who are concerned about the direct and indirect impacts of impending industrial development on their private property and businesses. Other members who live in the communities where project areas are located currently experience the impacts of UIPA's actions authorizing project areas and industrial development within project areas on a daily basis.

52. For example, UPHE members Macayla Anderson and Chris Eddington's homes are entirely surrounded by a project area in Tooele Valley. Ms. Anderson and Mr. Eddington were not notified and would not have become aware of UIPA's intention to create a project area surrounding their homes but for a friend who alerted them to the proposed project area shortly before the UIPA board voted on the proposal.

53. Neither Ms. Anderson nor Mr. Eddington were permitted to make public comments before the board voted to create the project area, although they both attended the

meeting.³ And yet, their families are now mired in daily impacts from the construction activities proliferating just outside their backdoors. The current construction consists mainly of road construction and well drilling, but will soon include extensive warehouses and other industrial and commercial facilities. The construction has already resulted in significant amounts of dust blowing into Ms. Anderson and Mr. Eddington's properties. As a real estate agent, Ms. Anderson is acutely aware of the negative impact on her home's value—which was intended to be a starter home—and her family's decreasing ability to sell their home in an area of rapidly growing industrial development. As UIPA continues to incentivize and concentrate industrial development in the Tooele Valley project areas, the harms to Ms. Anderson and Mr. Eddington will multiply.

54. The Great Salt Lake ecosystem is similarly threatened and adversely impacted by UIPA project areas. Approximately 73,000 acres of wetlands are within or adjacent to the geographic boundaries of project areas created in the last two years by the current board, putting these critical and unique ecosystems at risk of irretrievable loss.

55. For example, the West Weber Inland Port is situated on nearly 9,000 acres of wetlands directly adjacent to the Great Salt Lake, in between the Harold S. Crane and Ogden Bay Waterfowl Management Areas. The Tooele Valley has two project areas, which together impact nearly 12,000 acres of high functioning biological wetlands adjacent to the Great Salt Lake.

³ UIPA's internal rules governing public participation are woefully inadequate and make no specific accommodation for public comment by private property owners who will be directly impacted. *See* Utah Inland Port Authority, Open & Public Meetings at 9-10 (Jan. 2019), available at <https://inlandportauthority.utah.gov/wp-content/uploads/BP-01-Open-Public-Meetings-Policy-v2.1.pdf>.

56. The board's plans to concentrate industrial development in these project areas creates a significant risk that wetlands critical to the proper functioning of the Great Salt Lake ecosystem will be directly filled in, drained, or otherwise destroyed. In addition, concentrating industrial development and logistics hubs on and adjacent to these sensitive ecosystems will have many indirect impacts. For example, noise, light, and air pollution from newly developed rail lines, concentrated truck traffic and other industrial development, and increased runoff from formerly porous surfaces that have been hardened with concrete and asphalt will negatively impact the wetlands and the animals that inhabit them. Plaintiffs' members' interests in recreational, spiritual, educational, and scientific, and aesthetic enjoyment in the Great Salt Lake wetlands will be further harmed by the negative development impacts from the project areas situated on those wetlands.

Plaintiffs' Attempts to Comment on and Influence UIPA Decision-Making

57. Since UIPA's creation in 2018, Plaintiffs have engaged with the board's decision-making processes at every available opportunity—to the extent that UIPA allows public participation. Plaintiffs have also advocated via testimony, letters, press conferences, and other means to influence and improve the legislative proposals that empower the board.

58. Plaintiffs have participated in public meetings, to the extent UIPA has allowed them, to provide public comments, and have met with individual UIPA board members, as well as members of the Utah legislature, to discuss their concerns.

59. Additionally, Plaintiffs are spearheading the grassroots efforts to increase public knowledge of and involvement in UIPA's decisions, particularly in the local communities impacted by UIPA's project areas.

60. Plaintiffs have grown increasingly concerned about the unchecked power of the UIPA board to concentrate industrial development activities near overburdened communities and ecologically sensitive environments, and the board's utter failure to consider, respond to, and incorporate into its decisions the public's input and comments requesting mitigation measures that would reduce the significant environmental impacts of its decisions.

FIRST CAUSE OF ACTION
**(Declaratory Judgment and Injunctive Relief -
Utah Code § 11-58-302 violates Utah Const. art. V, § 1 by giving the legislature effective
control of executive functions)**

61. Plaintiffs hereby reallege and incorporate the preceding allegations as if fully set forth herein.

62. Article V, section 1 of the Utah Constitution provides for the separation of powers by proclaiming:

The powers of the government of the State of Utah shall be divided into three distinct departments, the Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

63. The first clause of Article V, section 1 sets out the general principle of separation of powers and is violated when "there is an attempt by one branch to dominate another in that other's proper sphere of action," even if the power in question is shared. *In re Young*, 1999 UT 6, ¶ 23 (Utah 1999) (citing *Matheson v. Ferry*, 641 P.2d 674, 678 (Utah 1982)).

64. By empowering the president of the Senate and speaker of the House to appoint and remove a majority of UIPA's voting board members, Utah Code § 11-58-302 gives the

legislature, particularly only *two* members of the legislature, effective control of the executive functions the UIPA board performs. This violates Utah Const. art. V §1.

65. Pursuant to Utah Code § 78B-6-401 *et seq.* and Rule 57 of the Utah Rules of Civil Procedure, Plaintiffs are entitled to judgment declaring that the relevant provisions of Utah Code § 11-58-302(2)(b)-(d) and § 11-58-302(6) as it pertains to board members appointed under §§ 11-58-302(2)(b)-(d) violate Utah Constitution Article V, section 1 and that all past actions of the board as currently constituted are void, and enjoining further operation of the UIPA board as currently constituted.

66. A favorable ruling by this Court granting Plaintiffs' requested relief will redress the harms to Plaintiffs and their members.

Second Cause of Action
(Declaratory Judgment and Injunctive Relief -
Utah Code § 11-58-302 violates Utah Const. art. V, § 1 by usurping the governor's
authority to make appointments in the executive branch)

67. Plaintiffs hereby reallege and incorporate the preceding allegations as if fully set forth herein.

68. The second clause of Article V, section 1 prohibits one branch of government exercising the core functions of another branch. *See In re Young*, 1999 UT at ¶¶ 14, 22.

69. Utah Code § 11-58-302 violates the separation of powers in Article V, section 1 by empowering the president of the Senate and speaker of the House, in their sole discretion, to directly appoint and remove State officers to a board that performs executive functions, thereby usurping the governor's constitutionally vested appointment power contained in Utah Constitution Article VII, section 10.

70. Plaintiffs are entitled to judgment pursuant to Utah Code § 78B-6-401 *et seq.* and Rule 57 of the Utah Rules of Civil Procedure declaring that these provisions of Utah Code § 11-58-302(2)(b)-(d) and § 11-58-302(6) as it pertains to board members appointed under §§ 11-58-302(2)(b)-(d) violate Article V, section 1 of the Utah Constitution and that all past actions of the board as currently constituted are void, and enjoining further operation of the UIPA board as currently constituted under Utah Code § 11-58-302.

71. A favorable ruling by this Court granting Plaintiffs' requested relief will redress the harms to Plaintiffs and their members.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against Defendants as follows:

72. A declaration that Utah Code § 11-58-302 exceeds the legislature's authority and violates Article V, section 1 of the Utah Constitution;

73. Permanent injunctive relief as the Court deems necessary to prohibit Defendants from engaging in any activity in violation of Article V, section 1 of the Utah Constitution;

74. A declaration that all past actions taken by the board while organized in its current, unconstitutional form are void;

75. Permanent injunctive relief prohibiting the board from taking any action in furtherance of past, void actions;

76. Retention of jurisdiction of this action to render any further orders that the Court may deem appropriate;

77. An award of attorneys' fees and costs; and

78. Such other relief as the Court deems just and equitable.

DATED this day, September 19, 2024.

/s/ Michelle White
Michelle White

/s/ Michelle Fein
Michelle Fein

Attorneys for Plaintiffs