
**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' REPLY IN SUPPORT
OF AMENDED MOTION FOR
PRELIMINARY INJUNCTION (DKT.
37)**

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

Judge Robert J. Shelby

Magistrate Judge Cecilia M. Romero

Exhibit A

From: [Tyler Green](#)
To: [Charles Miller](#)
Cc: [Dan Vitagliano](#); [Courtney Corbello](#); [Robert Harrington](#); cgilbert@le.utah.gov; vashby@le.utah.gov; [Michelle Hansen](#); [Julius Kairey](#); [Tyler Green](#)
Subject: Re: UPW v Musselman - Follow up to Scheduling Conference
Date: Thursday, February 6, 2025 11:44:33 AM

Thanks, Chip. Yesterday Judge Shelby denied Plaintiffs' TRO motion. He did so for two independent reasons. He first found that Plaintiffs were not likely to succeed on the merits of even one claim. As a second, independent basis for denying Plaintiffs' TRO motion, he found that Plaintiffs were not likely to suffer irreparable harm without a press credential. In the course of oral argument and his lengthy oral ruling denying the TRO motion, he also hinted at other foundational, fatal legal flaws with Plaintiffs' claims and theories. The suggestion that Defendants should still give Plaintiffs all the relief they seek cannot be reconciled with any of what happened yesterday or Judge Shelby's order.

We remain willing and hopeful that we can work this out without Court involvement. But if you choose to proceed in a way that results in Defendants' having to simultaneously (1) oppose a renewed PI motion, (2) brief a motion to dismiss, and (3) try to schedule and conduct expedited discovery while the legislative session is still happening, we will need to get the Court involved to address the schedule.

Thanks,
Tyler

From: Charles Miller <cmiller@ifs.org>
Date: Thursday, February 6, 2025 at 10:18 AM
To: Tyler Green <tyler@consovoymccarthy.com>
Cc: Dan Vitagliano <dvitagliano@consovoymccarthy.com>, Courtney Corbello <ccorbello@ifs.org>, Robert Harrington <rharrington@kba.law>, cgilbert@le.utah.gov <cgilbert@le.utah.gov>, vashby@le.utah.gov <vashby@le.utah.gov>, Michelle Hansen <mhansen@kba.law>, Julius Kairey <julius@consovoymccarthy.com>, Tyler Green <tyler@consovoymccarthy.com>
Subject: Re: UPW v Musselman - Follow up to Scheduling Conference

Tyler,

I do not understand simultaneous to mean locked step. It just means that they will both be finalized before hearing. If you choose to file a MTD, it will have to be expedited if you want it heard at the same time. As the judge said this is an important constitutional right, each day the right is deprived is significant.

The only way to slow the train is to agree for him to be admitted for the rest of this session under standard rules (meaning credentials are subject to revocation under same terms as everyone else) without acknowledging that he actually qualifies or waiving any defenses.

If that happens then there can be more breathing room on the motions. If not, we will be looking for a timeline that provides for a hearing the last week of February.

Chip

Sent from my iPhone

On Feb 6, 2025, at 10:02 AM, Tyler Green <tyler@consovoymccarthy.com> wrote:

Thanks, Chip. We talked to the court reporter after the hearing yesterday and asked him to get on it. He said he's finishing up a trial transcript that's due next week but would call me when he had a better sense of when it would be done. But I see from the docket entry that you've ordered it, and we're happy to split the cost with you.

On an unrelated note – we also wanted to flag one thing for your consideration as you're thinking about what you plan to do next. If I understood you correctly after the hearing, you said you wouldn't file an amended complaint without filing a renewed PI motion at the same time. You might also recall that during the hearing, I raised with Judge Shelby that we'd expect to file a motion to dismiss any amended complaint, and expressed some concern about the logistics/timing of having to prepare that MTD at the same time we'd need to be working on opposing a PI motion. And I think I heard Judge Shelby to say that he anticipated the parties would brief those two things in parallel – that y'all would first file an amended complaint, then we'd be able to brief an MTD at the same time as you were preparing a PI motion, then we'd do simultaneous opposition briefs, then simultaneous reply briefs, then we'd have a hearing on both motions.

It's possible I mis-heard or misunderstood what the Judge said. But if I understood him correctly, I think your simultaneously filing an amended complaint and a renewed PI motion would put us in the briefing bind I flagged for him. That would require us to simultaneously brief a MTD and prepare an opposition to the PI motion. Then you'd be working simultaneously on an opposition to our MTD and a reply brief in support of any renewed PI motion.

I don't expect you to have already nailed down your next steps. But I just wanted to reiterate for you our position that we should not have to brief two motions (an MTD and an opposition to any renewed PI) at the same time and on an expedited basis. Hopefully we can work through this as we're planning the schedule and avoid any need to get the Court involved to address it.

Thank you,
Tyler

From: Charles Miller <cmiller@ifs.org>
Date: Thursday, February 6, 2025 at 9:39 AM
To: Tyler Green <tyler@consovoymccarthy.com>
Cc: Dan Vitagliano <dvitagliano@consovoymccarthy.com>, Courtney Corbello <ccorbello@ifs.org>, Robert Harrington <rharrington@kba.law>, cgilbert@le.utah.gov <cgilbert@le.utah.gov>, vashby@le.utah.gov <vashby@le.utah.gov>, Michelle Hansen <mhansen@kba.law>, Julius Kairey <julius@consovoymccarthy.com>
Subject: Re: UPW v Musselman - Follow up to Scheduling Conference

Tyler,

We are ordering the transcript from yesterday. Do you want it too? We can go halvesies.

Chip

Sent from my iPhone