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IN THE DISTRICT COURT OF UTAH,
FOURTH JUDICIAL DISTRICT, UTAH COUNTY, PROVO DEPARTMENT

JANELLE M. MARTIN, DEVIN J.
MARTIN, KATHRYN KIST, MINDY
KROPF, SUZANNA L. LELAND,
KATHERINE M. JOHNSON, SIRI D.
DAVIDSON,

Plaintiffs,

vs.

GARY R. HERBERT, in his official
capacity, the UTAH DEPARTMENT
OF HEALTH, RICHARD G.
SAUNDERS, in his official capacity, and
the STATE OF UTAH,

Defendants.

ANSWER

Case No. 200401277

Judge: Hon. Lynn Davis

Defendants Governor Gary R. Herbert, the Utah Department of Health, Richard G. Saunders, and the State of Utah (collectively, “Defendants”) submit their Answer to Plaintiffs’ Complaint and assert their defenses as follows:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state claims on which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants responds to the numbered paragraphs of Plaintiffs’ Complaint as follows:

1. The allegations contained in paragraph 1 of Plaintiffs’ Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

2. The allegations contained in the first sentence of paragraph 2 of Plaintiffs’ Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law. Defendants deny the remaining allegations contained in paragraph 2 of Plaintiffs’ Complaint

3. In response to the allegations contained in paragraph 3 of Plaintiffs’ Complaint, Defendants deny Plaintiffs are entitled to the relief they seek in this lawsuit.

4. Defendants deny the allegations contained in paragraph 4 of Plaintiffs’ Complaint.

5. In response to the allegations contained in paragraph 5 of Plaintiffs’ Complaint, Defendants deny Plaintiffs are entitled to the relief they seek in this lawsuit.

6. In response to the allegations contained in paragraph 6 of Plaintiffs' Complaint, Defendants admit Plaintiffs seek a court order finding Defendants have violated their statutory and constitutional rights, but deny Plaintiffs are entitled to the relief they seek in this lawsuit.

7. In response to the allegations contained in paragraph 7 of Plaintiffs' Complaint, Defendants deny Plaintiffs are entitled to the relief they seek in this lawsuit.

8. Defendants deny the allegations contained in paragraph 8 of Plaintiffs' Complaint.

9. In response to the allegations contained in paragraph 9 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

10. The allegations contained in paragraph 10 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations and, therefore, deny the same.

11. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of Plaintiffs' Complaint and, therefore, deny the same.

12. Defendants deny the allegations contained in paragraph 12 of Plaintiffs' Complaint.

13. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of Plaintiffs' Complaint and, therefore, deny the same.

14. Defendants deny the allegations contained in paragraph 14 of Plaintiffs' Complaint.

15. Defendants deny the allegations contained in paragraph 15 of Plaintiffs' Complaint.
16. Defendants deny the allegations contained in paragraph 16 of Plaintiffs' Complaint.
17. Defendants deny the allegations contained in paragraph 17 of Plaintiffs' Complaint.
18. Defendants deny the allegations contained in paragraph 18 of Plaintiffs' Complaint.
19. Defendants deny the allegations contained in paragraph 19 of Plaintiffs' Complaint.
20. Defendants deny the allegations contained in paragraph 20 of Plaintiffs' Complaint.
21. Defendants deny the allegations contained in paragraph 21 of Plaintiffs' Complaint.
22. Defendants deny the allegations contained in paragraph 22 of Plaintiffs' Complaint.
23. The allegations contained in paragraph 23 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.
24. The allegations contained in paragraph 24 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.
25. The allegations contained in paragraph 25 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

26. The allegations contained in paragraph 26 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants deny Plaintiffs are entitled to the relief they seek in this lawsuit.

27. The allegations contained in paragraph 27 of Plaintiffs' Complaint are not directed at these Defendants, and thus no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

28. The allegations contained in paragraph 28 of Plaintiffs' Complaint are not directed at these Defendants, and thus no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

29. The allegations contained in paragraph 29 of Plaintiffs' Complaint are not directed at these Defendants, and thus no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

30. The allegations contained in paragraph 30 of Plaintiffs' Complaint are not directed at these Defendants, and thus no response is necessary.

31. The allegations contained in paragraph 31 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

32. The allegations contained in paragraph 32 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah

Constitution and all other duties imposed upon them by law.

33. The allegations contained in paragraph 33 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

34. The allegations contained in paragraph 34 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

35. The allegations contained in paragraph 35 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

36. The allegations contained in paragraph 36 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

37. The allegations contained in paragraph 37 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

38. In response to the allegations contained in the first two sentences of paragraph 38 of Plaintiffs' Complaint, Defendants admit the Executive Documents issued by Governor Herbert can be found at <https://rules.utah.gov/executive-documents>. Defendants further admit that the content of these Executive Documents speak for themselves. The allegations contained in the last sentence of paragraph 38 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants deny these allegations.

39. In response to the allegations contained in the first two sentences of paragraph 39 of Plaintiffs' Complaint, Defendants admit the Executive Orders issued by Governor Herbert in response to COVID-19 speak for themselves.

40. Defendants admit the allegations contained in paragraph 40 of Plaintiffs' Complaint.

41. In response to the allegations contained in paragraph 41 of Plaintiffs' Complaint, the content of HJR 24 speaks for itself.

42. In response to the allegations contained in paragraph 42 of Plaintiffs' Complaint, the content of HJR 504 speaks for itself.

43. In response to the allegations contained in paragraph 43 of Plaintiffs' Complaint, the content of Executive Orders Nos. 2020-34, 2020-35, 2020-36, 2020-41, 2020-45 and 2020-48 speaks for themselves.

44. Defendants admit the allegations contained in paragraph 44 of Plaintiffs' Complaint.

45. The allegations contained in paragraph 45 of Plaintiffs' Complaint are not directed at these Defendants, and thus no response is necessary. To the extent a response is

deemed necessary, Defendants deny Plaintiffs have accurately quoted the Salt Lake Tribune article they cite as authority for House Speaker Brad Wilson’s comments. Defendants further note the article upon which Plaintiffs rely affirmatively states: “Gov. Gary Herbert still has the authority to issue a new state of emergency before the current one expires Thursday at midnight, and [Senator Jake] Anderegg said he believes the governor will have ‘compelling reason’ to do so.” Similarly, House Minority Leader Rep. Brian King, is purported to have said “that he was supportive of the decision to leave the emergency declaration to the governor. ‘The chief executive is in a much better position, on a day-to-day basis, to appropriately adapt to facts on the ground than 104 legislators.’” <https://www.sltrib.com/news/politics/2020/08/19/utahs-lawmakers-wont/>

46. The allegations contained in paragraph 46 of Plaintiffs’ Complaint are not directed at these Defendants, and thus no response is necessary. To the extent a response is deemed necessary, the Salt Lake Tribune article they cite as authority for Senator Anderegg comments speaks for itself. Defendants further note the newspaper article upon which Plaintiffs rely affirmatively states: “Gov. Gary Herbert still has the authority to issue a new state of emergency before the current one expires Thursday at midnight, and [Senator] Anderegg said he believes the governor will have ‘compelling reason’ to do so.” Similarly, House Minority Leader Rep. Brian King, is purported to have said “that he was supportive of the decision to leave the emergency declaration to the governor. ‘The chief executive is in a much better position, on a day-to-day basis, to appropriately adapt to facts on the ground than 104 legislators.’” *Id.*

47. In response to the allegations contained in paragraph 47 of Plaintiffs' Complaint, Defendants admit Governor Herbert issued Executive Order No. 2020-51 on August 20, 2020. The content of this Executive Order speaks for itself. Defendants deny the remaining allegations contained in paragraph 47 of Plaintiffs' Complaint.

48. In response to the allegations contained in paragraph 48 of Plaintiffs' Complaint, the content of Executive Order No. 2020-51 speaks for itself.

49. The allegations contained in paragraph 49 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants deny the allegations contained in paragraph 49 of Plaintiffs' Complaint.

50. The allegations contained in paragraph 50 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary.

51. The allegations contained in paragraph 51 of Plaintiffs' Complaint are not directed at these Defendants and constitute legal conclusions to which no response is necessary.

52. The allegations contained in paragraph 52 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

53. The allegations contained in paragraph 53 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

54. The allegations contained in paragraph 54 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

55. The allegations contained in paragraph 55 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

56. In response to the allegations contained in paragraph 56 of Plaintiffs' Complaint, Defendants admit on August 24, 2020 the Governor's office posted information explaining why Utah remains in a state of emergency. The full content of this post can be found at <https://governor.utah.gov/2020/08/24/why-utah-remains-in-a-state-of-emergency/>.

57. The allegations contained in paragraph 57 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants deny the allegations contained in paragraph 57 of Plaintiffs' Complaint.

58. In response to the allegations contained in paragraph 58 of Plaintiffs' Complaint, Defendants admit on August 24, 2020 the Governor's office posted information explaining why Utah remains in a state of emergency. The full content of this post can be found at <https://governor.utah.gov/2020/08/24/why-utah-remains-in-a-state-of-emergency/>.

59. The allegations contained in paragraph 59 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the March 6 and August 20 Executive Orders speak for themselves.

60. In response to the allegations contained in paragraph 60 of Plaintiffs' Complaint, Defendants state the content of the March 6 and August 20 Executive Orders speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue the August 20 Executive Order.

61. In response to the allegations contained in paragraph 61 of Plaintiffs' Complaint, Defendants state the content of the March 6 and August 20 Executive Orders speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue the August 20 Executive Order.

62. The allegations contained in paragraph 62 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants deny the allegations contained in paragraph 62 of Plaintiffs' Complaint.

63. Defendants deny the allegations contained in paragraph 63 of Plaintiffs' Complaint.

64. In response to the allegations contained in paragraph 64 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

65. Defendants deny the allegations contained in paragraph 65 of Plaintiffs' Complaint.

66. In response to the allegations contained in paragraph 66 of Plaintiffs' Complaint, Defendants state the content of Executive Order 2020-51 speaks for itself.

67. In response to the allegations contained in paragraph 67 of Plaintiffs' Complaint, Defendants state the content of Executive Order 2020-51 speaks for itself.

68. The allegations contained in paragraph 68 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

69. The allegations contained in paragraph 69 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

70. The allegations contained in paragraph 70 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

71. The allegations contained in paragraph 71 of Plaintiffs' Complaint are not directed at these answering Defendants, and thus no response is necessary. To the extent a response is deemed necessary, the information related to the dangers of Covid-19 provided by the CDC speaks for itself. Defendants further state that, as of October 19, 2020, there have been 95,562 confirmed cases of Covid-19 in Utah, resulting in 4,688 hospitalizations and tragically, 546 deaths. *See* <https://coronavirus.utah.gov/case-counts/> (accessed October 19, 2020).

72. In response to the allegations contained in paragraph 72 of Plaintiffs' Complaint, the information posted by the Utah Department of Health speaks for itself. *See* <https://coronavirus.utah.gov/case-counts/>.

73. The allegations contained in paragraph 73 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

74. The allegations contained in paragraph 74 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

75. The allegations contained in paragraph 75 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

76. In response to the allegations contained in paragraph 76 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

77. The allegations contained in paragraph 77 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

78. The allegations contained in paragraph 78 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

79. The allegations contained in paragraph 79 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

80. The allegations contained in paragraph 80 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

81. In response to the allegations contained in paragraph 81 of Plaintiffs' Complaint, Defendants agree with Plaintiffs' assumption "that Gov. Herbert's August 20 Executive Order 2020-51 was valid," and deny the remaining allegations contained in paragraph 81 of Plaintiffs' Complaint.

82. In response to the allegations contained in paragraph 82 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

83. In response to the allegations contained in paragraph 83 of Plaintiffs' Complaint, Defendants state the content of the August 20, 2020 Executive Order 2020-56 and August 8, 2020 Executive Order 2020-48 speak for themselves.

84. The allegations contained in paragraph 84 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves.

85. In response to the allegations contained in paragraph 85 of Plaintiffs' Complaint, Defendants state the content of the Executive Orders issued by the Governor speak for themselves.

86. The allegations contained in paragraph 86 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of Executive Order 2020-51 speaks for itself.

87. The allegations contained in paragraph 87 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

88. The allegations contained in paragraph 88 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

89. The allegations contained in paragraph 89 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with the Utah Constitution and all other duties imposed upon them by law.

90. In response to the allegations contained in paragraph 90 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

91. The allegations contained in paragraph 91 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves.

92. The allegations contained in paragraph 92 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all other duties imposed upon them by law.

93. The allegations contained in paragraph 93 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue Executive Order 2020-56.

94. The allegations contained in paragraph 94 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue Executive Order 2020-56.

95. The allegations contained in paragraph 95 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue Executive Order 2020-56.

96. The allegations contained in paragraph 96 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue Executive Order 2020-56.

97. The allegations contained in paragraph 97 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue Executive Order 2020-56.

98. The allegations contained in paragraph 98 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue Executive Order 2020-56.

99. The allegations contained in paragraph 99 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for

themselves. Defendants deny any implication that the Governor lacked the authority to issue Executive Order 2020-56.

100. The allegations contained in paragraph 100 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants deny the allegations contained in paragraph 100 of Plaintiffs' Complaint.

101. In response to the allegations contained in paragraph 101 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

102. In response to the allegations contained in paragraph 102 of Plaintiffs' Complaint, Defendants state the content of the Executive Order 2020-57, issued by the Governor, speaks for itself.

103. The allegations contained in paragraph 103 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants deny the allegations contained in paragraph 103 of Plaintiffs' Complaint.

104. The allegations contained in paragraph 104 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves.

105. The allegations contained in paragraph 105 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny any implication that the Governor lacked the authority to issue Executive Order 2020-57.

106. The allegations contained in paragraph 106 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny the Governor lacked the authority to issue Executive Orders 2020-51 and 2020-57.

107. The allegations contained in paragraph 107 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants state the content of the Executive Orders issued by the Governor speak for themselves. Defendants deny the Governor lacked the authority to issue Executive Orders 2020-50 and 2020-57.

108. In response to the allegations contained in paragraph 108 of Plaintiffs' Complaint, Defendants state the content of the Executive Order 2020-57, issued by the Governor, speaks for itself and note that Plaintiffs have only set forth a portion of the order.

109. The allegations contained in paragraph 109 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

110. The allegations contained in paragraph 110 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

111. Defendants deny the allegations contained in paragraph 111 of Plaintiffs' Complaint.

112. In response to the allegations contained in paragraph 112 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

113. Defendants deny the allegations contained in paragraph 113 of Plaintiffs' Complaint.

114. The allegations contained in paragraph 114 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

115. The allegations contained in paragraph 115 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

116. The allegations contained in paragraph 116 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

117. The allegations contained in paragraph 117 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

118. Defendants deny the allegations contained in paragraph 118 of Plaintiffs' Complaint.

119. Defendants deny the allegations contained in paragraph 119 of Plaintiffs' Complaint.

120. The allegations contained in paragraph 120 of Plaintiffs' Complaint are not directed at these Defendants, and thus no response is necessary.

121. The allegations contained in paragraph 121 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

122. The allegations contained in paragraph 122 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

123. In response to the allegations contained in paragraph 123 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

124. Defendants deny the allegations contained in the first two sentences of paragraph 124 of Plaintiffs' Complaint. The allegations contained in the last sentence of paragraph 124 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

125. The allegations contained in paragraph 125 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

126. The allegations contained in paragraph 126 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

127. The allegations contained in paragraph 127 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

128. The allegations contained in paragraph 128 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

129. Defendants deny the allegations contained in paragraph 129 of Plaintiffs' Complaint.

130. The allegations contained in paragraph 130 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

131. The allegations contained in paragraph 131 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

132. The allegations contained in paragraph 132 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

133. Defendants deny the allegations contained in paragraph 133 of Plaintiffs' Complaint.

134. In response to the allegations contained in paragraph 134 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

135. Defendants deny the allegations contained in paragraph 135 of Plaintiffs' Complaint.

136. The allegations contained in paragraph 136 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

137. The allegations contained in paragraph 137 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

138. The allegations contained in paragraph 138 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

139. The allegations contained in paragraph 139 of Plaintiffs' Complaint are not directed at these Defendants and, thus, no response is necessary. To the extent a response is

deemed necessary, Defendants have complied with all duties imposed upon them by law.

140. The allegations contained in paragraph 140 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

141. The allegations contained in paragraph 141 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

142. The allegations contained in paragraph 142 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

143. The allegations contained in paragraph 143 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

144. The allegations contained in paragraph 144 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

145. The allegations contained in paragraph 145 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

146. The allegations contained in paragraph 146 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

147. The allegations contained in paragraph 147 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed

necessary, Defendants have complied with all duties imposed upon them by law and affirmatively state that Covid-19 presents a significant health risk to the citizens of the State of Utah.

148. In response to the allegations contained in paragraph 148 of Plaintiffs' Complaint, Defendants state the CDC's data regarding deaths caused by COVID-19 speaks for itself.

149. In response to the allegations contained in paragraph 149 of Plaintiffs' Complaint, the data maintained by the Utah Department of Health regarding mortality rates associated with COVID-19 speaks for itself.

150. Defendants deny the allegations contained in paragraph 150 of Plaintiffs' Complaint.

151. In response to the allegations contained in paragraph 151 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

152. Defendants deny the allegations contained in paragraph 152 of Plaintiffs' Complaint.

153. In response to the allegations contained in paragraph 153 of Plaintiffs' Complaint, Defendants deny their actions were "unlawful," and affirmatively state that they have complied with all duties imposed upon them by law.

154. The allegations contained in paragraph 154 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

155. The allegations contained in paragraph 155 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

156. The allegations contained in paragraph 156 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary.

157. The allegations contained in paragraph 157 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

158. The allegations contained in paragraph 158 of Plaintiffs' Complaint are not directed at these Defendants, and thus no response is necessary.

159. The allegations contained in paragraph 159 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

160. In response to the allegations contained in paragraph 160 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

161. The allegations contained in paragraph 161 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

162. The allegations contained in paragraph 162 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants deny the allegations contained in paragraph 162 of Plaintiffs' Complaint and affirmatively state that they have complied with all duties imposed upon them by law.

163. Defendants admit the allegations contained in the second sentence of paragraph 163 of Plaintiffs' Complaint. The remaining allegations contained in paragraph 163 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

164. The allegations contained in the first sentence of paragraph 164 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. Defendants deny the remaining allegations contained in paragraph 164 of Plaintiffs' Complaint.

165. Defendants deny the allegations contained in paragraph 165 of Plaintiffs' Complaint.

166. Defendants deny the allegations contained in paragraph 166 of Plaintiffs' Complaint.

167. Defendants deny the allegations contained in paragraph 167 of Plaintiffs' Complaint.

168. In response to the allegations contained in paragraph 168 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

169. Defendants deny the allegations contained in paragraph 169 of Plaintiffs' Complaint.

170. The allegations contained in paragraph 170 of Plaintiffs' Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

171. Defendants deny the allegations contained in paragraph 171 of Plaintiffs' Complaint.

172. Defendants deny the allegations contained in paragraph 172 of Plaintiffs' Complaint.

173. In response to the allegations contained in paragraph 173 of Plaintiffs' Complaint, Defendants incorporate their responses and averments found elsewhere herein.

174. To the extent Plaintiffs seek a writ of mandamus based on allegations of “wrongful restraints on personal liberty,” no response is required unless and until the Court determines the petition is not frivolous and orders Defendants to answer or otherwise respond. *See* Utah R. Civ. P. 65B(b)(6). To the extent a response is deemed necessary, Defendants deny the allegations contained in paragraph 174 of Plaintiffs’ Complaint.

175. To the extent Plaintiffs seek a writ of mandamus based on allegations of “wrongful restraints on personal liberty,” no response is required unless and until the Court determines the petition is not frivolous and orders Defendants to answer or otherwise respond. *See* Utah R. Civ. P. 65B(b)(6). Moreover, the allegations contained in paragraph 175 of Plaintiffs’ Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law.

176. Defendants deny the allegations contained in paragraph 176 of Plaintiffs’ Complaint.

177. The allegations contained in paragraph 177 of Plaintiffs’ Complaint constitute legal conclusions to which no response is necessary. To the extent a response is deemed necessary, Defendants have complied with all duties imposed upon them by law and deny Plaintiffs are entitled to the relief they seek in this lawsuit.

178. Defendants deny each and every allegation of the Complaint not expressly admitted herein.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs’ claims may be barred by their failure to join indispensable parties.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs may lack standing to bring their claims.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' claims may be moot or become moot, as the orders they challenge expire.

SIXTH AFFIRMATIVE DEFENSE

Defendants reserve the right to assert other affirmative defenses as they become known.

PRAYER FOR RELIEF

WHEREFORE, having answered Plaintiffs' Complaint, Defendants ask that the Complaint be dismissed, with prejudice, that Plaintiffs take nothing thereby, and that Defendants be awarded costs reasonably incurred in defending this action and such other relief as the Court deems just.

DATED: October 19, 2020.

OFFICE OF THE UTAH ATTORNEY GENERAL

/s/ David N. Wolf
DAVID N. WOLF
ANDREW DYMEK
Assistant Utah Attorney General
Counsel for Defendants

CERTIFICATE OF SERVICE

Pursuant to Utah R. Civ. P 5(b)(1)(A)(i), I certify that on October 19, 2020 I electronically filed the foregoing **ANSWER**, using the Court's electronic filing system. I further certify that a true and correct copy of the foregoing was sent, via email, to the following:

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/s/ Genevieve De La Pena
Genevieve De La Pena
Legal Assistant & Notary Public
UTAH ATTORNEY GENERAL'S OFFICE