EXHIBIT A SUPPORTING DOCUMENTS AND MEMORANDUM

Mark Allen
Address: On File

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH
137 N Freedom Blvd.
Provo Utah 84601

JUDGE GRAF V. MARK STEWART ALLEN, Respondent	Respondent's Response to Rule 83 Motion; Motion to Strike the Rule 83 Motion; Petition for Administrative Preservation and Production of Certified WebEx/Zoom Recordings and Certified Transcripts; Petition to Disqualify/Recuse; and Request for Referral to DOJ/OIG (Exhibit A) Case No. 211401656 Judge: Graf

INTRODUCTION

COMES NOW, Respondent, and expressly denies any designation of "vexatious" status. Former Judge Lunnen wrongly has asserted Respondent's filings as "vexatious," mischaracterizing what were, in truth, limited efforts to preserve and correct the record.

On March 3, 2025, while still serving as a prosecutor, Mr. Graf testified before the Utah House Judiciary Committee that "***That's not justice….. not to present the full picture….The balance has to be even."*** emphasizing that safeguards and checks are essential to ensure fairness for both victims and defendants.

Judge Graf himself, in testimony before the House Judiciary Committee on March 3, 2025, acknowledged the necessity of presenting the **"full picture"** for justice to be done:

"And I can't tell you how frustrating it is because that's not justice — not to present the full picture. It has to be substantiated. There are checks and balances in place to ensure that it is just. The balance has to be even."

Yet in the matter now before him, Judge Graf has inherited a record where the full picture has been deliberately obscured — uncertified transcripts, missing WebEx recordings, altered docket entries, and withheld Brady evidence. https://citizenportal.ai/-eb5776257-3b6c560e

To be consistent with his own recognition of what justice requires, Judge Graf must ensure that the record is certified, complete, and accurate before any further action is taken.

Prosecutor Graf has since become Judge Graf, and it is believed he took over this languishing administrative matter from Judge Lunnen at or around August 1, 2025.

By that time, the case should already have been administratively resolved.

Judge Lunnen had nearly a full year to honor his own oral stipulation by signing the agreed dismissal order, certifying and producing the complete record, and tolling expungement as requested.

Those were straightforward, ministerial duties requiring no discretion.

Instead, every opportunity to finalize the matter was averted.

The binding oral contract was ignored, the stipulated agreement went unsigned, and the record remained uncertified.

What should have been a simple closure became a year-long failure of record-keeping, passed downstream for this Court to inherit rather than a resolved case.

Now, the docket itself has become unreliable.

Clerks have apparently backdated entries, altered the index, and introduced contradictions that render the record unintelligible.

A "case closed" notation now appears in the docket, further confusing the procedural posture.

Status hearing minutes reflect inconsistent and conflicting dates: a dismissal with prejudice dated September 20, 2024; a dismissal without prejudice dated September 9, 2022; another dismissal with prejudice also listed as September 9, 2022; and a binding stipulation variously recorded as August 12, 2024, September 12, 2024, and September 24, 2024.

These inconsistencies are not clerical niceties; they strike at the integrity of the record itself. When the docket shows multiple, contradictory outcomes for the same case, the Court cannot rely on it as an official record. Only the certification and production of verbatim transcripts, WebEx/Zoom recordings, and a corrected docket can restore confidence in the accuracy of the record.

The State itself has acknowledged that this matter was "de facto the same case" and "an exact duplicate of Case No. 191400132." Those admissions reflect an unmistakable double jeopardy problem, even though the State avoided using the term "double jeopardy" directly. The damage to Respondent has been significant: for more than 36 months, exculpatory *Brady* evidence was withheld and only obtained through a GRAMA appeal — evidence that was exculpatory to Respondent and inculpatory to the State and its prosecutors. That fact alone demonstrates judicial and prosecutorial impropriety, as such material should have been disclosed as a matter of constitutional obligation, not forced into the record through extraordinary measures by a pro

se litigant. Years of repeated litigation on a settled and duplicative case cannot be undone by semantic avoidance. The State's failure to self-report these violations, and its failure to correct the harm once identified, compounds the constitutional injury. See *Brady v. Maryland*, 373 U.S. 83 (1963); United States v. Bagley, 473 U.S. 667 (1985); Utah R. Prof. Cond. 3.8(d); Utah Const. art. I, § 12.

It seems the present Rule 83 Motion seeks to recast Respondent's good-faith record preservation efforts as abusive, when in truth they arose only because the Court failed to certify and produce complete certified records going back 9 years.

Respondent has a constitutional right to a complete and accurate record — including certified WebEx/Zoom recordings, certified transcripts, and accurate docket entries spanning the case history — under the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution, and Article I, Sections 7, 11, and 12 of the Utah Constitution.

It is precisely this refusal to perform a ministerial duty — the certification and production of records — that has multiplied filings, not any bad-faith conduct by Respondent.

The attempted misuse of Rule 83 to invert accountability and silence legitimate requests for certified records must be rejected.

Former Utah County Attorney David Leavitt — who initiated the prosecution of Respondent — publicly admitted: "That's one of the problems with criminal justice, no one keeps any records." A QR code link to this statement is provided below for the Court's reference.

Yet despite acknowledging the systemic failure to diligently preserve records, Mr. Leavitt permitted this case to proceed while knowing its foundation was faulty.

Recently obtained VOCA funding records now show that payroll was sustained during this prosecution at Respondent's expense, further demonstrating that federal dollars were drawn down even as the case lacked jurisdiction and the record remained incomplete.

"*That's one of the problems with criminal justice, no one keeps any records*"

Former Utah County Attorney David Leavitt who initiated prosecution of Respondent.
https://youtu.be/uylNuGu99Mo?feature=shared&t=5307

WHEN RECORDS ARE NOT CERTIFIED THE RECORD IS DEFICIENT.

It is improper for any judge to initiate and adjudicate his own grievance—i.e., derive a vexatious finding from his own past inaction, misfeasance, malfeasance or non-ruling.

1. **First Amendment – Right to Petition the Government**
   Respondent's filings consist of preservation motions, requests for certified records, and objections to docket irregularities. These filings are classic exercises of the constitutional right to petition. To label them "vexatious" is to punish lawful petitioning activity, creating a chilling effect on free speech and access to the courts. This motion is might be considered defamatory on its face because it mischaracterizes constitutionally protected conduct as abusive.

2. **Fourteenth Amendment – Due Process and Neutral Tribunal**
   Due process requires both fair procedures and a neutral adjudicator. A judge may not initiate or co-author a motion against a litigant and then preside over it. Such dual roles violate structural due process as recognized in *Tumey v. Ohio*, 273 U.S. 510 (1927), and *In re Murchison*, 349 U.S. 133 (1955). Moreover, record preservation is not discretionary—it is a statutory and constitutional obligation (*Griffin v. Illinois*, 351 U.S. 12 (1956); *Draper v. Washington*, 372 U.S. 487 (1963)).

The Court's recent reference to 26 docket filings as potentially "vexatious" arose only after repeated requests for certified records went unfulfilled, both before and after Judge Lunnen's retirement. Yet on September 20, 2024, Judge Lunnen stated on the record: "I know nothing about your case." These two positions cannot be reconciled.

If Judge Lunnen truly had no knowledge of the case, then he could not simultaneously rely on 26 docket entries to label Respondent's filings as vexatious.

Conversely, if he did have knowledge of those filings, then his prior statement was inaccurate and served to deflect his duty to acknowledge an admitted double jeopardy prosecution and to

address the Court's 220-day failure to certify the record, sign the stipulated dismissal with prejudice, and toll expungement pending Respondent's request.

1. The record being laid in these filings unfortunately must go beyond the scope of a mere rebuttal.

2. The docket has been altered, entries backdated, and oral contracts left unexecuted.

3. Records have been spoiled, and clerical errors, omissions, and deletions have multiplied the confusion.

Respondent anticipates that this record will ultimately serve as a road map for the Department of Justice or the Office of Inspector General, as it reflects not only prosecutorial misconduct but also systemic administrative failures.

Judge Graf and Respondent both inherit these upstream neglected problems through no fault of their own, yet both are now left to resolve the issues, this is not complex.

The practical solution is straightforward:

(1) sign the pending orders and direct that the record be

(2) corrected,

(3) certified, and

4) provided.

The hundreds of pages of documentation attached are not to complicate the Court's task, but to demonstrate just how far off the tracks this case has gone through administrative neglect.

The multiplication of filings is a direct consequence of the Court's administrative inaction, not any improper motive by Respondent. In reality, a single request should have been sufficient to obtain certified records. Yet to date, not a single certified transcript or WebEx video has ever been provided to Respondent, despite repeated motions and GRAMA requests. **Out of twenty-nine hearings, the production rate remains zero of (3) possible zoom screenings, Zero (0) of 29 possible certified court transcripts and Zero (0) of 29 Webex Court Video Heatrings. There are zero verbatim certified records after 4 years of prosecution in 211401656 and zero certified webex records of 191400132. This is why we are where we are today. Administrative failures, omissions, error have punished Respondent.**

This wholesale failure of certification is not a clerical oversight; it is a systemic denial of Respondent's constitutional right to a complete and accurate record.

The one hearing preserved by Order to Show Cause instead highlights attorney misconduct: Attorney Pranno deliberately withheld exculpatory *Brady* evidence until he could make the appellate court complicit by proceeding without disclosure.

This conduct deprived Respondent of due process and undermined the integrity of appellate review, compounding the harm.

Respondent did not obtain the withheld *Brady* evidence until six months after the appellate decision had issued.

That evidence was exculpatory to Respondent and inculpatory of the prosecution's conduct, showing that the record was corrupted upstream and produced an outcome downstream that was constitutionally unsound.

The unresolved consequences of that nondisclosure remain, and they must be addressed if the integrity of the judicial process is to be restored.

In reality, only a single request should have been sufficient to obtain certified records.

Diametrically Opposed Statements

On **September 20, 2024**, Judge Lunnen stated on the record:
"I know nothing about your case and I doubt the State does either."

Yet, in the very same proceeding, Judge Lunnen proceeded to **dismiss the case with prejudice** and to **stay expungement pending Respondent's motion.**

These actions are **diametrically opposed** and **constitutionally irreconcilable.** A judge cannot claim ignorance of the case while simultaneously issuing dispositive rulings and entering into binding oral stipulations. This contradiction underscores the systemic record-keeping failures, the lack of judicial diligence, and the retaliatory inversion of responsibility when Respondent sought to preserve certified records.

It is the **responsibility of the Court** to maintain and provide certified Webex video hearings and certified transcripts. That duty cannot be shifted onto the Respondent.

The Court's failure to preserve and certify the record is its own failure to "ring the bell," and it cannot be excused by attempting to brand lawful preservation requests as vexatious.

The pending Rule 83 motion improperly inverts this duty, seeking to shift blame to Respondent for deficiencies that rest solely with the Court's record-keeping obligations. Respondent expressly denies the allegation that docket entries 143, 151, 156, 164, 167, 172, 178, 179, 183, 192, 195, 196, 202, 203, 204, 205, 207, 208, 209, 210, 211, 212, 213, and 214–215 are anything other than reminders to the Court of its obligations to correct, preserve, and certify accurate, verbatim records of past oral commitments.

These filings represent lawful requests for the Court to fulfill mandatory administrative obligations. They are the inverse of vexatious, because each was directed at securing compliance with duties the Court itself is bound to perform. Specifically, these filings document the Court's continuing disregard for:

- Contract Obligations – including the oral and stipulated commitment to sign the dismissal order and toll expungement;
- Administrative Preservation of Records – repeated requests for preservation of WebEx video, transcripts, and docket accuracy, including injunctive requests to prevent spoliation;
- Color of Law Violations – filings documenting the Court's and prosecutors' failures to act consistent with constitutional and statutory obligations;
- Double Jeopardy Memorialization – filings preserving the record of the State's own admissions that this prosecution was an "exact duplicate" of Case No. 191400132.

The Court has failed to identify with specificity how any of these filings could be deemed "vexatious," when in fact they are directed solely at preservation of accurate records and reporting of ministerial omissions, docket backdating, errors, and prosecutorial admissions of double jeopardy and misuse of VOCA funds.

Each entry underscores not frivolity, but the **bias shown against a pro se litigant** who has lawfully exercised his right to submit Notices to Preserve and Requests to Submit for Decision.

The Court's refusal to act on these filings further highlights a disregard for the constitutional guarantees of **due process** and the statutory obligations imposed under **URCP Rule 7(g), Rule 52(d), and Rule 60(a)**, as well as the Court's administrative obligations under the **Utah Code of Judicial Administration**.

Applicable Utah Statutes & Rules

1. **Utah Code § 78A-2-208** – *Court reporters and transcripts*
   Requires the courts to employ official court reporters and to ensure accurate transcripts are made and preserved as part of the record.

2. **Utah R. Civ. P. 5(f)** – *Filing and serving papers*
   Provides that the clerk of court maintains the official record and filings; the responsibility to maintain an accurate record lies with the court.

3. **Utah R. Jud. Admin. 4-201 & 4-202.02** – *Record of hearings & public access*
   These rules require courts to make and preserve audio/visual recordings of hearings, and to manage them as part of the official record.

4. **Utah Code § 63G-2-201 (GRAMA)** – *Access to records*
   States that government records are the property of the state and must be managed according to law; denial or alteration of access without legal basis is unlawful.

Federal Statutes

1. **18 U.S.C. § 1519** – *Destruction, alteration, or falsification of records in federal investigations*
   Makes it a crime to knowingly alter, conceal, or destroy records connected to matters within federal jurisdiction (such as cases involving federal funding like VOCA).

   42 U.S.C. § 1983 – *Civil Action for Deprivation of Rights*
   Provides a remedy when state actors deprive individuals of constitutional rights (here, due process rights to accurate court records).

2. **42 U.S.C. § 1985(2) & (3)** – *Conspiracy to interfere with civil rights*
   Covers conspiracies to obstruct justice or deny equal protection of the laws through record manipulation.

3. **42 U.S.C. § 1986** – *Action for neglect to prevent conspiracy*
   Liability extends to officials who know of rights violations (such as record tampering) and fail to prevent or correct them.

Case Law

1. **Griffin v. Illinois, 351 U.S. 12 (1956)**
   The Supreme Court held that due process and equal protection require states to provide defendants with adequate transcripts of court proceedings, because access to the record is essential to meaningful appellate review.

2. **Draper v. Washington, 372 U.S. 487 (1963)**
   The Court reaffirmed that a "record of sufficient completeness" must be provided to ensure defendants' rights; incomplete or inaccessible transcripts violate due process.

3. **Mayer v. City of Chicago, 404 U.S. 189 (1971)**
   Even in petty offenses, the state must provide an adequate record for appeal; it cannot excuse failures by pointing to costs or administrative burdens.

4. **Bounds v. Smith, 430 U.S. 817 (1977)**
   Established that states must affirmatively assist prisoners in obtaining access to courts, including adequate records.

Exhibit 1 of Court and Prosecutorial Misconduct Allegations, Oral Contract Law Violations, Injunctive Relief Violations to maintain accurate and honest records.

Counterclaim I — Denial of Access to Public Records, GRAMA Violations, and Violations of 42 U.S.C. §§ 1983, 1985; 18 U.S.C. §§ 4, 242, 666, 1519

On September 20, 2024, **Craig Peterson for the State:**

"In 2022, Your Honor dismissed this case without prejudice, stating Mr. Allen had immunity on the pleadings and there was no basis for the refile."

....Judge Lunnen : Have you filed to stay the expungement ruling?

26. Mr. Allen : Yes, a motion to toll pending a third-party investigation, filed within the last two weeks.

27. Judge Lunnen : Was that recent?

28. Mr. Allen : Yes, within the last two weeks.

*31. **Judge Lunnen** : You filed a bench warrant request in this dismissed case, but I have no authority to issue it. I'll hold off on the expungement if requested....*

*38. ….**Mr. Allen** : **I'd like to toll the expungement pending a third-party investigation. I believe the court and Mr. Peterson have an obligation to report potential 1983 and 1985 violations to the Utah Bar.***

*39. **Mr. Peterson** : My role was limited to prosecution. I have no further authority.*

*40. **Mr. Allen** : I understand, but you have an ethical obligation to report violations, as does Your Honor ….*

*41. **Judge Lunnen** : I disagree. We have an ethical duty to report criminal conduct only when we know the facts, and I know nothing about your allegations, nor does Mr. Peterson….*

*46. ….**Mr. Allen** : **Can you dismiss it with prejudice, as it was a civil rights violation? I'd like to stay the expungement pending the investigation.***

*47. **Judge Lunnen** : **Did you file a motion to dismiss with prejudice?***

*48. **Mr. Allen** : **Yes, within the last two weeks.***

*52. …..**Mr. Peterson** : It's irrelevant now, and **I have no objection to dismissing with prejudice.***

*53. **Judge Lunnen** : Based on that, **I'll sign Mr. Allen's pleading to dismiss the case with prejudice.***

*54. **Mr. Allen** : Thank you. **Please keep the expungement certificate active pending the investigation.***

55. Judge Lunnen : I'll hold it until I hear from you. Have you submitted a proposed order?

***56. Mr. Allen** : Yes.*

57. Judge Lunnen : I'll sign it.

63. Mr. Allen : Please continue tolling the expungement.

64. Judge Lunnen : I'll hold it until I hear back.

65. Mr. Allen : Thank you, Your Honor.

66. Judge Lunnen : I'll ensure it's stayed.

67. Mr. Allen : Thank you both.

68. Judge Lunnen : Thank you.

The status hearing minutes themselves reveal contradictions that cannot be reconciled. Back-to-back entries dated September 9, 2022, state both "dismissed without prejudice" and "dismissed with prejudice." These entries do not match the historic case chronology, as the

prosecution in fact persisted for another two years and eleven days before the State admitted that this matter was "an exact duplicate of Case No. 191400132."

Ironically, both prosecutions were initiated under the leadership of former Utah County Attorney David Leavitt, and both drew down federal VOCA funding. Solid evidence — including the Kennard Analysis — demonstrates that Leavitt and nearly a dozen prosecutors had knowledge as early as January 14, 2019, that the case lacked jurisdiction. Despite that knowledge, they proceeded without certified, court-signed orders, taking it upon themselves to prosecute a jurisdictionally absent case.

As of August 2025, the docket appears to have been altered multiple times, including backdating entries and inserting after-the-fact notations unsupported by the underlying record. These alterations obscure the true procedural history and further erode confidence in the integrity of the record.

Given these irregularities, a metadata forensic audit is required — and it must be conducted by an independent entity other than the Fourth District Court and the Administrative Office of the Courts. Only such an audit can restore confidence in the authenticity of the docket and provide a reliable foundation for judicial review.

There have never been any certified transcript or Webex videos provided to Respondent after multiple attempts, Motions and GRAMA requests, Zero out of 29 hearings

ZERO CERTIFIED RECORDS, SPANNING 6 YEARS OF DOUBLE JEOPARDY PROSECUTION- LET THAT SINK IN

Although this matter was dismissed with prejudice, the status of expungement has been expressly stayed per Stipulated Oral Agreement September 20th 2024. Accordingly, the case remains part of the public record and is not sealed.

Any attempt by the Administrative Office of the Courts ("AOC") or other officials to classify or treat the case as sealed is inconsistent with both the dismissal order and statutory requirements.

This distinction is legally significant, as sealing would obscure evidence of judicial misconduct and civil rights violations that must remain accessible for review, investigation, and redress.

The AOC's denial for Webex videos citing the case is sealed is materially false. Allen retains the last Motion for Expungement and has instead asked for preservation of the entire record.

The Court is accusing Respondent for having to ask multiple times for certified records.

The failures of the Court to produce the records can't be blamed upon the Respondent's efforts to preserve accurate records for federal remedies.

Counterclaim 2 Contract Law Violations. Lack of Jurisdiction. Failure to Preserve Certified Records and Administrative Obligations to Preserve Accurate Records.

1st and 14th Amendment Violations.

Failure to Report. 42 USC 1983, 1985, 1985, 18 USC 4, 242, 666, 1519.

Rule 3.8, Rule 8.3, Rule 8.4 ABA rules of Ethical Conduct

Oral Contract Inversion and Contract Law Violations

On **May 1, 2025**, Judge Lunnen **shockingly attempted to invert the oral record contract** that had been established on **September 9, 2024**.

During that May hearing, Judge Lunnen expressly denied the existence of his prior oral commitment to sign the stipulated dismissal order and to toll expungement, despite the fact that the **September 20, 2024 audio recording** reflects the Court's acknowledgment of that very obligation.

This contradiction constitutes not only a **breach of the Court's oral contract** but also an admission, by Judge Lunnen himself, of inconsistent rulings that cannot be reconciled with the preserved record.

By denying obligations previously acknowledged on the record, Judge Lunnen engaged in conduct amounting to **contract law violations** and further undermined the accuracy and integrity of judicial records.

Such actions fall outside the shield of judicial immunity because they represent **administrative derelictions** and **retaliatory denials** rather than lawful adjudication.

See **Forrester v. White, 484 U.S. 219 (1988)** (no immunity for administrative acts); **Stump v. Sparkman, 435 U.S. 349, 356–57 (1978)** (no immunity for actions taken in clear absence of jurisdiction).

Mark Allen: *"....you have not signed you have not signed my order from September of 2024, Your Honor.*

Judge Lunnen: *And I'm not going to sign it.*

Mark Allen: *Then how can* [Judge Lunnen interrupts Allen]

Judge Lunnen:*It's closed*.

Mark Allen: *It can't be it can't be closed without an administrative judicial signature of Respondent's order. You told me - this was a contract. You made a contract with me. You prepare the order. I'll sign it.*

Judge Lunnen: *I did no such thing.*

Mark Allen: *It's in the transcript, your honor?*

Judge Lunnen: *You understand it, Sean, with you mute mute, Mr. Allen*

The two diametrically opposed positions of Judge Lunnen can be established easily with certified Webex and Court Certified transcripts.

The denial of a contract with the Court to sign Respondent's prepared order was not a discretionary judicial act.

It was the making and breaking of a binding oral contract, preserved on the record, followed by an administrative failure to honor and certify that record.

Such conduct is ministerial in nature, not judicial, and may constitute obstruction of justice and record spoilage.

Under both federal precedent and Utah law, oral promises made in open court are binding and enforceable, and their breach carries legal consequences.

See *Timm v. Dewsnup*, 921 P.2d 1381, 1388 (Utah 1996); *Utah Code § 78B-5-824*; *Utah R. Civ. P. 11(e)*; *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 381 (1994).

Judicial immunity does not extend to contract violations, color of law violations, or administrative failures to preserve accurate records.

See *Forrester v. White*, 484 U.S. 219, 227 (1988); *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991).

On the next page are four QR codes. Two to the September 20th Hearing, followed by Two for the May 1, 2025 Hearing. Respondents hand typed transcripts being on the left QR code and the Court, audio on the right QR for confirmation of Respondents best efforts of transcription. These records are

not certified transcripts, but these are examples of 4 really important “records” which should be “certified”.

The webex videos would lend even more evidence to the credibility of the contract violations asserted.

The Court persists in denying Respondent Certified Webex Video and Certified Transcripts as of this filing as the records are inculpatory to the State AG’s office and the Court itself.

September 20th 2024
Un-Certified-Transcript

September 20th 2024
Court Audio File

In the May 1, 2025 hearing, Judge Lunnen explicitly allowed the State to appear and proceed even though the case had already been dismissed with prejudice and the State Prosecution had **no standing**!.

Under Ex parte Lange, 85 U.S. 163 (1873), once a case is dismissed with prejudice, jurisdiction ends and further proceedings violate both double jeopardy and due process.

May 1st 2025
Un-Certified-Transcript

May 1st 2025
Court Audio File

Judge Lunnen denied oral contracts made September 20th 2024 in the May 1, 2025 (9 minutes of due process violations which fall outside the scope of judicial immunity).

Denial of Oral Contract and Judicial Immunity Limits

On May 1, 2025, Judge Lunnen clearly denied the oral contracts made on the open record during the September 20, 2024 hearing.

In doing so, the Court engaged in approximately nine minutes of multiple due process violations, which fall outside the scope of judicial immunity.

The record is unambiguous: contracts were made, acknowledged orally, and preserved in the September 20, 2024 audio recording.

The record is clear, contract were made, the Court has obstructed Respondents access to evidence of civil rights violations for federal filings.

Oral stipulations made in open court are binding contracts when placed on the record.
See *Timm v. Dewsnup*, 921 P.2d 1381, 1388 (Utah 1996) (oral stipulations in open court are enforceable when relied upon by the parties); *Utah Code § 78B-5-824* (stipulations made in court are binding when preserved in the record); *Utah R. Civ. P. 11(e)* (stipulations made in open court are binding without further writing if entered into the record).

Consent decrees and settlement agreements are likewise construed as contracts.
United States v. Armour & Co., 402 U.S. 673, 681–82 (1971); *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 381 (1994).

Judicial immunity does not extend to administrative or ministerial failures, or to actions taken without jurisdiction.
See *Forrester v. White*, 484 U.S. 219, 227 (1988) (no immunity for nonjudicial acts such as administrative decisions); *Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978) (judicial immunity limited where court acts without jurisdiction); *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991) (judicial immunity does not apply where actions are outside judicial capacity).

By later denying these commitments, the Court (Lunnen) not only breached its/his **contractual obligations** but also obstructed Respondent's access to evidence necessary to substantiate **civil rights violations** for federal filings.

This conduct cannot be shielded by judicial immunity because it falls into three categories long recognized by the courts as exceptions:

1. **Administrative Derelictions** – Judicial immunity does not extend to administrative duties. Judge Lunnen repeatedly failed to produce certified WebEx hearings and certified transcripts despite Respondent's lawful preservation filings. Instead, he inverted those requests into retaliatory acts. *See* **Forrester v. White, 484 U.S. 219 (1988)** (no immunity for administrative acts).

2. **Acts in the Clear Absence of Jurisdiction** – On September 20, 2024, the State stipulated to dismissal with prejudice, ending jurisdiction. Yet Judge Lunnen continued convening hearings, muted Respondent, denied the existence of his own oral contract, and entertained a Rule 83 vexatious-litigant theory. Such actions undertaken after jurisdiction was extinguished are void. *See* **Stump v. Sparkman, 435 U.S. 349, 356–57 (1978)**; **Bradley v. Fisher, 80 U.S. (13 Wall.) 335, 351 (1871)**.

3. **Criminal or Corrupt Misconduct** – Judicial immunity does not insulate criminal or corrupt acts. Judge Lunnen had more than a year to:

    - Report the **admitted double jeopardy prosecution**;
    - Report **known prosecutorial misconduct**;
    - Report or prevent the **misuse of VOCA funds** subsidizing unlawful litigation;
    - Certify transcripts (denied May 1, 2025);
    - Order release of certified WebEx videos (repeatedly denied);
    - Issue subpoenas to preserve Zoom screening records for case **191400132** and related proceedings (denied).

Critically, the **State Prosecution itself realized as early as the fall of 2023** that case **211401656** was a **"de facto copy" of case 191400132**.

Despite this knowledge, prosecutors failed to act with diligence as required by **Rule 3.8, Utah Rules of Professional Conduct** (special responsibilities of a prosecutor).

Instead, the (prosecutor/s) permitted the prosecution to continue, while **VOCA drawdowns continued to subsidize victims advocates and attorneys** during this time period and beyond — well after the double jeopardy nature of the case was known.

This combination of **judicial denial, prosecutorial inaction, and VOCA-funded prolongation** reflects coordinated misconduct that cannot be shielded by judicial immunity. Such conduct implicates:

- **18 U.S.C. § 1519** (falsification or concealment of records),
- **18 U.S.C. § 242** (deprivation of rights under color of law),
- **42 U.S.C. § 1983** (civil liability for deprivation of rights), and
- **18 U.S.C. § 666** (federal program fraud involving misuse of VOCA funds).

Conclusion

The **pattern of denial, obstruction, and prosecutorial inaction** in this matter demonstrates not neutral adjudication but **deliberate efforts to suppress records** that would implicate both the Court and the State in **double jeopardy violations, misuse of VOCA funds, and systemic due process deprivations.**

For these reasons, **judicial immunity does not apply**, and immediate **referral to federal oversight authorities** is warranted, including:

- The **U.S. Department of Justice**,
- The **Office of Inspector General (OIG)**,
- The **Federal Bureau of Investigation (FBI)**,
- The **U.S. Attorney for the District of Utah**, and
- The **Internal Revenue Service (IRS)**.

The IRS and OIG in particular should audit whether **VOCA grant drawdowns and related sub-grants** were filed accurately or whether **Utah's Attorney General, AOC, Utah County Attorney's Office, victims' advocate programs, and UVOC** concealed misuse of federal funding to perpetuate a prosecution already admitted to be **double jeopardy.** Clawback of misused funds is mandatory where VOCA monies were deployed to sustain unlawful litigation or to obstruct record preservation.

The **historic preservation of all criminal cases against Respondent** reveals the same foundational flaw: **lack of jurisdiction.** These proceedings should be treated as a cautionary case study of systemic breakdowns in Utah's judicial process, suitable for review by **law students, scholars, and federal investigators** as an example of how unchecked procedural violations metastasize into constitutional crises.

Respondent's pleadings have for years been **consistent, lawful requests** for preservation of records (Zoom, WebEx, transcripts) in anticipation of federal review. Judge Lunnen's repeated refusal to preserve these records obstructed accountability and **foreclosed DOJ and federal oversight.**

This well-documented refusal to preserve the record — as shown in **Docket Entries 143–215** — coupled with the denial or suppression of Respondent's constitutional objections under **18 U.S.C. § 1519, 18 U.S.C. § 242, and 42 U.S.C. § 1983**, demonstrates a **pattern of obstruction, suppression, retaliation, and failure to report misuse of VOCA funds.**

These actions breach:

- **Canon 1 and Canon 2A of the Utah Code of Judicial Conduct**,
- **Utah's GRAMA statute**, and
- **Constitutional protections under the First and Fourteenth Amendments.**

Accordingly, the **Motion to declare Respondent a vexatious litigant must be denied**, a **full record must be certified and provided to Respondent**, and the entire case must be reviewed **de novo** by a neutral third for prosecutorial misconduct and possible criminal liability.

Defective Prosecution and Lack of Jurisdiction

The entire docket — **216 entries in total** — was generated and maintained **without lawful court jurisdiction.** This makes the pending Rule 83 motion especially alarming. The Court and the State together initiated and sustained a **defective prosecution**, now admitted to be an **"exact duplicate"** of case **191400132** and therefore barred by double jeopardy.

Having prosecuted unlawfully for years, the Court now seeks to reframe Respondent's **lawful preservation filings** as "vexatious." In reality, those filings were necessary to compel

compliance with the Court's own non-discretionary administrative duties. The State, for its part, has failed to demonstrate that essential records were not **prematurely destroyed**, leaving open serious questions of **backdating, spoliation, and concealment.**

The combination of **lack of jurisdiction, double jeopardy violations, and record preservation failures** underscores that the Rule 83 motion is not adjudication but **institutional self-protection.** Such conduct falls outside the scope of judicial immunity and warrants **immediate forensic audit and investigation** by the DOJ, FBI, OIG, IRS, and the U.S. Attorney's Office.

Improper Post-Dismissal Proceedings and Ex Parte Conduct

On **May 1, 2025**, Judge Lunnen convened a hearing (lacking jurisdiction) and explicitly allowed the State to appear (ex-parte as they lacked standing) and proceed **even though the case had already been dismissed with prejudice on September 20, 2024**. Once a case is dismissed with prejudice, **jurisdiction is extinguished**; no new restrictions, hearings, or sanctions may be imposed. The Court's authority was limited solely to **clerical and administrative functions**, including:

1. **Signing the Order of Dismissal** prepared by Respondent and stipulated to by the State;
2. **Producing certified transcripts and WebEx hearing recordings**;
3. **Ensuring that court records were administratively accurate and corrected as needed**; and
4. **Issuing administrative injunctive relief** via subpoenas to preserve Zoom records of initial case screenings and related proceedings.

All of the above are **purely clerical obligations**, not adjudicatory powers. By instead convening a post-dismissal hearing to protest Respondent's record-preservation requests and to deny the Court's **oral contractual obligation** to finalize dismissal and toll expungement, Judge Lunnen exceeded jurisdiction and acted **ultra vires**. *See* **Stump v. Sparkman, 435 U.S. 349, 356–57 (1978)**; **Bradley v. Fisher, 80 U.S. (13 Wall.) 335, 351 (1871)**.

The impropriety was magnified when **Judge Lunnen co-authored and advanced a Rule 83 vexatious-litigant motion**, and then **invited the State to provide comments**, thereby creating—at minimum—the **appearance of ex parte communication** in violation of **Canon 2.9 of the Utah Code of Judicial Conduct**. A judge cannot both **generate or sponsor a motion** and then permit one party to argue in its favor as if it were an adversarial dispute.

Such conduct collapses the separation between neutral adjudicator and partisan advocate, raising serious due process concerns and further evidence of institutional protectionism rather than the fair administration of justice.

A judge cannot both generate the motion and then permit the State to advocate upon it as if it were a live controversy.

Anxiety to Suppress Records

The record reflects a persistent anxiety by both the **Court and the State** to avoid preservation of materials connected to the VOCA-funded prosecution that was already admitted to be a **double jeopardy violation**. This includes:

- Refusing to produce certified transcripts;
- Denying access to WebEx recordings;
- Blocking administrative subpoenas to preserve Zoom screening records; and
- Attempting to reframe Respondent's lawful preservation filings as vexatious.

Such conduct suggests not a neutral application of law, but a coordinated effort to **destroy or conceal records** that are inculpatory to both the State and the Court. This implicates **18 U.S.C. § 1519** (record falsification or concealment), **18 U.S.C. § 242** (deprivation of rights under color of law), and civil liability under **42 U.S.C. § 1983**.

Relief Requested

For the reasons stated above, Respondent respectfully requests that the reviewing authority:

1. **Strike the Rule 83 vexatious-litigant motion** as void for lack of jurisdiction and as an act of retaliation rather than adjudication;
2. **Contemplate sanctions** against any parties involved in the drafting, circulation, or support of the Rule 83 motion, as well as those connected to the **fraudulent trespass notice** issued against Respondent;

3. Recognize that both actions are **retaliatory in nature**, designed to punish Respondent for lawful efforts to preserve records and raise constitutional objections;

4. **Identify and bring to light the "silent ghost" accuser(s)** behind these retaliatory measures, ensuring that the responsible participants are held publicly accountable;

5. **Compel certification and full production of all records** relevant to Respondent's cases — including WebEx/Zoom recordings, certified transcripts, docket histories, metadata, and administrative screening records — so that the record may be preserved for federal review; and

6. **Refer this matter to independent oversight authorities**, including the **U.S. Department of Justice, Office of Inspector General, FBI, IRS, and the U.S. Attorney for the District of Utah**, to conduct:

    - A forensic audit of **VOCA drawdowns and subgrants** to determine whether federal funds were misused to subsidize unlawful prosecutions;

    - A full investigation into possible **backdating, spoliation, and concealment of records** in violation of **18 U.S.C. § 1519**;

    - An assessment of whether the Court's and State's conduct constitutes **deprivation of rights under color of law** under **18 U.S.C. § 242** and civil liability under **42 U.S.C. §§ 1983, 1985, and 1986**.

    - **Order preservation and disclosure of e-discovery** (emails, drafts, communications among Judge Lunnen, Judge Graf, the Attorney General's Office, clerks, and victims advocates) to determine whether coordination or conspiracy existed to conceal records or mischaracterize Respondent's filings;

If these remedies are not granted, the Rule 83 motion itself will serve as Exhibit A of retaliation, obstruction, and institutional self-protectionism — triggering precisely the federal oversight, forensic audits, and clawbacks that the Court and the State appear so anxious to avoid. Respondent asserts that these remedies are unfortunately necessary to ensure that judicial power is not abused to suppress records, retaliate against lawful preservation filings -deny contractual obligations or conceal systemic misconduct subsidized by federal funds.

Introductory Statement

Referral & Reporting Duty

The record establishes that this prosecution (211401656) and the duplicate prior prosecution (191400132) were both **initiated and perpetuated by David Leavitt and his prosecutorial staff**, and that their conduct has now been openly acknowledged as defective by downstream State actors — described by the State itself as an **"exact duplicate," "de facto the same,"** and even **"a case of record that should not exist."**

Further, **Utah Attorney General's Counsel Daniel Burton** candidly described this matter as **"a stinker of a case" handed off by Leavitt and associated prosecutors.**

Under the **Utah Rules of Professional Conduct**, prosecutors, clerks, and judges who become aware of such misconduct have a **mandatory reporting obligation**:

- **Rule 3.8** — Prosecutors must refrain from pursuing charges without probable cause and must correct wrongful prosecutions.

- **Rule 8.3** — Any lawyer who knows of another lawyer's violation that raises a substantial question as to honesty, trustworthiness, or fitness **must report** the violation to the appropriate authority.

- **Rule 8.4** — It is professional misconduct to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, or to engage in conduct prejudicial to the administration of justice.

Thus, those within the Utah County Attorney's Office, the Attorney General's Office, the Administrative Office of the Courts (AOC), or the judiciary who are aware of these violations are **obligated to report them.**

The choice is clear: those who continue to defend this prosecution or obstruct access to records will entangle themselves in **obstruction of justice, misuse of federal VOCA funds, and retaliation under color of law**.

By contrast, those who act promptly to **report David Leavitt's misconduct AND associated upstream and downstream misconduct, the misuse of VOCA funds, and the concealment of records** will help restore institutional integrity and **reduce their own liability exposure** when federal investigators — including the **DOJ, OIG, FBI, IRS, and U.S. Attorney for the District of Utah** — review this matter.

Transcript Evidence Undermines Jurisdictional and Procedural Posture of Judge Lunnen

The transcript of the May 1, 2025 hearing contains the following exchanges:

- At **Timecode 05:38**, Respondent (Mark Allen) asked: *"I'm asking for preservation of the record so that it can be—*" Judge Lunnen cuts Allen off…

- At **Timecode 05:40**, Judge Lunnen: "*I'm not allowing you to preserve a record on a case that's closed. I'm denying that request. Now if you wanna raise that with the Attorney General's Office of the United States, you're welcome to do that.*"

- At **Timecode 05:53**, Respondent asked: "*I believe that's a 18 U.S.C. § 242 violation. Correct? And a 1519 violation. You're aware of that?*"

- At **Timecode 05:58**, Judge Lunnen said: "*Mr. Allen, I'm not responding to that, and it's an invalid question based on what we're doing today. And so, Mr. Peterson, is there anything else I can add before we close this hearing?*"

- At **Timecode 06:08**, Respondent: "*This was a status hearing*."

- Judge Lunnen (06:10): "*I said it because I wanted to explain in person because you have—*"

- At Timecode 06:14, Respondent: "***You have not signed my order from September of 2024, Your Honor."***

- Judge Lunnen (06:17): **"*And I'm not going to sign it.*"**

- Respondent (06:20): "*Then how—*" Judge Lunnen cuts Allen off second time

- Judge Lunnen (06:22): "*This case is closed.*"

- Respondent (06:24): "***It can't be closed without administrative judicial signature of Respondent's order. You told me we this was a contract. You made a contract with me. You prepare the order. I'll sign it.***"

- Judge Lunnen (06:30): **"*I did no such thing. Shawn, would you mute—mute Mr. Allen...***

- Judge Lunnen (06:54): "...*This hearing will be concluded*…."

Legal Implications

These statements demonstrate:

Violation of Jurisdiction / Finality of Dismissal

The **court docket appears to have been "adjusted" after the fact-** to reflect two backdated entries stating that the case is "**closed**" rather than "**dismissed with prejudice**."

This substitution is deeply troubling. **"Closed"** is not synonymous with **"dismissed with prejudice"** and its use here appears designed to **undermine or roadblock the binding oral contracts** made on **September 20, 2024** — namely, that the case was dismissed with prejudice and that expungement would be tolled indefinitely pending Respondent's motion.

The differences are legally significant:

- **Dismissed with Prejudice**: A final adjudication that bars further prosecution; it is a substantive resolution on the merits.

- **Closed**: A generic administrative label that carries no legal finality, often used in error or to avoid addressing underlying orders.

- **Sealed**: A distinct procedural posture in which the record is hidden from public access, but not legally dismissed or resolved on the merits.

Here, Respondent placed an **indefinite stay on expungement**, preserving the Court's administrative obligation to maintain access to the full record until federal review is complete. Substituting "closed" for "dismissed with prejudice" is not proper and directly interferes with Respondent's right to pursue oversight, audit, and remedies.

Judge Lunnen's oral statement — "**This case is closed**" — combined with his refusal to sign previously submitted dismissal orders, while still convening hearings and denying record preservation, raises serious **jurisdictional concerns**.

Once a case is dismissed with prejudice, the matter is final and **no further substantive action is permitted.** *See* **Ex parte Lange, 85 U.S. 163 (1873)** (once a judgment is final, jurisdiction ends and cannot be revived).

The **Administrative Office of the Courts (AOC)** has further attempted to characterize the case as **"sealed"** in order to prevent the release of GRAMA requested **WebEx hearings** that are critical to documenting judicial and prosecutorial misconduct.

This misuse of terminology — "closed" instead of "dismissed with prejudice," and "sealed" instead of "stayed expungement" — amounts to **record manipulation**.

It functions as an obstruction tactic to conceal hearings that would otherwise provide incontrovertible evidence of constitutional violations by the Court and the State.

Such actions implicate:

- **18 U.S.C. § 1519** (falsification or concealment of records),
- **18 U.S.C. § 242** (deprivation of rights under color of law), and
- **42 U.S.C. § 1983** (civil liability for denial of due process).

1. **Obstruction / Denial of Record Preservation**
   Denying the request to preserve the record, especially after mention of federal statutes (18 U.S.C. §§ 242, 1519), suggests a willful refusal to allow evidence that could be material to constitutional claims or federal oversight. Under 18 U.S.C. § 1519, obstruction by destruction, alteration, or concealment of records is forbidden when relevant to a federal proceeding.

2. **Suppression of Constitutional Claims**
   Dismissing Respondent's reference to constitutional or federal statutory violations as "invalid question" undermines due process and the opportunity to be heard on issues affecting his rights.

3. **Denial of the Rule 83 Motion is not only warranted but essential. It should be recognized as the "canary in the mine" — an early warning that Respondent's filings have consistently identified prosecutorial misconduct, judicial inaction, and the misuse of federal VOCA dollars.**

   The record now reflects not vexatious filings by Respondent, but a vexatious prosecution carried forward through misapplied federal funds. This misuse of VOCA dollars to sustain payroll while advancing a jurisdictionally defective case implicates not only prior

prosecutors but potentially the State Attorney General's team as well.

4. The Court must produce all requested **certified records** — including the initial zoom screenings by prosecutors, the Courtroom Webex video recordings, Court certified transcripts, signed orders, and the complete docket history — particularly from hearings held on **August 17, 2022, September 20, 2024, and May 1, 2025**.

5. These records should be preserved, audited, and reviewed by the **Office of the Inspector General, the Department of Justice, the FBI, the Utah State Auditor, and the Legislative Audit Committee**.

6. It is a fundamental violation of due process for the Court to attempt to adjudicate and punish the Respondent for the Court's own failures to maintain and provide an accurate record. *See* **Griffin v. Illinois, 351 U.S. 12, 18 (1956)** (states must provide transcripts sufficient for appellate review); **Draper v. Washington, 372 U.S. 487, 497 (1963)** (record must be "of sufficient completeness" to permit proper review); **Mayer v. City of Chicago, 404 U.S. 189, 193–94 (1971)** (no denial of review due to incomplete record); **Utah Code § 78A-2-208** (official court reporters must provide transcripts as part of the record); **Utah R. Jud. Admin. 4-201, 4-202.02** (courts must record and preserve proceedings). Under **42 U.S.C. § 1983**, the failure to provide certified records necessary to protect constitutional rights constitutes a deprivation of rights under color of state law.

7. These records shall be provided for **independent review** and consideration by appropriate investigative and oversight bodies, including but not limited to the **Office of the Inspector General, the Federal Bureau of Investigation, the U.S. Department of Justice, the Utah State Auditor, and the Legislative Audit Committee and the Internal Revenue Service.**.

   Said bodies are requested to audit the conduct of the State and Judge Lunnen, as reflected in these transcripts and records, constituting **obstruction of justice and deprivation of rights under 18 U.S.C. § 242**, and related violations of **42 U.S.C. §§ 1983, 1985, and 1986, and identify how VOCA funds were used to further multiple jurisdictionally faulty double/triple jeopardy prosecutions for 9 years.** Referral shall be made to relevant disciplinary and prosecutorial authorities for further scrutiny outside the 4th District Court as they are a witness and a participant to U.S. Constitutional violations against Respondent.

These docket and records show:

1. A refusal by the Court to permit record preservation, even when Respondent explicitly cited federal statutes (18 U.S.C. §§ 242, 1519) and referenced ongoing or potential federal oversight. Utah Code of Judicial Administration Rule 4-202 sets out case record definitions and the duty to respond to requests, classify, preserve, and provide access.

2. Canon 2A under UCJA also imposes an administrative duty on judges to perform recordkeeping duties competently and diligently, with regard to parties' right to be heard and issues resolved without unnecessary delay or cost.

3. Under Utah Rule of Civil Procedure 60(a), courts must correct clerical mistakes — this shows that the record can, and must, be corrected when errors exist.

4. A dismissal of those constitutional/statutory objections as "invalid questions," which suppresses legitimate claims under color of law.

Under **Utah Code § 76-8-306**, refusing to allow preservation of records relevant to a criminal or federal investigation when those records are material could constitute obstruction of justice by preventing a person from performing an act that might aid in the investigation or prosecution.

Similarly, under federal law, **18 U.S.C. § 242** protects individuals against deprivation of rights under color of law; claiming that raising such a claim is "invalid" may contribute to an act of willful deprivation.

Proposed Immediate Relief Requested Based on These Excerpts

Based on the foregoing, Respondent respectfully requests that the reviewing authority:

1. **Deny the Court's self-initiated Rule 83 motion** to declare Respondent a vexatious litigant;

2. Recognize that the **pattern of record manipulation, retaliatory filings, and misuse of terminology ("closed" instead of "dismissed with prejudice," "sealed" instead of "stayed expungement")** constitutes conduct that is itself **vexatious and obstructive**; and

3. **Apply the sanction of "vexatious litigant" to the Court and State Prosecutors and "victims" advocated who profiteered from misguided lawfare**, in so far as these entities, individuals repeatedly engaged in practices designed to obstruct the preservation of accurate records, retaliate against lawful filings, and perpetuate a prosecution admitted to be an **"exact duplicate," "de facto the same," and "a case of record that should not exist."**

The Court's conduct in this Motion Rule 83 is not adjudicatory but retaliatory, falling outside judicial immunity and warranting both sanction and referral to DOJ, OIG, FBI, IRS, and the U.S. Attorney for the District of Utah for independent audit and investigation.

The State has an obligation to report to the JCC the Court for being vexatious given this Rule 83 Motion.

- Transfer the case to the DOJ as the Court can't adjudicate its own motion. Jury trial demanded by Respondent in a neutral body .

- Order preservation and certification of the court records (Webex video, transcript, clerk's index, etc.) specifically for the August 17, 2022, September 20, 2024 and May 1, 2025 hearings, including all ways the record could support claims under §§ 242, 1519.

- Consider these actions by the Court and State actors as part of the review for prosecutorial / judicial misconduct and the obvious and not so obvious civil rights violations.

The following lengthy filing, exhibits are unfortunately necessary to force the Court to (1) recognize the record is inaccurate and (2) to correct the faulty records, and (3) provide the injunctive relief sought for certified corrected records and (4) to protect Respondent - from Retaliation.

Constitutional Preamble

This case arises under the guarantees of the **United States Constitution**: the **First Amendment** right to petition the government without retaliation, the **Fifth and Fourteenth Amendments'** protections of due process and freedom from double jeopardy, and the **Fourteenth Amendment's** guarantee of equal protection. Respondent's lawful filings—seeking certified records, corrected dockets, and preservation of evidence—cannot be branded as "vexatious" without chilling protected petitioning activity and inverting constitutional safeguards. The

Court's failure to honor its own stipulated dismissal with prejudice on **September 20, 2024**, and its refusal to produce certified records under GRAMA, are constitutional failures of the Court, not of the Respondent

Designation of Historic Records and Record Preservation Failures

Respondent, through both GRAMA requests and by Motion/Petition, has requested that cases 171402280, 191400132, and 211401656 be formally designated as Historic Records, as delineated in Court docket filings. This designation is necessary to ensure that these matters, which expose systemic flaws in jurisdiction, recordkeeping, and prosecutorial integrity, are preserved in full for public accountability and federal oversight.

For purposes of defining key terms, establishing Respondent's claims, and framing the relief sought, Respondent respectfully states the following:

1. Respondent has repeatedly requested certified records, including:

    a. Certified transcripts and minute entries;
    b. Virtual-hearing recordings (Zoom / WebEx);
    c. Audio and video recordings of proceedings;
    d. The Rule 83 vexatious-litigant motion itself in certified form; and
    e. All related filings, upstream and downstream.

2. These requests were made to preserve an accurate record, protect due process rights, and prepare submissions to the Department of Justice (DOJ) for referral and investigation — a step that has unfortunately proven necessary.

3. Respondent alleges that Judge Lunnen and/or upstream clerks failed in their duty to maintain an accurate and complete court record. This failure has enabled downstream wrongful prosecution undertaken without jurisdiction, resulted in record spoilage, and created omissions of required rulings or corrections.

4. These failures are especially grave as they relate to Respondent's double jeopardy claims and constitutional rights. By failing to maintain, preserve, and certify accurate records, the Court has deprived Respondent of:

    a. Respondent's fundamental right to due process of law,
    b. Respondent's right to pursue legal remedies with a complete and accurate records,
    c. Respondent's broader rights to life, liberty, and the pursuit of happiness.

The Court's authored Motion for Rule 83 clearly constitutes violations of the Fourteenth Amendment, 18 U.S.C. § 242 (deprivation of rights under color of law), and 42 U.S.C. § 1983 (civil rights claims for due process violations).

- **Fourteenth Amendment, U.S. Constitution** – guarantees due process.
- **Griffin v. Illinois, 351 U.S. 12 (1956)** – courts must provide transcripts sufficient for review.
- **Draper v. Washington, 372 U.S. 487 (1963)** – record must be "of sufficient completeness."
- **Mayer v. City of Chicago, 404 U.S. 189 (1971)** – even in minor cases, a complete record is required for fairness.
- **18 U.S.C. § 242** – criminal liability for deprivation of rights under color of law.
- **42 U.S.C. § 1983** – civil remedy for deprivation of rights under color of law.
- **Utah Code § 78A-2-208** – duty of courts to provide transcripts.
- **Utah R. Jud. Admin. 4-201, 4-202.02** – duty to record and preserve hearings.

1. Respondent asserts **indigent status** and hereby demands access to all court records, certified and otherwise, with **fee waivers or other appropriate relief** as provided under **Utah law**. Pursuant to **Utah Code of Judicial Administration Rule 4-202.07(4)** (fees for court records) and **Utah Code § 78A-2-301(1)(l)** (waiver of fees for indigent parties), financial barriers cannot be imposed in a manner that obstructs due process. Respondent seeks full access to the Webex video recordings, certified transcripts, docket history, and all related records necessary to pursue appellate or collateral review. Any denial of these records on the basis of fees would constitute an unconstitutional burden on Respondent's **due process and equal protection rights**, as recognized in *Griffin v. Illinois*, 351 U.S. 12 (1956), and *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996).

2. Under Utah Rule of Civil Procedure 52, Rule 52(d) provides that if anything material is omitted from or misstated in the transcript or record of a hearing or trial, or if there is a disagreement as to whether the record accurately discloses what occurred in the proceeding, a party may move to correct the record. URCP Rule 52 is entitled "Findings and conclusions by the court; amended findings; waiver of findings and conclusions; correction of the record; judgment on partial findings." Utah Rules of Civil Procedure 52.

3. Under Utah Rules of Civil Procedure 60(d), the Court retains "other power to grant relief" even beyond traditional limitations, including setting aside or correcting orders, judgments, or parts of the record in cases of fraud, misrepresentation, or when due process has been undermined by failure to maintain or certify the record.

4. These rules together impose a non-discretionary administrative obligation upon the Court to preserve, correct, and certify the record; to issue rulings on fully submitted matters; and to ensure that indigent individuals have the ability to access certified records essential for appeal and constitutional protections.

5. It is Respondent's position that the **index items cited in the Court's Rule 83 vexatious-litigant motion, when reviewed in inverse order (latest to earliest), reveal a clear pattern of judicial dereliction of duty, record spoilage, failures to correct inaccuracies, and the inclusion of false or misleading statements**. These defects directly implicate **due process rights** under the **Fourteenth Amendment** and constitute potential **obstruction of justice** within the meaning of **18 U.S.C. § 1519** and **§ 242**.

6. **Utah Code § 78A-2-208** – duty of courts to ensure accurate transcripts.

7. **Utah R. Jud. Admin. 4-201 & 4-202.02** – courts must record and preserve hearings as the official record.

8. Because the integrity of the record is central to constitutional protections (*Griffin v. Illinois*, 351 U.S. 12 (1956); *Draper v. Washington*, 372 U.S. 487 (1963)), Respondent asserts that the Court cannot rely on a corrupted docket to impose punitive measures. Rather, the pattern of omissions and alterations demonstrates the necessity of a **forensic investigation by an independent prosecuting authority, including the U.S. Department of Justice**, to uncover potential **intent, coordination, and systemic misconduct**, and to ensure that a full remedy is afforded under **42 U.S.C. §§ 1983, 1985, and 1986**.

9. **Under UCJA Rule 4-202.08 (Code of Judicial Administration)** — Fees for Records, Information, and Services — a person who is indigent and is the subject of the record is entitled to a waiver of fees for non-online services. Section 10(A)(ii) provides that any person who is indigent shall not be charged fees (other than those for public online services) for record production.

Section 10(A)(ii) further entitles such individuals to one free copy of the requested record; beyond that, additional free copies may be granted for good cause.

Therefore, Respondent requests that all fees for certified transcripts, record preservation, certified copy of the Vexatious Litigant motion, all requested certified virtual hearing recordings, etc., and certified court transcripts be waived under UCJA Rule 4-202.08, based on indigent status.

Statutes & Rules Cited:

- Utah Rule of Civil Procedure Rule 52 (Findings and Conclusions by the Court; Amended Findings; Waiver of Findings and Conclusions; Correction of the Record; Judgment on Partial Findings) (legacy.utcourts.gov/rules/viewall.php?type=urcp?rule=52) Utah Courts

- Utah Code of Judicial Administration—Fees for Records, Information, and Services; Indigent Access to Court Records (CJA 04-202.08) Utah Courts

Inverted Index Items Demonstrate Dereliction of Duty and Record Spoilage

Respondent asserts that the **index items listed in the Court's Rule 83 motion, when reviewed in inverted chronological order, reveal a consistent pattern of judicial dereliction of duty and record manipulation.** Specifically, the inverted record demonstrates:

1. **Failure to Maintain an Accurate Record** – Judge Lunnen failed to preserve and certify Webex video, transcripts, and docket accuracy as required under **Utah Code § 78A-2-208** and **Utah R. Jud. Admin. 4-201 & 4-202.02**.

2. **Permitted Record Spoilage** – Material omissions, alterations, and inconsistent entries (including dismissals listed both "without prejudice" and "with prejudice") constitute record spoilage and impair Respondent's due process rights. Such failures fall squarely within the prohibitions of **18 U.S.C. § 1519** (alteration or falsification of records).

3. **Conduct Amounting to Malfeasance or Misfeasance in Office** – By allowing or participating in the creation of an incomplete and misleading record, Judge Lunnen engaged in conduct inconsistent with judicial obligations under **Canon 2.15, Utah Code of Judicial Conduct** (duty to report misconduct) and in violation of constitutional due process protections recognized in *Griffin v. Illinois*, 351 U.S. 12 (1956), and *Draper v. Washington*, 372 U.S. 487 (1963).

This pattern supports a finding that **independent forensic review** by oversight authorities — including the **U.S. Department of Justice, the Federal Bureau of Investigation, the Internal Revenue Service, and the Utah Legislative Audit Committee** — is warranted to determine intent, coordination, and whether such conduct constitutes **obstruction of justice** or **deprivation of constitutional rights** in violation of **18 U.S.C. § 242** and **42 U.S.C. § 1983**.

The **IRS's role is critical**, as federal **VOCA grant funds** appear to have been misused to subsidize unlawful prosecutions already admitted to be duplicative and constitutionally barred by **double jeopardy**. Such misuse falls within the scope of **18 U.S.C. § 666 (federal program fraud)** and mandates audit, clawback, and accountability for any state or local officials who knowingly drew down or concealed federal monies to perpetuate unconstitutional litigation.

These failures compounded the harm of the unconstitutional prosecution, distorted the record, and permitted a **false narrative** to form and fester — a narrative now being weaponized to punish Respondent for exercising rights guaranteed under the **First, Fifth, and Fourteenth Amendments** of the United States Constitution.

Independent De Novo Forensic Review Needed for possible Double Jeopardy Violations (post-mortem analysis)

Respondent asserts that the record in this matter demonstrates a persistent pattern of omissions, alterations, and spoilage that directly impaired rights guaranteed by the **First, Fifth, and Fourteenth Amendments** to the United States Constitution.

The filings now labeled "vexatious" were, in fact, lawful and good-faith efforts to compel the Court to perform its **mandatory duties**: to certify records, preserve WebEx/Zoom recordings, and rule on fully submitted motions. See *Griffin v. Illinois*, 351 U.S. 12, 18 (1956) (access to transcripts is essential to due process and equal protection); *Draper v. Washington*, 372 U.S. 487, 497 (1963) (record must be "of sufficient completeness" to ensure fairness).

The index items cited in the Court's Rule 83 motion, when reviewed in inverted chronological order, do not reflect frivolity by Respondent but instead expose **dereliction of duty by the Court** — repeated failures to preserve accurate records and to honor oral stipulations. Such conduct amounts to misfeasance or malfeasance in office and falls outside the protection of judicial immunity. See *Forrester v. White*, 484 U.S. 219, 227 (1988) (no immunity for administrative acts).

These cumulative failures have been **twisted** to portray Respondent's preservation filings as "vexatious," when in reality they were necessary to prevent further **loss or spoliation of evidence**. The burden imposed on Respondent flows directly from the Court's refusal to discharge its record-keeping obligations, not from any improper litigation conduct.

Accordingly, this pattern supports a finding that **independent forensic review** by oversight authorities — including the **U.S. Department of Justice, Federal Bureau of Investigation, Office of Inspector General, Internal Revenue Service, State Auditor, and Utah Legislative Audit Committee** — is warranted. Such review is necessary to determine intent, coordination, and whether this conduct constitutes:

- **Obstruction of justice**, in violation of 18 U.S.C. § 1519;
- **Deprivation of rights under color of law**, in violation of 18 U.S.C. § 242; or
- **Civil rights violations**, actionable under 42 U.S.C. § 1983.

These failures compounded the harm of the admitted **double jeopardy prosecution** — barred under the **Fifth Amendment** — misled downstream officials, and permitted a **false narrative** to form and fester, one now being weaponized to shift blame to Respondent rather than to address the Court's own constitutional and statutory failures.

Legal Authorities

- **Utah R. Civ. P. 52(d):** Permits a party to move to correct the record if something material is omitted, misstated, or disputed in a transcript or hearing record.
- **Utah R. Civ. P. 60(a):** Allows correction of clerical mistakes, oversights, or omissions in judgments or parts of the record, including transcripts and recordings.
- **Utah Code § 76-1-402 et seq.:** Defines a "single criminal episode" and bars subsequent prosecutions for offenses arising from the same episode, codifying double jeopardy protections in Utah.
- **State v. Sisneros, 2022 UT 7:** Utah Supreme Court held that a subsequent prosecution was barred where the State already had knowledge of related offenses; reaffirmed statutory double jeopardy protections.

- **Griffin v. Illinois, 351 U.S. 12 (1956):** States must provide adequate records for appellate review.

- **Draper v. Washington, 372 U.S. 487 (1963):** The record must be "of sufficient completeness" to allow meaningful review.

Reasoned Argument (Based on Inverted Index + Statutes)

- The filings in Respondent's Exhibit A (the index items) include multiple requests for rulings, record preservation, certified transcripts, etc. They were timely and proper.

- Using URCP 52(d), the Court was obligated to correct the record where items were omitted, misstated, or not preserved. These motions put the Court on notice.

- Under URCP 60, especially the "Other Power to Grant Relief," relief may be granted even beyond conventional deadlines if the record is inaccurate or misleading due to omission or oversight—and particularly when constitutional rights are at stake.

- Under §§ 76-1-402 – 76-1-403 (Single Criminal Episode statute), repeated prosecution for offenses arising from a "single criminal episode" is prohibited.

- **Without a usable record (certified transcripts and preserved recordings), Respondent cannot establish whether this statute has been violated.**

- **Judge Lunnen's failure to preserve or certify the record obstructs that inquiry.**

Demand for Forensic Review & Relief

Because of the judge's failures:

- Respondent demands that all record requests and filings (index items) be preserved, certified, and released.

- Respondent demands the DOJ or appropriate prosecuting authority conduct a forensic analysis of the court records, digital/virtual hearing recordings, internal communications, and all evidence of record spoilage or cover-ups.

- Respondent's due process and double jeopardy rights have been deprived, given the systemic non-provision of certified records and failure to respond to valid submissions.

DEFINITIONS

For clarity and to prevent ambiguity in the record, Respondent defines the following terms as used herein:

Certified Records

A **Certified Record** is a record reduced to writing or authenticated by the Court in accordance with **Utah R. Civ. P. 60(a)**, **Utah Code § 63G-2-603**, and applicable federal standards for record preservation.

For purposes of Respondent's filings, thi definition explicitly includes:

- **Certified WebEx/Zoom video files** of hearings, authenticated and preserved by the Court;

- **Certified transcripts** prepared by an authorized court reporter and verified for accuracy;

- **Docket entries, clerk notes, and minute annotations that are notarized, stamped, or otherwise formally authenticated** as accurate reflections of proceedings; and

- Substantive clerk notes and docket entries documenting key events, such as the entry on **August 4, 2016**: *"Trial Cancelled: Case Settled."*

Clerk notes that document substantive actions must be preserved and certified; they cannot be dismissed as "non-records."

Further, the **absence of the contemporaneous audio recording** from the August 4, 2016 hearing — deleted by the Court — compounds the failure. Respondent was later prosecuted in reliance on this missing record, underscoring the constitutional injury caused by the Court's refusal to produce **notarized, stamped, and certified records.**

Accordingly, any notes, amended minutes, or annotations that are not **notarized or court-stamped** cannot substitute for a certified record, and their omission or deletion cannot lawfully be used against Respondent.

Definition of Record

For purposes of these proceedings, the term "Record" shall be defined consistent with the Utah Government Records Access and Management Act (GRAMA), Utah Code § 63G-2-103(22), which broadly includes:

- Any documentary material regardless of physical form, including papers, letters, emails, books, drawings, photographs, films, recordings, maps, data files, or other documentary materials;

- Electronic data and communications, including Zoom/WebEx video recordings, audio recordings, metadata, and digital case management entries (such as CORIS docket entries and clerk notes);

- Clerk notes, annotations, and drafts, when they reflect substantive actions or decisions of the Court (e.g., the August 4, 2016 clerk note "Trial Cancelled: Case Settled"); and

- Any material prepared, owned, received, or retained by a governmental entity, regardless of whether it is claimed to be preliminary, draft, or "non-record."

GRAMA makes clear that records are not limited to what the Court elects to enter into CORIS or to later "certified" documents, but include the full range of materials created or retained in connection with government business.

Accordingly, the Court's clerk notes are "records" according to GRAMA's statutory definition. These materials are records and, when relevant to judicial action, must be certified, notarized, or stamped to preserve accuracy, protect due process, and ensure lawful access.

1. **Jurisdiction** – The lawful power of the Court to act in a case. Once the State stipulated to dismissal with prejudice on September 20, 2024, subject-matter jurisdiction was extinguished. Any proceedings thereafter are ultra vires and void.
2. **Double Jeopardy Defect** – The prosecution of Respondent in Case No. 211401656 after the dismissal and expungement in Case No. 191400132, acknowledged by the State on the record as duplicative. Such prosecutions are constitutionally barred under U.S. Const. amend. V and Utah Const. art. I, § 12.
3. **Preservation Filings** – Filings submitted by Respondent seeking **injunctive relief** to preserve certified records, metadata, transcripts, and WebEx video recordings. Such filings are **lawful, protective measures** intended to safeguard the integrity of the judicial

record, not frivolous or vexatious. They are grounded in **Utah R. Civ. P. 52(d)** (motions to correct the record when material is misstated or omitted) and **Utah R. Civ. P. 60(a)** (authority to correct clerical mistakes or omissions in the record). Preservation Filings fall squarely within Respondent's constitutional right to **due process** and to **petition the government for redress of grievances** under the **First Amendment** and **Fourteenth Amendment**.

4. **Federal VOCA Funding** – Victims of Crime Act (VOCA) grants, 34 U.S.C. § 20101 et seq., administered through the Utah Office for Victims of Crime and used to subsidize prosecutions and victim-advocate programs. Misuse of VOCA funds in connection with double jeopardy or unlawful prosecutions constitutes federal program fraud under 18 U.S.C. § 666.

5. **Retaliatory Action** – Any action by Judge Lunnen or Court staff **after September 20, 2024**, including but not limited to the initiation of a **Rule 83 "vexatious litigant" research and subsequent Motion for a proceeding** and/or the filing or instigation of a **trespass allegation**s, including backdating court docket metadata and making false entries. **Such actions constitute retaliation because they seek to punish Respondent for his lawful efforts to (1) preserve evidence, (2) correct the record, and (3) petition the government for relief and enforcement of constitutional protections.**

6. Retaliatory actions of this nature infringe upon Respondent's rights under the **First Amendment** (right to petition), the **Fourteenth Amendment** (due process and equal protection), and are actionable under **42 U.S.C. § 1983**.

7. **Vexatious Litigant (Improper Use of Term)** – The Court's application of the phrase "vexatious litigant" is misplaced when directed at a party whose filings consist of lawful requests for records that the Court is **already obligated to maintain, preserve, and produce.** A litigant cannot be deemed "vexatious" for submitting motions to obtain certified transcripts, WebEx video, docket corrections, or metadata, because such records are **mandatory components of the judicial process** under **Utah Code § 78A-2-208**, **Utah R. Jud. Admin. 4-201 & 4-202.02**, and constitutional due process requirements (*Griffin v. Illinois*, 351 U.S. 12 (1956); *Draper v. Washington*, 372 U.S. 487 (1963)).

   Properly understood, a "vexatious litigant" is one who files repetitive, frivolous, or harassing pleadings without legal basis. By contrast, filings to **preserve and obtain mandatory records** are **protective, lawful, and constitutionally grounded** exercises of the right to **petition for redress of grievances** under the **First Amendment** and the right to **due process of law** under the **Fourteenth Amendment**.

8. **Record Spoilage** – The **failure, alteration, or omission** by a judge, clerk, or other court officer to preserve accurate judicial records, including transcripts, WebEx video recordings, docket entries, and signed orders.

   Record Spoilage occurs when material proceedings are left uncertified, when docket entries conflict (e.g., dismissals entered both "with" and "without prejudice"), or when records are backdated, altered, or destroyed.

   Such conduct constitutes a violation of **Utah Code § 78A-2-208** (duty to provide transcripts), **Utah R. Jud. Admin. 4-201 & 4-202.02** (duty to preserve hearings), and infringes upon due process rights under the **Fourteenth Amendment**. Record Spoilage also falls within the scope of **18 U.S.C. § 1519** (alteration or falsification of records) and may give rise to liability under **42 U.S.C. § 1983**.

9. **Administrative Obligation to Maintain or Correct Accurate Records** – Refers to the legally mandated duty of a court, judge, or governmental entity to ensure that all procedural filings, transcripts, minute entries, audio or video recordings (including WebEx or other virtual hearing recordings), and related court records are:

- Created and Preserved in their correct, unaltered form;
- Indexable, Retrievable, and Certifiable as required under applicable law;
- Accessible or Producible when lawfully requested by a party or required under rules of procedure, rules of court, judicial administration rules, or open records law; and
- Corrected or Amended when records are shown to be inaccurate, incomplete, misclassified, or misleading.

This obligation is non-discretionary when triggered by procedural rules, court deadlines, Requests to Submit for Decision, or by statute. For example:

- Utah Code § 78A-2-223 – requires decisions on submitted matters within two months;
- Utah Code § 78A-2-208 – mandates preservation of transcripts by official reporters;
- Utah Code of Judicial Administration (UCJA), including Rule 4-201 & 4-202.02 – require the creation and retention of accurate records and govern public access;
- GRAMA (Utah Code § 63G-2-201 et seq.) – guarantees public access to non-exempt records.

Failure to satisfy this obligation may obstruct justice, prevent appellate review, and violate due process, and in some circumstances may rise to the level of willful misconduct or criminal liability under 18 U.S.C. § 1519 (record alteration) and 42 U.S.C. § 1983 (civil rights deprivation).

Authorities Supporting the Standard

1. **URAP Rule 12**

    - "On completing the transcript, **the reporter … must certify that the transcript is a true and correct record of the court hearing**." URAP 12(a)(4). Utah Courts

    - Transcripts must be certified, which is part of maintaining an accurate record. **WHEN RECORDS ARE NOT CERTIFIED THE RECORD IS DEFICIENT.**

2. **"No Transcript, No Appeal" Principle**

    - **While not a Utah case explicitly, there is commentary (legal guidance) noting that without a transcript or verbatim record of proceedings, appeals can be impossible. Litigants need certified or properly preserved records to ensure appellate review.**

    - This implies an obligation—de facto, if not always formally written—that **records must be maintained properly so that they are usable for appeals.**

3. **State v. Johnson, 2017 UT 76**

    - In *State v. Johnson*, Utah Supreme Court addressed the difference between failure to preserve an issue in trial court (or failure to raise/argue it) and waiver.

    - If issues are to be reviewable, records and objections must be in the record—hence the administrative duty to ensure the record is available and correct.

Jurisdiction Overreach: Rule 83 Motion Violates Jurisdictional Rules & Double Jeopardy

The Motion to declare Respondent a **"vexatious litigant,"** as crafted by Judge Lunnen and potentially co-authored by clerks or Judge Graf, exceeds the Court's jurisdiction.

This constitutes an improper role reversal because both the Court and the State have already admitted that this matter was a **double jeopardy case**.

Moreover, the State failed to satisfy its obligations under **Rule 3.8 of the Utah Rules of Professional Conduct** (special duties of a prosecutor), as well as **Rules 8.3 and 8.4** (duty to report professional misconduct and prohibition of dishonest or prejudicial conduct).

In addition, the federal **Victims of Crime Act (VOCA)** funding tied to these prosecutions must be audited for compliance, with clawback pursued if misuse is confirmed.

Dismissal With Prejudice Bars New Restrictions

This case was **dismissed with prejudice**, which means there is no pending cause of action upon which the Court may now impose new restrictions, assess continuing liability, or control Respondent's filing rights. Once dismissal with prejudice entered, the Court lost subject-matter jurisdiction to adjudicate new claims or sanctions related to that cause, except for collateral matters properly preserved, such as sanctions under **Rule 11, Utah R. Civ. P.** or the Court's **Administrative Obligation to Maintain Accurate Records.**

Conflicted Record Demonstrates Spoilage

The case history is plagued by inconsistencies across docket entries, minutes, amended status hearings post dated and altered docket and hearings, and ZERO CERTIFIED WEBEX VIDEO HEARINGS AND ZERO CERTIFIED COURT TRANSCRIPTS:

- Dismissals recorded both "without prejudice" and "with prejudice";
- Status hearings and amended minutes reflecting contradictory dispositions;
- Hearing dates (including August 17, 2022; September 20, 2024; and May 1, 2025) showing confusion and mischaracterization of rulings.

These conflicts demonstrate **record spoilage** and create constitutional uncertainty in proceedings already infected with double jeopardy violations.

Legal Consequences

By attempting to impose vexatious litigant status after final dismissal, the Court has acted **ultra vires** — outside its jurisdiction. This action:

1. **Violates due process** under the **Fourteenth Amendment**;

2. **Conflicts with double jeopardy protections** codified in **Utah Code § 76-1-402 et seq.** and upheld in **State v. Sisneros, 2022 UT 7**;

3. **Obstructs justice** under **18 U.S.C. § 1519** by permitting inaccurate or falsified records to remain uncorrected; and

4. **Deprives Respondent of rights** under **18 U.S.C. § 242** and **42 U.S.C. § 1983** by weaponizing record failures against him.

Utah Rule of Civil Procedure 83 ("Vexatious Litigants") permits a judge to impose filing restrictions in a **pending action**, but **only** under the conditions set forth in that Rule — including a showing of **clear and convincing evidence** of vexatious conduct and a finding that there is no reasonable probability the claims will succeed. Here, those conditions cannot be met. The **State itself has admitted** that this prosecution was barred by **double jeopardy** in violation of the **Fifth and Fourteenth Amendments**, while the record further shows that federal **VOCA funds** continued to be drawn down despite knowledge that the prosecution was faulty, and that multiple pieces of **Brady evidence** were withheld. These defects not only undermine the legitimacy of the underlying case but also foreclose any finding that Respondent's filings lacked merit.

Moreover, **Utah courts have held** that once an underlying claim has been disposed of, the court's power to impose new restrictions is strictly limited. In *Vashisht-Rota v. Howell Management Services, Inc.*, 2021 UT App 133, the Utah Court of Appeals questioned whether a Rule 83 order could be imposed **after dismissal** of the underlying action. That principle controls here: **once this case was dismissed with prejudice on September 20, 2024, jurisdiction to impose new restrictions ended.**

Finally, under the **separation of powers doctrine**, Rule 83 cannot be used to invert or diminish constitutional guarantees. The **First Amendment** secures the right to petition the government for redress, and the **Fourteenth Amendment** guarantees due process and equal protection. These rights cannot be curtailed by judicial fiat once jurisdiction is extinguished. To permit otherwise would allow a court to act as both accuser and adjudicator, collapsing neutrality and eroding constitutional safeguards.

Accordingly, the Rule 83 motion is void for lack of jurisdiction, incompatible with the **United States Constitution**, and must be struck.

Improper Judicial Self-Initiation of Vexatious Finding

It is a fundamental principle of due process that **a judge may not initiate and then adjudicate his own grievance.** To derive a vexatious-litigant finding from his own past inaction, omissions, or failures to rule is improper. Such conduct violates the requirements of **fairness, impartiality, and separation of roles**, because it treats the judge as both **party and adjudicator**.

Any legitimate vexatious-litigant finding must be based on **specific findings of fact, separate evidence, and an opportunity for meaningful response.** It cannot be grounded in vague line-item references to filings that the Court itself **ignored, failed to rule upon, or failed to preserve in certified form.** To do otherwise is to convert judicial neglect into a weapon against the party who sought relief.

Prosecution and Obstruction by Record Failures

For a period of more than three years, **Judge Lunnen presided over what was potentially a double jeopardy prosecution**—multiple attempts to punish or prosecute Respondent for the same alleged conduct despite prior adjudication and constitutional bar.

The State itself admitted that case **211401656** was an **"exact duplicate of case 191400132," "de facto the same,"** and even **"a case of record that should not exist."**

Yet during this same period, Judge Lunnen engaged in a **pattern of:**

- Failing to produce certified transcripts and WebEx/Zoom recordings;
- Failing to certify or preserve complete docket histories;
- Breaching **oral contractual obligations** made on the record (dismissal with prejudice and tolling of expungement); and
- Disregarding repeated motions and injunctive requests by Respondent that sought nothing more than **accurate, preserved, and certified records.**

This pattern demonstrates not neutral adjudication but **retaliation and obstruction**, falling outside the protection of judicial immunity and warranting federal oversight.

Across more than **six years of unlawful prosecution**, Respondent endured repeated proceedings without jurisdiction.

During this time, Respondent patiently pursued lawful remedies: filing requests for **certified transcripts**, **virtual hearing recordings**, **pretrial hearing recordings**, **word-for-word transcripts**, **record preservation motions under GRAMA and UCJA**, and **Notices to Submit for Decision.**

Each filing was a proper and lawful attempt to preserve evidence, ensure accuracy, and safeguard due process.

Respondent waited patiently for the record to reflect the truth. Those records have now been altered and twisted after the fact in an effort to perpetuate "hiding the ball" and obstructing just and honest and ethical outcomes. .

Instead, the records are now conflicted, incomplete, and misleading — perpetuating unlawful prosecution and denying Respondent fundamental constitutional protections.

The **Utah Code of Judicial Administration (UCJA)** is the body of rules adopted by the Utah Judicial Council that governs the internal administration of Utah's courts.

Unlike the Utah Code, which is enacted by the Legislature, the UCJA sets forth the **administrative obligations of judges, clerks, and court staff** to ensure accurate, fair and transparent judicial operations.

These rules include, among others, UCJA Rule 4-201 (requiring that all hearings be recorded and preserved as the official record), UCJA Rule 4-202.02 (governing the classification and access of court records to ensure public accountability), and UCJA Rule 4-202.07 (establishing fees for records, while requiring waivers in cases of indigency).

Together, these provisions impose a **non-discretionary duty** on the courts to preserve, maintain, and provide accurate records, including certified transcripts, audio or video recordings of proceedings, and docket entries.

Failure to meet these obligations does not rest on the parties but on the court itself, and noncompliance may constitute a **denial of due process** and a violation of both **state law and federal constitutional protections.**

> Judge Lunnen and associated clerks consistently failed to produce certified transcripts, failed to order preservation of virtual hearing recordings, and ignored those requests.

Rejection of "Vexatious Litigant" Label and Role Reversal of Responsibility

Respondent **categorically denies** the mischaracterization of his filings and requests to preserve the record accurately as "vexatious." **This nomenclature is an inversion of reality and a role reversal that improperly shifts blame onto the party harmed, rather than onto the institution that failed in its duties.**

For over **six years**, the Court and the Administrative Office of the Courts (AOC) have failed to produce **certified records** — including WebEx/Zoom recordings, certified transcripts, and docket corrections — that are **mandatory under law** and **essential for federal filings, oversight petitions, and civil rights claims.**

Respondent's **GRAMA requests for certified records** were not duplicative, but lawful and necessary preservation filings. By **wrongfully categorizing them as "duplicate filings,"** the AOC obstructed Respondent's access to evidence required by both statute and the Constitution.

Under the **Utah Government Records Access and Management Act (GRAMA), Utah Code § 63G-2-201 et seq.,** court records are presumptively public unless properly classified. Respondent had — and continues to have — a **statutory right** to request those records. Likewise, the **Utah Code of Judicial Administration (UCJA)** imposes a non-discretionary duty on courts to record, preserve, and produce accurate records.

The **true vexation** here lies not in Respondent's filings, but in the **Court's prolonged failure** to discharge these ministerial obligations. Efforts to preserve records, prevent spoilage, and correct dockets cannot be punished as harassment; they are the very filings that keep the judicial process tethered to law and truth.

Accordingly, the attempt to affix the "vexatious litigant" label to Respondent must be rejected as **retaliatory and constitutionally impermissible.** The Court's own failures to produce certified records for six years — despite repeated lawful requests — are the real obstruction that must be corrected.

- UCJA Rule 4-201 – mandates preservation of hearing records.
- UCJA Rule 4-202.02 – governs classification and public access to judicial records.
- UCJA Rule 4-202.07 – requires fee waivers for indigent parties to prevent financial barriers to access.

The misclassification of GRAMA requests as "duplicates" effectively denied Respondent access to certified records needed for federal filings, thereby obstructing due process and undermining the ability to seek judicial review.

This conduct implicates federal law:

- 18 U.S.C. § 1519 – prohibits the alteration, concealment, or falsification of records with intent to obstruct the investigation or proper administration of any matter within federal jurisdiction.

- 42 U.S.C. § 1983 – provides a civil remedy for deprivation of constitutional rights, including denial of access to courts through the withholding or obstruction of records.

- 42 U.S.C. §§ 1985 & 1986 – extend liability to conspiracies or neglect to prevent such deprivations.

By denying Respondent certified records through mischaracterization and obstruction, the Court and AOC not only failed in their Administrative Obligation to Maintain Accurate Records, but also engaged in conduct that may constitute obstruction of justice and civil rights violations warranting independent investigation and referral to prosecuting authorities.

This non-production effectively obstructs justice, prevents review or appeal, and conceals whether double jeopardy or prosecutorial misconduct has occurred.

Certified records are essential; without them, there is no accountability.

1. **Demand for Reveal & Cross-Reference of Line-Item Allegations.**
   Respondent asks the court to require identification of which of the numbered, untitled entries in the vexatious motion correspond to each of the filings in Respondent's Exhibit A (list of filings submitted between Sept. 2024 and May 1, 2025).

   Because each of those filings asked for ministerial duties (rulings, certifications, preservation of records), the court should admit these were obligations under Utah Code § 78A-2-223, UCJA record rules, GRAMA and provide a response.

2. Judge Graf and DOJ / E-Discovery Suggestion

Judge Graf and DOJ / E-Discovery Suggestion

By the filing of the present Rule 83 Motion, it appears less that Judge Graf himself is aligned with prior actors, and more that he has inherited what State of Utah Attorney Daniel Burton candidly described as **"a stinker of a case."**

A new judge may understandably seek to organize or understand a difficult docket, yet the posture of this case is unique: jurisdiction was extinguished, oral stipulations were made and ignored, and **certified records have never been produced.**

The Rule 83 Motion risks transforming inherited administrative failures into judicial overreach.

The continued pattern of non-production of certified records — whether minimized, delayed, or concealed — raises serious concerns of obstruction of justice. See 18 U.S.C. § 1519 (destruction, alteration, or concealment of records in federal matters).

If the Attorney General's Office or any other actor advocates for restrictions while knowing certified records are missing, such conduct constitutes conspiracy and obstruction under 18 U.S.C. §§ 1519, 371; deprivation of rights under color of law under 18 U.S.C. § 242; and actionable violations of due process under 42 U.S.C. § 1983.

Courts have long held that judicial immunity does not extend to administrative failures or acts taken in the absence of jurisdiction. See *Forrester v. White*, 484 U.S. 219, 227 (1988); *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991).

The safer course is not to defend the errors of a predecessor, but simply to order the production and certification of the missing records, allow independent E-Discovery or forensic audit if needed, and then recuse. This protects the Court, preserves the record for federal oversight, and avoids any appearance of impropriety.

To resolve these concerns, Respondent demands that the **U.S. Department of Justice (or another appropriate prosecuting authority)** open **e-discovery** into all communications among **Judge Lunnen, Judge Graf, the Attorney General's Office, and court staff** concerning Respondent's record requests, certified transcripts, docket corrections, and related rulings.

Such discovery is necessary to determine whether these failures were **systemic administrative breakdowns** or **intentional acts of misconduct** coordinated among judicial officers and state attorneys.

3. **Legal Consequences & Accountability.**

   - Under **Utah Code § 78A-2-223**, Judge Lunnen had a duty to decide fully submitted matters within two months; the failure to do so repeatedly is a failure of judicial duty.

   - Under **UCJA rules** and **GRAMA**, Respondent has a presumptive right to certified records and preservation when properly requested; failure to provide them constitutes record obstruction.

   - Under **Rule 83**, any imposition of vexatious litigant status must find clear and convincing evidence of unmeritorious filings, and the court must show there is no reasonable probability the claims will prevail. A dismissed case with prejudice typically undermines the judge's continued authority over the matter except for specific collateral proceedings.

   - Under the Judicial Conduct Commission statutes (**Title 78A, Chapter 11**), willful persistent failure to perform judicial duties is grounds for discipline; credible evidence of obstruction or deprivation of rights could merit referral.

Constitutional Prohibition on Punishing Respondent for Seeking Accurate Records

The Court should not constitutionally invert Judge Lunnen's dereliction of obligations ——including his failure to produce certified WebEx hearing recordings – and to correct inaccurate records—into punitive action against Respondent merely for –lawfully requesting accurate and honest records.

For several years, Judge Lunnen, the State Prosecutors, and Victims Advocates had both the knowledge and the obligation to report:

- Federal VOCA funding abuses,
- Known prosecutorial misconduct,
- Double jeopardy violations, and
- A wide range of due process and ethical violations, including lack of competency and diligence in preserving certified records and failure to act on requests for injunctive relief.

Instead of fulfilling these duties, Respondent's lawful filings to preserve and obtain certified records have been met with repeated denials by the Court, culminating in retaliatory attempts to brand Respondent as a "vexatious litigant." Such treatment is constitutionally troubling because Respondent's requests for accurate records are not only lawful but also protected under:

- The First Amendment (right to petition for redress of grievances),
- The Fourteenth Amendment (due process and equal protection),
- Griffin v. Illinois, 351 U.S. 12 (1956) (states must provide adequate transcripts for review), and
- Draper v. Washington, 372 U.S. 487 (1963) (record must be "of sufficient completeness" to permit appellate review).

To punish Respondent for requesting certified and accurate records—records which are inculpatory to both the prosecution and the Court—would not only deny due process but also constitute obstruction of justice under 18 U.S.C. § 1519 and a deprivation of rights under color of law under 18 U.S.C. § 242 and 42 U.S.C. § 1983.

Respondents efforts to preserve accurate records have been met with contempt for those very records implicated Judge Lunnen in three areas in which judicial immunity does not apply.

Argument: Vexatious Litigant Motion as Obstruction of Justice

Governing Standards

The Utah Code of Judicial Administration (UCJA) Rule 13-3.4 ("Fairness to Opposing Party and Counsel") provides in relevant part that **a lawyer shall not "unlawfully obstruct another party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value."** This rule embodies the fundamental principle that both parties must have fair access to evidence and records.

Application to This Case

Here, the motion to declare Respondent a vexatious litigant functions not as a shield against frivolous filings but rather as a tool of obstruction, given the context in which it arises:

- The State and the Court have repeatedly refused or failed to provide certified records (including WebEx video, transcripts, and clerk/docket histories).

- Respondent has lawfully sought these materials through subpoenas, motions to compel, GRAMA requests, and preservation filings, all of which were ignored, delayed, or mischaracterized.

- Compliance with these requests would have identified what jurisdictional basis, if any, was asserted for procuring VOCA funding, even though the prosecutions were founded on upstream jurisdictional faults and double jeopardy violations.

The failure to preserve screening records and virtual hearing recordings, to certify transcripts, and to comply with record-production obligations constitutes a systemic pattern of non-compliance with rules of evidence preservation, discovery, and due process.

Materiality and Due Process

These omissions are not harmless. Without certified records:

- Respondent is deprived of the ability to present and preserve due process rights,

- Respondent cannot fully assert double jeopardy protections guaranteed under Utah Code § 76-1-402 et seq. and State v. Sisneros, 2022 UT 7, and

- Respondent is hindered in documenting and proving prosecutorial misconduct and judicial dereliction.

Implications of Obstruction

The motion for vexatious litigant status, in this context, amounts to obstruction of justice because it seeks to shield the State and the Court from accountability by punishing Respondent for requesting accurate records.

- Utah Code § 76-8-306 (Obstruction of Justice) prohibits destroying, concealing, or failing to preserve evidence when required, if done with intent to hinder or delay proceedings.

- 18 U.S.C. § 1519 prohibits altering or concealing records in connection with matters under federal jurisdiction.

- 42 U.S.C. § 1983 provides a civil remedy for the deprivation of rights under color of law.

Indigency and Records Access

As an indigent party, Respondent is entitled to access certified records without prohibitive fees under UCJA Rule 4-202.07 and Utah Code § 78A-2-301(1)(l).

The Court's denials of these requests not only frustrate Respondent's constitutional rights but also invert the duty of the judiciary: the Court is attempting to fee punish Respondent for demanding what the Court itself is legally and ethically obligated to provide.

Conclusion

The Court's attempt to brand Respondent as a vexatious litigant for seeking accurate records is both constitutionally impermissible and legally untenable.

The true source of obstruction lies in the Court's refusal to produce certified records, which violates Utah law, federal statutes, and due process protections.

As scripture reminds us: "**Thou shalt not bear false witness.**"

Citations Outside Judicial Immunity

1. Non-Judicial / Administrative Derelictions

Judicial immunity is limited to judicial acts.

It does **not cover administrative, ministerial, or non-judicial duties** such as recordkeeping, certification, or docket maintenance.

- **Forrester v. White, 484 U.S. 219, 229 (1988)** – Distinguished between judicial acts and administrative acts; held that judges are not immune for administrative functions (e.g., hiring/firing staff).
- **Mireles v. Waco, 502 U.S. 9, 12–13 (1991)** – Immunity applies only to judicial acts; non-judicial actions fall outside the doctrine.
- **Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 435–36 (1993)** – Court reporters have no immunity for failing to provide transcripts; by extension, judicial failure to ensure transcripts are produced is not protected by immunity.

- **Utah Code of Judicial Administration Rule 4-201 & 4-202.02** – imposes a non-discretionary duty on courts to preserve and produce records; failure to comply is administrative, not judicial.

2. Acts in the Clear Absence of Jurisdiction

Judicial immunity does not apply when a judge acts **without jurisdiction**. Once a case is dismissed with prejudice, jurisdiction is extinguished.

- **Stump v. Sparkman, 435 U.S. 349, 356–57 (1978)** – Judicial immunity applies only where jurisdiction exists; acts taken in the "clear absence of jurisdiction" are not immune.

- **Bradley v. Fisher, 80 U.S. (13 Wall.) 335, 351 (1871)** – Immunity protects only judicial acts taken within jurisdiction. If a court has no jurisdiction, immunity does not apply.

- **Sevier v. Turner, 742 F.2d 262, 271 (6th Cir. 1984)** – Judge not immune where he acted after his jurisdiction ended.

- **Utah Code § 76-1-402 et seq.** – Double jeopardy / single criminal episode statute; once prosecution barred, the court lacks subject-matter jurisdiction.

3. Criminal or Corrupt Misconduct

Judicial immunity does not protect **criminal, fraudulent, or corrupt acts** carried out under color of law.

- **Dennis v. Sparks, 449 U.S. 24, 28–29 (1980)** – Judges may be immune from damages, but co-conspirators in judicial corruption can be sued; corruption itself is not insulated from federal oversight.

- **Pulliam v. Allen, 466 U.S. 522, 541–42 (1984)** – Judicial immunity does not bar prospective relief, injunctive relief, or attorney's fees where judges violate federal rights.

- **Forrester v. White, 484 U.S. 219, 227 (1988)** – Immunity does not cover actions that are not judicial in nature.

- **42 U.S.C. § 1983** – provides a civil cause of action for deprivation of rights, even by judges, when acting outside judicial capacity.

- **18 U.S.C. § 242** – criminal liability for deprivation of constitutional rights under color of law.

- **18 U.S.C. § 1519** – prohibits destruction, alteration, or concealment of records in federal matters.

Under Color of Authority

On **May 1, 2025**, Judge Lunnen denied Respondent's requests to **administratively preserve the records and instructed Clerk Shawn Minter to mute Respondent [multiple times]** after an oral contract had been acknowledged allowing Respondent five minutes to read a statement on the **Administrative Obligations of the Court to preserve and produce certified records.**

This action, carried out **under color of law/authority**, deprived Respondent of his constitutional right to **due process of law.**

The **cumulative errors** are attributable to the Court for failing to maintain an accurate record and to provide certified records to Respondent, despite numerous lawful filings seeking injunctive relief and preservation orders.

Judge Lunnen had more than a year of opportunity to preserve accurate records but failed to do so.

The obvious reason is that accurate records would implicate he and the State in **judicial canon violations** and violations of the **ABA Model Rules of Professional Conduct**, including **Canon 2.15** (duty to report misconduct), **Rule 3.8** (special responsibilities of a prosecutor), and **Rules 8.3 and 8.4** (duty to report misconduct; prohibition on dishonest or prejudicial conduct).

Instead of fulfilling these administrative record certification and preservation obligations, Judge Lunnen and unknown parties have turned Respondent's **lawful preservation filings** into the basis for punitive retaliation, seeking to brand him as a vexatious litigant. This conduct implicates multiple federal statutes:

- **18 U.S.C. § 242** – Deprivation of rights under color of law.

- **18 U.S.C. § 666** – Theft or bribery concerning programs receiving federal funds, applicable here because the litigation was subsidized by **VOCA funding**.

- **18 U.S.C. § 1519** – Destruction, alteration, or concealment of records in federal matters.

As the Supreme Court made clear in **Mireles v. Waco, 502 U.S. 9 (1991)**, judicial immunity applies only to judicial acts, not to non-judicial conduct or actions taken in the **clear absence of jurisdiction**.

Here, the denial of record preservation and the muting of Respondent's lawful statement were not legitimate judicial rulings but rather **administrative derelictions** and **retaliatory acts** falling outside the scope of judicial immunity.

RELIEF SOUGHT

Based on the foregoing, Respondent respectfully requests that the Court grant the following relief:

1. **Order Identification of Line Items.** Require the moving party to identify, for each numbered, untitled "line item" in its vexatious-litigant motion, the exact filing(s) in Exhibit A (by title and filing date) that correspond to each item.

2. **Acknowledgment of Ministerial & Administrative Obligations.** Acknowledge on the record that Respondent's filings in Exhibit A were lawful, ministerial requests for due process (rulings, record preservation, certified transcripts, virtual hearing recordings), and that Judge Lunnen had clear obligations under Utah statutes / judicial rules to respond, preserve, and certify.

3. **Correction and Certification of Records.** Order that all related court records —transcripts, virtual hearing / Courtroom Webex hearing video / Zoom screening recordings, minute entries, audio or video where applicable—that relate to the matters raised in Exhibit A be certified, preserved, and released (to the extent lawful) for appeal and public record.

4. **Claw-Back / Investigation of VOCA Funding Misuse.** That there be an investigation and, if appropriate, claw-back of any federal VOCA funds or other federal funding used inappropriately to subsidize litigation, prosecute claims, or maintain proceedings that violate double jeopardy or constitutional protections.

5. **Referral for Disciplinary & Criminal Review.** Refer the record (including Exhibit A and all correspondence, rulings, and lack of rulings) to:

- the Judicial Conduct Commission for willful, persistent failure to perform judicial duties;

- the appropriate prosecuting authority (and/or U.S. Department of Justice if federal rights violations are implicated) under Utah Code § 78A-11-106;

- the Bar (for prosecutorial misconduct under Rule 3.8, among others)

- OIG and IRS -Office of Inspector General Referral for Federal VOCA funding Clawback and IRS to audit State of Utah VOCA funding, CARES funding over past 10 years and overpayments, underreporting, false grant requests etc.

6. Defamation Per Se – Vexatious Motion and Related Statements

The Court's **Rule 83 vexatious litigant motion**, as drafted and circulated, constitutes **defamation per se** because it falsely portrays Respondent's lawful filings and preservation requests as frivolous or abusive, when in fact they were constitutionally protected efforts to secure accurate records and due process.

Such mischaracterizations directly impugn Respondent's integrity in connection with his official role and professional standing, and therefore fall into the established category of statements deemed defamatory per se. *See* **Allen v. Ortez, 802 P.2d 1307, 1311 (Utah 1990)** (accusations that tend to injure one in their trade, profession, or official capacity are defamatory per se).

Similarly, **emails, false statements, and gossip by prosecutors** repeating or amplifying the claim that Respondent is "vexatious" further constitute defamation per se. **Revisionist timelines with inaccuracies produced by AG Attorney Peterson/ Burton and emailed by Burton to more than 100 legislators, senators and DOJ parties have been very injurious to Respondent as a State and County Delegate and is defamatory on its face.**

These communications were disseminated to court clerks, sheriff's departments, and potentially entered into law enforcement databases, thereby **creating downstream reputational and legal harm**.

Under **Restatement (Second) of Torts § 573**, false allegations that one abuses judicial process or engages in dishonest litigation conduct are actionable as defamation per se

because they inherently damage the person's reputation without requiring proof of special damages.

In this context, the **label of vexatious litigant** functions not only as retaliation but also as a form of reputational harm that obstructs Respondent's constitutional right to petition the courts for redress.

Accordingly, Respondent seeks **correction, retraction, and written apology** to repair this reputational injury, and reserves all rights to pursue further remedies under **42 U.S.C. § 1983** (civil rights deprivation) and state defamation law.

7. **Access for Indigent Status / Fee Waivers.** Ensure that as an indigent litigant, full access to certified records and court documents without financial barrier is ordered. **That any fee waivers, transcript costs, or recording fees owed be waived, so that appeal or review is possible.**

CONCLUSIONS OF LAW

1. **Statutory Duty to Decide Submitted Matters (Utah Code § 78A-2-223).**
   Utah law mandates that a trial court must decide all matters submitted for final determination within two months of submission, unless delay is outside the court's control. Repeated failure to rule on *Requests to Submit for Decision* and motions submitted compliant with Rule 7 constitutes unlawful delay and violation of judicial duty. [Judge Lunnen had 12 months to sign the Order of Dismissal prepared by Respondent yet failed to do so. Multiple efforts made by the Respondent were disregarded by the Court.]

2. **Indigent Access / Poor Person's Right to Records.**
   Courts must ensure indigent litigants have access to court records necessary for appeal. Under Utah law, fee and cost waivers may be granted, and courts cannot use indigence as a reason to deny access to certified records when required for constitutional or appellate review. [Judge Lunnen **denied access and denied fee waivers**, Judge Porter allowed fee waivers and certified records from other expunged and sealed cases.]

   Constitutionally, due process and equal protection require courts to furnish transcripts/records to indigent litigants when essential to the fairness of proceedings (*cf.* Griffin v. Illinois governing U.S. Supreme Court precedent) and under Utah's Indigent Defense Act and related statutes ensuring access to counsel and justice. (See **Utah Code Section 78B-22-202)**

3. **Rule 3.8 / Prosecutor's Special Responsibilities (UCJA Rule 13-3.8).**
The prosecutor has ethical duty to refrain from prosecuting charges not supported by probable cause, to disclose exculpatory or mitigating evidence, and to ensure procedural justice and to undo harm;

…**Where record suppression or failure to preserve/certify records** undermines the ability to test guilt or defense claims (including double jeopardy) and;

…these obligations are implicated and administrative obligations to correct and certify have been denied, as a result Respondent has been prosecuted on backdated dockets, false entries or omissions, hearsay, defamation per se, and false testimony from the State witness. Prosecutors had knowledge the case was faulty, yet pursued relentlessly the Respondent causing great harm to him personally, professionally, economically, all the while they were using federal VOCA funding to make payroll while knowing the prosecution was faulty and fraud and with knowledge the U.S. Constitution was being violated.

4. **Judicial Canon and Code of Conduct Duties.**
Judges have ethical and legal duties under the Code of Judicial Conduct (Canon 2, etc.) to act with competence, diligence, fairness; to preserve integrity of records; to ensure litigants can exercise procedural rights; not to retaliate; and to correct inaccurate records. Failure to do so may be subject to disciplinary proceedings under Utah Code Chapter 11, Judicial Conduct Commission. (See **Utah Code §§ 78A-11-105, 78A-11-106**).

5. **Due Process & Double Jeopardy Violations**
Constitutional due process under both **Utah law** and the **U.S. Constitution** requires that every litigant be afforded: (1) a fair hearing, (2) an opportunity to be heard, and (3) an accurate and complete record for purposes of appeal and review. *See* **Griffin v. Illinois, 351 U.S. 12 (1956)**; **Draper v. Washington, 372 U.S. 487 (1963)**.

Where, as here, a judge presides over a prosecution for years that is already barred by **double jeopardy**, but then **refuses or fails to provide certified records** or to rule on properly filed submissions raising the issue, such conduct constitutes a violation of **due process rights under the Fourteenth Amendment**.

It also implicates statutory protections against **multiple prosecutions** under **Utah Code § 76-1-402 et seq.**, the **Single Criminal Episode Statute**, and Utah Supreme Court

precedent holding that subsequent prosecutions based on the same acts are barred once the State had knowledge of the charges. *See* **State v. Sisneros, 2022 UT 7**.

Thus, the denial or obstruction of certified records not only deprived Respondent of the ability to vindicate his due process rights but also **concealed and perpetuated a double jeopardy violation**.

Both doctrines converge here: the **absence of accurate records** prevents meaningful review of constitutional violations and compounds the harm already inflicted by being prosecuted for the same offense more than once.

6. Defamation Per Se and Demand for Retraction & Apology

Legal Basis under Utah Law

Under Utah Code § 45-2-2 (Libel and Slander), libel is defined as a malicious defamation expressed by writing or other fixed medium "tending to blacken the memory of an individual, or to impeach the honesty, integrity, virtue or reputation … thereby to expose the individual to public hatred, contempt, or ridicule." Utah law recognizes defamation per se where false statements accuse an individual of crime, professional misconduct, or abuse of process. In such cases, damages are presumed; the plaintiff need not prove specific monetary loss. *See* Allen v. Ortez, 802 P.2d 1307, 1311 (Utah 1990) (false statements that harm one's professional integrity constitute defamation per se); Restatement (Second) of Torts § 573.

False accusations of legal misconduct, frivolous litigation, or misuse of process fall squarely into the category of defamation per se, as they attack honesty and professional reputation in a way presumed to cause reputational harm.

Application to the Facts

The Rule 83 vexatious-litigant motion and the State Attorneys' reconstructed narrative falsely assert that Respondent acted in bad faith by filing frivolous or harassing motions. In reality, every filing cited was submitted in good faith, pursuant to procedural rules, and for the legitimate purpose of:

1. **Preserving records (WebEx recordings, transcripts, and dockets);**
2. **Securing rulings on constitutional claims; and**
3. **Raising issues of double jeopardy violations and misuse of VOCA funds.**

These false statements were not confined to the courtroom. Emails sent by the Attorney General's Office to more than 100 elected officials falsely characterized Respondent and made inverted claims and faulty facts, Respondent was blamed for the conduct of the State's witness's conduct, compounding reputational harm and attempting to influence due process by spreading false narratives. The bell can't be unrung on the reputational harm done by Burton and allowed by Peterson. These communications accused Respondent of misconduct and are therefore defamatory per se under Utah law.

Demand for Correction and Apology

➔ Correction / Retraction

Immediate correction of false statements in the court record by Judge Lunnen and by State Attorneys. Identification and retraction of inaccurate claims made in the vexatious-litigant motion and in related communications. Written corrections sent individually to all recipients of the defamatory communications, including elected officials who received AG's Office emails.

➔ **Public Apology**

1. A written apology, issued on official Attorney General letterhead, acknowledging that:

   a. Judge Lunnen presided over a double jeopardy prosecution for more than three years;

   b. Federal VOCA funds were used in connection with that prosecution;

   c. Respondent's requests for accurate records, certified transcripts, and virtual hearing recordings were legitimate, required by law, and constitutionally protected;

   d. The failure to provide such records constituted obstruction of justice and improper record suppression.

➔ **Clawback / Financial Accountability**

A formal investigation into the use of VOCA funds and other federal monies in connection with these unlawful proceedings.

Referral for clawback of funds that were improperly applied to subsidize unlawful litigation or to support the oppressive Rule 83 vexatious-litigant motion.

Administrative Obligations and Legal Implications

The Court's post-dismissal authority is strictly administrative, not punitive. Once the case was dismissed with prejudice, the Court's only available options were:

1. **Correcting the record where omissions or clerical errors exist,** in accordance with Utah R. Civ. P. 60(a);

2. **Issuing certified records with corrections,** including **certified transcripts**, docket entries, **WebEx/Zoom recordings,** and related materials; and

3. **Ensuring compliance with GRAMA** and UCJA obligations so that **all relevant records are accurate,** retrievable, and accessible for federal review.

The Court cannot constitutionally invert its recordkeeping failures into sanctions against Respondent. Any attempt to expand jurisdiction beyond these ministerial duties transforms the judiciary from neutral record-keeper into a retaliatory actor, falling outside judicial immunity.

Additional Legal Implications & E-Discovery

If these administrative obligations are not met, Respondent expressly reserves the right to pursue all remedies under Utah and federal law, including but not limited to:

- Presumptive damages for defamation per se under Utah Code § 45-2-2 (Libel and Slander);

- Punitive damages if actual malice is demonstrated, see *Foster v. U.S. Office of Personnel Mgmt.*, 90 P.3d 1000, 1006 (Utah Ct. App. 2004);

- Injunctive relief requiring correction of the public record and prohibiting further dissemination of defamatory communications.

In addition, Respondent requests that all relevant e-discovery be preserved and produced, including but not limited to:

- Emails, internal memoranda, drafts, and communications among Judge Lunnen, Judge Graf, the Attorney General's Office, court clerks, or victims' advocates;

- Communications concerning Respondent's record requests, certified transcripts, GRAMA filings, or the drafting and circulation of the Rule 83 vexatious-litigant motion.

These materials are essential to determine whether the Rule 83 motion was the product of coordinated efforts to retaliate against Respondent for requesting certified records, rather than a neutral judicial act.

This administrative discovery is necessary to establish whether there was **coordination, intent, or conspiracy** to distort the judicial record, suppress evidence, and propagate a false public narrative. If such evidence exists, it would implicate:

- **18 U.S.C. § 1519** – falsification or concealment of records in connection with a matter under federal jurisdiction;

- **18 U.S.C. § 242** – deprivation of rights under color of law;

- **42 U.S.C. §§ 1983, 1985, and 1986** – civil liability for deprivation of rights, conspiracy to obstruct justice, and neglect to prevent such violations.

Accordingly, Respondent seeks an order directing the **preservation and production of all such communications** to ensure transparency, accountability, and protection of due process rights

Factual & Legal Context: Failures to Act on "Request to Submit for Decision" Notices & Related Duties

1. ## Repeated "Request to Submit for Decision" Notices Ignored

   Unfortunately, after **September 20, 2024**, Judge Lunnen failed to uphold his **contractual obligation** to sign the stipulated dismissal order, which Respondent presented in good faith and which the State had stipulated to. Sixty days passed, then ninety, one hundred and twenty, and one hundred and eighty — with no action. During this time, Respondent filed multiple motions and requests to preserve the record, to obtain certified copies, and to compel rulings. Each was disregarded.

2. Over the span of more than one year, Respondent filed **multiple Notices to Submit for Decision and then waited for Court action**, each in compliance with the **Utah Rules of Civil Procedure**.

   Under **URCP Rule 7(g)**, once briefing is complete or the time for briefing has expired, either party may file a **Request to Submit for Decision**, which requires the Court to act by ruling or otherwise rendering a decision.

   Yet Judge Lunnen disregarded most of these notices except for one — being a request for a fee waiver, which he promptly denied. He ignored filings and Proposed Orders such as;

   - **Proposed order** granting motion **for federal oversight, forensic procedural audit, investigation**, and **anti-retaliation protections;**
   - **Proposed Order to Preserve Records** and Communications
   - (PROPOSED) **Order to Dismiss with Prejudice**
   - PROPOSED) **Order for Injunctive Relief**
   - (PROPOSED) Order on Motion for Sanctions Against Opposing Counsel/**Petition for Grand Jury Investigation**
   - (PROPOSED) **Order To Toll BCI Certificate To Preserve Evidence Of Possible Criminal Activity Of State's Witness And Prosecutorial Misconduct -**

3. This pattern of non-response constitutes not merely delay but a **failure to perform essential judicial duties under URCP**, depriving Respondent of due process and compounding the harm caused by the Court's refusal to sign the stipulated dismissal order.

   Such conduct is inconsistent with the **Utah Code of Judicial Conduct, Canon 2.5 (Duty of Competence and Diligence)**, which requires judges to perform judicial and administrative responsibilities diligently and promptly, and with **Utah Code § 78A-2-223**, which requires courts to issue decisions on submitted matters within two months.

4. **Duty Under Utah Judicial Conduct & State Law**
   Judges in Utah are governed by the **Code of Judicial Conduct** (Utah), which requires

competence, diligence, fairness, and **ensuring litigants have their rights to be heard and to have timely resolution of motions and issues**. (See Utah's Code of Judicial Conduct & related commentary.)

Also, under **Utah Code § 78A-11-105**, grounds exist for reprimand, censure, suspension, removal, or involuntary retirement for judges who fail to perform their duties, including misconduct.

5. **Record Preservation & Due Process Rights**
   Alongside the failure to act on the "Request to Submit for Decision" notices, Respondent has repeatedly sought records—court transcripts; certified Webex/Zoom video recordings; administrative preservation of certain hearings/screenings—that are essential for establishing an accurate record, potential double jeopardy or prosecutorial misconduct, and Respondent's constitutionally protected rights.

   The Court had multiple, known opportunities to preserve those records. Utah procedure (and indeed constitutional due process) demands preservation of the record for fairness and appeal, especially when filings alert the Court to their importance.

6. **Implication of Possible Federal Rights - Deprivation Under Color of Law**
   By ignoring repeated requests for decision and failing to preserve or certify records, Judge Lunnen's alleged conduct may rise above mere judicial error and may implicate violations under federal law — e.g., **18 U.S.C. § 242** (deprivation of rights under color of law). This is not speculation: the requests made and the notices filed were proper; the documents requested were material; yet the Court's action has been uniformly dismissive except in the limited case of the fee waiver (which was swiftly denied).

   To continue to treat these requests as somehow vexatious is to shift responsibility away from the judge's failure to perform required judicial acts.

Legal Conclusion for OIG/ DOJ/ FBI/ Auditors to consider from these facts

- Because Utah law (URCP, Judicial Conduct statutes, Code of Judicial Conduct) imposes a duty on judges to act on motions and requests that are properly submitted, ignoring nearly every "Requests to Submit for Decision" over long time frames suggests a violation of those duties.

- The failure to preserve essential records (transcripts, video) following proper requests that clearly inform the Court of their relevance may violate due process and fair proceedings.

- The allegation that Respondent is "vexatious" in making such requests is without merit; rather, **the record suggests the Court's inaction constitutes disregard for both procedural rules and constitutional guarantees**

Accordingly, **Judge Lunnen may not qualify for judicial immunity here**, this is for the DOJ to determine or other neutral third party outside the Utah 4th District Court and **must be referred given the hundreds of thousands of dollars of VOCA funded victims advocates who had knowledge the case was double jeopardy, had Rule 3.8 obligations to stop it, but allowed it to happen.**

Judge Lunnen also had knowledge of this as the attorneys being paid by federal VOCA dollars appeared in his court, **he was not a bystander.**

Respondent's filings to preserve evidence and correct record errors directly highlight Lunnen's lack of diligence in maintaining correct records, his failure to report prosecutorial misconduct and double jeopardy violations, and his silence regarding VOCA fraud. **These are administrative, ultra vires, and might be potentially criminal acts—not judicial ones.**

Alleged Abdication of Judicial Duty by Judge Lunnen — Referral Basis

Over an extended period, Judge Lunnen (now retired) abdicated fundamental judicial responsibilities in ways that implicate not only state procedural and ethical rules but also potential federal violations. Far from being vexatious, Respondent's repeated requests for judicial action and preservation of records highlight the Court's failures to perform required duties—failures for which I should not be blamed. Below are legal authorities under Utah law that establish Judge Lunnen's inaction is not only improper but grounds for referral to prosecuting authorities under Utah statute. **The Commission must immediately refer the allegation and all relevant information to the local prosecuting attorney.**

Utah Legal Authorities Mandating Judicial Duty and Referrals

1. **Utah Code § 78A-11-105 – Grounds for Discipline**
   This statute authorizes discipline — including reprimand, censure, suspension, removal, or involuntary retirement — for **a judge who commits *willful misconduct in office* or engages in *conduct prejudicial to the administration of justice which brings the judicial***

office into disrepute. **The Commission must immediately refer the allegation and all relevant information to the local prosecuting attorney.**

2. **Utah Code § 78A-11-106 – Criminal Investigation of a Judge / Administrative Leave**
   This section requires that when the Judicial Conduct Commission (JCC) during its investigation receives information upon which a reasonable person might conclude there is criminal misconduct by a judge (felony or misdemeanor under state or federal law). **The Commission must immediately refer the allegation and all relevant information to the local prosecuting attorney.**

   The statute also allows the chief justice or justices to place such a judge on administrative leave pending resolution.

3. **Statutory Duty to Preserve Records & Perform Judicial Duties**
   Under Utah Code Title 78A (Judiciary and Judicial Administration) and the Code of Judicial Conduct, **judges are required to ensure fairness, allow parties to be heard, preserve an accurate record of proceedings,** and to decide matters properly submitted. **The Commission must immediately refer the allegation and all relevant information to the local prosecuting attorney.**

4. **Case Precedent: *In re Inquiry Concerning a Judge*, 2003 UT 35**
   This Utah Supreme Court case confirms that the Judicial Conduct Commission investigates complaints against judges, and that the Court has authority over whether a judge must be disqualified in proceedings or otherwise disciplined. While *In re Anderson* (2003 UT 35) does not address *exactly* the same facts, it establishes that judges are not immune from oversight, and that allegations of misconduct are subject to serious review. **The Commission must immediately refer the allegation and all relevant information to the local prosecuting attorney.**

Ministerial Filings for Record Preservation — Cross-Reference Demand and Referral Basis

Position. The docket **"line-item numbers"** in the Rule 83 Motion are **unlabeled, vague and need clarification before these matters can be responded to individually.**

Each numbered entry likely corresponds to a filing that asked the court to perform **ministerial administrative duties**—enter rulings on fully-submitted motions and preserve/certify

records—so the case history would be accurate and reviewable. The burden rests on the Court to clarify which docket entries they are referring to since the docket has been altered, amended, backdated and Respondent does not have access to the index referenced in the Rule 83 Motion

Utah law required timely rulings and access to certified records; prolonged non-action violated those duties.

Why these are ministerial (not "vexatious"!)

- **Timely decisions are mandatory.** Utah law provides: *"A trial court judge shall decide all matters submitted for final determination within two months of submission, unless circumstances causing the delay are beyond the judge's personal control."* **Utah Code § 78A-2-223(1).** The Judicial Council is further required to track matters that exceed two months. **§ 78A-2-223(2).**

- Here, Judge Lunnen disregarded multiple requests to administratively preserve certified records and failed for **over fifty-two weeks** to sign the **Order of Dismissal with Prejudice**, despite the State's stipulation. This **judicial dereliction of duty** cannot be inverted or twisted into grounds to brand Respondent "vexatious" for merely insisting that the Court discharge its ministerial obligations. Yet that is exactly what the pending Rule 83 motion attempts to do — weaponize the Court's own inaction against the litigant who sought compliance.

- Such inversion of responsibility implicates both **state law** and the **United States Constitution**. By failing to decide submitted matters and preserve accurate records, the Court violated Respondent's rights to **due process and equal protection** under the **Fourteenth Amendment**, as well as his **First Amendment right to petition** for redress without retaliation. The attempt to reframe lawful preservation filings as "vexatious" compounds these violations and now gives rise to federal civil rights liability under **42 U.S.C. § 1983** and **18 U.S.C. § 242**.

- This entire controversy was **unnecessary**. Had the judge fulfilled his **non-discretionary ministerial duties** under Utah law, there would be no basis for federal intervention. Instead, by refusing to act, altering deadlines, and retaliating against Respondent's filings, the Court itself has created the very federal civil rights violations now at issue.

- **Requests to Submit for Decision are the proper vehicle** to trigger a ruling once briefing is complete. See **URCP Rule 7(b)** (motion practice) and the courts' **Request to**

Submit for Decision form/instructions.

- **Certified records are required upon lawful request.** The judicial branch "**shall provide a certified copy** of a record if the requester has a right to inspect it, identifies the record with reasonable specificity, and pays the fees." **UCJA Rule 4-202.09(1)**; related records rules at UCJA **4-202.02** and GRAMA (Utah Code **63G-2-201** et seq.). **Non-creation caveat does not permit delay or denial of existing records.**

- **Judicial ethics require action and cooperation.** Under Utah's Code of Judicial Conduct (**Canon 2**), judges must perform duties **competently and diligently** and must **cooperate** with disciplinary authorities (Rule **2.16**) and take **appropriate action** when presented with credible information of misconduct (Rule **2.15**). **Retaliation is prohibited.**

- **When credible information suggests criminal misconduct by a judge, referral is mandatory.** The Judicial Conduct Commission must **immediately refer** such information to a prosecuting attorney; conflicts are handled by re-referral to a non-conflicted office. Utah Code **§ 78A-11-106**; grounds for discipline include **willful and persistent failure to perform judicial duties**. **§ 78A-11-105**.

Relief requested now (partial)

1. Order the moving party to **match each line-item number** in its vexatious motion to the specific filing in **Exhibit A** below, identifying title and file date.

2. Acknowledge on the record that these filings sought **ministerial actions** (timely rulings; certification/preservation of records) required by the authorities cited above.

3. Enter immediate orders: (a) certify and release identified transcripts/virtual-hearing recordings pursuant to UCJA **4-202.09**; (b) rule on any still-submitted motions per **§ 78A-2-223** and **URCP 7**.

4. Because the pattern reflects **willful and persistent failure to perform judicial duties** and implicates potential **deprivation of rights** through record obstruction, **refer** this matter under **§ 78A-11-106** to the appropriate prosecuting authority (and/or DOJ, OIG, IRS, State Auditor, Legislative Audit Committee, AOC) for review.

Constitutional Violations, Not Vexatious Conduct: Judge Lunnen's Failure to Preserve Records and Address Double Jeopardy (Sept. 2024–May 2025)

From September 2024 through May 1, 2025, Judge Robert C. Lunnen presided over what has become effectively a double-jeopardy prosecution that has dragged on for three going on four years.

During this time, Respondent has unfortunately had to repeatedly seek to preserve an accurate and certified record so that substantive legal defects—including double jeopardy, prosecutorial misconduct, and constitutional claims—could be revealed and addressed in preparation for federal 1983 filings.

Respondent made every effort to comply with procedural rules, and patiently wait for Court actions, but the inaction lies entirely with Judge Lunnen.

[Remember this is the culmination of 9 years of prosection without jurisdiction, dozens of prosecutors who withheld Exculpatory Brady evidence, and Respondent has shown great constraint in awaiting delayed justice.]

Below are the legal obligations, and the imperative that the court must honor.

Preservation of the Docket as Evidence of Federal Violations

Respondent does not seek to vacate or erase the docket.

To the contrary, the **216 docket entries must be preserved in their entirety** as evidence of systemic misconduct.

Each entry reflects not vexatious filings by Respondent, but rather the **State's vexatious prosecution** — later admitted to be an **"*exact duplicate*," "*de facto the same*," and "*a case of record that should not exist.*"**

The absence of **certified screening Zooms, court transcripts, and WebEx videos** has compounded the injury, but the docket itself demonstrates how Respondent was forced, time after time, to file motions, notices, and preservation requests simply to safeguard rights guaranteed under the Constitution.

The **pattern of refusal by the Court to certify records** is not neutral error — it is evidence of **federal violations** including obstruction of justice (*18 U.S.C. § 1519*), deprivation of rights under color of law (*18 U.S.C. § 242*), and civil rights violations actionable under *42 U.S.C. § 1983*.

For this reason, the docket in its entirety must be designated as a **Historic Record** under GRAMA and UCJA and preserved for **federal investigation, audits, and referral.**

A. Legal Duties with Respect to Double Jeopardy and Certified Records

1. **Utah Double Jeopardy Law**
   Utah law (see *Part 4, Multiple Prosecutions and Double Jeopardy*, Utah Code Title 76, Chapter 1) prohibits subsequent prosecutions for the same offense arising out of a single criminal episode—especially when the same act or facts are involved. § 76-1-402 and related sections bar re-prosecution and exact penalties for included offenses. (See Utah Code § 76-1-402 (2025 amendment).)

Right to Certified Records and Verbatim Transcripts

Courts of record — including Utah's district courts — are legally obligated to maintain, preserve, and provide certified transcripts and recordings of hearings when properly requested. This duty arises under multiple authorities:

1. Utah Code of Judicial Administration (UCJA):

   a. Rule 4-202.09 governs requests for certified copies of court records.

   b. **Rule 4-401.01 requires that *all proceedings be recorded verbatim by video,*** *audio, or stenographic means.*

   c. **<u>These provisions establish that WebEx video hearings are official records and must be preserved and certified when requested.</u>**

2. Utah Government Records Access and Management Act (GRAMA):

   a. Utah Code § 63G-2-201(2): GRAMA presumes public access to records unless a classification applies.

   b. **Video recordings, audio files, and transcripts of public hearings are records within the meaning of Utah Code § 63G-2-103(22).**

Courts cannot arbitrarily withhold access to certified WebEx hearings by re-labeling a case as "closed" or "sealed."

[The AOC has failed to produce Webex hearing records requests (videos) - GRAMA

requests from Respondent citing the case is "sealed" and or asserting the GRAMA requests are duplicative, neither are true.

[Someoneappears to have *"after the fact"* backdated and altered the docket to use the word "*Case Closed*" this is also materially false as Respondent has standing since September 20th 2024 Status Minutes read…

" The court orders that this case be dismissed with prejudice."....."The court will not grant the expungement until Mr. Allen provides notice to the court that he wishes to proceed with the expungement."

3. **Utah State Courts Practice:**

    a. **Parties are explicitly allowed to obtain verbatim copies of electronically recorded hearings, including WebEx and Zoom proceedings. These are not optional conveniences — they are part of the official record.**

Application to Respondent: GRAMA and Due Process Violations

- Respondent's **GRAMA requests for certified WebEx videos and transcripts** have been improperly denied on the false grounds that they were "duplicated requests" or that "certified" records were somehow not available. These denials are misleading. Even accepting that reasoning, the **underlying requests for records have still not been fulfilled.**

- As a result, **GRAMA violations and constitutional due process violations are stacking up.** Each denial compounds the Court's failure to provide Respondent with the **accurate, certified, and verbatim records** necessary to preserve rights, pursue appellate or federal review, and document systemic defects such as known double jeopardy, prosecutorial misconduct, and misuse of federal VOCA funds.

- These repeated failures implicate not only **Utah Code § 63G-2-201** (GRAMA's presumption of access) and **UCJA Rule 4-401.01** (requiring verbatim recording of all proceedings), but also the **Due Process Clause of the Fourteenth Amendment**, as articulated in *Griffin v. Illinois*, 351 U.S. 12 (1956), which guarantees meaningful access to the record as a prerequisite to fair review.

Petitions for certified WebEx hearings (covering August 17, 2022; September 20, 2024; and May 1, 2025) are currently pending decision, with a statutory due date of October 13, 2025. Any designation of Respondent as "vexatious" that obstructs the production of these certified records — while petitions are still pending — would itself constitute Obstruction of Justice under 18 U.S.C. § 1519, as well as a deprivation of rights actionable under 42 U.S.C. § 1983.

Legal Duty to Produce Video Recordings

- Under **Utah law**, video and audio recordings of court proceedings are not discretionary; they are **mandatory records** that must be preserved, certified, and made available upon lawful request.

1. **Utah Code § 63G-2-103(22) (GRAMA Definition of Record):**
   Defines a *"record"* to include "any documentary material regardless of physical form, including… video recordings, audio recordings, electronic data, or other documentary material prepared, owned, received, or retained by a governmental entity."
   → WebEx and Zoom video files of hearings are **records under GRAMA** and cannot be excluded by re-labeling a case "closed" or "sealed."

2. **UCJA Rule 4-401.01 (Record of Proceedings):**
   Requires that "all proceedings shall be recorded verbatim by video , audio, or stenographic means."
   → The Court is obligated to record hearings (including remote WebEx/Zoom) and to preserve those recordings as part of the official record.

3. **UCJA Rule 4-202.02 (Records Classification):**
   Provides that audio and video recordings of public hearings are **public records** unless specifically restricted by law.
   → The default status of hearing recordings is **public and accessible.**

4. **UCJA Rule 4-202.08 (Request to Access Records):**
   Governs access requests and anticipates that parties and the public may obtain **copies of recordings** upon request, subject only to limited statutory exceptions.

5. **Utah R. App. P. 11(g):**
   Requires that the record on appeal include "audio or video recordings of all proceedings." Denial of those recordings obstructs appellate rights and undermines due process.

6. **Griffin v. Illinois, 351 U.S. 12 (1956):**
   The U.S. Supreme Court held that access to transcripts and records is a **constitutional right** where necessary to ensure meaningful review. Refusing to provide certified video/audio is a due process violation.

Application to Respondent and Legal Authority

Respondent has repeatedly requested **certified WebEx/Zoom video recordings of hearings**, including those held on **August 17, 2022; September 20, 2024; and May 1, 2025.** The Court and AOC have refused production, instead mislabeling the case as "closed" or "sealed" to block access. This conduct violates **GRAMA**, the **Utah Code of Judicial Administration (UCJA)**, Utah appellate rules, and fundamental federal constitutional principles.

Denial of these recordings is not a neutral oversight — it is an act of **obstruction** that prevents Respondent from substantiating federal claims, including violations under **18 U.S.C. § 1519** (record concealment) and **42 U.S.C. § 1983 (due process deprivation). Both the Court (for certified WebEx and transcripts) and the State (for original Zoom screening recordings that initiated the Information filings)** bear responsibility for preserving and producing these materials. Their refusal leaves Respondent trapped in admitted **double jeopardy, and even triple jeopardy,** without access to the very evidence necessary to prove it.

Utah appellate authority is equally clear:

- **State v. Stewart, 2018 UT App 196, 437 P.3d 640:** Audio recordings are part of the official record under Utah R. App. P. 11; where transcripts are lacking, the recordings themselves must be produced.

- **State v. Robertson, 932 P.2d 1219 (Utah 1997):** Recognized that denial of access to audio recordings interferes with appellate rights.

- **UCJA Rule 4-401.01 & Utah R. App. P. 11(g):** Require video/audio files to be preserved for appeals; where courts fail, cases are remanded to reconstruct the record — an acknowledgment that such recordings are of legal significance.

In addition, Utah imposes a clear duty of timely decision-making:

- **Utah Code § 78A-2-223:** Requires that any matter submitted for final determination be decided within two months of submission, unless delay is outside the judge's control. Respondent filed multiple Notices to Submit for Decision, each invoking this duty.

The Court's failure to act amounts to willful delay and failure to perform a judicial duty. Video requests have been ongoing for several years spanning 29 appearances, zero responsive video zoom screening records and Webex have been produced via Court Motions, Petitions, GRAMA, Discovery etc. **There should be 32 video files, ZERO video files have been provided to Respondent, 3 zoom screening videos have been withheld from Discovery and Motions to Compel Discovery and Petitions and GRAMA requests .** The multiple efforts to obtain the exculpatory evidence have been met with resistance and include this misguided Rule 83 Motion originating from Judge Lunnen, obscuring the real facts and matters before a new judge.

Together, these statutes and cases underscore that the Court's and the State's persistent refusal to provide **certified WebEx/Zoom recordings, certified transcripts, and screening videos** constitutes not just administrative neglect but a pattern of **obstruction, retaliation, and constitutional deprivation.**

B. Filing Index Demonstrating Judge Lunnen's Failures

Below is Exhibit A truncated followed by expanded exhibit, a selection of filings from September 2024 through May 2025 that illustrate Respondent's lawful, procedural attempts to:

- obtain rulings on motions and requests once fully submitted,
- preserve and certify records (transcripts, virtual hearing recordings),
- raise double-jeopardy issues, and
- compel the court to maintain an accurate record.

File Date	Description
11-12-2024	Request to Submit for Decision (General) (IGNORED BY JUDGE LUNNEN)
10-15-2024	Notice to Submit Motion to Compel Signature of Proposed Order of Dismissal with Prejudice (IGNORED BY JUDGE LUNNEN)

10-07-2024 Request for Expunged Case History, Expungement Order 171402280 (GRANTED BY JUDGE PORTER)

Request for Expunged Case History, Expungement Order

191400132 (GRANTED BY JUDGE PORTER)

08-12-2024 Expungement Certificate; Request for Hearing; Toll Certificate; Motion to Dismiss with Prejudice; Petition to Expunge, etc.
(IGNORED BY JUDGE LUNNEN)

09-20-2024 STATUS HEARING (Minute, Amended)
REQUESTS FOR WEBEX AND CERTIFIED TRANSCRIPT DENIED BY LUNNEN.

05-01-2025 STATUS HEARING
REQUESTS FOR WEBEX AND CERTIFIED TRANSCRIPT DENIED BY LUNNEN.
(IGNORED BY JUDGE LUNNEN)

05-22-2025 Notice to Submit for Decision; Proposed Writ of Mandamus; Order to Waive Fees, etc.
(IGNORED BY JUDGE LUNNEN)

06-06-2025 Motion/Proposed Order for Record Correction; Docketing Compliance; Historical Designation under GRAMA etc. (IGNORED BY JUDGE LUNNEN)

C. Cross-Reference Demand and Admission of Record Obstruction

Notice to the Court: Threshold Requirement of Certified Records

Before this Court undertakes any substantive rulings, Respondent respectfully submits that the absence of **certified records** created a **fatal constitutional and statutory defect** that must be corrected. Additionally the docket entries mentioned in the Motion for Rule 83 are vague and a cross reference chart must be produced as a certified docket list exhibit to remove ambiguity.

The Court must order such before any future actions can be taken. Identify which numbered line items in the Motion 83 are the items of the subject mattera nd what entries they correspond to in this rebuttal. **The Court has failed to include a certified docket of the items referenced and with the docket alterations, metadata tampering, its impossible for Respondent to identify what filings specifically Judge Lunnen asserts fall outside of administrative obligations.**

Background. Judge Robert C. Lunnen presided over this matter for more than three years during what the State itself admitted was an "exact duplicate," "de facto the same," and "a case of record that should not exist." Despite repeated requests, Judge Lunnen refused to produce **certified WebEx/Zoom recordings, certified transcripts, and certified docket entries**, thereby obstructing Respondent's ability to preserve the record for review.

Legal Duty.

- **UCJA Rule 4-401.01** requires that *all proceedings be recorded verbatim*.
- **UCJA Rule 4-202.09** and **GRAMA (Utah Code § 63G-2-201)** obligate the Court to *preserve and produce those records upon request*.

- **Utah Code § 78A-2-223** requires judges to *issue timely rulings on matters submitted for determination*.

- Under **Griffin v. Illinois, 351 U.S. 12 (1956)** and **Draper v. Washington, 372 U.S. 487 (1963)**, due process under the **Fourteenth Amendment** requires access to a "record of sufficient completeness" to permit meaningful appellate or federal review.

The Court's continuing failure to comply with these duties not only constitutes **record obstruction**, but also violates Respondent's constitutional rights under the **First Amendment** (right to petition for redress) and the **Fourteenth Amendment** (due process and equal protection). No further rulings can lawfully issue until the threshold requirement of certified records is satisfied.

D. Implications & Exposure for Others

Implications.

The absence of certified records severely hampers Respondent's ability to pursue federal remedies, including filings under 42 U.S.C. § 1983.

A judge who proceeds without first ensuring certification of the record risks findings of obstruction of justice under 18 U.S.C. § 1519 and deprivation of rights under color of law under 18 U.S.C. § 242 if he knowingly allows proceedings to move forward without a reliable record.

Persistent failure to produce certified records is an administrative dereliction, not a judicial act, and therefore falls outside the protection of judicial immunity. *Forrester v. White*, 484 U.S. 219, 227 (1988).

Request.
Respondent respectfully requests that this Court:

1. **Order immediate certification and production of WebEx/Zoom video recordings and transcripts for the August 17, 2022, September 20, 2024, and May 1, 2025 hearings;**

2. **Confirm that no further substantive proceedings will occur until the record is complete and certified; and**

3. **Recognize that correction and certification of the record is a threshold administrative obligation of the Court.**

Exposure for Other Parties.

The Attorney General's Office or any other commenting party who relies on incomplete or uncertified records risks supporting what is, in effect, a continuation of obstruction. Any such reliance, without acknowledging the uncertified and incomplete nature of the record, may expose them to claims of conspiracy or complicity under color of law (18 U.S.C. § 242), record concealment (18 U.S.C. § 1519), and civil liability under 42 U.S.C. § 1983.

The Only Proper Path Forward.

This case is the fruit of the poisonous tree planted by David Leavitt and prosecutors in 2019.

By pressing forward on what has since been admitted to be an "exact duplicate," "de facto the same," and "a case of record that should not exist," they created legacy defects that have corrupted the entire record.

These defects were not authored by Respondent, nor by successor judges or clerks, but they have ensnared every actor who has touched the case since.

Well-intentioned individuals — including Judge Graf — must recognize that these legacy problems are not of their making, but they risk personal liability if they proceed further.

Any ruling or comment based on incomplete or uncertified records risks perpetuating obstruction and may subject those involved to claims of complicity under 18 U.S.C. § 242, record falsification under 18 U.S.C. § 1519, or civil damages under 42 U.S.C. § 1983.

The First, Fifth, and Fourteenth Amendments require nothing less than correction of the record before further proceedings.

At this point, the Court has no adjudicative role left. The case was dismissed with prejudice. The only obligations remaining are administrative and ministerial:

1. **Produce and certify the WebEx/Zoom recordings, transcripts, and docket entries (August 17, 2022; September 20, 2024; May 1, 2025);**

2. **Correct clerical errors under Utah R. Civ. P. 60(a) and ensure the docket reflects accurate entries;**

3. **Facilitate auditing of the docket metadata and records so that federal authorities may investigate the misuse of VOCA funds and the constitutional violations embedded in the record.**

Anything beyond these steps risks perpetuating a cover-up rather than ensuring transparency. The safer, lawful course is to punt this matter to independent oversight authorities — including the U.S. Department of Justice, Office of Inspector General, FBI, and IRS — for review of federal funding streams, prosecutorial conduct, and potential criminal violations.

Judges, clerks, and the AOC should remain at arm's length, because what remains is not judicial discretion but administrative housekeeping and compliance with federal oversight. To attempt adjudication now — under the shadow of uncertified records and admitted double jeopardy — would only deepen institutional exposure.

E. Summary & Legal Conclusion

Judge Lunnen's inaction from September 2024 through May 1, 2025—a period during which he oversaw a prolonged double jeopardy prosecution—combined with his refusal or failure to produce certified records, constitutes a willful and persistent violation of Utah statutes and court rules.

The Motion's accusation that Respondent has been vexatious is unfounded.

The law demands accountability, including cross-reference of filing numbers, production of certified records, rulings on submitted motions, and referral under the relevant judicial conduct and prosecutorial statutes.

The 83 Motion should be abandoned as its not based on sound legal basis.

Judges, clerks, and the AOC should remain at **arm's length**, because what remains is not judicial discretion but **administrative housekeeping and compliance with federal oversight.**

To attempt adjudication now — under the shadow of uncertified records and admitted double jeopardy — would only deepen institutional exposure.

Exhibit A (Expanded) — Filing Index for Cross-Reference

Introductory Note

This Index demonstrates Respondent's patience and consistency in lawfully requesting certified and accurate records. Each entry reflects a ministerial duty the Court was obligated to perform. The repetition of filings was not the product of abuse, but of necessity, as each request went unfulfilled for weeks or months at a time.

The Index also documents how many calendar days elapsed while Judge Lunnen, the Administrative Office of the Courts, or clerks failed to act on lawful requests. In this respect, the record is not vexatious but evidentiary — showing that administrative omissions multiplied filings and that Respondent's efforts remained consistent and lawful.

Instruction to the Court

For each numbered allegation in the vexatious-litigant motion, please identify the corresponding docket entry (date and description) below.

This cross-reference will show that every alleged "line-item" filing corresponds to a ministerial act that the Court was required to perform.

None of these records should exist if the prosecutors had properly recognized that jurisdiction was lacking after August 4, 2016.

The charging "Information" was defective, which the prosecutors were aware of, and they suppressed multiple exculpatory Brady materials over the course of years.

Respondent obtained these Brady materials through a GRAMA appeal; they were exculpatory to Respondent yet inculpatory to many prosecutors across eight years—most of the prosecutions having been funded in part by VOCA.

Respondent appears to have been treated as a means to generate payroll for both the County Attorney's Office and the State Attorney General's Office. The existence of this docket summary is one out of six dockets which only exist due to the vexatious prosecution which the Court has persisted at denying is the root causation of the problems now before the Court.

2025–2024 (Newest to Older)

- **09-08-2025** — Filed: *Rule 83 Motion in Support of Vexatious Litigant Finding*

- **08-13-2025** — Filed: *Petition And Demand For Record Preservation and Court-Authorized Transcript Order* **September 20th 2024 Webex and Transcript** **[Submitted August 8th 2025 electronically to Bryson King]**

- **08-13-2025** — Filed: *Petition And Demand For Record Preservation And court-Authorized Transcript Order* **May 1 2025 Webex and Transcript**
[Submitted August 8th 2025 electronically to Bryson King]

- **08-11-2025** — Filed: *(Proposed) Order For Certification And Preservation Of Transcripts And Virtual Hearing Recordings* **August 17th 2022 Webex and Transcript**
[Submitted August 8th 2025 electronically to Bryson King]

- **08-11-2025** — **Filed:** ***Notice To Submit [This should have been entered along with the 8-13-2025 entries this is odd to have the notice to submit to precede the Petitions to Produce Records. This is reflective of the type of docket manipulations/errors which need to be audited by an independent agency]***
[Submitted August 8th 2025 electronically to Bryson King]

- **08-11-2025** — Filed: *Petition For Administrative Preservation, Certification, And Release Of Transcripts and Virtual Hearing Recording*
[Submitted August 8th 2025 electronically to Bryson King]
- **07-31-2025** — Filed: *(PROPOSED) Order Granting Consolidated Administrative Relief for Record Preservation and Certification*

- **07-31-2025** — Filed: *Notice to Submit for Decision*

- **07-31-2025** — Filed: *Motion for Consolidated Default Ruling on Preservation and Injunctive Relief Filings*

- **07-17-2025** — Filed: *AMENDED: STATUS HEARING* (minute) [This is 9 months after the fact amendment of status hearing 9-20-2024. No Certified Webex, No Certified Transcript]

- **07-11-2025** — Filed: *Notice to Submit*

- **07-11-2025** — Filed: *Emergency Motion for Judicial Reassignment, Record Protection, and Metadata Preservation* **[Submitted June 19th 2025 electronically to Bryson King. 30 days to be docketed]**

- **06-30-2025** — Filed: *Notice to Submit for Decision*
- **06-26-2025** — Filed: *Verified Petition and Motion for Order to Show Cause and Writ of Quo Warranto*
- **06-25-2025** — Filed: *Copy of Video/Audio Record (completed)*
- **06-25-2025** — Filed: *Petition and Emergency Motion for Judicial Reassignment, Record Preservation, and Administrative Intervention*
- **06-25-2025** — Filed: *Affidavit of Mark Stewart Allen … Judicial Reassignment, Preservation of Records…*
- **06-19-2025** — Filed: *Return of Electronic Notification*
- **06-19-2025** — Filed: *Request for Audio Recording*
- **06-19-2025** — Filed: *Notice Of Lack Of Jurisdiction*
- **06-13-2025** — Filed: *Motion and Petition to Compel Timely Entry into the Docket… GRAMA…*
- **06-06-2025** — Filed: *Motion and Proposed Order for Record Correction, Docketing Compliance, Record Preservation…*
- **06-03-2025** — Filed: *Notice to Submit – Order on Unified Motion to Compel Docketing, Record Preservation, Judicial Recusal, GRAMA Appeal and Multi-Agency Preservation Notice*
- **06-03-2025** — Filed: *(PROPOSED) Order on Unified Motion to Compel Docketing, Record Preservation, Judicial Recusal, GRAMA Appeal and Multi-Agency Preservation Notice*
- **06-03-2025** — Filed: *Unified Motion to Compel Docketing, Record Preservation, Judicial Recusal, GRAMA Appeal and Multi-Agency Preservation Notice*
- **05-22-2025** — Filed: *(PROPOSED) Writ of Mandamus*
- **05-22-2025** — Filed: *Notice to Submit for Decision*
- **05-22-2025** — Filed: *(PROPOSED) Order Granting Writ of Mandamus*
- **05-22-2025** — Filed: *(PROPOSED) Order to Waive Fees*
- **05-22-2025** — **PRIVATE** *Motion to Waive Fees* (two entries)
- **05-21-2025** — Filed: *Request for Copy of Audio Record – Completed*

- **05-16-2025** — Filed: *(Purposed Order) Granting Motion For Certified Record Preservation…*
- **05-16-2025** — Filed: *Notice Of Submission For Decision*
- **05-16-2025** — Filed: *Motion For Certified Record Preservation; Motion For Judicial Recusal; Motion For Clarification Of Status …; Proposed Order To Preserve Records…*
- **05-01-2025** — Minute: *STATUS HEARING* (Certified WebEx video and transcript have not been produced. Until these records are certified and released, any adjudicative or administrative action taken in reliance on an incomplete record is a **ticking time bomb** — exposing the Court, AOC, and State to allegations of obstruction, double jeopardy violations, and misuse of federal VOCA funds. New actors who proceed without first demanding certification risk having the cancer of these defects attached to their own names.)
- **05-01-2025** — Filed: *Request for Copy of Audio Record*
- **04-28-2025** — Filed: *Return of Electronic Notification*
- **04-28-2025** — Filed: *Defendant's Motion to Compel Administrative Preservation of all Records and Rulings on all Outstanding Motions*
- **04-28-2025** — Filed: *Defendant's Motion to Compel Court Action Under URCP 7(d)…*
- **04-28-2025** — Filed: *(PROPOSED) Subpoena Duces Tecum – Utah AG*
- **04-28-2025** — Filed: *(PROPOSED) Subpoena Duces Tecum – Utah County Attorney*
- **04-28-2025** — Filed: *(PROPOSED) Subpoena Duces Tecum – Zoom, Inc.*
- **04-28-2025** — Filed: *(PROPOSED) Order Appointing Records Preservation Officer…*
- **04-28-2025** — Filed: *(PROPOSED) Order of Administrative Preservation of Records for Federal Screening and State Auditor*
- **04-28-2025** — Filed: *Motion and Proposed Order of Administrative Preservation of Records for Federal Screening of Utah Auditor*
- **03-20-2025** — Filed: *Return of Electronic Notification*
- **03-20-2025** — Filed: *Notice for Case 211401656 FS – Judge Robert C. Lunnen*
- **03-11-2025** — Filed: *Proposed Order Quashing Request for Hearing Disqualifying Certain Prosecutors…*

- **03-11-2025** — Filed: *Defendant's Motion to Quash, to Dismiss/Strike Prosecutors From Appearance*
- **03-10-2025** — Filed: *Return of Electronic Notification*
- **03-10-2025** — Filed: *Request for Hearing*
- **03-07-2025** — Filed: *Motion to correct record, dismiss with prejudice; Motion to stay expungement…*
- **03-07-2025** — Filed: *Proposed Order to correct record, dismiss with prejudice, and toll expungement…* (two entries)
- **03-06-2025** — Filed: *Notice to submit for decision — Order to correct record, dismiss with prejudice, and toll expungement…*
- **03-05-2025** — Filed: *Ruling and Order on Motion to Recuse*
- **02-24-2025** — Filed: *Request to Submit*
- **02-24-2025** — Filed: *Proposed order granting motion for federal oversight, forensic audit, investigation, and anti-retaliation*
- **02-24-2025** — Filed: *Memorandum: Motion for federal oversight, forensic audit, investigation, and anti-retaliation*
- **02-24-2025** — Filed: *Motion for federal oversight referral… prosecutorial misconduct, judicial bias, constitutional violations under color of law*
- **02-19-2025** — Filed: *Order of Certification*
- **02-19-2025** — Filed: *Request to Submit — Motion/Proposed Order to Preserve and Restore all Records …*
- **02-18-2025** — Filed: *Proposed Order to Preserve Records and Communications* (two entries)
- **02-18-2025** — Filed: *Defendant's Motion to Preserve and Restore all Records …*
- **01-27-2025** — Filed: *Motion to waive fees*
- **01-27-2025** — Filed: *Re: Notice to Submit for Decision*
- **01-27-2025** — Filed: *Motion for Certified Transcripts; Motion to Compel Signature; Motion to Recuse*
- **01-27-2025** — Filed: *(PROPOSED) Order for Certified Transcripts and Dismissal with Prejudice*

- **01-23-2025** — Filed: *(DENIED) Order to Waive Fees*
- **01-14-2025** — **PRIVATE** *Motion to Waive Fees*
- **11-12-2024** — Filed: *(PROPOSED) Order to Dismiss with Prejudice*
- **11-12-2024** — Filed: *Request to Submit for Decision (General)*
- **10-15-2024** — Filed: *Notice to Submit Motion to Compel Signature of Proposed Order of Dismissal with Prejudice*
- **10-07-2024** — Filed: *Request for Expunged Case History/Order*
- **10-04-2024** — Filed: *Request for Expunged Case History/Order*
- **09-24-2024** — Filed: *(PROPOSED) Ruling and Order to Dismiss with Prejudice …*
- **09-23-2024** — Filed: *Request for Copy of Audio Record — Completed*; *Return of Electronic Notification*; *Notice of Withdrawal*
- **09-20-2024** — *STATUS HEARING*; (Certified WebEx video and transcript have not been produced. Until these records are certified and released, any adjudicative or administrative action taken in reliance on an incomplete record is a **ticking time bomb** — exposing the Court, AOC, and State to allegations of obstruction, double jeopardy violations, and misuse of federal VOCA funds. New actors who proceed without first demanding certification risk having the cancer of these defects attached to their own names.)
- **09-19-2024** — Multiple *Returns of Electronic Notification*; *Motion to Withdraw*; *(DENIED) Bench Warrant …*
- **09-17-2024** — Filed: *Complaint Memorandum … Mandatory Reporting … Motion to Refer to Outside Agency …*
- **09-12-2024** — Filed: *Supplement — Transcript of case 191400132 to Consolidate 211401656*; *Motion for Writ of Mandamus*; orders/motions for **injunctive relief**, **grand jury**, **special master/prosecutor**, **coram nobis/recall mandate** (multiple proposed orders)
- **09-09-2024** — *Return of Electronic Notification*
- **09-06-2024** — *Updated Complaint of Color of Law Violations*
- **09-03-2024** — *Return of Electronic Notification*; *Notice for Case 211401656 FS – Judge Lunnen*

- **08-12-2024** — **Expungement cluster**: *Certificate; Requests for Hearing; Motions/Proposed Orders to Toll BCI Certificate 224913; Motion to Dismiss with Prejudice; Petition to Expunge*; **PRIVATE** *Motion to Waive Fees*

- **06-03-2024** — *Proposed Stipulated Motion — Rule 2.15 duty to report misconduct*; *Motion/Petition to Dismiss with Prejudice due to 5th Amendment Violation … Brady withholding*

- **09-19-2023** — *Completed Audio Request*

- **09-15-2023** — *Return of Electronic Notification*; *Request for Audio Recording*

- **08-17-2023** — *Request to Submit*

- **03-08-2023** — *Orders on Motion to Remove Link … — DENIED*

- **03-01-2023** — *Request To Submit For Decision*
- **02-28-2023** — *Proposed Order on Motion To Remove Link …*

- **02-21-2023** — *Request To Submit*; *Proposed Order On Motion To Remove Link …*

- **02-06-2023** — *Motion To Remove Link …* (two entries)

- **09-07-2022** — *Order Dismissing Case Without Prejudice*; *Return of Electronic Notification*

- **09-01-2022** — *Request/Notice to Submit*; *(Proposed) Ruling and Order Dismissing Case Without Prejudice*

- **08-17-2022** — *STATUS HEARING*
  (Certified WebEx video and transcript have not been produced.

  Until these records are certified and released, any adjudicative or administrative action taken in reliance on an incomplete record is a **ticking time bomb** — exposing the Court, AOC, and State to allegations of obstruction, double jeopardy violations, and misuse of federal VOCA funds.

  New actors who proceed without first demanding certification risk having the cancer of these defects attached to their own names.

  Closing Note

  This Index is not offered to overwhelm the Court with volume, but to make plain the consistent theme: every filing sought record preservation, accuracy, or certification.

The multiplication of docket entries reflects administrative inaction, not Respondent's bad faith.

In reality, a single request should have sufficed.

The unresolved absence of certified records is the common thread through all of these filings, and it underscores why relief is now both urgent and ministerial in nature.

Summary to Ledger Entries

These entries document Respondent's **persistent, good-faith attempts** to:

1. **Obtain required rulings** on fully-submitted matters as mandated by Utah Code § 78A-2-223 and URCP Rule 7(g);

2. **Secure certified records and preserve evidence** under UCJA Rule 4-401.01 and GRAMA; and

3. **Protect successor judges, clerks, and attorneys** from becoming entangled in the downstream consequences of the **poisonous fruit planted by former Utah County Attorney David Leavitt and his successors** when they initiated duplicative prosecutions now admitted to be double jeopardy.

Each failure to produce or certify records magnifies the risk of **federal liability, obstruction findings, and VOCA clawbacks** — risks that will attach to any new actor who proceeds without first correcting the record.

Summary of Judge Lunnen's Alleged Failures

- Unfortunately multiple Notices to Submit for Decision were properly filed over the span of a year and disregarded by the Court, each "Notice" supposedly alerting the Court (Judge Lunnen) that briefing was done or responses were overdue, yet no ruling was issued on those, except for one involving fee waiver (which was denied).

- Requests were made for preservation of essential records (transcripts, Webex/Zoom recordings, subpoenas for administrative purposes etc.), necessary for appeal, verification of prosecutorial misconduct, and protection of constitutional rights.

- Judge Lunnen did not order preservation, certify transcripts, or issue subpoenas for such records despite repeated filings. **The Court also remained silent on contractual obligations..**

- By ignoring these requests and filings, Judge Lunnen failed in his duty under procedural rules (URCP and Utah practice), failed to permit a fair record, and in effect blocked any ability to hold parties accountable, including himself.

Why This Warrants Referral to the DOJ / Prosecuting Authority

Given the foregoing:

1. Under § 78A-11-106, the existence of credible information of possible criminal misconduct by a judge (including willful failure to act, failure to preserve evidence, possible deprivation of rights) *must* trigger a referral to the local prosecuting authority.

2. The pattern of alleged inaction is not merely procedural delay; the inaction may amount to criminal or corrupt misconduct under state or federal law (for example, deprivation of rights, record falsification, suppression).

3. Judge Lunnen's attempts to blame Respondent for alleged "vexatious" behavior are inconsistent with the fact that Respondent has repeatedly acted under legal procedure to preserve evidence and secure rulings—efforts that the Court had an obligation to respond to.

VOCA Funding Concerns

The Respondent has obtained financial ledgers of tremendous amounts of federal VOCA funding drawn down during the years of the admitted double jeopardy prosecution.

This should be of serious concern to the Court. These funds appear to have supported victim advocates, prosecutors, and litigation activity long after it was known — or should have been known — that the prosecution was an **"*exact duplicate*," "*de facto the same*," and "*a case of record that should not exist", "a stinker of a case".* Yet significant federal funds were drawn down inappropriately .

https://drive.google.com/drive/folders/1LtxsDsJtbCQy7d-ju-aGqkraSk7UndVj?usp=sharing

At a minimum, this requires referral to the appropriate federal oversight agencies to determine:

1. When former Utah County Attorney David Leavitt or his staff requested these VOCA funds;

2. What they knew about the jurisdictional defects and double jeopardy issues at the time; and when they knew it, and;

3. Whether federal program fraud occurred under 18 U.S.C. § 666 (theft or bribery concerning programs receiving federal funds).

The Court cannot cure these defects; it can only certify the record and refer the matter to DOJ, OIG, FBI, or IRS for independent review. Failure to do so risks entangling successor judges or clerks in what is now clearly a federal funding and constitutional rights investigation.

RELIEF REQUESTED

For the foregoing reasons, Respondent respectfully requests that this Court:

1. **Certify the Record**
    - Order the immediate production of certified WebEx video recordings, certified transcripts, and corrected docket entries for all proceedings since August 4, 2016.
    - Direct that no further reliance be placed on amended minutes, backdated docket entries, amended status hearing or clerk's notes **lacking certification, and tied directly to verbatim video Webex hearings for accurate context and legality.**
2. **Preserve Evidence**
    - Issue preservation orders for all metadata, clerk communications, internal AOC instant messaging, attorney work product tied to this case, and VOCA funding grant applications and awards related to prosecutions after September 20, 2024.
    - Ensure subpoena power is exercised to prevent spoliation of evidence material to federal review.
3. **Refer for Federal Investigation**
    - Refer the matter to the U.S. Department of Justice and Office of Inspector General for forensic audit and investigation into (a) double jeopardy prosecution, (b) record falsification or concealment, and (c) misuse of VOCA funding.
    - Reserve the right of Respondent to pursue independent action under 42 U.S.C. §§ 1983, 1985, 1986, and criminal referrals under 18 U.S.C. §§ 4, 242, 666, and 1519.
4. **Correct the Record of Retaliation**
    - Strike or dismiss any motion or proceeding initiated by Judge Lunnen after dismissal with prejudice on September 20, 2024, including the retaliatory Rule 83 vexatious filing.
    - Confirm that Respondent's lawful efforts to preserve the record and protect due process rights shall not be recharacterized as vexatious.

In sum, Respondent seeks only what due process requires: an accurate, certified record, preservation of evidence, and accountability for misuse of federal funds and prosecutorial misconduct. Judicial immunity cannot shield Judge Lunnen from these obligations.

I. PRELIMINARY QUESTION: BY WHAT AUTHORITY?

By what authority can a judge initiate, file, and adjudicate a court-authored motion (Rule 83 "vexatious litigant") after the case has been dismissed and the court has lost adjudicatory jurisdiction?

Once a case is dismissed, the court's power is strictly limited to ministerial or clerical acts — such as correcting the record under Utah R. Civ. P. 60(a) or addressing narrow statutory post-judgment remedies. The only proper function here is the certification and provision of accurate records. A new punitive proceeding, authored and advanced by the court itself, is ultra vires. A judge cannot simultaneously serve as movant and adjudicator in a retaliatory proceeding once jurisdiction has been extinguished.

On September 20, 2024, the State itself admitted that Case No. 211401656 was "an exact duplicate of Case No. 191400132." That admission confirmed an ongoing double jeopardy violation spanning more than 1,000 days. Together, the two duplicative prosecutions extended over 2,435 days, despite the State's knowledge that both cases were jurisdictionally defective and advanced without certified court orders.

This defective prosecution traces directly to the policies and practices of former Utah County Attorney David Leavitt and his downstream prosecutors and "victim advocates." In reality, Respondent became the victim of this process — subject to prolonged litigation that lacked jurisdiction from the outset.

Moreover, both cases drew down substantial federal VOCA funding and matching state grants, estimated to exceed $500,000 across six years, which funded positions including Katie Fox, Lorie Hobbs, and Bethany Warr. The entanglement of federal funding with prosecutions later admitted to be duplicative underscores the gravity of permitting this court-initiated Rule 83 proceeding to proceed post-dismissal.

Jurisdiction in Case No. 191400132 was absent, and rulings were made without certified records. The continuity of "handing off" cases without certified Zoom screenings, transcripts, or reliable notes exposed the processes of the Utah County Attorney's Office as flawed at best. What has emerged is not an isolated oversight but a systemic practice of making rulings from

status notes rather than certified records — a pattern spanning nine years. This systemic failure, now compounded by cover-up, has created tremendous hardship for Respondent.

Even prosecutors have acknowledged that they were on the wrong side of the law, yet they have done nothing to rectify the harm, in violation of Rule 3.8 of the Utah Rules of Professional Conduct. Blame-shifting, feigned ignorance, passing along "stinker of a case[s]," slow-walking discovery, and even destruction or alteration of records have become recurring tactics. Meanwhile, Respondent has remained patient in repeatedly seeking certified WebEx videos and transcripts of hearings, only to be met with denial and obstruction — including through GRAMA requests.

These key records must now be preserved and produced. They will identify the individuals associated with the former Utah County Attorney and his staff who applied for and used federal VOCA funding to prolong prosecutions in duplicative cases over six years, all while withholding exculpatory *Brady* evidence. Without certified records, the full scope of these violations cannot be properly addressed, nor can accountability be secured.

Knowledge, Funding, and Human Cost

In **January 2019**, all prosecutors were placed on notice through the **Randy Kennard analysis** that this case lacked jurisdiction. They knew that not only this case, but three prior cases stemming downstream from the **August 4, 2016 "case settled" entry**, were foundationally faulty. Their duty under **Rule 3.8 (Special Responsibilities of a Prosecutor)** was clear: to correct the record, **disclose** exculpatory evidence, and **undo the harm** already inflicted.

Instead, then–Utah County Attorney **David Leavitt's team pursued the opposite course.** They drew down **federal VOCA funds** to cover payroll, and **in doing so turned Respondent** into nothing more than a **commodity** to justify their federal grant expenditures.

Prosecutors who knew the truth nevertheless continued to prosecute zealously, hiding Exculpatory **Brady evidence** in their own files while securing federal dollars that depended on continued litigation. **The evidence Exculpatory for Respondent is Inculpatory for Leavitt and downstream prosecutors- Oh the Irony!**

The result was not abstract — it was **personal devastation.** Respondent lost years of his life to wrongful prosecution. His livelihood was destroyed. His family relationships were fractured. His reputation was blackened. All of this was avoidable had prosecutors acted with integrity in 2019 when they were fully informed of the jurisdictional defects.

The law demands accountability not only because statutes were broken, but because a human being was treated as an expendable line item in a grant report. This was not justice; it was exploitation. **Prosecutors traded due process for payroll, and a man's life was the cost.**

IB. RETALIATORY TRESPASS WARNING – FALSE REPORT, VEXATIOUS CONDUCT, AND REQUIRED FEDERAL REFERRAL

Respondent filed lawful **administrative requests to preserve certified records** also on **June 25, 2025**. These filings sought nothing more than to ensure the preservation of the following historically significant hearings:

1. **August 17, 2022 Hearing** – where dismissal entries conflicted.

2. **September 20, 2024 Hearing** – where Judge Lunnen orally dismissed the case with prejudice and agreed to hold the expungement.

3. **May 1, 2025 Hearing** – where Respondent was muted, denied the prior oral ruling, and deprived of access to the certified WebEx.

Within **less than 24 hours of these filings**, Respondent was issued a baseless and demonstrably false **trespass warning by the AOC**. The timing leaves no doubt: the trespass was **retaliation** for filing lawful preservation requests that the Court was duty-bound to honor under URCP 60(a), Utah Code § 63G-2-603, and federal preservation statutes.

The trespass warning is not an isolated act. It fits the same retaliatory pattern as:

1. Judge Lunnen's muting of Respondent during the May 1, 2025 hearing.
2. The denial of his own September 20, 2024 oral ruling.
3. The initiation of a **Rule 83 "vexatious litigant" motion** in a closed case.

Each act was triggered not by misconduct from Respondent, but by his insistence on certified records and DOJ/OIG oversight.

The vexatious conduct at issue is not Respondent's lawful filings, but the actions of the Court's predecessors. The retaliatory trespass warning — like the sua sponte Rule 83 filing — reflects a misuse of judicial and administrative authority to punish record-preservation requests.

These requests were not harassing or duplicative. They were compelled by statute and precedent, seeking preservation of WebEx recordings and transcripts central to the record. Each request directly related to the Court's ministerial duty to preserve and certify records.

The inversion of accountability — branding lawful preservation efforts as "vexatious" while records remain uncertified — raises serious concerns of federal civil rights violations. See 42 U.S.C. § 1983 (civil action for deprivation of rights); 42 U.S.C. § 1985 (conspiracy to interfere with civil rights); 42 U.S.C. § 1986 (failure to prevent violation); 18 U.S.C. § 242 (deprivation of rights under color of law).

This retaliatory trespass implicates:

- **42 U.S.C. § 1983** – deprivation of rights (court access, petition).
- **42 U.S.C. §§ 1985–1986** – conspiracy and neglect to prevent conspiracy.
- **18 U.S.C. § 242** – criminal deprivation of rights under color of law.
- **18 U.S.C. § 1513(e)** – retaliation against a witness/complainant.
- **18 U.S.C. § 1519** – record falsification/spoliation if linked to WebEx or transcript suppression.
- **18 U.S.C. § 1001** – false administrative reporting to justify the trespass.

Video Evidence implicates the State AOC and complainant as Vexatious

A **40-minute video** shows Respondent peacefully present in the Provo 4th District Court while filing papers. **This video disproves any suggestion of misconduct and underscores that the trespass was punitive and retaliatory**. https://youtu.be/YwccA1oqPs0?feature=shared

Preservation Request

Respondent demands immediate **administrative preservation** of:

1. All **instant messaging, emails, and communications** (Teams, Instant Messenger, Slack, WebEx, Zoom, any internal communications metadata etc.) from **June 25, 2025 through September 10, 2025**, referencing Mark Stewart Allen, with forward preservation.

2. **Metadata logs** identifying who authored or approved the trespass warning.

3. There are known **Instant Messages** from Clerk Maria on 6-25-2025 between 4pm - 5pm involving Tracy Bullock and also Treena Hansen and others.

4. All locations where Respondent's **personal identifying information (PII)** has been transmitted or stored by the Court, AOC, or affiliated agencies.

Relief Requested

Respondent respectfully requests that the Court order the following:

1. **Jurisdictional Acknowledgment**
   A formal acknowledgment that the Fourth District Court lacks jurisdiction to initiate or pursue punitive measures post-dismissal, consistent with Utah R. Civ. P. 60(a) and settled law restricting courts to ministerial or clerical functions once a case has been dismissed.

2. **Federal Referral**
   Referral of this matter to the U.S. Department of Justice, Office of Inspector General, and the Federal Bureau of Investigation for investigation into retaliation, false reporting, and misuse of federal VOCA/VAWA funds, consistent with 18 U.S.C. §§ 242, 666, 1519.

3. **Vacatur of Trespass Warning**
   Vacatur of the retaliatory trespass warning and certification that no further adverse action will be taken against Respondent for lawful filings. An order preserving and producing the metadata chain of custody for the trespass allegation should also issue, to ensure transparency and accountability regarding administrative abuse of power.

4. **Jury Trial Safeguard**
   If further proceedings are sought against Respondent, referral of the matter to the U.S. Attorney for the District of Utah, with adjudication by a jury trial outside the Fourth District Court, to determine whether vexatious conduct lies with Respondent or with the Court.

Conclusion

The untruthful Administrative trespass warning, retaliatory and vexatious by AOC, issued less than 24 hours after lawful administrative preservation filings, is conclusive proof of reprisal.

It is the **Court's predecessors and the AOC that have acted vexatiously**, not Respondent.

Only referral to outside federal agencies — and, **if pursued further, adjudication before 18 U.S. C. 1983 civil rights jury — can ensure accountability and restore integrity to these proceedings.**

https://youtu.be/YwccA1oqPs0?feature=shared

The Practical Solution

The solution here is not complicated. Respondent is not asking this Court to relitigate nine years of errors or to defend the failures of its predecessors. The path forward is ministerial and straightforward:

1. Sign the contracted orders already in the docket as of September 24, 2024.
2. Audit the record for accuracy, including docket entries, notes, and filings.
3. Report on the audit in a transparent manner.
4. Provide certified copies of the corrected record and audited portions.
5. Identify and report any anomalies uncovered during the audit.
6. Produce certified transcripts and WebEx/Zoom recordings for all hearings in which Respondent has been mandated to participate, reaching back to the earliest predecessor cases.

These steps do not expand litigation or invite new disputes.

They fulfill long-standing ministerial obligations that have gone unaddressed.

Once completed, the record will be accurate, certified, and reliable — the necessary foundation for any further review by state or federal authorities.

Failure to Formalize Oral Stipulations and Preservation Orders

Based on the September 20, 2024 transcript, the proposed orders should have formalized the stipulations made on the record, including:

- Dismissal with prejudice;
- Tolling/staying of expungement at Respondent's request, specifically to allow for ongoing and future criminal investigation into VOCA misuse and double jeopardy violations; and
- Preservation mandates to prevent record spoilage and ensure compliance with federal law, including 18 U.S.C. § 1519 (falsification or destruction of records).

Judge Lunnen refused to sign or certify these orders. His denial on May 1, 2025, stands in stark contrast to the actual record, which irrefutably demonstrates that binding oral contracts were made and entered into on the record.

By failing to uphold those oral agreements and by obstructing access to certified WebEx/Zoom recordings, certified transcripts, and docket corrections, Judge Lunnen engaged in conduct that falls outside judicial immunity and constitutes:

- Obstruction of Justice – 18 U.S.C. § 1519;
- Deprivation of Rights Under Color of Law – 42 U.S.C. § 1983; and
- Retaliatory suppression of exculpatory evidence (*Brady* material) in violation of due process.

The oral stipulations must be enforced as binding, the record must be certified, and the matter referred to appropriate oversight bodies. Judge Lunnen's refusal not only undermines the integrity of the proceedings but also compounds the harm by concealing federal funding misuse and constitutional violations.

Respondent attaches financial ledgers showing VOCA funding drawn down during the admitted double jeopardy prosecution. These records alone require referral to the DOJ, OIG, FBI, and IRS to determine when funds were requested, what was known, and whether 18 U.S.C. § 666 applies.**https://drive.google.com/drive/folders/1LtxsDsJtbCQy7d-ju-aGqkraSk7UndVj?usp=sharing**

IB(1). CONTRACT LAW

On September 20, 2024, Judge Robert C. Lunnen made an oral ruling in open court that consisted of multiple parts:

- *"This case is dismissed with prejudice."*
- *"I'll hold off on signing the expungement order if that's your request."*

Judge Lunnen then asked if Respondent had submitted a Proposed Order. Respondent affirmed that several Proposed Orders were already before the Court — filings the Court had failed to act upon.

Despite this exchange, the Court disregarded Respondent's efforts to correct the record, failed to report clear violations, and failed to preserve WebEx hearings or provide court-certified transcripts necessary for federal filings.

After dismissal, Respondent memorialized the September 20, 2024 oral rulings in writing. The written Proposed Orders confirmed (1) that the case was dismissed with prejudice, and (2) that expungement was stayed/tolled at Respondent's request, so that criminal investigations into VOCA misuse and double jeopardy violations could proceed. On September 24, 2024, Respondent re-submitted the memorialized order to correct docket errors, omissions, and alterations that failed to reflect the oral stipulations. These steps were taken in good faith, in reliance on the Judge's binding oral commitments.

Later, however, Judge Lunnen denied that the oral contract had ever been made. During the May 1, 2025 hearing, he went so far as to mute Respondent to prevent him from referencing the September 20 stipulations or preserving them in the record. Such conduct not only undermines the integrity of the proceedings but also obstructs accurate recordkeeping.

The AOC has since asserted that the case has been "sealed" to justify withholding GRAMA records requests from Respondent.

Yet the September 20, 2024 minutes themselves clearly document the oral stipulations made in open court — stipulations that remain binding under contract law. See *Timm v. Dewsnup*, 921 P.2d 1381, 1388 (Utah 1996) (oral stipulations made in open court are binding); *Utah R. Civ. P. 11(e)*; *Utah Code § 78B-5-824*.

EXCERPT FROM AUGUST 17TH 2022 HEARING

This matter comes before the court for a Status Hearing as requested in the Request for Hearing filed by the defendant on August 17, 2022.

The court addresses the parties regarding recent filings in this case.

Mr. Parmley motions to withdraw as counsel.

The court grants the motion to withdraw.

Mr. Peterson provides the history of the case and stipulates to the expungement.

The court notes that it must wait 60 days from the filing of the petition before it can grant the petition.

Mr. Allen responds and addresses the motion to toll the expungement.

Discussion ensues.

Mr. Allen addresses, and the state stipulates to, the Motion to Dismiss with Prejudice.

09-20-2024 04:52 PM

The Order of the Court is stated below:

Dated:
September 20,2024
/s/
ROBERT C LUNNEN

04:52:30 PM
District Court Judge

The court orders that this case be ***dismissed with prejudice.***

The court will not grant the expungement until Mr. Allen provides notice to the court that he wishes to proceed with the expungement.

End Of Order - Signature at the Top of the First Page

09-20-2024 04:52 PM

This Was Not a Discretionary Judicial Act

It was the making of a binding oral contract. Under both federal precedent and Utah law, oral promises made in open court are enforceable and carry legal consequences when broken.

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1. Federal Precedent

- Santobello v. New York, 404 U.S. 257 (1971): The U.S. Supreme Court held that when promises are made on the record in open court, "such promise must be fulfilled." Even if not written down, oral promises induce reliance and create enforceable obligations. Judge Lunnen's oral agreement to dismiss the case with prejudice and to hold the expungement certificate was binding.

- Restatement (Second) of Contracts § 90 (1981): Contract law recognizes that when one party makes a promise, and the other reasonably relies on it, the promise becomes binding if injustice can only be avoided by enforcement.

Here, Respondent relied on Judge Lunnen's oral directive during the September 20, 2024 hearing by promptly filing a written proposed order on September 24, 2024. Respondent refrained from pursuing alternative remedies, reasonably expecting that the Judge would honor his oral promise.

When the Judge failed to act, Respondent was forced to file additional motions — not to encumber the Court, but to prevent record spoilage and preserve an accurate record for federal filings under 42 U.S.C. § 1983 and related statutes.

Under § 90, injustice can only be avoided by enforcing the Judge's oral commitments, which were clear, made on the record, and relied upon in good faith.

2. Utah Case Law on Oral Contracts

- Cea v. Hoffman, 2012 UT App 101, ¶ 19, 276 P.3d 1178: Utah courts enforce oral contracts when there is a meeting of the minds on essential terms.

- Brehany v. Nordstrom, Inc., 812 P.2d 49, 55 (Utah 1991): Promissory estoppel is enforceable in Utah where reliance occurs, even without a written contract.

- Cal Wadsworth Constr. v. City of St. George, 898 P.2d 1372, 1376 (Utah 1995): A contract exists when the essential terms are agreed upon, even orally.

These cases establish that oral agreements are binding in Utah, especially when one party relies on them. Judge Lunnen's oral ruling met all elements: offer, acceptance, and reliance.

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3. Judicial Immunity Does Not Apply

Judicial immunity protects judges from liability for discretionary judicial acts. It does not apply, however, when judges:

- Perform administrative or ministerial acts. *Forrester v. White*, 484 U.S. 219, 227 (1988).
- Act in the clear absence of jurisdiction. *Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978).

Here, Judge Lunnen was not exercising discretion. He entered into an oral administrative agreement in open court to dismiss the case with prejudice and to hold the expungement certificate. Later denying that agreement was not a judicial ruling — it was a breach of contract and a violation of ministerial duties. Judicial immunity therefore does not shield this conduct.

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4. Practical Explanation

Think of it this way: when a judge promises in open court to sign an order, and then directs a party to draft and submit it, that promise functions like a contract. The party relies on that promise, invests effort to prepare the document, and reasonably expects the judge to follow through.

If the judge later denies making the promise or refuses to honor it, that is a breach of the agreement. Under basic contract law principles — including promissory estoppel (*Restatement (Second) of Contracts* § 90) — such a breach cannot be excused by invoking judicial immunity, because the obligation was ministerial, not discretionary.

To compound this breach with retaliation — through trespass notices, Rule 83 "vexatious litigant" filings, or other stigmatizing tactics designed to "Scarlet Letter" the Respondent — is plainly retaliatory. Such actions invert responsibility and must be vacated immediately.

Conclusion

The September 20, 2024 oral ruling was a binding oral contract between the Court and Respondent. Judge Lunnen's later denial, while muting Respondent to prevent objection, was a breach of that contract.

Under *Santobello v. New York*, 404 U.S. 257, 262 (1971) (promises made in open court must be honored), the *Restatement (Second) of Contracts*, and Utah law (*Timm v. Dewsnup*, 921 P.2d 1381, 1388 (Utah 1996)), this breach is enforceable. Because the act was ministerial and administrative, not judicial, no judicial immunity applies.

IB(2). Judicial Conduct Violations – Diligence, Competence, and Outside Referral

On September 20, 2024, when challenged by Respondent regarding his knowledge of prosecutorial misconduct and his obligation to report under Rules 8.3 and 8.4 of the Utah Rules of Professional Conduct, Judge Robert C. Lunnen made the following statement:

> *"I know nothing about your case and I doubt the State does either."* – Judge Lunnen, 9/20/2024

Immediately after making this statement, Judge Lunnen proceeded to dismiss the case with prejudice and to stay the expungement pending Respondent's motion.

A. The Contradiction

This juxtaposition is alarming. A judge cannot credibly claim "no knowledge" of a case over which he has presided for more than three years, across hundreds of filings and multiple hearings, and then proceed to dispose of core matters central to that litigation.

- **Knowledge Acknowledged by the State:** The record shows that, moments before Judge Lunnen's statement, Prosecutor Craig Peterson admitted on the record that this case constituted double jeopardy. Thus, Judge Lunnen not only had knowledge — he had direct confirmation from the State.

- **Feigned Ignorance:** Judge Lunnen's statement appears less a lapse of memory and more a calculated effort to avoid acknowledging and reporting an admitted constitutional violation under the Fifth and Fourteenth Amendments.

- **Shift of Blame:** By disclaiming knowledge while simultaneously adjudicating dismissal and expungement, Judge Lunnen shielded himself and the Court from accountability while perpetuating a narrative that shifted blame onto Respondent.

B. The Vexatious Label and Recordkeeping Failure - Zero Certified Records over 4 yrs.

Judge Lunnen later referenced 26 filings as "vexatious." Respondent's position is that only a single filing should have been necessary to obtain certified records. Instead, Judge Lunnen had nearly a year to release certified records and failed to do so.

To simultaneously (1) obstruct the release of records, and (2) label 26 follow-up filings as vexatious, while also claiming "I have no knowledge about your case," is incongruent and self-contradictory.

This failure is not administrative inconvenience; it is systemic denial. Silence by Judge Lunnen, the AOC, and prosecutors made them complicit. Depositions are necessary to determine who knew what, when, and why they failed to comply with Rule 3.8.

C. Violations of Judicial Canons

Judge Lunnen's conduct implicates several provisions of the Utah Code of Judicial Conduct:

- **Canon 1 (Judicial Integrity and Independence):** Judges must uphold the integrity and independence of the judiciary. Admitting ignorance of the record while resolving substantive issues undermines both integrity and independence.

- **Canon 2.2 (Impartiality and Fairness):** Judges must perform duties fairly and competently. Adjudicating while stating "I know nothing about your case" falls short of this basic duty.

- **Canon 2.6(A) (Right to Be Heard):** Judges must ensure parties are heard. Respondent's repeated requests to preserve certified records were muted and disregarded, compounding the judge's admitted lack of familiarity with the record.

- **Canon 2.16 (Cooperation with Disciplinary Authorities):** Judges must report misconduct and cooperate with oversight. Instead of reporting defects in recordkeeping and prosecution, Judge Lunnen participated in retaliatory proceedings, including the court-authored Rule 83 "vexatious litigant" motion.

Conclusion

Judge Lunnen's contradictory statements and actions demonstrate not ignorance, but a failure of diligence and competence, coupled with an avoidance of reporting duties under Rules 8.3 and

8.4. These lapses require referral to independent oversight for investigation, as they implicate constitutional violations, prosecutorial misconduct, and systemic misuse of judicial authority.

Why Outside Referral Is Required

No court can be the arbiter of its own misconduct. A judge who admits ignorance of the record yet continues to preside has effectively confessed to potential violations of diligence, competence, and due process.

Allowing the Fourth District Court or the Administrative Office of the Courts (AOC) to "investigate" this matter would amount to self-policing at best, and a cover-up at worst. Accordingly, this matter must be referred outside the Utah judiciary to neutral federal authorities, specifically:

- U.S. Department of Justice (DOJ)
- Federal Bureau of Investigation (FBI)
- Office of Inspector General (OIG)
- Internal Revenue Service (IRS), Criminal Investigations Division — to audit VOCA/VAWA funding, assess whether funds were drawn down improperly, and initiate clawback proceedings if warranted.

These agencies must review whether Judge Lunnen's conduct and the related prosecutorial actions:

1. Violated Respondent's constitutional rights under the First, Sixth, and Fourteenth Amendments.
2. Constituted deprivation of rights under color of law in violation of 18 U.S.C. § 242.
3. Amounted to retaliation against a complainant in violation of 18 U.S.C. § 1513(e).
4. Involved record manipulation or spoliation in violation of 18 U.S.C. § 1519.
5. Misused federal funds in violation of 18 U.S.C. § 666, with potential financial clawback remedies recoverable through IRS and Treasury oversight.

Conclusion

Judge Lunnen's admission that he "knew nothing" about the case while presiding over more than three years of litigation is not a minor slip — it is a systemic red flag. It confirms why preservation of certified records, WebEx hearings, and full outside referral are mandatory.

To permit the Utah courts or the AOC to "investigate" their own failures would deny accountability and perpetuate the very abuses that gave rise to this filing. Only outside referral — including to the IRS for a funding audit and potential clawback — can restore confidence, correct the record, and ensure accountability for diligence and competency violations that the Court itself has neither the authority nor credibility to resolve.

II. INTRODUCTION: ADMISSIONS FROM STATE OFFICIALS

A. Direct Admission by Assistant Attorney General Craig Peterson

On September 20, 2024, Assistant Attorney General Craig Peterson admitted on the record:

> ***"This case is an exact duplicate of Case 191400132 and should not even be a case of record."***

Peterson further explained that on October 10, 2023, he had appeared with Respondent before Judge Brady on a motion to consolidate Case No. 211401656 into Case No. 191400132, acknowledging that the two cases were *de facto* the same. Thus, Peterson had both constructive and actual notice of the double jeopardy defect nearly a year before his September 2024 admission.

B. Judicial Error and Prosecutorial Indifference

The Court erred in failing to timely consolidate the matters, a lapse that prolonged unlawful proceedings for an additional two years. This error compounded the harm already inflicted on Respondent, forcing him to endure extended litigation without jurisdictional foundation.

Despite having knowledge and opportunity to correct the problem, prosecutors took no corrective action. Respondent has been left indigent, stripped of resources after years of defending duplicative prosecutions. No expression of remorse, no remedial effort, and no proposed remedy has been offered. Instead, silence and delay have prevailed — underscoring the need for outside oversight and independent accountability.

C. Prosecutorial Misconduct by Peterson

Despite his knowledge of the jurisdictional defect, Peterson continued to prosecute Case No. 211401656 for 1,110 days (over three years) across nine hearings, in addition to the defective predecessor case. This misconduct was sustained by federal VOCA funding and matching grants, turning Respondent into a financial justification for grant drawdowns.

Peterson's failures include:

1. Prolonged Litigation Without Jurisdiction – Sustaining duplicative litigation for nearly six years, subsidized by federal funds, without certified records or WebEx hearings.

2. Improper VOCA Fund Drawdowns – Permitting VOCA funds to subsidize appearances and filings in a prosecution known to lack jurisdiction.

3. Failure to Correct the Record – Declining to seek dismissal, move to correct the record, or disclose the defect, in violation of Rule 3.8(a)–(d) Utah Rules of Professional Conduct.

4. Failure to Insist on Certified Records – Enabling further mischaracterization of the record, including Judge Powell's distortion of Judge Lunnen's oral ruling.

This was not oversight — it was affirmative misconduct: knowingly sustaining an unlawful prosecution, failing to correct the record, and permitting misuse of federal dollars.

D. Ethical and Legal Framework

These omissions directly implicate:

- ABA Model Rule 3.8 (Special Responsibilities of a Prosecutor):
    - (a) Refrain from prosecuting charges not supported by probable cause.
    - (d) Disclose evidence tending to negate guilt.
    - (g) Remedy wrongful prosecutions once discovered.

- Constitutional Provisions:
    - U.S. Const. amends. V & XIV (double jeopardy, due process).
- Civil Rights Statutes:
    - 42 U.S.C. §§ 1983, 1985, 1986.
- Criminal Exposure Under Color of Law:
    - 18 U.S.C. §§ 242 (deprivation of rights), 1519 (record falsification/spoliation), 1513(e) (retaliation).
- Federal Program Fraud:
    - 18 U.S.C. §§ 666, 1346; 34 U.S.C. § 20110 (VOCA compliance).

E. Conclusion and Referral

Craig Peterson was not a passive participant. Once he realized the case was duplicative, his duty was not merely to stop prosecuting — it was to undo the damage, correct the record, and report the misconduct that led to the unconstitutional handoff in the first place. Instead, Peterson allowed the prosecution to continue for years, subsidized by federal VOCA funds, before conceding its defect.

His failures require:

- Formal findings of ethical violations under Rule 3.8.
- Referral to the Utah State Bar.
- Federal review for misuse of VOCA funds under 18 U.S.C. § 666 and related statutes.

The obligation to report these violations — by Craig Peterson, David Leavitt, Rhonda Gividen, Sandi Johnson, Lorie Hobbs, Bethany Warr, and Judge Lunnen and others — remains unfulfilled. Outside referral is the only credible path forward.

III. REFERRAL TO DOJ/OIG: PROSECUTORIAL ADMISSIONS & RULE 3.8 FAILURES AND PRESERVATION NOTICE

This matter is no longer properly before the Utah courts. The case has been dismissed **"with prejudice"** and **"without prejudice"** on contradictory dates, multiple times, and subsequent hearings were convened without jurisdiction.

1. No Certified CORIS docket has been produced.
2. No Certified Transcripts exist.
3. No Certified Webex Hearing Videos can be obtained by Resondent.
4. No state actor has standing to re-litigate these issues.
5. The Court can't attempt to litigate to muzzle the truth s the Court has admitted it has no judicial authority.

The only questionS that remain is whether the misconduct, Brady violations, and misuse of federal funds will be investigated by the U.S. Department of Justice and the Office of Inspector General, and given the 4th District Courts conflicts of interest and systemic exposure, if they will forward the case history and complete metadata to a third party for VOCA auditing and possible metadata backdating ie: DOJ, OIG, State Auditor.

The Court is on notice to preserve all records in perpetuity and to assign M.S.A. in lieu of Respondents full name in the records archival process.

FEDERAL RECORDS PRESERVATION NOTICE

To: Fourth District Court of Utah, Administrative Office of the Courts (AOC), Utah Attorney General's Office, Utah County Attorney's Office, Provo City Prosecutor's Office, and all associated staff.

Re: Preservation of Records and Metadata from Aug 4th 2016 forward– Cases No. 160400655, 171402280, 191400132, 20190395-CA, and 211401656.

NOTICE

Pursuant to federal law, including but not limited to **18 U.S.C. § 1519** (record destruction), **34 U.S.C. § 20110** (DOJ audit/clawback authority over VOCA funds), and **42 U.S.C. § 1983** (civil rights preservation), you are hereby placed on notice of your **legal obligation to preserve all records, metadata, and communications** related to the above-captioned matters.

SCOPE OF PRESERVATION

The duty to preserve extends to all records in any medium, including electronic and paper records, notes, emails, instant messages, and other communications. This specifically includes:

1. **Court Records & Metadata**

    - Complete CORIS docket history from August 4, 2016 forward.
    - Metadata logs showing who created, altered, or deleted docket entries.
    - WebEx recordings, audio/video of hearings, and certified transcripts (whether draft or final).

    - Judicial notes, clerk notes, and administrative memoranda.

2. **Judicial Communications (Judge Lunnen & Staff)**

    - All emails, internal instant messages, Teams/Slack/Zoom messages, or other digital communications by Judge Robert C. Lunnen or his staff including public facing court clerks, Treena Hansen, Tracy Bullock, Shawn Minter, etc.

    - Date range: **June 25, 2025 – August 1, 2025** (to capture communications regarding Rule 83 filings and post-dismissal activity).

3. **Administrative Office of the Courts (AOC)**

    - All records, notes, and internal communications concerning these cases. Mark Urry, Chris Palmer, Ron Gordon, Bryson King, etc..

    - E-discovery must include correspondence between AOC personnel, metadata audits, and communications with the Utah County Attorney's Office or Utah AG's Office regarding these matters.

4. **Attorney General's Office, Utah County Attorney, Provo City Prosecutor**

    - Attorney work product, notes, email communications, and correspondence regarding the prosecutions of Allen.

    - VOCA grant applications, funding awards, timekeeping/billing records, and all federal reimbursement requests tied to these cases.

    - Records identifying which staff were funded by VOCA or related grants.

5. **VOCA Funding Records**

    - All grant applications, award letters, funding allocations, and compliance reports relating to VOCA funding connected with these prosecutions.

    - Documentation showing how VOCA-funded victim advocates (including Lorie Hobbs, Bethany Warr, Katie Fox, and others) were assigned to these matters.

LEGAL DUTY

The duty to preserve attaches immediately upon notice. Any deletion, alteration, or destruction of these materials may constitute obstruction of justice under 18 U.S.C. § 1519 and retaliation against a complainant under 18 U.S.C. § 1513.

REQUEST FOR CERTIFICATION

Respondent respectfully requests that the Clerk of Court, the Administrative Office of the Courts (AOC), and all listed offices confirm in writing that:

1. A litigation hold has been implemented; and

2. No records, metadata, or internal instant messaging communications falling within this or prior notices will be destroyed, altered, or deleted.

The case expungement has been stayed at the Motion of Respondent pending criminal investigation.

FEDERAL REFERRAL

This preservation notice is made in anticipation of federal review and referral to the:

- U.S. Department of Justice (DOJ)
- Federal Bureau of Investigation (FBI)
- Office of Inspector General (OIG)
- Internal Revenue Service (IRS), Criminal Investigations Division (for VOCA/VAWA funding audits and potential clawback under 18 U.S.C. § 666).

The referral should encompass:

- Prosecutorial misconduct and Brady violations;
- Judicial misconduct, record suppression, and retaliation;
  Misuse of federal VOCA funds.

PROSECUTORIAL ADMISSIONS DEMONSTRATING NEED FOR OVERSIGHT

- ☑ Kennard (Jan. 2019): Acknowledged that the injunction statute was misapplied and jurisdiction was defective. Despite this, reversed a declination and pressed felony charges. Under Rule 3.8(a), Kennard was obligated to refrain from prosecuting charges unsupported by probable cause.

- ☑ Cruz (Nov. 2019): Confirmed in writing that "the protective order Mr. Kennard referenced does not exist," tacitly admitting that discovery had been withheld for 11 months. This was *Brady* material that should have been disclosed immediately.

- ☑ Koehler (2019 recording): Admitted her attorney never filed the necessary papers for a civil stalking injunction. Without such an order, there was no lawful predicate for prosecution. Kennard himself had observed that if Ms. Koehler truly feared Allen, she could have applied for a protective order. She never did. To Leavitt, Koehler even described Allen as "kind." Prosecutors had a duty under Rule 3.8(d) to disclose these admissions as exculpatory evidence. They did not.

- ☑ Leavitt (2019–2022): As County Attorney, David Leavitt had constructive knowledge of all of the above defects. Instead of halting the prosecutions or reporting misconduct under Rule 8.3, he handed off an unconstitutional case to the Utah Attorney General's Office. This decision perpetuated a prosecution that he knew — or should have known — was barred by double jeopardy and legally void.

CONCLUSION

The above admissions confirm why outside federal referral is mandatory. The misconduct described involves both constitutional violations (Fifth and Fourteenth Amendments) and federal crimes under 18 U.S.C. §§ 242, 666, 1519, and 1513. The duty to preserve, certify,

and report cannot be fulfilled internally by the AOC or the Fourth District Court without creating the appearance of self-policing.

Only DOJ, FBI, OIG, and IRS oversight can ensure the integrity of this process and hold accountable those who knowingly prolonged prosecutions that were unconstitutional, retaliatory, and federally subsidized.

Systemic Pattern

- At least dozens of prosecutors participated in the downstream prosecutions of Defendant after August 4, 2016.
- Not one invoked Rule 3.8 to stop a prosecution they knew was defective.
- Exculpatory evidence was suppressed for more than 30 months.
- Defendant was compelled into 29 hearings after jurisdiction had collapsed.
- Federal VOCA funds subsidized victim advocates and prosecutors throughout, despite full knowledge the case was unlawful.

Referral Required

This is not a question of judicial error or discretionary rulings. **It is a pattern of administrative misconduct, failure to litigate from certified records, administrative shortcuts, clerical errors uncorrected and prosecutorial neglect that:**

1. Concealed exculpatory material.
2. Ignored binding admissions that no protective order or injunction existed.
3. Perpetuated duplicative prosecutions for 1,110 days in case 211401656, not to mention the totality of nearly 9 years of vexatious litigation, without jurisdiction, spanning other cases detailed in the attached Exhibit A.

   In “EXHIBIT C Quintuple Jeopardy, Federal VOCA Funding” : The items in “green” were legal, the jurisdiction ended at the “yellow” entry, and all pages in red were due bad

downstream fruit from the poisonous upstream tree.

4. Two cases are confirmed to have used tax dollars for lawfare, potentially more cases Drew down federal VOCA funds in the process. (Federal Audit Needed).

The matter must therefore be referred to DOJ/OIG/IRS for:

1. Metadata audit of docket entries and email communications (Kennard, Cruz, Urry, Tronier, Hobbs, Warr, Fox, and Leavitt).

2. Rule 3.8 accountability review for every prosecutor who touched the case but failed to stop it.

3. VOCA clawback auditing proceedings under 34 U.S.C. § 20110.

IV. Potential Judicial Canon Violations by Judge Robert C. Lunnen

Judge Lunnen's conduct across Case No. 211401656, especially August 17, 2022, and Sept. 20, 2024 (oral dismissal and tolling of expungement) and May 1, 2025 (denial while Defendant was muted, and the muting of defendant three times potentially violated due process, Color of Authority, Color of Law, and Defendantes rights to seek accurate records and to express grievances (First Amendment violations), constitutes violations of the Utah Code of Judicial Conduct:

1. **Canon 1 – Upholding Judicial Integrity and Independence**
   Judges must uphold the independence and integrity of the judiciary. By reversing his own oral ruling and denying its existence while having the Defendant muted three times, Judge Lunnen undermined the integrity of the judicial record and destroyed public confidence in the independence of his decision-making. The May 1 2025 Webex video has been kept from Respondent and its evidence of the judges misconduct and the states ask for the hearing was done without legal standing.

2. **Canon 2 – Avoiding Impropriety and the Appearance of Impropriety** Judges must avoid both actual impropriety and the appearance of impropriety. Convening a hearing at the request of a prosecutor who had already admitted he was "out" of the case created the appearance that the Court itself was retaliating against a litigant for filing record-preservation motions and complaints to the Judicial Conduct Commission.

3. **Canon 2.2 – Impartiality and Fairness**
   Judges must perform duties fairly and impartially. Muting Defendant during the May 1, 2025 hearing while denying the existence of a prior oral ruling is incompatible with

impartiality and fairness.

4. **Canon 2.6(A) – Right to be Heard**
   A judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to law. By muting Defendant, Judge Lunnen deprived him of this right.

5. **Canon 2.9 – Ex Parte Communications**
   Judges shall not consider or initiate ex parte communications. Lunnen's conduct in entertaining post-dismissal hearings with the Attorney General's Office, while refusing to acknowledge or certify Defendant's filings, raises serious questions about impermissible ex parte influence or bias.

6. **Canon 2.16 – Cooperation with Disciplinary Authorities**
   Judges must cooperate with judicial and lawyer disciplinary bodies. Instead of reporting the double jeopardy and jurisdictional defects that had been admitted on the record, Judge Lunnen initiated retaliatory Rule 83 proceedings — the opposite of cooperation with oversight authorities.

CONCLUSION

Judge Lunnen's refusal to certify the record, his reversal and denial of his own oral rulings existence, his silencing of the Defendant multiple times as Defendant sought administrative preserve of the record, and his continuation of proceedings after dismissal all constitute violations of the Utah Code of Judicial Conduct. THE VOCA FUNDING adds a whole other layer of difficulty for those downstream.

These actions demand referral to the Judicial Conduct Commission and, given their overlap with federal funding misuse, to DOJ/OIG/FBI/IRS for AUDITING review.

—----------

PROVO CITY INTERNAL AFFAIRS RECORDING SEGMENTS

Lt. Huntsman (Feb. 3, 2025 – Provo Internal Affairs):

Lt. Huntsman: "*That's the statement like what you're saying when you got all the way up to the top for the AG prosecutor Craig Peterson.*"

M.S.A.: "*Yeah. Now Craig's going, 'There shouldn't even be a case for Allen. to be able to show us evidence of our corruption. The irony.*"

Lt. Huntsman: "*Wow. Alright. Let's watch*."

Lt. Huntsman (Feb. 3, 2025 – Provo Internal Affairs):

….."So this wasn't the official transcription from the state. This was your independent… Okay. It casts him in bad light. So case 211 (211401656). ... ***All the BS leading up to this menagerie, if I can call it that, evidently happened because you have it. But Respondent's point is from an investigation standpoint, if it's gone, it's gone. I can't redig it up because I don't have the authority to dig it up when the judge says it's done. Well… and so like Kennard's case, when he found the oops. It's a tricky, messy situation…."***

Lt. Huntsman (Feb. 3, 2025 – Provo Internal Affairs):
"Basically, gosh, when I get a declination, it's—Oh, I can't reopen. …

(NOTE: CASE 191400132 WAS PROSECUTED WITH KNOWLEDGE OF JURISICTIONAL FAULTS, AND THEN REFILED A SECOND TIME UNDER 211401656 in retaliation for ALLEN reporting Leavitt and others TO THE UTAH BAR FOR WITHHOLDING exculptory Brady evidence from Discovery for years.
(reference Leavitt apology transcript in the docket)

M.S.A.: "*It's basically saying we have no jurisdiction.*"

Lt. Huntsman: "*Yeah. AND WE ARE DONE*."

Lt. Huntsman (Feb. 3, 2025 – Provo Internal Affairs):
"On one end of the spectrum, she's (Koehler) in absolute denial. You like you say, weaponizing the system ... constant bad, bad, bad. But there's no validity to that if you have all this evidence. This person (Koehler) is twisting it, but has no consequence. And then above that, where the adjudication process took place or the approvals process took place for legal finding, that wasn't correct based on what you've shown."

Lt. Huntsman (Feb. 3, 2025 – Provo Internal Affairs):
"I think that's where Kennard catches and says, no. This was sticky. This was not correct. This is declined."

Lt. Huntsman (Feb. 3, 2025 – Provo Internal Affairs):
*"****<u>This letter from Michael Tronier? … He confirms the (ex parte) temporary civil stalking injunction … then he goes on the GRAMA request for the settlement agreement with the notation on the docket reads, document 'Trial Cancelled: Reason the case is settled.'"</u>***

Lt. Huntsman (Feb. 3, 2025 – Provo Internal Affairs):
"You're going after fixing the system. You've cleared your name. … Ultimately, if you want me to write a report today that says I met with Mr. Allen on this regarding this matter, so findings were made present. This should be noted that this case … the order he filed for hearing, it did not meet the criteria for the arrest. It's just a story of an information report."

David Leavitt (Mar. 19, 2022 – Utah County Attorney):
M.S.A.: "You sat on Respondent's evidence for two and a half years, and I would testify to that."
Leavitt: "Well, I know that, it was a stupid case… I am sorry about the effect it has had on you."

Summary:

- State Attorney Craig Peterson admitted duplication- in other words "Double Jeopardy" and failed to make any corrections to reduce harm to Allen. He failed to report Leavitt and others who handed the State a known defective case.
- Huntsman corroborated Peterson's words, confirmed suppression because it cast the judiciary in a "bad light," and admitted the case was refiled after declination.
- Huntsman acknowledged Koehler weaponized the system, Kennard's "oops," and the "Trial Cancelled: Case Settled" entry.
- Leavitt conceded it was a "stupid case" and apologized.

These admissions establish that the Rule 83 motion is retaliatory, ultra vires, and historically significant for DOJ/OIG oversight.

The Root of Harm: August 4, 2016 – "Trial Cancelled: Case Settled"

The harm in this matter stems from a single clerical and prosecutorial error that was never corrected: the August 4, 2016 docket entry in Case No. 160400655 reading "Trial Cancelled: Case Settled." Because that record was never accurately certified and preserved, downstream prosecutions multiplied in violation of the Double Jeopardy Clause, resulting in five separate prosecutions from one settled case.

Alternatively, if the record was not merely neglected but altered after the fact, the implications are even more severe. At minimum, there are now three conflicting versions of this docket entry:

- Two databases reflect the complete phrase **"Trial Cancelled: Case Settled,"**
- One database omits the words **"Case Settled.**" were these words - deleted after the fact?

The statistical odds of such an omission occurring innocently in one system, but not the others, are vanishingly small. This discrepancy cannot be dismissed as clerical noise; it demands explanation, certification, and forensic audit.

At stake is not a trivial entry, but the foundational record that determined whether jurisdiction terminated on August 4, 2016. Without an accurate, certified record of this dismissal, every subsequent prosecution rests on a defective or possibly manipulated foundation.

Legal Authority:

- Utah R. Civ. P. 60(a): Clerical mistakes in judgments and docket entries "must be corrected" to reflect the truth.

- Utah Code § 63G-2-603(2): Agencies (including courts) must correct records shown to be inaccurate, incomplete, or misleading; refusal is unlawful.

- Utah Code § 63G-2-801(1)(e): Knowing refusal to correct a public record is subject to criminal penalty.

- 18 U.S.C. § 1519: Destruction, alteration, or falsification of records in federal matters carries up to 20 years imprisonment.

The record before this Court therefore requires immediate certification and correction. Any failure to address the August 4, 2016 "Trial Cancelled: Case Settled" entry perpetuates both constitutional and statutory violations.

Kennard Analysis (Corrected)

On May 2, 2016, Judge Howard issued only a **temporary stalking injunction** on an ex parte affidavit. Kennard clarified:

> "The temporary stalking injunction says on its face that it *expires in three years*."

He then explained the statutory mechanism:

> "If the respondent fails to request a hearing within 10 days of service, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice … and that the civil stalking injunction expires three years after service of the ex parte civil stalking injunction."

Crucially, Kennard recognized that Respondent had filed for a hearing:

> "Because Mr. Allen appeared to have filed a request for a hearing on the temporary stalking injunction within 10 days of being served, and because Judge Howard did not indicate on 8/4/2016 that the injunction continued, I do not think that it is valid today."

Why This Matters

1. **Kennard's conclusion is unequivocal**: no valid injunction existed beyond August 4, 2016.

2. His analysis comes from a **Deputy Utah County Attorney**, not from Respondent — making it nearly impossible for the State to refute.

3. Even though Kennard misstated the year as 2018, the corrected year (2016) fits the timeline and makes his conclusion even stronger: that **jurisdiction ended** and the injunction expired nearly a decade ago.

The Withheld Kennard Analysis and Exculpatory Evidence

The **Kennard Analysis** was one of the most critical pieces of exculpatory evidence in this matter. Deputy Utah County Attorney Randy Kennard concluded that no valid injunction existed beyond August 4, 2016. Yet this analysis — along with several audio recordings inculpatory of the prosecution and impeaching to the State's witness — was deliberately **withheld for nearly 11 months**.

It is now clear that **Attorney Albert Pranno, accuser Alicia Koehler, former County Attorney David Leavitt, and nearly a dozen prosecutors and victim advocates** all advanced prosecution with **actual knowledge** that Respondent was being prosecuted without standing or jurisdiction.

This was not a mistake. It was a calculated concealment.

- **Exculpatory to Respondent**: Kennard's analysis confirmed the injunction had expired.

- **Inculpatory to the State**: It showed that prosecutors, Leavitt, and Fox knew the case lacked jurisdiction but pressed forward anyway.

Respondent obtained this evidence **only through an appeal to the Utah County Commissioners** — not through lawful discovery.

The severity of this cannot be overstated.

- The harm done to Respondent is profound and multifaceted. Beyond loss of home, employment, and reputation—stemming from false, one-sided television reports with cherry-picked allegations—Respondent has grounds for actionable claims under Utah law. Defamation *per se* in Utah applies when statements falsely impute a crime, professional misconduct, or dishonesty.

  As the Utah Supreme Court has held in *Baum v. Gillman*, 667 P.2d 41, 42 (Utah 1983), allegations of dishonesty or insolvency that impugn one's ability to conduct a lawful business are defamatory *per se*, requiring no proof of special damages.

  Utah law also defines "libel" as malicious defamation by written or broadcast means that impeaches honesty or integrity, exposing a person to public hatred, contempt or ridicule. Utah Code § 45-2-2 (Libel and Slander Defined) provides that libel includes printed statements or signs which blacken a person's memory or reputation.

  Additionally, Utah's former criminal defamation statute (Utah Code § 76-9-404) made it a Class B misdemeanor to knowingly publish false information that tended to expose another person to public hatred or ridicule (this statute was repealed as of May 1, 2024, by HB 158). Lastly, in defamation *per se* cases, Utah Model Civil Jury Instruction MUJI-CV 4th (Defamation Instructions) permits general damages without proof of special damages when the statements fall into recognized per se categories—such as imputing criminal conduct or misconduct in one's office or business.

  If any party, including prosecutors or law enforcement, has knowingly withheld exculpatory evidence or suppressed material facts required by law under *Brady v. Maryland*, 373 U.S. 83 (1963), or failed to comply with GRAMA or Utah discovery obligations, they are under an affirmative duty to come forward and disclose those omissions.

  A Brady violation occurs when the prosecution suppresses evidence favorable to the defendant and that suppression is material to guilt or punishment. *Brady v. Maryland*, 373 U.S. at 87; United States v. Bagley, 473 U.S. 667 (1985) (defining materiality standard).

  Under Utah law, prosecuting agencies are statutorily required to disclose Brady material (exculpatory and impeachment evidence) under Utah Code § 53-25-1002. Likewise, Utah's Government Records Access and Management Act (GRAMA), Utah Code § 63G-2-201 et seq., mandates production of public records unless specifically exempted, and treats untimely or non-response as a denial subject to appeal.

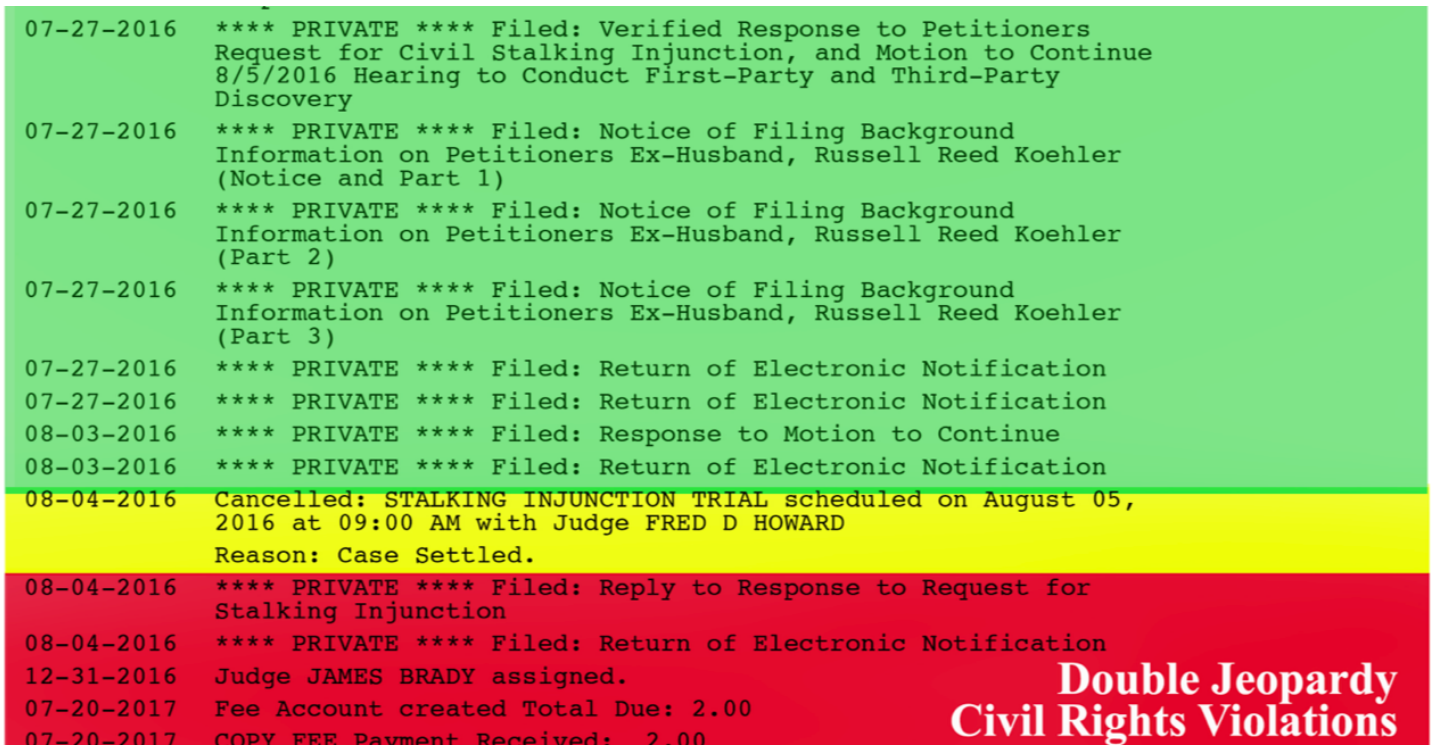
  Any failure to report or correct these violations should trigger sanctions, referral to oversight bodies, and full legal remedy available to Respondent.

- Meanwhile, prosecutors **drew down federal VOCA funds**, treating Respondent as the **"commodity" that justified payroll**.

- Over the span of nine years, **40 prosecutors, defense attorneys, and 8 judges** passed through this case without correcting the record.

- When Respondent finally obtained evidence of misconduct and reported it, he was met with **trespass orders** and a retaliatory attempt to brand him "vexatious."

This is the inversion of justice itself: the individual who was wrongfully prosecuted becomes the target of retaliation for exposing the misconduct that should have been self-reported years ago



DOWNSTREAM CASES WITHOUT EVIDENTIARY HEARING FOR RESPONDENT

1. **Case No. 171402280 (2017)**: **LACKED JURISDICTION**

    - **Provo City initiated a prosecution downstream of the void injunction**

      .
    - **The case relied on a record that was already settled and lacked jurisdictional foundation.**

    - **Exculpatory material and evidence of the August 4, 2016 settlement were not applied to halt prosecution.**

MAIL

From:	randyk@utahcounty.gov
To:	Tammy Paynter
Subject:	Please forward to Officer Julian Jackson @ Provo, RE: Mark Allen 18PR3280, our case A19-29
Date:	11-Jan-2019 15:09
Attachments:	Please forward to Officer Julian Jackson @ Provo, RE: Mark Allen 18PR3280, our case A19-29.html [Save] [Open] image001.png [Save] [Open]
Message Id:	24e7bd3f4ff6124a9e1814e4af27f2c5000000000109#24e7bd3f4ff6124a9e1814e4af27f2c500014985439c

TEXT.htm **ATTACHMENT**

Officer Jackson (Julian), Thank you for your referral for review of charges of MA Violation of Stalking Injunction. Unfortunately it does not appear that the stalking injunction referred to in your report is still valid. It is a little complicated but here is what the record shows:

On 5/2/2016 Judge Howard issued the temporary stalking injunction on an exparte affidavit from the Petitioner. A return of service was filed with the court on 5/20/2018. And the Respondent filed a request for a hearing on 5/26/2018.

The temporary stalking injunction says on it's face that it "expires in three years." Unfortunately 77--3a-(6(b) of the code explains it differently:

(6)(b)(iii) that if the respondent fails to request a hearing within 10 days of service, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and that the civil stalking injunction expires three years after service of the ex parte civil stalking injunction...

(7) At the hearing, the court may modify, revoke, or continue the injunction. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

Because Mr. Allen appeared to have filed a request for a hearing on the temporary stalking injunction within 10 days of being served and because Judge Howard did not indicate on 8/4/2018 that the injunction continued, I do not think that it is valid today.

If Ms. Koehler feels threatened she probably needs to consider seeking another stalking injunction or a protective order. I will have our victim witness personel notify her of that.

Thank you for your work. Please call if you have any questioins or concerns. Sincerely Deputy County Attorney Randy Kennard

ERRORS 1,2 SHOULD READ 18PR32810
ERROR 3, SHOULD READ 5/20/2016
ERROR 4 SHOULD READ 5/26/2016
ERROR 5 SHOULD RED 8/4/2016

2. **Case No. 191400132 (2019–2021): LACKED JURISDICTION, VOCA FUNDED**

    - Utah County filed felony charges based on the same defective record.

    - On January 15, 2019, Deputy County Attorney Randy Kennard circulated an internal email recognizing that the injunction statute had been misapplied and the prosecution was jurisdictionally defective.

    - Despite this recognition, the prosecution moved forward. **VOCA funding was awarded. Unknown who applied and under what authority.**

    - Exculpatory Brady evidence — including audio recordings from the August 2016 settlement — was withheld from Defendant for more than 30 months, until late 2019.

3. **Case No. 20190395-CA (2020): LACKED JURISDICTION**

    - While the 2019–2021 case was still active, Defendant pursued an appeal.

    - The appeal was prosecuted in the Utah Court of Appeals even though exculpatory evidence was still being withheld.

    - By prosecuting an appeal while Brady material remained hidden, the State compounded due process violations and deprived Defendant of a fair appellate record.

4. **Case No. 211401656 (2021–2025): LACKED JURISDICTION, VOCA FUNDED**

    - Filed on September 16, 2021, this case was an exact duplicate of Case No. 191400132.

    - The duplicative nature was eventually admitted in open court by Assistant Attorney General Craig Peterson on September 20, 2024: ***"This case is an exact duplicate of Case 191400132 and should not even be a case of record."***

    - Despite this, the case was prosecuted for 1,110 days and forced Defendant into at least nine hearings, all subsidized by VOCA funding.

- On March 19, 2022, Utah County Attorney David Leavitt privately admitted the case was a *"stupid case"* and apologized for the effect it had.

- On February 3, 2025, Provo Police Internal Affairs Lt. Huntsman confirmed the duplicative nature of the prosecution, acknowledged that declination had been ignored, and recognized systemic misuse of the system and VOCA funds.

Key Admissions Along the Timeline

- Kennard (Jan. 2019): Admitted injunction statute misapplied; case was jurisdictionally defective.

- Leavitt (Mar. 2022): Called it a *"stupid case"* and apologized to Defendant.

- Peterson (Sept. 2024): Admitted duplication in open court, acknowledging the case should not exist.

- Internal Affairs Lt. Huntsman (Feb. 2025): Confirmed duplication, declination, and systemic misuse of resources, and recognized DOJ/US Attorney oversight as the proper escalation.

- Daniel Burton "***Leavitt handed us a stinker of a case***" …. Daniel Burton's own admissions in his June 17, 2025 recorded conversation, reveals multiple violations of state and federal law, as well as record spoilage and premature deletion of case files *without a signed court order*. Burton himself states: **"*We expunged them, Mark.*"**

- However, court records demonstrate if records were destroyed by the State then under what authority did they do that as the September 20, 2024 hearing transcript and signed court minute entry (Exhibit 44) states: "***The court will not grant the expungement until Mr. Allen provides notice to the court that he wishes to proceed with the expungement."***

  This unambiguous court order proves that the expungement had not yet been authorized, and the premature destruction of case files by the Utah Attorney General's Office—at the direction or oversight of Craig Peterson—violates 18 U.S.C. § 1519 (destruction or falsification of records in federal investigations), 42 U.S.C. § 1983, and Utah GRAMA law.

Further, the following facts must be emphasized in any DOJ submission:

● The Plea in Abeyance was entered as "**no contest**" and was later misused to justify refiled charges. Brady evidence was obscured by Prosecutors and the PIA was taken by RESPONDENT M.S.A only to protect Koehler's conduct from being put into the public record so as not to destroy her life. Sensitive 412 evidence sent from A.K. imputes her false narrative and "victimhood" perpetuated at significant tax payer expense.

● **Brady and exculpatory evidence was actively withheld**, violating constitutional due process and **prosecutorial disclosure duties**.

● A court clerk destroyed, erased, or withheld key filings, only later another clerk attempts to argue that they were not "records" under GRAMA. But Utah Code 63G-2-103(22) confirms that even drafts and preliminary communications are records, and recordings are absolutely records.

● The destruction of physical and digital files may have occurred while Respondent had a pending Motion to Toll Expungement, **a pending criminal investigation, and open motions—making the expungement process premature and likely criminal.**

- This is why Administrative record preservation have been ardently sought, and likely why the Court disregarded Notices to Submit spanning 9 months while records were spoiling. This is unlawful.

● May 1st 2025, Respondent's microphone was muted three times by the court while he attempted to preserve the record—a color of law violation of his 1st, 6th, and 14th Amendment rights, as well as a breach of Utah's own Judicial Rules of Conduct.

● A Writ of Quo Warranto has been filed against those acting without jurisdiction, demanding proof they have not destroyed records or acted ultra vires.

● That writ resulted in a landmark retaliatory ban of Allen from four county courthouses, a move that appears to be punishment for whistleblowing and attempting to preserve the administrative record. **This retaliatory act raises constitutional concerns under 18 U.S.C. § 1513(e).**

● A formal Judicial Conduct Commission (JCC) complaint has been initiated against Judge Lunnen, **and audio evidence and court responses exists of two court clerk**

admitting to destruction of a court record back in 2016—triggering the need for a de novo review of administrative procedural violations within the Utah Administrative Office of the Courts (AOC) and any metadata backdating, omissions or deletions.

CUMULATIVE EFFECT

Quintuple Jeopardy and Record Manipulation

From **August 4, 2016 through May 1, 2025**, Respondent endured **five faulty prosecutions** all wrongly derived from a single docket entry: *"Trial Cancelled: Case Settled"* in Case No. 160400655. That entry appeared publicly on the XChange docket, but later records suggest the words *"Case Settled"* may have been partially omitted or deleted after the fact to justify downstream prosecutions and an Order to Show Cause.

The Clerks cannot explain why **three different versions** of this entry now exist:

- Two versions read *"Trial Cancelled: Case Settled,"*
- One version reads only *"Trial Cancelled."*

This discrepancy points to backdating or alteration of court records. Such conduct not only undermines judicial integrity but also violates statutory and constitutional duties. The prosecutions that followed were **constitutionally impossible**, yet they proceeded for nearly a decade, subsidized by significant federal VOCA funding.

The record of misconduct is extensive:

- **Exculpatory evidence was withheld** for more than 11 months and only released through a GRAMA appeal obtained by Respondent via Utah County Commissioners. In releasing the records it implicated nearly a dozen prosecutors for withholding Exculpatory evidence from the Respondent, his defense team, from 8 judges, spanning 5 cases.

- **Dismissals were entered inconsistently** ("with prejudice" and "without prejudice").
- **Amended minutes altered the record** after the fact.
- **Post-dismissal hearings were convened** despite the absence of jurisdiction.

The combination of **prosecutorial admissions** (Kennard, Leavitt, Peterson), **judicial reversals** (Judge Lunnen's denial of his own oral contract), and **internal corroboration** (Huntsman's confirmation of irregularities) prove this was not a good-faith mistake. It was, in effect, **quintuple jeopardy** — a pattern of duplicative and retaliatory prosecutions sustained by the misuse of VOCA funds and the Court's ongoing failure to certify the record.

This is not merely administrative neglect; it is a **systemic misapplication and disregard of law** that can only be corrected by establishing who acted, who failed to act, and how omissions and alterations compounded the harm. Certified records are not optional — they are mandatory.

Legal Authority:

- **State v. Winward**, 941 P.2d 627, 630 (Utah Ct. App. 1997) ("clerical errors must be corrected so that the record speaks the truth").
- **Brady v. Maryland**, 373 U.S. 83, 87 (1963) (suppression of exculpatory evidence violates due process).
- **Giglio v. United States**, 405 U.S. 150, 154 (1972) (withholding impeachment evidence requires reversal).
- **Utah Rules of Professional Conduct, Rule 3.8(d):** prosecutors must disclose evidence tending to negate guilt or mitigate the offense.
- **ABA Model Rule 3.8(g):** prosecutors must remedy wrongful prosecutions once discovered.

Had the Court responded timely to Respondent's lawful preservation requests, he would not have been forced to submit multiple petitions and GRAMA appeals. The errors lie in the Court's own handling — who acted, when, and how, including who failed to act, and how omissions produced downstream *poisonous fruit*.

For that reason, **certified records remain the consistent and lawful objective of Respondent**. Ultimately, it is incumbent upon the Court itself to ensure the record is accurate, truthful, and certified.

VI. INVERSE APPLICATION OF PRECEDENT

(Cites: *Winward*, *Chess*, *Griffin*, *Draper*, *Brady*, *Kyles*, *Caperton*.)
The very precedents meant to safeguard due process have been inverted by this Court. Instead of protecting the Defendant's constitutional rights, the Court has avoided certification, denied preservation, and retaliated against filings that sought compliance with mandatory duties.

- State v. Winward, 941 P.2d 627 (Utah Ct. App. 1997):
  Utah courts have a clear duty to correct clerical errors so the record "speaks the truth." Here, multiple contradictions — including dual dismissals both "with

prejudice" and "without prejudice" on September 9, 2022 — have never been reconciled. Rather than correcting the record, rather than reference "Certified Records" and "Certified Webex Videos of Hearings" the Court has left the record to conflict with its own record.

The Court own record remains in conflict with its own records and databases, punishing the Defendant for pointing out the discrepancies.

- **Chess v. Smith, 617 P.2d 341 (Utah 1980):**
  The Utah Supreme Court held that denial of an adequate record deprives a litigant of due process. In this case, the refusal to provide certified WebEx recordings or certified transcripts, while relying on clerk's minutes and amended docket entries, is precisely the type of deprivation Chess forbids. The record remains both incomplete and contradictory, undermining any possibility of meaningful judicial review.

- **Griffin v. Illinois, 351 U.S. 12 (1956):**
  Equal justice under law requires that records necessary for review be provided to indigent defendants on the same terms as to wealthy defendants. Here, the Court has denied Defendant, an indigent pro se litigant, certified transcripts and recordings while proceeding against him with uncertified, back-dated docket entries. This inversion of Griffin effectively denies equal access to justice.

- **Draper v. Washington, 372 U.S. 487 (1963):**
  The U.S. Supreme Court held that defective records themselves are a violation of due process, because they frustrate meaningful review. Contradictory docket entries (dismissal with prejudice vs. dismissal without prejudice) and the absence of certified WebEx/video recordings create a defective record that falls squarely within Draper's holding.

- **Brady v. Maryland, 373 U.S. 83 (1963); Kyles v. Whitley, 514 U.S. 419 (1995):**
  Suppression of exculpatory evidence is unconstitutional. The omission of the August 4, 2016 "Trial Cancelled: Case Settled" docket entry from certified records operates as Brady suppression by the Court itself. Likewise, the withholding of exculpatory audio files for more than 30 months until after appellate proceedings had concluded falls under Kyles's prohibition against "strategic" concealment of material evidence.

- **Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009):**
  Recusal is required where the appearance of partiality is overwhelming. Here, Judge Lunnen retaliated against Defendant by initiating a Rule 83 proceeding after being

reported to the Judicial Conduct Commission, and Judge Graf continued those proceedings. The impartiality of the judiciary is reasonably questioned, triggering the Caperton standard. The Court has no jurisdiction in a case dismissed other than Administrative and this is punitive and vexatious on its face.

VII. RETALIATION & ORAL-CONTRACT REVERSAL

On September 20, 2024, Judge Robert C. Lunnen issued an oral ruling in open court that consisted of two parts:

(1) *"This case is dismissed with prejudice."*

(2) "I'll hold off on signing the expungement order if that's your request."

The second part directly acknowledged Defendant's Motion to Toll the expungement pending investigation by POST, the Utah Attorney General's Office, and potentially the U.S. Attorney's Office.

This was not "extraneous" language as asserted by Judge Powell in March 2025 while trying to reconcile why Judge Lunnen had not signed the stipulated contract — it was part of the oral ruling itself. Defendant's proposed order reflected both halves of the ruling, consistent with Defendant's express request to preserve the expungement certificate until criminal investigations could run their course.

On September 24, 2024, Defendant submitted a Proposed Order.

The September 24, 2024 and November 12, 2024 Proposed Orders

On **September 24, 2024**, Respondent submitted a Proposed Order that faithfully memorialized Judge Lunnen's **oral ruling of September 20, 2024**: dismissal with prejudice, tolling of expungement, and preservation obligations.

Weeks later, Judge Lunnen's clerk, **Treena Hansen**, emailed that the judge "didn't like the Order as written." This objection was immaterial. The oral contract was already on the record, and the Judge had stated he would sign the order.

In good faith, Respondent produced a **revised version** on **November 12, 2024**, removing references to criminal investigation while leaving intact the essential terms already agreed to. That order too was ignored, despite being consistent with Judge Lunnen's ruling and later confirmed by **Chief Judge Kraig Powell's analysis**.

Whether Judge Lunnen "liked" the wording is irrelevant. Once the oral stipulations were made in open court and Respondent relied upon them by submitting the written order, the act of signing became a **ministerial obligation**, not a discretionary judicial act. Refusal to sign or certify the order was a **breach of the oral contract** and an administrative failure, falling outside the protection of judicial immunity.

On March 4, 2025, Judge Powell ruled on Defendant's Motion to Recuse.

In his order, he summarized the September 20, 2024 oral ruling as consisting of "only one pertinent sentence: ***'This case is dismissed with prejudice."***"

Powell characterized Defendant's proposed order as containing "**extraneous inappropriate statements."** This was a mistake on the record, or perhaps calculated to protect Judge Lunnen from the purported prosecutorial and judicial misconduct and judicial industrial complex uncovered by Respondent which originated from Utah County Prosecutors beginning in 2019, involving VOCA funding, possibly CARES and or COVID funding.

The so-called **"extraneous" language — that the Court would hold off on signing the expungement order** — was part of Judge Lunnen's oral ruling.

Powell's incomplete summary demonstrates the peril of proceeding without a certified transcript or certified WebEx. The Court's refusal to certify the record created a vacuum in which omissions became misrepresentations. This legacy problem seems pronounced in the Utah 4th District Court process and systemic failures to produce certified records makes due process and equal protection under the law and appeals, impossible.

Improper Judicial Creation of Motion – Post-Dismissal Collusion

The present Rule 83 motion appears to have originated with Judge Lunnen himself, in retaliation and self-protection, possibly triggered by Respondent's Judicial Conduct Commission complaint. If so, the Court has effectively acted as both **movant and adjudicator** in a matter where jurisdiction had already ended.

The danger is clear: this maneuver has now created another potential victim — the **newly assigned judge**. That judge is being asked to rule:

- **Without certified records,**
- **Without WebEx/Zoom video of hearings,**
- **Relying only on hearsay, truncated status minutes, and backdated docket entries.**

These are **invisible traps** that obscure the truth and risk implicating an unsuspecting jurist in misconduct not of their making.

On **September 20, 2024**, Assistant Attorney General **Craig Peterson** unequivocally confirmed the finality of dismissal and his own lack of further authority:

> *"My appointment was limited to the prosecution of the case and the minute the case was dismissed, I'm out!"*

This admission is decisive. It establishes that:

1. The prosecution ended on September 20, 2024, when the case was dismissed **with prejudice**;

2. The State's own attorney acknowledged he lacked **standing** after dismissal; and

3. Any subsequent participation by the Attorney General's Office was **outside its lawful appointment** and therefore ultra vires.

Legal Authority:

- **Utah R. Civ. P. 60(a):** After dismissal, a court retains only limited authority to correct clerical mistakes and ensure the record speaks the truth. It does not have jurisdiction to initiate new punitive proceedings.

- **Canon 2.5(A) (Utah Code of Judicial Conduct):** Judges must perform judicial and administrative duties competently and diligently.

- **Canon 1 (Judicial Integrity and Independence):** Judges must maintain the integrity of the judiciary by ensuring accuracy and fairness in all proceedings.

- **Brady v. Maryland,** 373 U.S. 83, 87 (1963): Suppression of exculpatory evidence violates due process.

- **Giglio v. United States,** 405 U.S. 150, 154 (1972): Withholding impeachment evidence requires reversal.

- **Utah Rules of Professional Conduct, Rule 3.8(d):** Prosecutors must timely disclose evidence tending to negate guilt or mitigate the offense.

The lack of certified records is not an isolated clerical oversight. It is directly tied to the **suppression of Brady and Giglio material** that Respondent was forced to obtain only through GRAMA appeals, years after it should have been disclosed. Certification would have exposed these omissions sooner.

Premeditation in Record Manipulation and Prosecution

The pattern of conduct in this case reflects not accident, but **premeditation**:

1. **Withholding Exculpatory Evidence:**

    - The Kennard Analysis, audio recordings, and other Brady/Giglio material were withheld for more than 11 months.

    - Prosecutors, victim advocates, and supervisors had actual knowledge that the injunction was invalid but chose to suppress this evidence.

    - This delay allowed prosecution to advance for years without jurisdiction — a calculated benefit to the State.

2. **Backdating and Alteration of Records:**

    - The appearance of three different versions of the August 4, 2016 docket entry (*"Trial Cancelled: Case Settled" vs. "Trial Cancelled"*) shows forethought, not clerical error.

    - **These discrepancies created a false pretense of jurisdiction, sustaining prosecutions that were otherwise barred.**

3. **Post-Dismissal Retaliation:**

    - The Rule 83 motion, trespass notice, and attempts to brand Respondent "vexatious" occurred only **after** Respondent reported misconduct and sought

certified records.

- Such timing shows retaliatory design, not spontaneous misjudgment.

4. **Financial Incentives:**

   - VOCA funding was drawn down throughout these prosecutions. Payroll and benefits depended on keeping the case alive.

   - Proceeding with a known-defective case was not just tolerated; it was incentivized.

Why This Matters

Premeditation distinguishes this conduct from negligence.

- Negligence is forgetting to certify a record.

- Premeditation is **withholding exculpatory evidence, altering dockets, and initiating retaliatory filings** — all while knowing the underlying case lacked jurisdiction.

This level of forethought places the conduct squarely within **obstruction of justice (18 U.S.C. § 1519), retaliation (18 U.S.C. § 1513(e)), and deprivation of rights under color of law (18 U.S.C. § 242).**

Rule 83 Motion and Post-Dismissal Misconduct

Thus, the Rule 83 motion is not only **jurisdictionally defective** but also **procedurally improper**. Correction and certification of the record are **non-discretionary duties**, not matters of judicial preference. By attempting to invert this obligation into a punitive action, the Court compounds prior errors and risks further constitutional violations.

Despite this, **metadata in the official docket reflects alterations reaching back to September 9, 2022**, raising the specter of tampering or post-hoc manipulation undertaken either to sustain the illusion of ongoing jurisdiction or to obscure the Court's failure to sign the oral contract of September 20, 2024. Either way, the record is now:

- **Spoiled,**
- **In need of a forensic metadata audit,** and
- **A basis for accountability** of those who altered court records under both the United States Constitution and the Utah Constitution.

Against this backdrop, the **May 1, 2025 hearing** was unconstitutional. Attorney Craig Peterson, having already admitted he was *"out"* after the September 20, 2024 dismissal, nevertheless requested the hearing. Victim's counsel Lorie Hobbs did not appear, and prosecutors Hobbs and Warr had already quietly withdrawn — a tacit acknowledgment by the State that this was a duplicative, double jeopardy prosecution in violation of the **Fifth and Fourteenth Amendments**.

Their silence further underscores a failure of duty under **Rule 3.8 of the Utah Rules of Professional Conduct**, which obligates prosecutors to halt proceedings when they lack a lawful basis. Instead, the State allowed an unconstitutional prosecution to linger while continuing to **draw down VOCA funds**, contrary to federal law and ethical obligations. Such conduct implicates:

- **18 U.S.C. § 1519** (record falsification or concealment),
- **18 U.S.C. § 242** (deprivation of rights under color of law), and
- **42 U.S.C. § 1983** (civil action for deprivation of constitutional rights).

What is more troubling still is the conduct of **Judge Lunnen**. After dismissal with prejudice, the Court's only lawful, ministerial obligations were to:

1. **Sign and certify the order of dismissal;**
2. **Preserve and release certified transcripts and WebEx/Zoom recordings; and**
3. **Correct clerical or docket errors under URCP Rule 60(a) and the Utah Code of Judicial Administration.**

Instead, Judge Lunnen created his own Rule 83 motion, then invited the State — which had already admitted it was "out" — to provide commentary. This effectively turned the Court into both complainant and adjudicator, a constitutionally impermissible role reversal.

The Court cannot constitutionally manufacture a controversy after dismissal, recruit a prosecutor without standing, and then brand Respondent as a vexatious litigant for filing preservation motions. Yet this is precisely what occurred. Such actions amount to **collusion and obstruction of justice**.

Respondent's filings were purely administrative in nature — seeking preservation, certification, subpoenas for Zoom screenings, and referral to DOJ/OIG — not attempts to reopen litigation.

The true impropriety lies in the Court's attempt to invent a basis for retaliation where none existed, now dragging a new judge into a controversy created by Judge Lunnen's failure to fulfill ministerial obligations.

By continuing forward without a certified record — and after conceding the prosecution was duplicative — Peterson allowed a defective proceeding to occur that lacked both jurisdiction and transparency. This conduct was at best careless, and at worst unethical under:

- **ABA Model Rule 3.8** (special duty of prosecutors to protect constitutional rights and refrain from charges unsupported by probable cause),

- **Utah Rule of Professional Conduct 8.4** (misconduct includes conduct prejudicial to the administration of justice), and

- **Utah Rule of Professional Conduct 8.3** (duty to report known misconduct, including the unconstitutional handoff by David Leavitt, Rhonda Gividen, and Sandi Johnson).

Peterson's failure to insist upon certification ensured the record remained contradictory and incomplete. That failure is not a technicality — it explains why **Judge Kraig Powell's March 4, 2025 ruling** reduced Lunnen's September 20, 2024 oral contract to a single sentence while overlooking the companion agreement to hold the expungement certificate.

Finally, Judge Lunnen compounded this misconduct at the **May 1, 2025 hearing** by muting Respondent on the record and flatly denying that any oral contract or agreement had ever been

made. This was not a neutral judicial act. It was a reversal of his own prior ruling and a retaliatory maneuver designed to silence Respondent's preservation efforts.

Judicial Canons Violated

Judge Lunnen's actions did not occur in a vacuum. They violated specific, binding provisions of the **Utah Code of Judicial Conduct**, leaving no room for denial, minimization, or shifting of blame:

- **Canon 1 (Judicial Integrity and Independence):** Judges must uphold the integrity of the judiciary. Backdating dockets, denying oral rulings, and inventing new motions post-dismissal erode public confidence and directly contravene this duty.

- **Canon 2.5(A) (Competence, Diligence, and Cooperation):** Judges must perform judicial and administrative duties diligently and competently. Failing to certify records, refusing to sign agreed orders, and convening unconstitutional hearings after dismissal are not discretionary lapses — they are derelictions of mandatory duty.

- **Canon 2.6(A) (Right to Be Heard):** Judges must allow parties to be heard on matters affecting them. By muting Respondent at the May 1, 2025 hearing, Judge Lunnen silenced lawful objections and denied the Respondent's fundamental due process rights.

- **Canon 2.16 (Cooperation with Disciplinary Authorities):** Judges must report misconduct and cooperate with disciplinary authorities. Instead of reporting prosecutorial misconduct (double jeopardy, Brady violations, VOCA misuse), Judge Lunnen shielded it by manufacturing a Rule 83 motion to punish the reporting party.

These are not optional duties. They are **mandatory, enforceable standards of judicial conduct**. Judge Lunnen's failure to comply with them places his actions outside the protection of judicial immunity and into the realm of **disciplinary, civil, and potentially criminal accountability**.

Legal Consequences

- Santobello v. New York, 404 U.S. 257 (1971): An oral promise made in open court must be honored. Lunnen's agreement to toll expungement was binding, Lunnen's agreement to sign Respondent's Order was binding. Administrative obligations to preserve accurate records was obligatory. Preserving the Webex of the State's admission of Double

Jeopardy is obligatory and of historic consequence especially due to the federal VOCA funding and possible clawback and OIG or DOJ audit.

- United States v. Goodwin, 457 U.S. 368 (1982): Retaliation for exercising constitutional rights is unconstitutional. Defendant's motions for record preservation triggered retaliatory Rule 83 proceedings.

- Chess v. Smith, 617 P.2d 341 (Utah 1980): Denial of an adequate record constitutes denial of due process. Powell's omission proves the cost of refusing to certify transcript and WebEx.

- 18 U.S.C. § 242: Muting Defendant while reversing a prior ruling deprived him of rights under color of law.

- 18 U.S.C. § 1519: Refusal to certify transcript and WebEx, combined with contradictory docket entries, implicates spoliation of records.

- 18 U.S.C. § 1513: Rule 83 proceedings following JCC complaints constitute retaliation against a witness.

- 34 U.S.C. § 20110: VOCA funds were drawn down during a prosecution that had been dismissed; DOJ/OIG audit and clawback are mandatory.

RETALIATION & ORAL-CONTRACT REVERSAL SUMMARY

The September 20, 2024 oral ruling dismissed the case with prejudice and tolled the expungement.

Judge Powell's March 4, 2025 ruling mischaracterized that oral ruling by omitting the expungement portion.

Judge Lunnen's May 1, 2025 denial while Defendant was muted, combined with Craig Peterson's unconstitutional re-entry into the case after conceding he was "out," **exemplifies judicial retaliation and systemic due process violations.**

Only certified WebEx, certified transcripts, and DOJ/OIG review can reconcile the contradictions and restore integrity.

(Additional Details Lunnen's Sept. 20, 2024 oral agreement, Nov. 12, 2024 corrected order, May 1, 2025 denial while Defendant muted.)

On September 20, 2024, Judge Robert C. Lunnen orally agreed on the record that he would sign Defendant's proposed order if it was accurate. This oral agreement was made in open court and confirmed by subsequent communications, including Senior Judge Kraig Powell.

On September 24, 2024, Defendant submitted a Proposed Order consistent with the court's statements. The judge's clerk, Treena Hansen, replied by email that the judge "didn't like the Order as written." In good faith, Defendant then submitted a corrected order on November 12, 2024, consistent with recommendations later made by Chief Judge Kraig Powell on March 4, 2025.

Despite this clear history, on May 1, 2025, during a hearing that lacked jurisdiction, Judge Lunnen flatly denied that any oral contract or agreement had ever been made. Worse, Defendant was muted on the record and not allowed to respond or defend the accuracy of the prior agreement. Instead of certifying the record and correcting contradictions, the Court attempted to erase the prior oral ruling by denying its existence.

Judicial Misconduct and Pattern of Inversion

This is more than judicial error — it is a **pattern of record inversion** amounting to what can only be described as *judicial gaslighting*:

- **Spoiling the record** by refusing to certify WebEx recordings and transcripts;
- **Denying the record** by contradicting his own oral rulings;
- **Inverting the record** by shifting accountability for administrative failures onto the Respondent; and
- **Multiplying harm** by permitting retaliatory trespass notices and vexatious-litigant motions to be initiated, whether by himself or his staff.

If any of this is borne out by independent investigation, the implications extend well beyond this case. Judge Lunnen's conduct in **Case No. 211401656** demonstrates a method of proceeding that raises systemic concerns. His declaration of *"I know nothing about your case"* on September 20, 2024, despite years of active oversight, cannot be reconciled with the duties of diligence, competence, and candor required under the Utah Code of Judicial Conduct.

Accordingly, Respondent places this Court on notice that:

1. Prior cases presided over by Judge Lunnen may warrant **de novo review**, beginning from the inception of Case No. 211401656.

2. An **AI-assisted forensic audit** of docket metadata, WebEx recordings, and certified transcripts (or lack thereof) is necessary to determine whether justice was subverted in other matters.

3. Independent oversight — not self-policing by the Fourth District or the AOC — is required to ensure systemic integrity.

By first acknowledging an obligation in open court and then later denying it while silencing the Defendant, the Court obstructed the preservation of accurate records and retaliated against a litigant for exercising his right to petition for redress.

This pattern has been reported to the Judicial Conduct Commission.

The subsequent initiation of Rule 83 proceedings against the Defendant appears retaliatory, designed to punish him for exposing judicial misconduct and requesting record preservation.

Federal law is implicated:

- **18 U.S.C. § 242 – Deprivation of Rights Under Color of Law: Denying Defendant the ability to be heard while reversing a prior oral agreement deprived him of due process and equal protection.**

- **18 U.S.C. § 1519 – Spoliation of Records: Refusing to certify WebEx recordings and transcripts, while backdating or altering docket entries, constitutes record manipulation in violation of federal law.**

- **18 U.S.C. § 1513 – Retaliation Against a Witness: Defendant's reports to the JCC and filings seeking DOJ/OIG oversight triggered retaliatory Rule 83 proceedings.**

- **34 U.S.C. § 20110 – VOCA Oversight: VOCA funds were drawn down to subsidize hearings and appearances during 1,101 days of a duplicative prosecution. Suppressing the oral agreement allowed the court to prolong the appearance of a live case to justify funding.**

Precedent

- Santobello v. New York, 404 U.S. 257 (1971): When a plea agreement or promise is made on the record, it must be honored. **The Court's oral agreement to sign the proposed order is no less binding than a plea promise; denying it later violates due process.**

- United States v. Goodwin, 457 U.S. 368 (1982): **Retaliation for exercising constitutional rights, including the right to petition, is prohibited.** Defendant's record-preservation motions triggered retaliation in the form of Rule 83 proceedings.

- Chess v. Smith, 617 P.2d 341 (Utah 1980): Denial of an adequate record is itself a denial of due process. Muting the Defendant while erasing an oral ruling compounds that denial.

The oral-contract reversal demonstrates a deliberate attempt to silence Defendant, obstruct record preservation, and retaliate against a litigant for exposing double jeopardy and jurisdictional defects.

The Merry-Go-Round of Administrative Dysfunction

This matter has become a **merry-go-round of administrative dysfunction** — marked by a persistent **failure to correct the record, failure to certify the record, and failure to produce the record.** Each of these failures is **non-discretionary** under Utah R. Civ. P. 60(a), the Government Records Access and Management Act (GRAMA), and controlling precedent such as *State v. Winward*, 941 P.2d 627, 630 (Utah Ct. App. 1997) (*"clerical errors must be corrected so that the record speaks the truth"*).

The contradictions created by these failures are glaring:

- Judge Lunnen's **August 17, 2022 posturing**,
- Judge Lunnen's **September 20, 2024 oral promise**, and
- Judge Lunnen's **May 1, 2025 denial** of that very contract.

Only the full production of **certified WebEx recordings** and **certified transcripts** can resolve these contradictions. Without them, the record is incomplete, unreliable, and incapable of supporting any finding against Respondent. The Court's refusal to certify these materials perpetuates dysfunction and renders every subsequent adjudication suspect.

Judge Powell's later summary of Judge Lunnen's September 20, 2024 oral ruling as consisting of only one sentence — *"This case is dismissed with prejudice"* — demonstrates the problem.

The oral ruling also included the statement: *"I'll hold onto the expungement certificate until I hear back from you."* Respondent expressly sought this **stay of expungement** to preserve evidence for DOJ/OIG review. Omitting this provision has compounded confusion, when the solution remains simple:

1. Produce the **certified transcripts**
2. Produce the **full case filings,**
3. Produce the **audited and certified docket** ;
4. Release the **certified WebEx hearing videos**; and
5. Provide the **Zoom screening videos and certified screening notes for the "defacto the same case" (191400132/211401656).**

The Court's refusal to correct and certify the record allowed a false impression to stand — that Respondent's proposed order was "extraneous" — when in fact it mirrored Judge Lunnen's oral promise. This is not a matter of judicial preference; it is a clerical duty the Court is obligated to perform.

Legal Authority:

- **Utah R. Civ. P. 60(a):** Clerical mistakes in judgments, orders, or docket entries *must* be corrected to reflect the truth.

- **Utah Code § 63G-2-603(2):** GRAMA requires agencies to correct records shown to be inaccurate, incomplete, or misleading. Requests to correct upstream errors in Case No. 160400655 remain unanswered, but the obligation persists.

- **Utah Code § 63G-2-801(1)(e):** Knowing refusal to correct a public record is unlawful.

- **State v. Winward**, 941 P.2d 627, 630 (Utah Ct. App. 1997): clerical errors must be corrected so that the record "speaks the truth."

- **18 U.S.C. § 1519:** Alteration, falsification, or concealment of records in federal matters is a felony punishable by up to 20 years imprisonment.

The refusal to fulfill these duties does more than create confusion — it sustains a pattern of dysfunction that undermines due process and implicates federal law. This sequence must be preserved as **historically significant evidence of judicial misconduct** and referred to the **DOJ and OIG** for an independent forensic metadata audit to determine who altered the record, when, and why.

VIII. CONFLICTING DISMISSALS & RECORD CONTRADICTIONS

The docket entries in this case reflect irreconcilable contradictions that would not exist if certified records had been properly maintained:

- **09/07/2022 – A proposed dismissal *without prejudice* was filed.**
- **09/09/2022 – A dismissal *without prejudice* was entered.**
- **09/09/2022 – On the same date, a dismissal *with prejudice* was also entered — possibly backdated metadata from a 2025 entry.**
- **09/20/2024 – Amended minutes were filed, altering the record again — again raising the likelihood of backdated metadata originating in 2025.**
- **05/01/2025 – A hearing was convened without jurisdiction at the request of Craig Peterson, despite his prior admission that his appointment ended with the dismissal of September 20, 2024.**

These contradictions are not benign clerical oversights. They reflect systemic record manipulation and leave Respondent trapped in a Kafkaesque dilemma where the case appears dismissed *both with prejudice and without prejudice*, depending on which docket entry is consulted.

Without certified transcripts and certified WebEx recordings, there is no reliable source to reconcile these contradictions. The Court's refusal to provide certification sustains a record that is not merely incomplete — it is affirmatively misleading.

The Court has no lawful option but to certify, correct, and produce the records; to do otherwise is to perpetuate record falsification in violation of both Utah law and federal law, including 18 U.S.C. § 1519.

Record Disparity and Incongruence with Real Case History

The record disparity itself is unconstitutional.

In Chess v. Smith, 617 P.2d 341 (Utah 1980), the Utah Supreme Court held that denial of an adequate record deprives a litigant of due process.

Likewise, in Draper v. Washington, 372 U.S. 487 (1963), the U.S. Supreme Court held that defective records themselves constitute a denial of due process.

Here, Defendant — now Respondent — has been subjected to multiple contradictory docket entries, amended minutes, missing certifications, and withheld WebEx recordings, all of which deny him a clear and accurate record.

These omissions and contradictions are not clerical oversights; they amount to systemic record falsification that offends both state and federal law.

State Law Citations

- **Utah Code § 63G-2-603 (GRAMA Correction Duty): Mandates correction of inaccurate government records upon notice.**

- **Utah R. Civ. P. 60(a): Authorizes courts to correct clerical mistakes so that the record "speaks the truth."**

- **State v. Winward, 941 P.2d 627, 630 (Utah Ct. App. 1997): Clerical errors must be corrected to ensure accuracy of the record.**

Federal Constitutional Grounding

- **U.S. Const. amend. V & XIV (Due Process and Equal Protection): Guarantee a fair process and prohibit arbitrary deprivation of rights.**

- **North Carolina v. Pearce, 395 U.S. 711 (1969): Double jeopardy protections attach to bar successive prosecutions.**

- **United States v. Dixon, 509 U.S. 688 (1993): Reinforces that reprosecution after dismissal is prohibited under the Double Jeopardy Clause.**

Federal Statutes Implicated

- **18 U.S.C. § 1510, § 1512, § 1519: Obstruction of justice and spoliation of records.**
- **18 U.S.C. § 242: Deprivation of rights under color of law.**
- **18 U.S.C. § 666: Theft or bribery concerning federal funds (misuse of VOCA drawdowns).**

- **18 U.S.C. § 1346: Honest services fraud (failure of prosecutors and judges to provide faithful, impartial service).**

- **42 U.S.C. §§ 1983, 1985, 1986: Civil remedies for deprivation of rights, conspiracy to interfere with civil rights, and neglect to prevent such violations.**

- **18 U.S.C. § 1961 et seq. (RICO): If the pattern of duplicative prosecutions, record falsifications, and VOCA-funded misconduct is proven systematic, racketeering liability may attach.**

Double Jeopardy No Matter How Read or Asserted

No matter which version of the record is credited, the case was barred as double jeopardy and should never have been prosecuted:

- **If the dismissal was with prejudice: The matter was permanently resolved and could not be refiled. Refiling violated the Double Jeopardy Clause for nearly three years.**

- **If the dismissal was without prejudice: The September 20, 2024 admission by Assistant Attorney General Craig Peterson — that the case was "an exact duplicate of 191400132" — confirms that prosecution still violated the Double Jeopardy Clause under Pearce and Dixon.**

Conclusion

The contradictions in the record, the refusal to certify transcripts and WebEx recordings, and the backdating of docket entries leave Respondent with no reliable judicial record. Certification and correction of the record are not optional — they are mandated by law. Failure to do so implicates not only state correction duties but also federal constitutional rights, civil rights statutes, and even potential criminal liability for obstruction, deprivation of rights, and misuse of federal funds.

IX. PROSECUTION without JURISDICTION – DAVID LEAVITT AND DOWNSTREAM PROSECUTORS WHO PROSECUTED WITH KNOWLEDGE THE CASE WAS FAULTY

The record demonstrates that multiple state officials knew the prosecutions were defective, yet pursued them anyway:

Master Exhibit: Persons Potentially Having Relevant Knowledge (Master List)

The following individuals are identified from the record, filings, GRAMA returns, audio recordings, and Respondent's investigation as persons who may have knowledge of facts material to the preservation, alteration, certification, or withholding of court records and to the use of VOCA funds in the prosecutions at issue. Inclusion on this list is not an allegation of wrongdoing; it is a request that the Court require preservation, disclosure, and, if necessary, deposition or interview so that an independent audit can determine who knew what and when. IN addition to this list are Jane and John Doe 1-20 attorneys, clerks, police, GRAMA officers.

Master List (alphabetical / descriptive):

- David Leavitt — Former Utah County Attorney (2016–2022)
- Randy Kennard — Deputy Utah County Attorney (analysis re: injunction)
- Diane Cruz — Utah County Records Officer
- Alicia (Accuser) Koehler — Accuser / self-recorded statements impeach her narrative
- Lance Bastian — Utah County Attorney's Office (prosecutor NOT assigned)
- Amy Pomeroy — (assigned prosecutor; initial assignment)
- Craig Peterson — Prosecutor Assistant Attorney General (AG's Office)
- Lorie Hobbs — Prosecutor / Victim Advocate (VOCA recipient)
- Bethany Warr — Prosecutor / Victim Advocate (VOCA recipient)
- Katie Fox — Victim Advocate (VOCA recipient)
- Carl Hollan — Utah County Prosecutor (handoff)
- Christine Scott —Utah County Prosecutor (handoff)
- Lauren Hunt — Utah County Prosecutor (handoff)
- Adam Pomeroy — Utah County Prosecutor (handoff)
- Marianne O'Bryant —Utah County Prosecutor (handoff)
- Rhonda Gividen — Utah County Prosecutor (handoff)
- Sandi Johnson — Utah County Prosecutor (handoff)
- Treena Hansen — Clerk (4th District)
- Tracy Bullock— Clerk (4th District)
- Shawn Minter— Clerk (4th District)
- Mark Urry— Clerk (4th District)
- Chris Palmer— Clerk (4th District)
- AOC Security Director (Chris Palmer) — AOC security footage custodian
- Court Clerks (all clerks associated with Case Nos. 160400655, 171402280, 191400132, 211401656)

- Any other employees, volunteers, or contractors who received/handled VOCA funds, court metadata, Zoom/WebEx recordings, or GRAMA responses related to these matters

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Factual Basis / Purpose (short, neutral)

Respondent has identified conflicting docket entries, missing certifications, withheld or delayed production of Brady/Giglio material, inconsistent dismissal language, and possible backdating/metadata alterations in Case Nos. 160400655, 191400132, and 211401656. These anomalies are documented in Respondent's filings and GRAMA returns and implicate: (a) preservation and chain-of-custody of court records, (b) disclosure of exculpatory and impeachment evidence, and (c) the drawdown and use of federal VOCA funds.

Because the anomalies cross multiple offices, roles, and systems, Respondent requests an independent, neutral forensic review of the records and metadata, together with limited depositions designed to identify which actors had actual knowledge of the underlying defects and who reported — or failed to report — the same.

RELIEF REQUESTED (Proposed Motion Elements)

Respondent respectfully asks the Court to enter an order (proposed below) that includes the following, in substance and form:

1. **Immediate Preservation Order (litigation hold).** The Clerk, AOC, Utah County Attorney's Office, Utah Attorney General's Office, VOCA grantees, and any other relevant custodians shall preserve all records, metadata, emails, internal messages, instant messages, audio/video/Zoom/WebEx recordings, GRAMA logs, grant applications, VOCA payment records, and chain-of-custody logs related to Case Nos. May 2, 2016 forward 160400655, 171402280, 191400132, and 211401656. Preservation must extend to backups, cloud storage, and any contractor systems (Zoom, WebEx, XChange).

2. **Forensic Metadata & Records Audit (independent).** Appoint (or authorize the parties to jointly hire) an independent, qualified forensic vendor outside the AOC and outside the 4th District Court to:

    - Verify the integrity of docket metadata (timestamps, edits, backdating),
    - Produce a report on any alterations, deletions, or backdating,

- Reconstruct the document chain of custody for the August 4, 2016 docket entry and all subsequent amendments,

- Verify existence and provenance of Zoom/WebEx recordings and screening notes,
- Audit VOCA grant applications/drawdown records related to the case for the period 2016–2025.
  Vendor qualification: an auditor with federal evidence/metadata expertise (forensic digital examiner with written CV; non-governmental or mutually acceptable entity).
  Timeline: preliminary preservation confirmation within 7 days; draft report within 45 days after vendor access.

3. **Targeted Document Production.** Immediate production (certified where appropriate) of:

   - All certified transcripts and certified copies of the WebEx/Zoom hearings for the listed hearings (29 hearings referenced; all WebEx/Zoom and audio),

   - All GRAMA production logs and correspondence regarding withheld materials (Kennard analysis, emails from Diane Cruz, Leavitt emails, VOCA invoices),

   - All VOCA grant applications, drawdown records, payroll entries tied to grant period, and supporting documentation through 2025.

4. **Limited Depositions / Interviews.** After the forensic vendor provides a preliminary report identifying material gaps or suspicious edits, the Court shall allow limited depositions under oath for custodians or individuals the report identifies as having potential knowledge of records alteration or withholding. Suggested initial depositions (not exhaustive): Treena Hansen (clerk), Diane Cruz (records), Randy Kennard, David Leavitt, Lance Bastian, Craig Peterson, Katie Fox, Lorie Hobbs, Bethany Warr, and the AOC Security Director. Depositions should be limited in scope to:

   - Knowledge of record creation/correction/alteration,
   - Knowledge of GRAMA requests and responses,
   - Knowledge of VOCA fund applications and drawdowns,
   - Knowledge of any instructions to alter or backdate docket entries.

5. **Self-Reporting Opportunity (off-ramp).** To encourage swift, truthful disclosures and to facilitate correction without unnecessary litigation, the Court should adopt a limited

self-reporting window: any person on the Master List may, within 21 days of the Preservation Order, file a **sworn statement** (under penalty of perjury) describing (a) their role, (b) any knowledge of record inaccuracies, withheld evidence, or metadata edits, and (c) produce any responsive documents not already in the record. Any sworn statement will be accepted as evidence in the audit and may be used by the Court in mitigation when determining sanctions or referral. This clause is not a promise of immunity but is intended to encourage early correction and full disclosure.

6. **Stay of Any Sanction or Vexatious Proceeding.** Stay the Rule 83/vexatious-litigant proceedings and any trespass enforcement against Respondent pending completion of the forensic audit and the limited depositions. No punitive action shall be taken until the Court has the certified record and the audit results.

7. **Referral Authorization.** If the forensic audit or depositions reveal evidence of criminal conduct, the Court shall promptly refer the matter to the U.S. DOJ, OIG, FBI, and IRS for investigation and to the Utah Office of Professional Conduct (for ethical violations).

8. **Costs & Security.** If the audit reveals deliberate alteration, the Court should order the responsible party to pay audit costs (and reasonable attorney fees). If the audit is inconclusive or finds no intentional misconduct, costs may be apportioned as the Court deems fair.

Suggested Short Proposed Order (copy/paste)

ORDERED that Respondent's Preservation Motion is GRANTED in part as follows: (1) the Clerk, AOC, Utah County Attorney, Davis County Attorney, Utah Attorney General, VOCA grantees, and all custodians shall preserve all records and metadata related to Case Nos. From May 2, 2010 160400655 and (2019) 160400655 OSC, 171402280, 191400132, and 211401656; (2) the Court authorizes an independent forensic metadata audit to be conducted by [vendor to be appointed by the parties and approved by the Court] with preliminary preservation confirmation within 7 days and a draft report within 45 days; (3) the parties shall produce certified transcripts, certified WebEx/Zoom recordings and GRAMA logs within 14 days; (4) limited depositions of custodians identified in the preliminary forensic report are authorized; (5) all Rule 83/vexatious proceedings and trespass enforcement against Respondent are STAYED pending completion of the audit and depositions; (6) any person named on the Master List may file a sworn disclosure statement within 21 days; (7) if the

audit reveals probable criminal conduct the Court will refer the matter to DOJ/OIG/FBI/IRS and the Utah Office of Professional Conduct; and (8) the vendor's fees shall be shared initially by the parties, subject to later allocation by the Court based on findings.

SO ORDERED.

Suggested Scope for the Forensic Audit (technical checklist)

- Export of full docket metadata (XChange/CM/ECF data), including chronological revision history and user logs.
- Export and forensic hash of all audio/video/WebEx and Zoom files (original server copies, not user-copies).
- Reconstruct edit history for the August 4, 2016 entry and any amended minutes (who, when, what changed).
- Compare backups and archived copies (court backups, AOC backups, county backups).
- Email and file system forensic snapshot for identified custodians (date ranges: 2016–2025).
- VOCA grant files, invoices, and payroll documents tied to the case (2016–2025).
- Chain-of-custody logs for any certified records produced.

Tactical Draft Paragraph (gives people a chance to "come clean")

To encourage correction and avoid unnecessary litigation, the Court should include language offering a limited self-reporting option: any person on the Master List may, within 21 days from the entry of this preservation order, file a sworn statement disclosing the facts known to them concerning record creation, alteration, or withholding, and produce all responsive documents not already provided. Such statements will be considered in mitigation but will not guarantee immunity from civil or criminal process.

Other
Conduct potentially implicates **double jeopardy, due process, color of law violations, conspiracy, and misuse of federal funds.** His decision to stack charges and sustain a prosecution he knew (or should have known) was void places him squarely within the scope of **civil liability under §§ 1983, 1985, 1986** and potential **criminal exposure under §§ 4, 242, 1510, 1512, 1519, 666, 1346.**

Summary: Each actor who may have had actual or constructive knowledge of the defective prosecutions. Each who may have had a duty to correct, report, or halt the misconduct. Who prolonged duplicative litigation, withheld Brady material, and knew the prosecution was subsidized via significant federal VOCA funding? Conduct may potentially implicate **constitutional violations, federal crimes, and state ethical breaches.**

NOTICE OF CAUTION
Disclaimer on Presumption of Innocence
The inclusion of any individual in the Master List or in this filing does not constitute an accusation of wrongdoing. All persons named are presumed innocent unless and until proven otherwise through proper legal process. Their inclusion reflects only that they may have knowledge relevant to the preservation, alteration, certification, or use of records and funds at issue. The purpose of this filing is to ensure preservation, certification, and transparency through an independent audit, so that all individuals have an opportunity to clarify the record, report any issues, and protect their own integrity.

X. WITHHOLDING OF EXCULPATORY BRADY EVIDENCE AS IT WAS INCULPATORY TO THE PROSECUTION.

By 2019, all responsible actors knew:

- No protective order existed.
- The August 4, 2016 docket showed “Case Settled.”
- No settlement agreement was attached.

Yet, exculpatory Brady evidence — including Kennard’s own internal recognition and Cruz’s records admissions — was withheld from Defendant and from the courts.

This ensured that downstream prosecutions could continue on false premises, forcing Defendant through 1,110 days of duplicative prosecution in Case No. 211401656 and at least 29 hearings after 2016.

Onus falls heavily on David Leavitt and his assistant prosecutors

The ultimate responsibility lies with former Utah County Attorney David Leavitt, who:

- Supervised Kennard and had access to his January 2019 analysis.
- Oversaw the office when Cruz confirmed no protective order existed.
- Koehler admitted to him on recording her attorney Pranno never filed any paperwork
- Leavitt caught on recording with Koehler saying "Screw Allen"
- Knew Case No. 160400655 had settled Aug. 4, 2016 with no permanent injunction or agreement attached.

- Nonetheless allowed and encouraged prosecutors to continue, failed to inform the Utah Attorney General's Office that the jurisdiction was faulty and a double jeopardy prosecution with the refile of 211401656 (likely done in retaliation from Allen filing a Utah Bar complaint against Leavitt and other prosecutors for withholding Exculpatory Brady Evidence for 11 months -, Leavitt would later admit on a recording that the case was "a stupid case" and that he would look at prosecution of Koehler if he could find any police agency to do an investigation. Leavitt would after the fact move the goal post in efforts to entrap Allen by altering the oral settlement agreement after the fact..

- Leavitt and his team and the new Utah County Attorney and staff have continued to withhold zoom screening videos from disclosure- shielding parties from accountability on the abuses tied to federal VOCA funding. Who did what, when and how and why?

By handing off a case Leavitt knew to likely be unconstitutional, Leavitt not only likely violated his duty under Rule 3.8 (special responsibilities of a prosecutor) and Utah Rule 8.3 (duty to report misconduct), but also likely exposed state and federal funds to misuse.

Federal VOCA dollars were drawn down to subsidize a prosecution that everyone internally knew had no lawful predicate.

This appears intentional- evidence points to a knowledgeable pursuit of a faulty case:

- Kennard admitted the statute was misapplied.
- Cruz confirmed no protective order existed.
- Koehler admitted her attorney never filed papers.

- Leavitt nonetheless pushed the case forward, leaving the State AG's office with a prosecution it later admitted was unconstitutional.

> The onus rests squarely on David Leavitt's team and Leavitt, whose leadership allowed an entire chain of vexatious, federally funded prosecutions to continue long after their defects were clear. The reason is why? Was it simply to make payroll? One would hope not.

The refiling of Case No. 211401656, intentional or error? Metadata audit will reveal!

An additional four years of prosecution that followed (2021–2025) forced Defendant into **nine additional hearings subsidized by VOCA funds.**

This sequence of dismissal, refiling, and continued prosecution demonstrates retaliatory intent designed to punish Defendant for asserting his rights and reporting prosecutorial misconduct.

CONCLUSION

Whether the record reads *"with prejudice"* or *"without prejudice,"* the outcome is the same: **Case No. 211401656 was a duplicative, retaliatory prosecution in violation of the Double Jeopardy Clause.**

The contradictory dismissals, amended minutes, and the refusal to certify transcripts or WebEx recordings have left the record **fundamentally unreliable.** Under *Hill v. Hawes*, 320 U.S. 520 (1944), clerical errors must be corrected so the record "**speaks the truth.**"

Instead, the Court has compounded those errors, while retaliating against Respondent for seeking correction by filing a Motion to brand him as "vexatious."

The evidence points elsewhere: to the **bench's failure** to certify and produce accurate records, to clerical errors, to deletions and backdating, and to prosecutors withholding **exculpatory Brady material** across **five cases spanning nine years.** The progression of these cases reads less like a judicial record and more like a script no Hollywood writer could invent.

The only lawful and credible remedy is **referral to the U.S. Department of Justice, Office of Inspector General, FBI, IRS, and independent auditors** for a **metadata audit** of all docket entries from **August 4, 2016 forward.**

Only through independent forensic review can the historical record be reconstructed, corrected, and preserved — and public confidence restored.

Judicial Duty: A Straightforward Roadmap

This Court's duty is neither complicated nor discretionary. The solution is simple and mandatory:

1. **Sign the Order already filed September 24, 2024** – memorializing the oral contracts made on the record September 20, 2024 (dismissal with prejudice; tolling expungement until Respondent's motion).

2. **Direct production of certified records** – a non-discretionary duty under *Hill v. Hawes*, 320 U.S. 520 (1944), URCP 60(a), and *State v. Winward*, 941 P.2d 627 (Utah Ct. App. 1997).

3. **Order a metadata audit** – to reconcile conflicting docket entries, amended minutes, and possible backdating, consistent with constitutional due process.

4. **Require production of certified WebEx recordings and certified transcripts** for all hearings, as mandated by *Chess v. Smith*, 617 P.2d 341 (Utah 1980), and *Draper v. Washington*, 372 U.S. 487 (1963).

5. **Refer the matter to neutral oversight** – DOJ, OIG, IRS, and the Utah State Auditor for VOCA funding clawback analysis and possible violations of:

    - **18 U.S.C. § 666** (misuse of federal program funds),

    - **42 U.S.C. § 1983** (civil deprivation of rights), and

    - **Utah Const. art. I, §§ 7, 11, 12** (due process, open courts, rights of accused).

Anything less perpetuates record falsification, deprivation of rights, and continued misuse of federal funds.

This is not a matter of judicial preference. It is a matter of judicial duty. The roadmap is straightforward: certify the record, correct the record, produce the record, and refer misconduct to the proper oversight authorities.

XI. KNOWLEDGE OF FAULTY FOUNDATION & WITHHELD BRADY MATERIAL SUMMATION- WHO KNEW? WHAT, AND WHEN?

This is not a rehash of judicial errors — the case has already been dismissed both "without prejudice" and "with prejudice" on different dates, underscoring the contradictions.

Rather, this section demonstrates why certified records are indispensable: to reconcile irreconcilable entries, to expose Brady violations, and to establish accountability for federal funding misuse, and **how lack of credible, verbatim** "**certified records**" is **Vexatitious to Respondent. This is a simple 6 year effort to preserve the records and obtain certified transcripts and webex hearings to preserve for public interest as the cases are historically significant and many news stories went global but key evidence was withheld painting Respondent in negative light.**

Preserving accurate recores is for Respondents reputation to be repaired and cobbled back together and also a mandatory court obligation to maintain and preserve accurate records and to correct records where inaccuracies are made known to the Court or clerks.

1. Kennard's January 15, 2019 Email

Kennard admitted the injunction statute was misapplied, yet reversed a declination and pressed felony charges. Without a certified record, this contradiction remains hidden in informal emails rather than integrated into the official docket.

Certified records are needed so that DOJ/OIG can see that Kennard prosecuted AFTER acknowledging jurisdiction was defective, THE QUESTION IS WHY?.

The VOCA clawback needs the evidence.

2. Diane Cruz's November 8, 2019 GRAMA Response

Cruz confirmed: *"The copy of the protective order that Mr. Kennard referenced is not attached, as such does not exist."* This tacitly admitted both the nonexistence of the predicate order and the withholding of discovery. Only a certified record can correct this disparity, ensuring that the absence of a protective order is preserved in the judicial record, not buried in an email attachment.

The VOCA clawback needs the evidence.

3. Koehler's Admission Her Attorney Never Filed Papers

Koehler admitted her own attorney never filed protective order papers. This destroys the predicate for prosecution. Certified records are required to incorporate this into the historical record, because without certification, courts can continue to act "as if" an order existed, when even the accuser said it did not.

The VOCA clawback needs the evidence.

4. Withheld Brady Material

Exculpatory evidence — Kennard's internal analysis, Cruz's records admissions, and Koehler's own confession — was never disclosed in the active prosecutions. Certified records and metadata audit are necessary so DOJ/OIG can verify when these admissions were made, who received them, and why they were withheld from Defendant and from the court.

The VOCA clawback needs the evidence.

5. Onus on David Leavitt — Administration, or Lack Thereof

As Utah County Attorney, David Leavitt/ Lance Bastian bore ultimate responsibility for supervising Deputy County Attorney Randy Kennard, Records Officer Diane Cruz, and the broader prosecution team. David Leavitt / Lance Bastian appear to both had actual and constructive knowledge that:

- **No valid injunction or protective order existed;**
- **The case had been settled on August 4, 2016 ("Trial Cancelled: Case Settled");**
- **No written settlement agreement was ever attached to the docket;**
- **The accuser's own attorney had never filed the required papers.** **https://drive.google.com/file/d/1lQ4hwsj9cNxOSIodHacu-DaOl8tQhBkb/view?usp=sharing**

Despite these defects, Leavitt's office advanced prosecution and transmitted the matter forward — without certified records, without disclosing exculpatory material, and while simultaneously applying for or benefitting from federal VOCA funding.

Certified records are now required to establish the paper trail of how Leavitt's office processed, concealed, and transmitted these defects, and to determine:

1. **Who applied for the VOCA grants;**
2. **How those funds were allocated to payroll and benefits; and**

3. **Whether this reflects a systemic pattern of funding prosecutions lacking jurisdiction.**

The VOCA clawback process depends on this evidence. Under 18 U.S.C. § 666 (theft or bribery concerning programs receiving federal funds) and 34 U.S.C. § 20110 (VOCA oversight), any misapplication of funds tied to prosecutions lacking jurisdiction is subject to federal review and possible recoupment.

Citations:

- ***Brady v. Maryland*, 373 U.S. 83 (1963) – Exculpatory evidence must be disclosed.**
- ***Giglio v. United States*, 405 U.S. 150 (1972) – Impeachment evidence must be disclosed.**
- **ABA Model Rule 3.8(a), (d), (g) – Prosecutor's special responsibilities.**
- **Utah R. Prof'l Conduct 8.3, 8.4 – Duty to report misconduct; prohibition against conduct prejudicial to justice.**
- **42 U.S.C. §§ 1983, 1985, 1986 – Civil liability for deprivation of rights and conspiracy to conceal misconduct.**
- **18 U.S.C. §§ 242, 1519 – Deprivation of rights under color of law; falsification of records.**
- **18 U.S.C. § 1346 – Honest services fraud.**

In short: The onus lies with David Leavitt's administration. Without certified records, the truth of how this prosecution was sustained — and how VOCA funds were used to subsidize it — remains concealed. The only credible remedy is certification, audit, and federal referral.

CONCLUSION

Each of these admissions — from **Kennard, Cruz, Koehler, and Leavitt** — demonstrates that officials knowingly pursued a faulty prosecution. The record itself reflects irreconcilable contradictions: dismissed "without prejudice," dismissed "with prejudice," amended again in

2024, and denied outright in 2025. Such contradictions cannot be trusted without independent certification.

Certified records are not a luxury — they are a constitutional necessity. Only certification can:

- Reconcile contradictory docket entries;
- Preserve and authenticate admissions of *Brady* suppression (*Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972));
- Establish when federal **VOCA funds** were applied for and expended, subject to oversight under 18 U.S.C. § 666 and 34 U.S.C. § 20110;
- Document prosecutorial failures to comply with **Rule 3.8** of the Utah Rules of Professional Conduct and undo the harm caused.

The Courts, instead of correcting these known errors, compounded them. Judge Lunnen muted Defendant on May 1, 2025 and denied his own oral ruling from September 20, 2024 — a ruling that had dismissed the case with prejudice and tolled expungement. That act of denial and silencing was not judicial discretion; it was obstruction of the record itself.

This pattern underscores why **independent federal oversight is not optional**.

Only a **DOJ/OIG/IRS referral and a forensic metadata audit** of all docket entries from August 4, 2016 forward can restore the record, ensure accountability, and begin to repair the constitutional violations inflicted across nearly a decade of duplicative prosecutions.

XII. RULE 83 INVERSION: THE COURT AS THE VEXATIOUS LITIGANT

Rule 83 of the Utah Rules of Civil Procedure was designed to curb abusive litigation tactics, not to punish litigants for requesting that courts correct their records and comply with mandatory preservation statutes. In this case, the Rule has been inverted to hide inculpatory evidence.

Defendant's filings were not harassing, duplicative, or frivolous; they were lawful preservation requests mandated by rule and statute. Respondent has endured admitted double jeopardy prosecutions, subsidized by federal tax dollars, in clear violation of constitutional protections. These prosecutions were not only unlawful but excoriating, leaving Respondent's personal and professional life in ruins.

Yet, after nearly a decade, there has been zero accountability and zero remorse from the prosecutors who pursued these defective cases. Instead, the pattern continues: ongoing efforts to roadblock accurate record preservation. This very Motion to misapply Rule 83 exemplifies the inversion of responsibility — an attempt to brand Respondent as vexatious in order to cover the sins of predecessors who misused public funds, withheld exculpatory evidence, and perpetuated unlawful prosecutions.

Moreover, the misuse of Rule 83 in this context is not harmless; it may itself constitute obstruction of justice under 18 U.S.C. § 1519 and deprivation of rights under 42 U.S.C. § 1983, exposing those involved to independent federal liability. Respondent asserts the Court's self-serving Motion as Exhibit A in his forthcoming 42 U.S.C. § 1983 filing and evidence for DOJ, OIG, and IRS auditors.

Judge Graf himself, in testimony before the House Judiciary Committee on March 3, 2025, acknowledged the necessity of presenting the **"full picture"** for justice to be done:

"And I can't tell you how frustrating it is because that's not justice — not to present the full picture. It has to be substantiated. There are checks and balances in place to ensure that it is just. The balance has to be even."

Yet in the matter now before him, Judge Graf has inherited a record where the full picture has been deliberately obscured — uncertified transcripts, missing WebEx recordings, altered docket entries, and withheld Brady evidence.

To be consistent with his own recognition of what justice requires, Judge Graf must ensure that the record is certified, complete, and accurate before any further action is taken.

The prosecutions endured by Respondent were constitutionally impossible, each compounding the injury of double jeopardy and unlawful proceedings. The Court has now been presented with a lengthy summary of past misconduct — prosecutorial, administrative, and judicial. While the harm cannot be undone, this Court can take immediate corrective steps:

1. **Correct the record administratively** so that docket entries, minutes, and orders reflect the truth of what occurred.

2. **Report former Utah County Attorney David Leavitt** for independent audit of VOCA fund usage during the unlawful prosecutions.

3. **Order the production of certified records** — including transcripts and WebEx/Zoom recordings — as required by law.

4. **Issue subpoenas** necessary to preserve the administrative record and ensure accountability for specific individuals, rather than allowing the weight of misconduct to stain the entire 4th District Court.

By doing so, the Court can finally begin to restore integrity to a process that has long been compromised and demonstrate that accountability applies to the actors who caused the harm, not to the institution as a whole.

1. Defendant's Filings Were Lawful Preservation Efforts

- URCP 52(d): Requires findings of fact and conclusions of law to be entered with sufficient clarity to permit review. Defendant's motions seeking clarification of contradictory dismissal entries fall squarely within this rule.

- URCP 60(a): Permits correction of clerical errors to ensure that the record "speaks the truth." Defendant's filings pointing out the dual dismissals (both with prejudice and without prejudice on Sept. 9, 2022) invoked this rule directly.

- Utah Code § 63G-2-603 (GRAMA): Prohibits destruction or alteration of records when litigation or oversight is foreseeable. Defendant's GRAMA-based motions to preserve dockets, WebEx recordings, and transcripts were not optional; they were compelled by statute.

Each filing sought to preserve, clarify, or correct the record — the opposite of vexatious conduct.

2. The Court and Multiple Prosecutors Past Conduct Was the True Vexatious Behavior

By contrast, it was the **Court and former Utah County Attorney David Leavitt, Craig Peterson, Lorie Hobbs, Bethany Warr, Rhonda Gividen, Sandi Johnson, Lance Bastian and many others** who engaged in conduct that embodies the hallmarks of vexatious litigation:

- **Duplication**: The Court tolerated and enabled duplicative prosecutions — first in Case **191400132**, then again in Case **211401656**, which the State itself later admitted was an *"exact duplicate"* and a case that *"should not even exist."* David Leavitt, fully aware of the jurisdictional defects, nevertheless **handed off this defective and retaliatory case to the Utah Attorney General's Office**, ensuring its continuation at the State's expense.

- **Unnecessary Burden**: As a direct result, Respondent was compelled into **at least 29 hearings post–August 4, 2016**, spanning nearly a decade, without a single certified transcript or WebEx recording ever being produced — leaving Respondent indigent and deprived of due process.

- **Retaliatory Purpose**: The initiation of **Rule 83 proceedings** occurred only after Respondent filed complaints with the **Judicial Conduct Commission**, making clear that the vexatious purpose here was not Respondent's filings but Judge Lunnen's backhanded retaliation as he left office coupled with institutional self-protection.

- **Contradictory Record:** The Court has **permitted dismissals "with prejudice" and "without prejudice"** to exist simultaneously on the docket, creating confusion rather than clarity.

- **Denial of Record Certification:** By refusing to certify transcripts and WebEx recordings, the Court has perpetuated ambiguity and denied Defendant meaningful review, contrary to *Chess v. Smith* and *Draper v. Washington*.

3. Inversion of Precedent

The authorities that should protect Defendant have been turned against him:

- *State v. Winward* (1997): Clerical errors must be corrected to make the record "speak the truth." Here, correction is refused, and requests for it are labeled vexatious.

- *Chess v. Smith* (1980): Denial of an adequate record deprives due process. Here, the denial of certified records is coupled with punishment of the litigant who sought them.

- *Brady v. Maryland* (1963): Suppression of exculpatory evidence violates due process. Here, suppression of the "Case Settled" entry and withheld audio files was followed by efforts to silence Defendant through Rule 83.

4. The Court as the True Vexatious Litigant

By any fair application of Rule 83(a)(1)(C)(i)–(ii), it is the Court and State who satisfy the criteria for vexatious litigation:

- Multiple duplicative filings (two prosecutions for the same case), with knowledge both cases were without merit and lacking jurisdiction. (reference Kennard email analysis).

- Conduct that imposes unnecessary burden (forcing Defendant into hearings post-dismissal).

- Retaliatory purpose (initiating Rule 83 after JCC complaints).

Defendant's filings sought preservation, correction, and accountability — statutory and ethical obligations.

The Court's filings and denials, by contrast, perpetuated duplicative prosecutions, contradictory dismissals, and retaliatory proceedings.

The inversion of Rule 83 highlights the systemic breakdown: the Court has become the vexatious litigant, while the Defendant has sought only to preserve and correct the record under URCP 52(d), URCP 60(a), and GRAMA.

Relief is therefore required not against the Defendant, but against the Court itself, through certified record production, metadata audit, and referral to DOJ/OIG for independent oversight.

XIII. Rule 83 Self-Assessment Checklist (to be completed by the Court)

□ **Duplication:** Explain how the Court permitted two separate prosecutions (191400132 and 211401656) to proceed when the State itself admitted they were *"an exact duplicate."* Identify what steps were taken, if any, to prevent duplicative litigation.

□ **Unnecessary Burden:** Explain why Defendant was compelled into at least 29 hearings post–August 4, 2016, without ever receiving certified transcripts or WebEx recordings. Address how this comports with due process under *Chess v. Smith* and *Draper v. Washington. No Certified Transcripts. No Certified Webex Videos 29+ Hearings.*

□ **Retaliatory Purpose**: Identify why Rule 83 proceedings branding Defendant "vexatious" were initiated only after Defendant filed Judicial Conduct Commission complaints. Provide reasoning why this does not constitute retaliation in violation of *United States v. Goodwin*.

□ **Contradictory Record:** Account for the docket entries of September 9, 2022, which show dismissal both "with prejudice" and "without prejudice." Provide metadata audit and explain why URCP 60(a) corrections were not made, and why Defendant's preservation motions were mischaracterized as vexatious.

□ **Denial of Record Certification:** State why certified WebEx recordings and transcripts have never been produced, despite Defendant's repeated lawful requests under URCP 52(d), URCP 60(a), and Utah Code § 63G-2-603. Explain how the absence of certification is consistent with due process.

□ **Disregard for Notices to Submit for Decision:** State why the Court failed over the span of four years to timely respond to Notices to Submit for Decision pertaining to Administrative Obligations to correct and preserve the record and to prevent spoilage. Explain how the Court failures to respond timely to Respondent's Petitions and Motions can be construed to be Vexatious when its the Courts obligation to ensure accurate records to ensure due process.

□ **Failure to Apply Rule 3.8**: Explain why no prosecutor involved (Kennard, Peterson, Bastian, Warr, Hobbs, Fox) ever invoked Rule 3.8 duties to disclose exculpatory evidence or to remedy the wrongful duplicative prosecution. Identify what oversight the Court exercised to ensure prosecutors fulfilled their ethical duties.

□ **VOCA Funding Oversight**: Identify whether the Court inquired into or reported the use of federal VOCA funds during duplicative prosecutions known to be jurisdictionally defective. Explain why no referral was made to the Utah State Auditor or DOJ/OIG.

CONCLUSION

Until this checklist is addressed point by point, a blanket finding that Defendant is "vexatious" under Rule 83 would invert the rule's purpose.

Defendant's filings sought correction and preservation; it is the Court's duplications, contradictions, and retaliatory proceedings that satisfy the definition of vexatious litigation.

XIV. REQUIRED SPECIFICITY & SHOW CAUSE- REQUIRED DOCKET ACCOUNTING

(Each alleged vexatious filing must be identified by title, date, language, Rule 83 subsection, and affidavit of non-destruction.)

Respondent places the burden on the Court to produce a full, certified accounting of the docket entries at issue. The Court has vaguely referenced certain filings as "vexatious," but has failed to identify them with the clarity due process demands. Numerical references (e.g., Entry 143) are insufficient without context.

Accordingly, Respondent demands that the Court produce a table covering each docket entry it contends was vexatious, duplicative, or improper, including:

1. Title of Filing – the complete caption as filed.
2. Date Filed – the date the document was submitted to the clerk.
3. Date Docketed – the date the clerk actually entered it into CORIS.
4. Judicial Action Taken – any order, denial, or ruling associated with the filing.
5. Reason for Non-Action – if no action was taken, the Court must explain why, and cite legal authority for refusing to act on a filing requesting record preservation.
6. Preservation Duty – identify whether the filing implicated URCP 52(d), URCP 60(a), Utah Code § 63G-2-603, or federal preservation duties under 18 U.S.C. § 1519.
7. Judge Responsible – name of the judge assigned at the time of the filing.

Until the Court provides this breakdown, Respondent asserts that all filings were lawful preservation efforts designed to compel compliance with mandatory recordkeeping and administrative obligations. The Court's repeated failure to respond to a pro se litigant's filings cannot be inverted into a toxic "vexatious litigant" motion without being inculpatory to the Court itself.

This is not an academic exercise. Judge Lunnen repeatedly ignored filings that sought preservation of certified WebEx, transcripts, and docket corrections once he realized that the prosecution itself was barred by double jeopardy. His refusal to act, followed by an inverse denial of an oral contract and a retaliatory Rule 83 motion, constitutes judicial misconduct.

As Hill v. Hawes, 320 U.S. 520 (1944) makes clear, clerical misstatements must be corrected, not buried.

And as Chess v. Smith, 617 P.2d 341 (Utah 1980) holds, denial of an adequate record is itself a denial of due process.

Respondent respectfully demands that the Court prepare this certified docket accounting or, in the alternative, that the matter be referred to DOJ/OIG for metadata audit of the docket from August 4, 2016 forward, including all deletions, back-dated entries, and contradictory dismissals.

SUMMARY FOR CLARIFICATION OF RECORDS REFERENCED BY COURT FILING.

For each referenced entry (including but not limited to 143, 151, 156, 157, 164, 167, 172, 178, 179, 183, 192, 195, 196, 202, 203, 204, 205, 207, 208, 209, 210, 211, 212, 213, 214, 215, and any others), the Court must complete the following:

☐ Identify the filing by title (full caption as submitted).
☐ List the date filed with the clerk.
☐ List the date docketed into CORIS.
☐ State what judicial action, if any, was taken.
☐ If no action was taken, explain why and cite the legal authority for refusing to rule.
☐ Identify how long the filing aged without action (e.g., days, weeks, months, or years it remained pending without ruling).
☐ Identify whether the filing implicated preservation duties under:

- URCP 52(d) (findings of fact obligations),
- URCP 60(a) (clerical corrections),
- Utah Code § 63G-2-603 (GRAMA preservation), or
- 18 U.S.C. § 1519 (federal record preservation).

☐ Identify the judge responsible for acting (or failing to act) on the filing.

Certified Record as a Ministerial Duty and the Necessity of Outside Audit

The Court cannot lawfully proceed in this matter without first producing a certified record. Certification of transcripts, WebEx/Zoom recordings, and docket indices is a ministerial obligation, not a judicial one. It falls squarely within the Court's administrative duties under URCP Rule 60(a) and the Utah Code of Judicial Administration.

Ministerial tasks such as certifying, indexing, and correcting records are not insulated by judicial immunity, because they do not involve discretionary judgment — they are mandatory obligations owed to every litigant.

To attempt adjudication on the basis of altered dockets, uncertified minutes, or missing recordings would not only fail to cure the defect, but would add insult to injury.

It would pile new due process violations on top of already admitted wrongdoing: duplicative prosecutions, double jeopardy, and prosecutorial misconduct.

The law is unequivocal: no adjudication can stand on an unreliable or incomplete record. See *Griffin v. Illinois*, 351 U.S. 12 (1956); *Draper v. Washington*, 372 U.S. 487 (1963). Without certification and correction, any further action by this Court risks further liability under 18 U.S.C. § 1519 (record falsification), 18 U.S.C. § 242 (deprivation of rights), and 42 U.S.C. § 1983 (civil rights violations).

Finally, because this matter is already widely known in the public sphere, no internal process can restore public trust. An independent audit by the DOJ, FBI, OIG, IRS, or State Auditor is mandatory.

Only through outside forensic review of docket metadata, clerk entries, and financial records (including VOCA fund drawdowns) can the record be reconstructed and public confidence restored.

In sum: the Court's only lawful path is either to (1) certify and correct the record, or (2) step aside and allow independent oversight. Any other course compounds the misconduct and deepens institutional liability.

Judge Lunnen's refusal to act on filings for record preservation—allowing them to age without ruling until double jeopardy became undeniable—was not a neutral act. It was avoidance, followed by retaliation through a Rule 83 motion.

As *Hill v. Hawes*, 320 U.S. 520 (1944), and *Chess v. Smith*, 617 P.2d 341 (Utah 1980), both hold, records must be corrected to "speak the truth." The refusal to do so, combined with retaliatory branding of preservation filings as "vexatious," compounds the due process violation. Accordingly, the Court must:

☐ Prepare and certify the above docket accounting; AND
☐ Refer the matter to DOJ/OIG/ STATE AUDITOR/RON GORDON for metadata audit from August 4, 2016 forward, including deletions, back-dated entries, amended minutes, and contradictory dismissals.

XV. REQUIRED SPECIFICITY & SHOW CAUSE – DOCKET ACCOUNTING FOR DOJ/OIG

This matter is no longer within the lawful jurisdiction of the Utah courts.

The record has been dismissed both *with prejudice* and *without prejudice* on contradictory dates, rendering any further proceedings void.

The only issue that remains is whether the Court will fulfill its ministerial duty to certify the record, or whether federal agencies — DOJ, FBI, OIG, and IRS — will perform a metadata audit to determine how many times Defendant was wrongfully prosecuted while federal VOCA funds subsidized the effort.

The Court's vague references to docket entries (e.g., "Entry 143") without context fail to satisfy due process. DOJ/OIG oversight requires specificity, not abstractions. Respondent has already served federal preservation notices; failure to comply risks penalties under 18 U.S.C. § 1519.

Why This Matters

The Court's inaction has not been neutral — it has been destructive. For nearly nine years and across 29 hearings, Respondent has been forced to file repetitively merely to preserve constitutional rights to due process and access to the courts. Despite these efforts:

- Not one WebEx video hearing has ever been provided;
- No certified transcripts have been produced;
- The Court has instead relied on amended status notes and minutes that lack context and generate downstream contradictions.

[This is not a clerical problem. It is a systemic failure that has denied Respondent any meaningful review and compelled duplicative, unconstitutional prosecutions.]

Judge Lunnen's Conduct

- Repeatedly ignored preservation filings after the State admitted double jeopardy.
- Allowed filings to sit for months or years without ruling, creating a procedural "black hole." Failed in his obligations to:
    - **Administrative Duty** — preserve an accurate and certified record.
    - **Contract Law Duty** — honor the September 20, 2024 oral contract.
    - **Injunctive Relief Duty** — preserve WebEx recordings and transcripts upon lawful request.
    - **Reporting Duty** — acknowledge double jeopardy and misuse of VOCA funds.

On May 1, 2025 — at a hearing convened without jurisdiction and at the request of a State actor lacking standing — Respondent again pressed for enforcement of the September 20, 2024 oral contract.

Judge Lunnen instead reversed his own ruling, denied the contract existed, muted Respondent on the record, and floated a Rule 83 "vexatious litigant" motion — an act of retaliation against lawful preservation efforts.

Such conduct is not neutral error.

It is deliberate avoidance, retaliation, and cover-up — all with direct consequences for the integrity of federal funding and downstream irreparable harm to Respondent personally and professionally and economically. The persistent refusal to correct and preserve accurate records and provide one copy of Webex Video and one certified Transcript for each hearing… is obligator yet instead has been twisted by the real offenders, and has wasted Respondent's time, deprived him of due process, and perpetuated unconstitutional prosecutions subsidized by federal VOCA grants.

Precedent

- *Hill v. Hawes*, 320 U.S. 520 (1944): Clerical misstatements must be corrected so the record "speaks the truth."

- *Chess v. Smith*, 617 P.2d 341 (Utah 1980): Denial of an adequate record is itself a denial of due process.

Both authorities demand correction and certification. The Court has done neither.

XVI. Federal Referral Justification

Dozens of prosecutors participated across these cases, and not one invoked Rule 3.8 to undo the harm or to report misconduct. Federal VOCA dollars were drawn down during duplicative, retaliatory prosecutions subsidized by knowingly defective records. Making this case of federal significance and removing it from local control. This is not about judicial discretion. It is about:

- Who prosecuted Allen knowing the case was faulty;
- Who withheld exculpatory Brady material;
- Who applied for, obtained, and expended federal funds under false pretenses;
- Who allowed the record to fracture into contradictory dismissals.

Those answers are owed not to Defendant, but to DOJ, FBI, OIG, and the public whose tax dollars funded vexatious litigation.

XVI. CAVEAT: BUYER BEWARE

Any downstream judge inheriting this matter must proceed with extreme caution. *Buyer beware*: without certified records, any action risks attaching the cancer of prior misconduct to the new judge's own name and reputation.

The lesson is simple: before proceeding further, the Court must demand production of certified records from the foundational cases:

- **Case No. 160400655** – Docket entry of August 4, 2016 ("Trial Cancelled: Case Settled"), the missing foundation that fractured every subsequent case.

- **Case No. 171402280** – Prosecuted and resolved on an inaccurate, uncertified record; exculpatory evidence was withheld, resulting in downstream harm that cannot be untangled without certification.

- **Case No. 191400132** – Prosecuted for years despite lacking jurisdiction and despite Brady/Giglio material being withheld.

- **Case No. 211401656** – Admitted by the State to be an "exact duplicate" of 191400132, a prosecution that should never have existed as a case of record.

Other associated cases likewise relied upon incomplete or uncertified records, compounding harm to Respondent. Across all of these matters, the withheld exculpatory evidence would have painted the complete picture — but it was produced too late, not as justice, but as reprisal.

Without certified WebEx/Zoom recordings, certified transcripts, and an authenticated docket index across these matters, **no proceeding in 211401656 can be trusted or lawfully maintained.**

This is not a tactical warning — it is a warning of *exposure*. Any judge who advances this Rule 83 motion without certified records risks entanglement in allegations of:

- **Obstruction of justice** (*18 U.S.C. § 1519*),
- **Retaliation against a complainant** (*18 U.S.C. § 1513*), and
- **Misuse of federal VOCA/VAWA funds** (*34 U.S.C. § 20110; 18 U.S.C. § 666*).

Judicial Canons Reminder:

- *Canon 1* requires judges to uphold the integrity of the judiciary.
- *Canon 2.2* requires impartiality, fairness, and competence.
- *Canon 2.6(A)* guarantees a party's right to be heard.
- *Canon 2.16* requires reporting of misconduct to appropriate authorities.

Systemic Risk of Prior Rulings:
If Judge Lunnen's conduct in this matter ("I know nothing about your case") was not an isolated incident, then **all cases he presided over from the start of Case No. 211401656 forward may warrant *de novo* review.** AI-assisted forensic analysis of transcripts, dockets, metadata, and hearing notes should be employed to determine whether justice was systematically subverted across multiple defendants, not only Respondent.

The safer, lawful course is narrow but clear: **certify the records, correct the docket, and immediately refer the matter to DOJ, OIG, FBI, IRS, and the Utah State Auditor for outside forensic review and VOCA clawback analysis.**

XVII. RECUSAL & REASSIGNMENT & CONFLICTS OF INTEREST

The record demonstrates a direct conflict of interest and appearance of bias.

Martina Hinojosa, while previously employed under Public Defender Dustin Parmley on behalf of Allen, yet, later transitioned to work under Prosecutor Craig Peterson — on the very same case against Respondent.

- This movement across sides of the adversarial process, without safeguards or disclosures, should never have been permitted.

- The Utah Attorney General's Office's acquiescence or inaction in allowing such cross-employment constitutes an ethical breach and raises serious questions regarding impartiality and integrity.

- The metadata of her employment and assignments must be preserved and disclosed to establish the extent of taint, bias, and whether privileged defense information may have been impermissibly accessed or leveraged.

A Hand-Off of– a "Stinker of a Case"

Respondent recognizes that Judge Graf has inherited this matter only recently and therefore may not be fully aware of the deep structural defects it carries.

It is important to state plainly: this Court's new assignment is not of Judge Graf's own making, but rather seems to be the result of a **hand-off** — very similar to what former Utah County Attorney **David Leavitt** did to Assistant Attorney General **Craig Peterson.**

As State's Counsel Daniel Burton himself admitted, Peterson was handed *"a stinker of a case."*

To his credit, Peterson acknowledged on **September 20, 2024** that the case was an *"exact duplicate"* and that his appointment ended the moment it was dismissed with prejudice. Sadly during this three year span Allen' life dissolved, he lost his career and was irreparably harmed personally and professionally and economically.

Improper Involvement of Judge Graf

By initiating a **Rule 83 vexatious-litigant motion** in a case that had already been **dismissed with prejudice**, Judge Graf acted **without standing or jurisdiction.**

At most, the Court, any subsequent judge retained only **clerical and administrative authority** — to certify records, correct docket errors, and ensure accurate preservation.

It is entirely possible that, just as Leavitt handed off *"a stinker of a case"* to Peterson, **Judge Lunnen has now handed off "a stinker of a motion" to Judge Graf** on his way out the door. The burden of past misconduct is being shifted forward, ensnaring new officials who may not realize the extent of the defects.

Meanwhile, the **State is in no position to assert vexatious claims.** It has already admitted to **double jeopardy**, funded prosecutions with **federal VOCA dollars**, and failed to initiate any **financial clawback or accountability measures.**

Attempting to brand Respondent as vexatious under these circumstances is not only improper but appears calculated to deflect responsibility away from those who misused federal funds and sustained unlawful prosecutions.

This matter must therefore be **recused from Judge Graf** and forwarded to the DOJ, OIG or IRS for auditing of the metadata and VOCA funds reporting and drawdown.

When **Judge Kraig Powell**, who previously reviewed and confirmed certain accuracy of the record - even Judge Powell's review was **incomplete**, because his order and ruling failed to reflect the totality of the **oral contract** **made between Judge Lunnen and Respondent on September 20, 2024.**

Specifically, Judge Powell **omitted the critical portion of the oral contract that stayed the expungement.**

That omission left Respondent as the only party with standing to act — apart from the Court's own non-discretionary administrative obligations to ensure the record is accurate and correct.

Buyer Beware: Contaminated Evidence

Judge Graf must be cautious. What he has inherited is not a live controversy but the equivalent of **contaminated evidence in a criminal case** — material already tainted at the source. No fair proceeding can rest upon it, and any reliance on it only spreads the contamination further downstream.

The **Rule 83 motion** is not an ordinary judicial filing; it is the product of a case already dismissed with prejudice, riddled with altered docket entries, missing transcripts, and withheld WebEx/Zoom recordings. Proceeding on such a foundation would not cure the defect — it would **embed the defect into Judge Graf's own record.**

The protective measure is simple and non-negotiable:

1. **Certify the existing records** (transcripts, WebEx/Zoom recordings, docket index); and
2. **Refer the matter to DOJ, OIG, FBI, IRS, and State Auditors** for outside forensic review.

Until that is done, **any further judicial action risks making Judge Graf the new custodian of the contamination** — inheriting misconduct that originated with David Leavitt, carried through prosecutors funded by VOCA, and compounded by Judge Lunnen's retaliatory motion.

The safest and most lawful course is clear: **(1) stop, (2) certify, and (3) refer to OIG, DOJ, IRS, State of Utah Auditor, Legislative Audit Committee and Judicial Conduct Commission and Utah Bar Association.**

XVIII. CERTIFIED AND ACCURATE VERBATIM COURT TRANSCRIPTS and "CERTIFIED" WEBEX HEARINGS.

The Court — not the parties — bears the duty to provide accurate certified transcripts AND access to the Webex Hearings Videos.

These transcripts and Webex Video Hearings must be preserved for federal review by the Department of Justice (DOJ), Office of Inspector General (OIG), and Federal Bureau of Investigation (FBI).

The failure to produce certified transcripts, Webex videos and preserve the full oral contract constitutes record-keeping misconduct and undermines the constitutional guarantees of due process.

Respondent did not move for expungement; instead, Respondent has consistently sought historic record preservation to expose misuse of federal VOCA/VAWA funding.

By contrast, the Utah Attorney General's Office lacks standing in this matter and should not have been included or cc'd in filings concerning Respondent's administrative request for preservation of records.

Unauthorized Participation and Reason for Federal Referral

The Attorney General's continued involvement in this matter constitutes **unauthorized participation** and further evidence of **institutional bias.** The AG's Office has already signaled potential misconduct by allowing or enabling the **premature destruction of case files** in Case No. 211401656. This raises serious concerns about **spoliation of evidence** tied to **David Leavitt's legacy misuse of VOCA funds** — implicating potential federal program fraud under **18 U.S.C. § 666.**

Accordingly, the Court should order:

1. **Immediate administrative preservation** of all case files connected to Case No. 211401656 and related matters;

2. A sworn certification from the State that **no records have been prematurely destroyed** or altered in ways that would compromise federal oversight; and

3. That the **Administrative Office of the Courts (AOC) or the primary record holder-produce a full metadata audit** of all docket entries, clerk annotations, and record modifications.

Failure by the AOC to comply with this order would constitute **record spoliation** and leave **Judge Graf personally exposed**, because administrative obligations to preserve, certify, and correct the record are **ministerial duties**. Judicial immunity does not extend to failures in clerical or administrative record-keeping.

Once Judge Kraig Powell addresses his prior omission — namely, the failure to include in his order the **oral contract between Judge Lunnen and Respondent on September 20, 2024** staying expungement — the Court must **correct and amend its findings** to reflect that contractual agreement.

Don't Get Left Holding the Bag

The 4th District Court is **institutionally incapable of adjudicating its own misconduct.**

By attempting to invert the issue and frame Respondent as "vexatious," the Court only **compounds the due process violations** already at issue.

A tribunal cannot credibly investigate itself when the allegations involve:

- Concealment and non-production of WebEx/Zoom recordings;
- Omissions and inaccuracies in certified transcripts;
- Backdating or alteration of docket entries; and
- Misuse of federal **VOCA/VAWA funds** to subsidize prosecutions later admitted to be duplicative and unconstitutional.

To continue forward without certified records is to **inherit and entrench misconduct.** Any judge who does so risks being the one left **holding the bag** for institutional failures that began years earlier.

Accordingly, the only lawful and impartial path forward is to:

1. **Preserve the certified record in full** (transcripts, WebEx/Zoom recordings, docket indices, metadata logs);

2. **Amend prior omissions**, including Judge Powell's failure to include the September 20, 2024 oral contract staying expungement; and

3. **Refer this matter to federal authorities** — DOJ, FBI, OIG, IRS, and the U.S. Attorney for the District of Utah — for independent investigation, metadata auditing, and prosecution where warranted.

Only through outside review can the record be corrected and public trust restored.

XIX. FAILURE TO CORRECT RECORDS & RULE 3.8 VIOLATIONS

Respondent has been forced to expend years of time and resources merely petitioning this Court to correct its own recordkeeping — a duty that lies squarely with the Court under statute.

The obligation to maintain accurate and certified records is not optional.

It is foundational to due process.

Upstream clerk errors, omissions, and even apparent deletions have directly contributed to unlawful prosecutions, reputational harm, and the perpetuation of double jeopardy.

The State itself has **admitted** that Respondent was subjected to double jeopardy, acknowledging that Case No. 211401656 was an exact duplicate of prior proceedings. Yet despite this admission, prosecutors failed to comply with their professional obligations under **Rule 3.8 of the Utah Rules of Professional Conduct** (Special Responsibilities of a Prosecutor). Specifically:

- **Rule 3.8(a):** Prosecutors must refrain from prosecuting a charge not supported by probable cause. By continuing duplicative prosecutions, they violated this duty.

- **Rule 3.8(d):** Prosecutors are required to disclose exculpatory evidence. Withholding Brady material across multiple cases compounded the prejudice.

- **Rule 3.8(f):** Prosecutors must take remedial measures when they know of clear jurisdictional defects. Instead, they pursued Respondent in bad faith.

The cumulative effect is that Respondent was wrongfully prosecuted **for over five years** on cases later acknowledged to be without jurisdiction.

Yet the prosecutorial failures did not stop at the charging decisions.

They extended to the refusal to correct the public record, failure to notify the press of the jurisdictional defects, and failure to initiate corrective action under Rule 3.8.

In sum:

1. The **Court** failed to uphold its statutory duty to maintain accurate, certified records, instead inverting the issue by attempting to label Respondent as vexatious.

2. The **Clerks** failed in their ministerial duties, creating upstream errors, omissions, and deletions that seeded unlawful prosecutions.

3. The **Prosecutors** failed in their professional duties under Rule 3.8, allowing duplicative, jurisdictionally void prosecutions to proceed, despite their admission of double jeopardy.

These compounded failures demonstrate systemic misconduct that requires correction, certification of the full record, and referral to federal oversight bodies for independent investigation.

XX. VEXATIOUS PROSECUTIONS

Case No. 191400132 began on January 15, 2019 and continued for more than six years downstream, with collateral damage that persists to this day.

The prosecution was carried forward despite clear lack of jurisdiction, as later admitted by the State.

The matter was reported publicly in news outlets and circulated globally, but when the jurisdictional defect was confirmed, no correction or retraction was ever made.

The reputational, financial, and emotional harm continues unabated because of the State's failure to correct the public record. The State can demonstrate good faith efforts to address the harm created by State Prosecutors under Color of Law, knowing that the prosecution was faulty from the onset (Kennard email, Cruz email, Koehler recording, 160400655 docket Case Settled Aug 4. 2016 entry.

Case No. 211401656 was later filed as a duplicate prosecution, even after the prior case had been adjudicated, it was done in retaliation by former Utah County Attorney David Leavitt after Allen reported he and his staff for lawfare, (now confirmed by multiple sources).

On September 20, 2024, the State stipulated to dismissal with prejudice, effectively admitting that the filing itself was without jurisdiction.

Both prosecutions — 191400132 and 211401656 — must therefore be declared vexatious prosecutions, within the plain meaning of the term.

The State has admitted duplicative filings, double jeopardy exposure, and lack of jurisdiction. Respondent has endured repeated violations of constitutional rights and misuse of federal VOCA/VAWA funds to sustain these unlawful prosecutions.

The Court is obligated to:

1. Certify and preserve the record of these prosecutions for federal review.
2. Declare both matters vexatious prosecutions, based on the State's own admissions.
3. Refer these matters to federal authorities (DOJ, FBI, U.S. Attorney for the District of Utah) for investigation of misuse of federal funds, record tampering, and deprivation of rights under color of law.

The State admitted duplication, jurisdictional defects, and has effectively dodged the withheld exculpatory evidence facts.

Provo Police and State P.O.S.T. Internal Affairs confirmed judicial misconduct, "bad light" suppression, declination ignored, and refiling after exposure.

- County Attorney Leavitt called it a "stupid case" and apologized.
- Post-dismissal, the Court cannot prosecute its own retaliatory Rule 83 motion.
- Only certification, neutral audit, and DOJ/OIG referral can restore integrity.

XXI. CONCLUSION

The Court's latest motion is itself vexatious. Its provenance appears to trace back to Judge Robert C. Lunnen, who **presided for years over an admitted double-jeopardy prosecution and failed to preserve accurate records.**

A judge cannot retroactively recast those failures by initiating a retaliatory motion against the party who has merely demanded compliance with statutory record-keeping obligations.

This case is closed on the merits. The only remaining jurisdiction is **administrative oversight** to ensure accurate, certified records are preserved.

By attempting to adjudicate its own conduct, the 4th District Court exceeds its authority and compounds the appearance of bias.

If the Court seeks to press its own allegations, it would be required to open a new matter. It cannot weaponize this closed case to silence a whistleblower.

Due Process Violations

- ***Chess v. Smith* (Utah 1980): denial of an adequate record is itself a denial of due process.**
- ***Draper v. Washington* (1963): defective records are unconstitutional.**
- ***Hill v. Hawes* (1944): clerical misstatements must be corrected so the record "speaks the truth."**

Exposure: By failing to correct contradictory dismissals ("with prejudice" and "without prejudice"), refusing to certify transcripts/WebEx, and denying the oral stay of expungement, the Court has created a constitutionally defective record.

That denial is actionable under 42 U.S.C. § 1983 as a deprivation of rights under color of law.

Respondent remains the only party with standing to seek expungement, which has already been stayed. Instead of pressing for expungement, Respondent has consistently sought historic preservation of the record, including through GRAMA requests, given:

1. The public nature of the prosecutions;
2. The outcomes of those prosecutions;
3. The State's admission of double jeopardy; and
4. The retaliatory nature of filings by the Administrative Office of the Courts (AOC) and the 4th District.

Accordingly, the Court's attempted motion must be recognized as vexatious on its face. The proper course is:

- To **produce certified transcripts and records**;
- To **refer the matter to the DOJ, FBI, and State Auditor** for metadata analysis; and
- **To allow federal screening for retaliation and misuse of VOCA/VAWA funding.**

Anything less would allow the very institution accused of misconduct to sit in judgment of its own failures, a result contrary to law, equity, and the constitutional guarantees of due process.

XXII. RELIEF REQUESTED

Lack of Standing and Ultra Vires Conduct

The 4th District Court has no standing in this closed matter beyond its statutory and ministerial obligations:

- To produce certified records;
- To ensure the docket is accurate and corrected;
- To act on administrative petitions to release certified WebEx recordings; and
- To certify transcripts so that internal errors are corrected before further malfeasance is layered onto the record.

Its attempt to adjudicate its own omissions by labeling Respondent's filings as "vexatious" is retaliatory, ultra vires, and contrary to law.

Respondent has been forced to seek correction of upstream clerk errors, omissions, and deletions that seeded unlawful prosecutions later admitted to be duplicative and jurisdictionally void. The State's failure to act under Rule 3.8 of the Utah Rules of Professional Conduct, despite its admission of double jeopardy, underscores the need for independent federal oversight.

Accordingly, this Court must step aside. The proper remedy is:

1. Certification of the record in full;
2. Preservation of all transcripts and WebEx/Zoom hearings;
3. Mandatory metadata audit of docket entries and file handling; and
4. Referral to the DOJ, FBI, and Utah State Auditor for independent investigation and accountability.

Anything less would leave this Court in the untenable position of **overseeing its own misconduct** while continuing to deprive Respondent of the **due process guarantees** under both the **Utah Constitution** and the **United States Constitution.**

Public Trust and Federal Exposure

This case and predecessor case has become **widely known** as a cautionary example of judicial dysfunction.

If the Court resists referral, the appearance of a **cover-up** will attach to Judge Graf personally, even if the misconduct originated with others.

This is downstream fruit from the former Utah County Attorney David Leavitt, this particular case a subset of his retaliation for being reported to the OPC and Respondent was merely a commodity to be traded for VOCA funding- its taken years to understand the dehumanizing prosecution motives, the recently obtained ledgers, make clear, it appears that the system overseen by Leavitt figured out how to monetize the Respondent to the loss of life, liberty and the pursuit of happiness.

The record also might potentially implicate potential **RICO theories** (patterns of coordinated misconduct) and misuse of **federal VOCA funds** (18 U.S.C. § 666), which make this matter a federal concern.

These elements heighten the likelihood of DOJ, OIG, FBI, IRS, and U.S. Attorney involvement. A refusal to act now only ensures that federal agencies will later uncover the failures, leaving this Court complicit by omission.

For these reasons, Respondent respectfully requests that the Court grant the relief sought herein

1. **Vacate Rule 83 Motion as Ultra Vires** – The Court's sua sponte filing in a closed case exceeds jurisdiction.

2. **Deny Rule 83 on the Merits** – The filings challenged are limited to statutory record-preservation requests, not vexatious litigation.

3. **Recuse Judge Graf; Reassign to Judge Kraig Powell** – Judge Powell previously confirmed aspects of the record and must correct his omission regarding the stay of expungement.

4. **Fee Waiver for Indigent Status** – Order waiver of all costs for Respondent, recognized as indigent, for the production and certification of transcripts, WebEx hearings, and docket materials.

5. **Administrative Preservation Order** – Direct the Clerk to produce certified dockets, certified transcripts, and all WebEx recordings for Case No. 211401656 and upstream related cases (including Case Nos. 191400132 and 171402280), as well as downstream matters stemming from the August 4, 2016 settlement.

6. **Third-Party Metadata Audit** – Order forensic review of docketing, clerical omissions, and deletions for accuracy, pursuant to Utah Code § 63G-2-603 and 18 U.S.C. § 1519.

7. **Specificity Requirement** – Compel the Court to identify, with specificity, all filings it alleges to be vexatious.

8. **Affidavit of Non-Destruction** – Require sworn certification that no records have been altered or destroyed.

9. **Federal & State Referrals** – Refer this matter to the DOJ/OIG for VOCA/VAWA audit and clawback review, and to the Utah State Auditor for funding oversight.

10. **Declaration of Vexatious Prosecutions** – Declare Case No. 211401656 a vexatious prosecution lasting 1,101 days, and declare both Case Nos. 191400132 and 211401656 vexatious prosecutions, consistent with the State's admissions.

11. **Appointment of Special Investigator** – Request appointment of a DOJ Special Investigator, IRS investigation into misuse of VOCA funding and reporting metrics, given Respondent's indigency and the Utah Attorney General's conflict of interest.

Relief Sought — Webex Video & Certified Transcript Requests by Hearing Date

Below are hearing dates for Cases **171402280**, **191400132**, and **211401656**. Respondent requests, for each hearing date, that the Court:

- preserve and certify the **Webex video recording**; and
- produce a **certified transcript** of that hearing.

Supporting Legal Authority for These Requests

URCP Rule 52 — Findings and conclusions by the court; correction of the record. Specifically, subsection (d) states: "..If anything material is omitted from or misstated in the transcript of an audio or video record of a hearing or trial, or if a disagreement arises as to whether the record accurately discloses what occurred in the proceeding, a party may move to correct the record. .."

UCJA Rule 4-202.08 — Fees for Records, Information, and Services; waiver for indigent persons. Subsection 10(B) indicates that individuals who qualify for a fee waiver under (10)(A)(ii) and (10)(A)(iii) are entitled to one free copy of the record requested.
URL: legacy.utcourts.gov/rules/view.php?rule=4-202.08&type=ucja

Below is a checkbox table for the Court to initial each item to indicate order is granted.

Relief Sought — Hearing Date Checkbox Items.

To Date ZERO certified records have been produced as listed below

Case 171402280 Hearing Date 01.06.2022 — □ Webex video ␣_____ Clerk/Judge Initial

1. Case 171402280 Hearing Date 01.06.2022 — □ Certified transcript ␣_____ Clerk/Judge Initial
2. Case 171402280 Hearing Date 09.07.2017 — □ Webex video ␣_____ Clerk/Judge Initial
3. Case 171402280 Hearing Date 09.07.2017 — □ Certified transcript ␣_____ Clerk/Judge Initial
4. Case 171402280 Hearing Date 10.26.2017 — □ Webex video ␣_____ Clerk/Judge Initial
5. Case 171402280 Hearing Date 10.26.2017 — □ Certified transcript ␣_____ Clerk/Judge Initial
6. Case 171402280 Hearing Date 11.10.2021 — □ Webex video ␣_____ Clerk/Judge Initial
7. Case 171402280 Hearing Date 11.10.2021 — □ Certified transcript ␣_____ Clerk/Judge Initial
8. Case 191400132 Hearing Date 03.12.2020 — □ Webex video ␣_____ Clerk/Judge Initial
9. Case 191400132 Hearing Date 03.12.2020 — □ Certified transcript ␣_____ Clerk/Judge Initial
10. Case 191400132 Hearing Date 04.18.2019 — □ Webex video ␣_____ Clerk/Judge Initial
11. Case 191400132 Hearing Date 04.18.2019 — □ Certified transcript ␣_____ Clerk/Judge Initial
12. Case 191400132 Hearing Date 05.16.2019 — □ Webex video ␣_____ Clerk/Judge Initial
13. Case 191400132 Hearing Date 05.16.2019 — □ Certified transcript ␣_____ Clerk/Judge Initial
14. Case 191400132 Hearing Date 06.13.2019 — □ Webex video ␣_____ Clerk/Judge Initial

15. Case 191400132 Hearing Date 06.13.2019 — □ Certified transcript ␣_____ Clerk/Judge Initial
16. Case 191400132 Hearing Date 08.01.2019 — □ Webex video ␣_____ Clerk/Judge Initial
17. Case 191400132 Hearing Date 08.01.2019 — □ Certified transcript ␣_____ Clerk/Judge Initial
18. Case 191400132 Hearing Date 08.13.2020 — □ Webex video ␣_____ Clerk/Judge Initial
19. Case 191400132 Hearing Date 08.13.2020 — □ Certified transcript ␣_____ Clerk/Judge Initial
20. Case 191400132 Hearing Date 09.05.2019 — □ Webex video ␣_____ Clerk/Judge Initial
21. Case 191400132 Hearing Date 09.05.2019 — □ Certified transcript ␣_____ Clerk/Judge Initial
22. Case 191400132 Hearing Date 09.10.2020 — □ Webex video ␣_____ Clerk/Judge Initial
23. Case 191400132 Hearing Date 09.10.2020 — □ Certified transcript ␣_____ Clerk/Judge Initial
24. Case 191400132 Hearing Date 09.17.2020 — □ Webex video ␣_____ Clerk/Judge Initial
25. Case 191400132 Hearing Date 09.17.2020 — □ Certified transcript ␣_____ Clerk/Judge Initial
26. Case 191400132 Hearing Date 10.03.2019 — □ Webex video ␣_____ Clerk/Judge Initial
27. Case 191400132 Hearing Date 10.03.2019 — □ Certified transcript ␣_____ Clerk/Judge Initial
28. Case 191400132 Hearing Date 10.14.2021 — □ Webex video ␣_____ Clerk/Judge Initial
29. Case 191400132 Hearing Date 10.14.2021 — □ Certified transcript ␣_____ Clerk/Judge Initial
30. Case 191400132 Hearing Date 10.15.2020 — □ Webex video ␣_____ Clerk/Judge Initial
31. Case 191400132 Hearing Date 10.15.2020 — □ Certified transcript ␣_____ Clerk/Judge Initial
32. Case 191400132 Hearing Date 10.31.2023 — □ Webex video ␣_____ Clerk/Judge Initial
33. Case 191400132 Hearing Date 10.31.2023 — □ Certified transcript ␣_____ Clerk/Judge Initial
34. Case 191400132 Hearing Date 11.10.2021 — □ Webex video ␣_____ Clerk/Judge Initial
35. Case 191400132 Hearing Date 11.10.2021 — □ Certified transcript ␣_____ Clerk/Judge Initial
36. Case 191400132 Hearing Date 12.19.2019 — □ Webex video ␣_____ Clerk/Judge Initial
37. Case 191400132 Hearing Date 12.19.2019 — □ Certified transcript ␣_____ Clerk/Judge Initial

38. Case 211401656 Hearing Date 11.03.2021 — □ Webex video ␣_____ Clerk/Judge Initial
39. Case 211401656 Hearing Date 11.03.2021 — □ Certified transcript ␣_____ Clerk/Judge Initial
40. Case 211401656 Hearing Date 12.01.2021 — □ Webex video ␣_____ Clerk/Judge Initial
41. Case 211401656 Hearing Date 12.01.2021 — □ Certified transcript ␣_____ Clerk/Judge Initial
42. Case 211401656 Hearing Date 01.05.2022 — □ Webex video ␣_____ Clerk/Judge Initial
43. Case 211401656 Hearing Date 01.05.2022 — □ Certified transcript ␣_____ Clerk/Judge Initial
44. Case 211401656 Hearing Date 02.23.2022 — □ Webex video ␣_____ Clerk/Judge Initial
45. Case 211401656 Hearing Date 02.23.2022 — □ Certified transcript ␣_____ Clerk/Judge Initial
46. Case 211401656 Hearing Date 04.27.2022 — □ Webex video ␣_____ Clerk/Judge Initial
47. Case 211401656 Hearing Date 04.27.2022 — □ Certified transcript ␣_____ Clerk/Judge Initial
48. Case 211401656 Hearing Date 07.06.2022 — □ Webex video ␣_____ Clerk/Judge Initial
49. Case 211401656 Hearing Date 07.06.2022 — □ Certified transcript ␣_____ Clerk/Judge Initial
50. Case 211401656 Hearing Date 08.17.2022 — □ Webex video ␣_____ Clerk/Judge Initial
51. Case 211401656 Hearing Date 08.17.2022 — □ Certified transcript ␣_____ Clerk/Judge Initial
52. Case 211401656 Hearing Date 09.20.2024 — □ Webex video ␣_____ Clerk/Judge Initial
53. Case 211401656 Hearing Date 09.20.2024 — □ Certified transcript ␣_____ Clerk/Judge Initial
54. Case 211401656 Hearing Date 05.01.2025 — □ Webex video ␣_____ Clerk/Judge Initial
55. Case 211401656 Hearing Date 05.01.2025 — □ Certified transcript ␣_____ Clerk/Judge Initial

Summary: Totality of Court Prosecutions & Record Withholding

The State has prosecuted Allen in all of these numerous instances—cases **171402280**, **191400132**, and **211401656**—over multiple years.

Yet in none of these hearings has Allen been reliably provided the certified records (transcripts, video/Webex recordings, or full clerk docket) necessary to fully document what occurred.

How telling this is: the Court appears to have ignored its obligation to produce, certify, or preserve the record, which prevents any meaningful review or protection of constitutional rights.

Due process demands record production; indigency status under Utah law (including under UCJA Rule 4-202.08) requires that courts waive fees and provide requested records for those without means. Without certified records, Allen cannot appeal, cannot establish double jeopardy violations, cannot show prosecutorial or judicial misconduct.

Provo City initiated Case 171402280 without jurisdiction, because exculpatory Brady evidence was withheld from discovery despite motions to compel discovery—and despite the predecessor case allegedly having been settled on August 4, 2016.

The State of Utah, under the leadership of Utah County Attorneys **David Leavitt**, Carl Hollan, Lance Bastian, Christine Scott, Marianne O'Bryant, Lauren Hunt, Adam Pomeroy, ARespondent's Pomeroy, and Randy Kennard, similarly initiated Case 191400132 without jurisdiction; exculpatory Brady evidence was withheld; prosecutors allegedly described it as a **"stupid case" and a "stinker of a case"**—all despite the predecessor case allegedly having been settled on August 4, 2016. VOCA-funded victim advocates, such as Lorie Hobbs, Bethany Warr, Katie Fox, and others, may have been involved in supporting those proceedings.

The State of Utah, under state−level leadership of Craig Peterson, with support from VOCA-funded victim advocates including Lorie Hobbs, Bethany Warr, and Katie Fox, initiated Case 211401656 under similar circumstances—Brady evidence was withheld, and the State has admitted that double jeopardy applies—also despite the predecessor case allegedly having been settled on August 4, 2016.

By these admissions and allegations, the State of Utah and its prosecutorial components appear to be acting as vexatious litigants: repeatedly initiating and maintaining prosecutions despite clear jurisdictional defects, concealment of exculpatory evidence, and violations of the rights of the accused.

It is alleged that subpoenas issued, which Judge Lunnen has disregarded, would identify under what asserted jurisdiction David Leavitt obtained federal VOCA funding, **knowing** the underlying cases were faulty. This obstruction of justice, and/or record spoilage, implicates the courts and potentially the Utah County Attorney's Office, for failing to preserve screening records. It also implicates the State of Utah for advancing cases despite upstream, articulated, and memorialized jurisdictional faults.

Utah Rule of Civil Procedure 52 (Rule 52: Findings and conclusions by the court; amended findings; waiver of findings and conclusions; correction of the record) requires that if anything material is omitted from or misstated in the transcript of an audio or video record of a hearing or trial, or if a disagreement arises over whether the record accurately discloses what occurred, a party may move to correct the record.

Legal Authority for Record Preservation and Certification

- **URCP Rule 52**, Utah Rules of Civil Procedure — *Findings and conclusions by the court; amended findings; waiver of findings and conclusions; correction of the record.* Subsection (d) provides a mechanism to correct material omissions or misstatements in the transcript of audio or video record, or when there is disagreement over whether the record reflects what occurred. (Rule effective 05/01/2016) URL: legacy.utcourts.gov/rules/view.php?rule=52&type=urcp Utah Courts

- **Utah Code Section 78A-2-408** — *Transcript for appeal shall be prepared within the time period permitted by the Utah Rules of Appellate Procedure.* This statute supports the requirement that transcripts be timely prepared for appellate review. URL: le.utah.gov/xcode/Title78A/Chapter2/78A-2-S408.html

XXIII. RESERVATION OF RIGHTS

Respondent expressly reserves all other available remedies and actions, including but not limited to civil rights and criminal referrals under federal law. This reservation includes:

- **42 U.S.C. § 1983** – Civil action for deprivation of constitutional rights under color of state law.

- **42 U.S.C. § 1985** – Conspiracy to interfere with civil rights.

- **42 U.S.C. § 1986** – Neglect to prevent conspiracy or rights violations.

Additionally, Respondent reserves referral and complaint rights under the following federal criminal statutes:

- **18 U.S.C. § 4** – Misprision of felony (duty to report federal offenses).

- **18 U.S.C. § 242** – Deprivation of rights under color of law.

- **18 U.S.C. § 666** – Theft or bribery concerning programs receiving federal funds (VOCA/VAWA/STOP funding).

- **18 U.S.C. § 1346** – Honest services fraud (concealment, self-dealing, and misuse of public funds in violation of fiduciary duty).

- **18 U.S.C. § 1001** – False statements or concealment in matters within federal jurisdiction.

- **18 U.S.C. §§ 1510, 1512, 1519** – Obstruction, tampering, and falsification of records in matters involving federal funding and investigations.

Conclusions of Law

1. **Administrative and Ministerial Obligations to Maintain and Correct the Record**
   Under Utah law, courts, judges, and clerks have non-discretionary duties to preserve, maintain, and make available accurate court and hearing records. These are administrative or ministerial obligations that must be fulfilled regardless of the case's outcome.

2. **Governing Statutes and Rules**

   a. **Utah Code of Judicial Administration Rule 4-202 ("Records of Proceedings")** imposes duties to define, preserve, classify, respond to requests for, and provide access to court records.

   b. **GRAMA**, Utah Code Title 63G Chapter 2, mandates that governmental entities preserve and disclose public records (unless exempt). This includes court records and hearing transcripts.

   c. **UCJA Canon 2A (Competence, Integrity, Impartiality)** requires judges to perform both judicial and administrative duties competently and diligently, including duties related to preserving the rights of parties to be heard, and preserving records to enable review and due process.

   d. **Rule 60(a), Utah Rules of Civil Procedure** allows correction of clerical mistakes, oversight, or omissions in judgments, orders, or records when errors are discovered, demonstrating that record correction is a recognized legal duty.

   e. **Utah Code § 76-8-306**, Obstruction of Justice, provides that someone may be guilty of obstruction if, with knowledge, they prevent or delay an act necessary to aid an investigation or

prosecute an offense, which can include destruction or concealment of evidence or records.

3. **Jurisdictional Law on Finality of Dismissal**
   The precedent of *Ex parte Lange*, 85 U.S. 163 (1873), holds that once a case is dismissed with prejudice (or final judgment reached), the court's substantive jurisdiction over that case ends. Any further proceedings or denials of administrative or ministerial obligations that attempt to impose new substantive action are invalid.

4. **Application of Legal Obligations to Judge Lunnen's Conduct**
   Judge Lunnen's refusal to sign previously submitted orders, denial to preserve the record for hearings even after a dismissal with prejudice, and statements that "the case is closed," all while denying Respondent's statutory and constitutional objections under federal law, violate the administrative and ministerial obligations described above.

   Those actions undermine due process, deny Respondent's rights to an accurate record, appellate review, and interfere with oversight or investigatory processes (including federal statutes to preserve records).

5. **Resulting Legal Consequences**

   - Because these duties are ministerial or administrative (not discretionary), the judge cannot lawfully decline to perform them simply because the case is "closed."

   - Failure to perform these duties may constitute obstruction of justice (state or federal) and legal liability under civil rights law (e.g. 18 U.S.C. § 242; 42 U.S.C. § 1983).

   - The order declaring a person a vexatious litigant raised in such circumstances is invalid given that it is premised on a record that the Respondent has been prevented from accessing, certifying, or correcting.

NOTICE: Failure by the Court to preserve an accurate record, including certified transcripts and WebEx recordings, will constitute a violation of 18 U.S.C. § 1519 (destruction, alteration, or falsification of records in federal matters). Failure to order issuance of subpoenas necessary to ascertain who participated in vexatious prosecutions and the misuse of federal VOCA/VAWA funds will be reported directly to the U.S. Department of Justice (DOJ) and the Utah Judicial Conduct Commission (JCC).

Respondent respectfully demands that the Court discharge only its ministerial obligations and take no further judicial action in this closed matter.

Respondent demands certification and preservation of all records and immediate referral to the DOJ, FBI, OIG, the Utah Legislative Auditor, The Data Privacy Ombudsman for the State of Utah, the Utah State Auditor for mandatory screening, audit, and clawback review.

A Constitutional Crossroads

To allow this motion to stand would set unprecedented case law — effectively granting courts the power to weaponize Rule 83 against well-intentioned litigants whose only "offense" was to insist on certified records and constitutional process.

Such a precedent would invert the very purpose of the judiciary, transforming administrative failures into a sword against those harmed by them.

This is a clear violation of the First Amendment right to petition the government for redress of grievances, the Fourteenth Amendment right to due process and equal protection, and the fundamental right of access to courts. Even prisoners — incarcerated and convicted — enjoy broader guaranteed access to courts than Respondent has been afforded here. To deprive a free citizen of that same access by twisting lawful preservation filings into "vexatious conduct" would mark a constitutional low point.

That is not the rule of law, and it is certainly not the foundation of an honorable legacy.

For **anyone who believes in the rule of law, the U.S. Constitution**, and the promise of *"liberty and justice for all,"* this case presents a stark choice.

That promise is hollow if it can be set aside for clerical errors, retaliatory motions, or record concealment.

The defects in this record — **double jeopardy admissions, missing WebEx hearings, uncertified transcripts, and backdated docket entries** — are not mere technicalities.

They are **constitutional fractures.** And history will judge not only who created them, but who also allowed them to persist.

Anyone with even a measure of constitutional fidelity will wonder how such failures could have metastasized like a cancer through the system.

The safe, lawful, and honorable course is narrow but unmistakable:

- **Order the WebEx hearings and certified transcripts to be produced;**
- **Correct and certify the docket;**
- **Preserve the metadata for outside review;** and
- **Refer the matter to federal oversight (DOJ, FBI, OIG, IRS, Utah State Auditor).**

Anything less risks making this Court complicit in obstruction of justice and further erodes the very Constitution every judge swears to uphold.

All other federal and civil remedies remain expressly reserved.

[Disclaimer]

The foregoing history is not intended to represent the **entire certified record of proceedings**, but rather an **outline and chronology** provided in good faith to highlight key disparities and omissions. Because the Court has failed to produce certified transcripts, WebEx/Zoom recordings, and complete docket entries, errors and inconsistencies remain embedded in the official record.

Respondent submits this chronology to assist the Court and reviewing authorities in **correcting the disparity** and to prevent further **mischaracterizations** of his lawful filings and preservation efforts.

Institutional Failures of Oversight

This matter also highlights serious **structural defects** within the State's oversight bodies. The Judicial Conduct Commission (JCC) and the Utah Office of Professional Conduct (OPC) are each designed to enforce accountability — yet both failed to act when faced with mounting evidence of misconduct.

- The **JCC** received complaints concerning judicial failures to preserve records, to honor oral rulings, and to prevent retaliatory misuse of Rule 83, but its siloed review processes lacked meaningful **horizontal accountability**. Rather than intervening to halt misconduct, the Commission's inaction allowed the matter to metastasize and permitted retaliatory measures against Respondent.

- The **OPC**, despite documented sanctions against multiple attorneys totaling more than fifteen cases and sixty ethical violations, failed to connect those disciplinary findings to the systemic misconduct in Respondent's prosecutions. By treating cases in isolation and shielding sanctioned attorneys from broader scrutiny, the OPC facilitated repeated Brady violations, conflicts of interest, and unethical conduct.

Together, these failures demonstrate a **deficiency of horizontal oversight** across Utah's judicial and prosecutorial accountability systems. Instead of checking each other's failures, these entities operated in parallel silos, effectively enabling a prosecution that should have been stopped years ago.

The result is a system that nearly carried this matter **past the point of no return** — a constitutional trainwreck that can no longer be credibly policed from within Utah's own structures. Only referral to **outside federal authorities** (DOJ, OIG, FBI, IRS, U.S. Attorney) can restore confidence and ensure accountability.

Respondent respectfully reserves the right to supplement this outline with certified records once they are produced, and requests that the Court order immediate preservation and certification of all relevant materials to ensure the historical record **speaks the truth.**

MOTION TO STRIKE SUMMARY & MOTION TO REFER FOR FEDERAL AUDIT AND CLAWBACK OF VOCA FUNDS

Comes now Respondent, and moves this Honorable Court to strike the Motion to Designate Respondent a Vexatious Litigant, or in the alternative, defer ruling and refer the matter for a **federal audit and clawback** of VOCA funds. This motion is based on the following:

I. Summary of Grounds for Motion to Strike

1. **Lack of Jurisdiction & Finality Violations**
   The State and Judge have overstepped the jurisdictional limits by continuing proceedings in cases already dismissed with prejudice. An order of dismissal with prejudice is final; no further substantive motions should be entertained, particularly ones that affect rights, records, or obligations.

2. **Obstruction of Record Preservation & Administrative Obligations**
   Judge Lunnen has explicitly denied preservation of the record (including video, transcripts) for closed cases, refusing to sign pending orders, refusing to act on ministerial and administrative duties. These are not discretionary judicial acts but required obligations under Utah rules (e.g. UCJA Rule 4-202, GRAMA), federal statutes (18 U.S.C. § 1519), and constitutional due process standards.

3. **State and Court as Originators of Deficient Record**
   Many of the filings and deficiencies originate with the State prosecuting authorities and the Court, which failed to preserve and certify records, did not respond to discovery requests, and prevented access to administrative orders and clerk's indexing. This undermines the basis for any legitimate vexatious litigant finding.

II. Motion to Refer for Federal Audit & Clawback of VOCA Funds

4. **VOCA Funds Accountability**
   If VOCA (Victims of Crime Act) funds have been used by the State or County to support "victims' advocates," prosecution personnel or court-adjacent functions in cases known to be flawed or jurisdictionally unsound, there may be misuse of federal resources. A federal audit would be necessary to assess whether funds were properly awarded, spent, and if any need to be clawed back.

5. **Oversight Authorities**

    - The Office of Inspector General (OIG) for the Department of Justice (DOJ) is equipped to investigate misuse of federal funding, fraud, and violation of federal laws.

    - If tax law, reporting, or revenue misuse is involved, TIGTA (Treasury Inspector General for Tax Administration) may have jurisdiction over IRS or funding reporting issues.

    - The U.S. Attorney's Office may also have interest if there are violations of federal criminal statutes connected to obstruction, falsification, deprivation under color of law (e.g. 18 U.S.C. §§ 242, 1519).

X. THE PROPER "VEXATIOUS LITIGANTS" – "PROSECUTORS" AND "VICTIM" ADVOCATES

Rule 83 was intended to curb abusive filings. In this matter befoe the Court, the true vexatious actors have not been the Defendant/Respondent — who has filed only to preserve records and enforce constitutional rights — **but rather:**

- **Prosecutors, who knowingly pursued duplicative, jurisdictionally void cases for nearly a decade, despite admissions from their own ranks (Kennard, Cruz, Peterson) that no injunction existed, no protective order was issued, and the cases were "exact duplicates."**

- **Victim advocates funded by VOCA, who advanced prosecutions not supported by probable cause, withheld exculpatory Brady material, and drew down federal funds while prolonging unlawful proceedings.**

- **Judicial officers and clerks, who failed to certify the record, altered docket entries, and muted Respondent when he sought to preserve the September 20, 2024 oral contract.**

This is not speculation. The State itself admitted on September 20, 2024 that the case was "an exact duplicate" and "should not even be a case of record."

That admission alone confirms that the prosecutorial conduct was vexatious, retaliatory, and constitutionally defective.

Respondent, by contrast, has been vindicated:

- The 211401656 case was dismissed with prejudice. The 191400132 case was dismissed and expunged. The 171402280 was dismissed with prejudice and expunged.

- The State withdrew, conceding lack of standing and prosecution "defacto exactly the same case". The State has failed to apply rule 3.8.

- The record now demonstrates that filings by Respondent were compelled by necessity to correct and preserve a spoiled record, not to harass or delay.

  The State, in effect, withdrew those prosecutions, conceding lack of standing and that the matters were de facto the same case. Yet the State has failed to comply with its duty under **UCJA Rule 13-3.8, Special Responsibilities of a Prosecutor**, which requires prosecutors to refrain from prosecuting charges not supported by probable cause, and to make *timely disclosure of all evidence or information known to them that tends to negate guilt or mitigate the offense*.

- To date, the record shows no remorse or remedial efforts by the State—no acknowledgment of wrongdoing, no corrective action, no transparency. The filings by Respondent were compelled out of necessity to correct and preserve a spoiled record, not to harass or delay.

  The State has shown neither remorse nor remedial efforts, despite clear violations of Rule 3.8. In *In re Larsen*, 2015, the Utah Supreme Court imposed a six-month suspension on a prosecutor for fails under Rule 3.8, specifically for withholding exculpatory evidence—conduct comparable in kind, if not in scale, to the State's conduct here. Larsen v. Utah State Bar underscores that such omissions are sanctionable, not simply discretionary.

  The obligations under UCJA Rule 13-3.8 are mandatory: the prosecutor must timely disclose exculpatory or mitigating evidence. Any failure in that duty demands sanctions, not deflection.

Legacy Blame and Spillover into Judicial Conduct

The vexatious conduct originated under former Utah County Attorney **David Leavitt** and his deputies, but it has now spilled into the administration of Judge Lunnen, whose refusal to certify the record and creation of a Rule 83 motion in retaliation compounds the legacy misconduct. This "inheritance" of blame is not Respondent's doing; it is the predictable result of nearly a decade of prosecutorial vexatiousness being papered over rather than corrected.

Conclusion – Proper Vexatious Designation

If Rule 83 is to be applied at all, it must be directed toward the prosecutors, victim advocates, and administrators who:

- Filed duplicative prosecutions,
- Withheld Brady/Giglio evidence,
- Prolonged litigation while drawing down VOCA funds, and
- Retaliated against Respondent for lawful filings.

To brand Respondent as vexatious under these circumstances is not only improper — it is Orwellian inversion. The record itself proves who the vexatious litigants have been, and they are not Respondent.

III. Relief Sought

WHEREFORE, Respondent respectfully requests:

A. That the Motion to Declare Respondent a Vexatious Litigant be stricken as jurisdictionally defective and procedurally retaliatory.

B. That this Court refer the matter to the relevant federal oversight agencies — including the

- U.S. Department of Justice (DOJ),
- Office of Inspector General (OIG),
- Internal Revenue Service (IRS), and
- Utah State Auditor — for independent audit of VOCA funds, oversight of prosecutorial and judicial conduct, and clawback of federal dollars if misuse is confirmed.

C. That this Court order immediate production and certification of all requested records, including:

- WebEx/Zoom recordings of all hearings and screenings,
- Certified transcripts of every proceeding,
- The full clerk index and docket metadata, and
- Records of VOCA-related grant applications, payroll, and ledger expenditures.

D. That any fees for these records be waived, given Respondent's indigency, the prolonged constitutional harm, and the principle that access to certified records is not discretionary but constitutionally required.

IV. Legal Standard & Supporting Authorities

Utah Law

- **Utah Code of Judicial Administration Rule 4-202** — requires classification, preservation, and production of court records.
- **Utah Code § 63G-2-603 (GRAMA Correction Duty)** — mandates correction of records known to be inaccurate or misleading.

Federal Statutes

- **18 U.S.C. § 1519** — prohibits destruction, alteration, or falsification of records in federal matters.
- **18 U.S.C. § 242** — criminalizes deprivation of constitutional rights under color of law.
- **42 U.S.C. §§ 1983, 1985, 1986** — provide civil remedies for deprivation of rights, conspiracy, and failure to prevent misconduct.
- **18 U.S.C. § 666** — misuse of federal program funds (applicable to VOCA).
- **18 U.S.C. § 1346** — honest services fraud (failure of officials to act faithfully when administering federally funded cases).

Case Law

- **Ex parte Lange, 85 U.S. 163 (1873):** jurisdiction ends after final judgment; further punishment is void.
- **Hill v. Hawes, 320 U.S. 520 (1944):** clerical errors must be corrected to ensure the record "speaks the truth."
- **Chess v. Smith, 617 P.2d 341 (Utah 1980):** denial of an adequate record itself constitutes denial of due process.
- **Draper v. Washington, 372 U.S. 487 (1963):** defective or incomplete records violate due process.
- **Santobello v. New York, 404 U.S. 257 (1971):** promises made in open court must be honored.

V. Context for Federal Oversight

Inverted Prosecution and Misuse of VOCA Funds

Respondent has demonstrated that these prosecutions — which the State itself has admitted were "an exact duplicate" and "de facto the same case" — were sustained not by law, but by federal VOCA dollars. Respondent was reduced to a *commodity* whose repeated appearances and hearings were leveraged to justify payroll, salaries, and benefits.

- **Over $500,000** in VOCA-funded salaries, wages, and benefits have already been documented through ledgers produced (covering 2018–2021).
- **Three years of VOCA ledgers (2022–2024)** remain withheld, despite Respondent's GRAMA requests.
- The failure to disclose these financial records, coupled with the continuation of a duplicative prosecution, points to systemic misuse of federal funds and requires IRS/TIGTA, DOJ, and OIG review.

Duty of Current Judge Graf

Successor Judge Graf cannot launder or inherit Lunnen's misconduct. To proceed on the Rule 83 motion without certified records and while VOCA misuse remains unaddressed would risk entangling this Court in obstruction and retaliation.
The safer, lawful, and only credible path is for Judge Graf to:

1. Sign one of the pending order (9/24/2024 or 11/12/2024)
2. Direct immediate certification of all records,
3. Refer the matter for federal audit, and
4. Refrain from adjudicating motions rooted in Lunnen's unlawful conduct.

Bottom Line:
The true vexatious litigants here are the prosecutors and victim advocates who pursued knowingly defective prosecutions, funded by federal VOCA grants, while withholding exculpatory Brady evidence.

Respondent has been vindicated; the State admitted to duplicative prosecution.

What remains is the obligation to certify the record, account for VOCA funds, and ensure federal agencies — not Utah's 4th District Court — perform the necessary audit and clawback.

Based on Exhibits D1 through D6, the certified VOCA funding ledgers already produced reveal that **Lorie Hobbs** received approximately **$106,930.94 in payroll from 2018 through 2021**, **Bethany Warr** received **$244,625.30 during the same period**, and **Katie Fox** received **$148,673.80 in 2021 alone**. Together, these figures establish that at least **$500,230.04 in VOCA funds** were directly drawn down during the span of Respondent's duplicative prosecutions.

Yet these numbers are conservative. The Utah Office for Victims of Crime has withheld at least three additional years of VOCA ledgers, covering **2022 through 2024**, despite lawful GRAMA requests. Until those ledgers are produced, the true amount of VOCA expenditures remains concealed. Even so, the documented total already exceeds half a million dollars, and the missing years strongly suggest the real figure may run well above **$750,000 to $1,000,000** once fully audited.

The problem is not merely financial. These payrolls were sustained during years when Respondent was being unconstitutionally prosecuted under double jeopardy, while exculpatory Brady evidence was withheld and certified records were never produced. In effect, Respondent was reduced to a **financial commodity** — his continued prosecution serving as justification for repeated federal grant drawdowns.

This raises a broader and troubling question: if these prosecutions were knowingly sustained to maintain VOCA funding streams, did other Utah citizens face the same fate? Were defective or duplicative cases pursued not for justice, but to ensure payroll continuity under VOCA, VAWA, STOP, or even CARES/COVID funding streams? Only a federal forensic audit and clawback can answer that question and restore accountability.

Key Points

- These figures are **conservative** because **Utah Office for Victims of Crime (UOVC) has yet to release the 2022–2024 VOCA ledgers** despite GRAMA requests.

- The missing three years raise the critical question: **Were other prosecutions — possibly duplicative or jurisdictionally defective like Respondent's — pursued in order to make payroll using federal VOCA, VAWA, STOP, or even CARES/COVID relief funds?**

- If so, Respondent's case is not an isolated miscarriage of justice, but part of a **systemic pattern of lawfare subsidized by federal grants.**

Legal Relevance

- **18 U.S.C. § 666** – theft or bribery concerning federal program funds.
- **34 U.S.C. § 20110** – VOCA oversight; requires audits and reporting of misuse.
- **18 U.S.C. § 1346** – honest services fraud.
- **42 U.S.C. §§ 1983, 1985, 1986** – civil rights liability for deprivation of rights and conspiracy.

- **Utah Code § 63G-2-603** – duty to correct inaccurate records (violated here where ledgers and certified records remain concealed).

Conclusion on VOCA Funding

The **$500,230.04 already documented** appears to be merely the tip of the misuse of federal VOCA funding. With **three years of ledgers still withheld**, the true figure may be **well in excess of $750,000–$1,000,000**. Each dollar represents not only financial misuse but also years of unconstitutional double jeopardy prosecutions and retaliatory filings that turned Respondent into a *financial commodity*.

Only a **federal forensic audit and clawback** can restore integrity and accountability. Remember that prosecutors funded cases from 2016, withheld Exculpatory Brady evidence while Respondent lost his career, house, and reputation. Meanwhile they were being rewarded for unlawful prosecution. Ironic.

Once the missing ledgers are produced, they will serve as **linchpin evidence** for DOJ, OIG, IRS, and the Utah State Auditor — demonstrating the direct linkage between unconstitutional prosecutions and federal grant drawdowns. These records will not only quantify the misuse of VOCA and related funds, but also establish the financial incentives that sustained duplicative prosecutions long after jurisdiction had lapsed.

Why This Matters

The Court's inaction has not been neutral; it has been destructive. Respondent has been forced for nearly **nine years and through 29 hearings** to make repetitive filings merely to preserve his **constitutional rights to due process and access to the courts.** Yet despite these efforts:

- **Not one WebEx video hearing** has ever been provided;
- **No certified transcripts** have been ordered or preserved;
- The Court has relied instead on **amended status notes and minutes** that lack context and generate downstream incongruities.

This pattern is not a minor clerical problem. It is a systemic failure that has denied Respondent any meaningful review of his cases and compelled duplicative prosecutions.

Judge Lunnen's Conduct

When Respondent was mandated to appear (post dismissal with prejudice) at "Status Hearing" on May 1, 2025 and reminded Judge Lunnen of the Oral contract made and that the memorialized order had not been signed by the Judge per the **September 20, 2024 stipulations**, Judge Lunnen **reversed his own oral contract, denied it ever existed, had Respondent three times, and retaliated by floating the prospect of a Rule 83 "vexatious litigant" motion** — branding lawful preservation efforts as abusive litigation.

- Judge Lunnen repeatedly **ignored preservation filings** after it became clear the prosecution was barred by double jeopardy.

- He allowed filings to **age for months or years without ruling**, creating a procedural black hole.

- In doing so, he failed in his obligations:

1. **Administrative Duty** – to preserve an accurate and certified record.
2. **Contract Law Duty** – to honor the September 20, 2024 oral contract.
3. **Injunctive Relief Duty** – to preserve WebEx recordings and transcripts when lawfully requested.

4. **Reporting Duty** – to acknowledge double jeopardy and misuse of federal VOCA funds.

Conclusion

Such conduct is not **neutral error**. It is deliberate **avoidance, retaliation, and cover-up** — all with direct consequences for the integrity of federal funding. The refusal to preserve accurate records has wasted Respondent's time, deprived him of due process, and perpetuated unconstitutional prosecutions subsidized by federal VOCA grants

XV. CONCLUSION & RELIEF REQUESTED

This matter is no longer about Respondent's filings. It is about whether the Court will fulfill its non-discretionary duty to certify, correct, and preserve its own records, or whether outside federal authorities must intervene. The Motion to Designate Respondent a Vexatious Litigant is not only jurisdictionally void but also an inversion of responsibility — branding preservation requests as abusive while concealing record defects, Brady violations, and misuse of federal funding.

Relief Requested

WHEREFORE, Respondent respectfully submits that this Court should:

A. Strike the Motion to Declare Respondent a Vexatious Litigant.
The motion rests on contradictory docket entries, missing certifications, and unconstitutional duplicative prosecutions, all of which undermine its validity.

B. Order Immediate Production and Certification of Records.Certified WebEx/Zoom recordings, certified transcripts, clerk indices, full docket entries, unsigned or pending orders, and related metadata from all relevant cases (160400655, 171402280, 191400132, 211401656) must be produced.

C. Correct Clerical and Administrative Errors.
This includes restoration of the September 20, 2024 oral ruling (dismissal with prejudice and

stay of expungement), proper entry of expungement tolling orders, and correction of amended or backdated minutes.

D. Waive Fees for Certified Records.
Respondent is indigent. Access to certified records is constitutionally necessary, not optional. Fees must be waived under GRAMA and due process.

E. Refer the Matter for Federal Audit and VOCA Clawback.
Exhibits D1–D6 document VOCA drawdowns exceeding $500,000 in salaries, wages, and benefits tied to cases now admitted to be unconstitutional. Three years of ledgers remain missing. The amount is therefore conservative and raises questions whether CARES, COVID, VAWA, or STOP grants were also used. Referral must be made to:

- U.S. Department of Justice, Office of Inspector General (OIG) – for VOCA audit and clawback.
- Federal Bureau of Investigation (FBI) – for investigation of Brady suppression, retaliation, and color of law violations.
- Internal Revenue Service (IRS) / TIGTA – for review of grant reporting and misuse of federal funds.
- Utah State Auditor & Legislative Oversight – for state-level accountability.

F. Recognize the Proper "Vexatious Litigants."

The record demonstrates that the vexatious conduct was not by Respondent, but by prosecutors and victim advocates who sustained prosecutions they knew were duplicative and jurisdictionally void. This Court must not perpetuate that inversion of responsibility.

Supporting Authority

- U.S. Const. amends. V & XIV – Due process and double jeopardy protections.
- 42 U.S.C. §§ 1983, 1985, 1986 – Civil remedies for deprivation of rights under color of law.

- 18 U.S.C. §§ 242, 1519, 1513, 666, 1346 – Federal criminal statutes for deprivation of rights, falsification of records, retaliation, and program fraud.

- Utah Code § 63G-2-604 (GRAMA) – Duty to retain and correct public records.

- URCP Rule 60(a) – Clerical errors must be corrected so the record "speaks the truth."

- Chess v. Smith, 617 P.2d 341 (Utah 1980); Draper v. Washington, 372 U.S. 487 (1963) – Denial of an adequate record is denial of due process.

Closing Statement

Judge Lunnen himself acknowledged the applicability of 42 U.S.C. § 1983 claims during the September 20, 2024 hearing, stating on the record that such claims "are better filed in federal court." That acknowledgment, combined with the withheld records, makes it clear: Respondent's preservation efforts are not vexatious — they are the only lawful path to vindicate federally protected rights.

This Court's path is simple: sign the September 24, 2024 order, certify and provide the records to Respond, correct the docket, and refer for independent audit. Anything less perpetuates misconduct, conceals misuse of federal funds, and risks binding a successor judge into the very legacy of dysfunction that federal oversight must now untangle.

Without certified records, this Court risks creating institutional exposure by advancing a Rule 83 proceeding in a case already admitted to be without jurisdiction. On September 14, 2025, Respondent testified before a legislator and afterward spoke with a federal judge. Two questions were posed:

1. *"Are you aware of any case in the United States where a citizen was labeled a vexatious litigant simply for reporting federal fraud and judicial or prosecutorial misconduct in a double jeopardy case?"* The judge was not.

2. *"Are you aware of anyone in U.S. history being trespassed from a courthouse for reporting VOCA funding fraud and prosecutorial violations of civil rights?"* He looked puzzled this could even occur.

This Court now stands at the same crossroads. To proceed without certified records risks placing its own name into the record of unprecedented judicial deprivation. The intent for 6 years has been simple. Obtain Court Certified Records. Unravel the Harm. Figure Out How This Happened. Prevent it From Happening to Anyone Else. Fix What Is Broken. Be Restored.

NOTICE OF FEDERAL REFERRAL

Case No. 211401656

Respondent hereby gives notice that, absent immediate compliance by this Court with its ministerial duties to certify and correct the record, Respondent will refer this matter to appropriate federal oversight authorities for independent investigation and enforcement.

Basis for Referral

1. **Record Deficiencies** – To date, the Court has failed to produce certified WebEx/Zoom recordings, certified transcripts, and accurate docket entries across cases **160400655, 171402280, 191400132, and 211401656**. Contradictory dismissals, amended minutes, and potential backdating render the record unreliable.

2. **Brady Violations & Prosecutorial Misconduct** – Exculpatory evidence was withheld for over 36 months and obtained only through a GRAMA appeal, contrary to **Brady v. Maryland, 373 U.S. 83 (1963)** and ABA Rule 3.8.

3. **Double Jeopardy Prosecutions** – The State has admitted that this case was "an exact duplicate of Case 191400132." Proceeding despite that admission violated the **Double Jeopardy Clause (U.S. Const. amend. V)**.

4. **VOCA Funding Misuse** – Exhibits D1–D6 demonstrate drawdowns exceeding **$500,000** in federal VOCA funds tied to duplicative prosecutions. At least three years of ledgers remain missing. This raises questions of **federal program fraud under 18 U.S.C. § 666 and § 1346**, and requires clawback analysis.

Federal Oversight Authorities

This notice is directed to confirm that Respondent intends referral to:

- **U.S. Department of Justice, Office of Inspector General (OIG)** – audit of VOCA funds, clawback analysis, and prosecutorial conduct review.

- **Federal Bureau of Investigation (FBI)** – investigation of retaliation, obstruction of justice, and record falsification under **18 U.S.C. §§ 1519, 1513, 242**.

- **Internal Revenue Service / TIGTA** – review of VOCA and related funding reports for fraud and misuse.

- **Utah State Auditor & Legislative Oversight** – state-level audit and compliance review under **Utah Code § 63G-2-604 (GRAMA correction duty)**.

Reservation of Rights

Respondent expressly reserves the right to pursue claims under:

- **42 U.S.C. §§ 1983, 1985, 1986** – civil remedies for deprivation of constitutional rights under color of law;

- **Utah constitutional provisions** (Art. I §§ 7, 11, 12, 24; Art. VI §§ 29, 31); and

- Other federal statutes as applicable.

Conclusion

The Court has a simple duty: certify the record, correct the docket, and provide Respondent with the materials already ordered preserved. If the Court fails to act, Respondent will proceed with federal referral to ensure accountability, record correction, and recovery of misused federal funds.

Whistleblower Protection & Anti - Retaliation Protection Requests

Respondent invokes the protection of both state and federal **whistleblower statutes** as his filings and reports have consistently sought to expose judicial misconduct, prosecutorial impropriety, and misuse of federal VOCA/VAWA funds.

On **August 12, 2024**, Respondent filed a **Motion and Proposed Order** expressly preserving the record and requesting referral of misconduct for outside review. At that time, Respondent foresaw the likelihood of retaliation for reporting misconduct to appropriate authorities, including the Utah Judicial Conduct Commission, the Utah State Bar, and federal oversight agencies.

The subsequent actions taken by the Court and its officers — including issuance of a retaliatory **Rule 83 "vexatious litigant" motion** and a **false trespass notice** — confirm those fears and demonstrate that retaliation has occurred.

Such retaliation is unlawful under:

- **18 U.S.C. § 1513(e):** Prohibits retaliating against a person for providing to a law enforcement officer any truthful information relating to the commission or possible commission of a federal offense.

- **42 U.S.C. § 1983:** Provides a civil cause of action for deprivation of rights under color of law, including retaliation for petitioning government for redress.

- **Utah Protection of Public Employees Act (Utah Code Ann. § 67-21-3):** Prohibits adverse action against individuals who, in good faith, report waste of public funds, gross mismanagement, or abuse of authority.

Respondent's filings, beginning no later than August 12, 2024, were protected disclosures.

Any punitive response — whether by trespass notices, vexatious designations, or suppression of certified records — is not only unconstitutional but constitutes unlawful retaliation against a whistleblower

The following (5 PAGES) are recent vexatious efforts—trespass notice and vexatious litigant motion—filed by parties with no standing, plainly aimed to preclude Respondent from disclosing federal misconduct

f the Court persists in allowing motions initiated without standing, refuses to certify and preserve the record, and thereby acts in clear absence of all jurisdiction, Judicial Immunity will no longer shield those acts—such conduct falls outside its scope. *Stump v. Sparkman*, 435 U.S. 349 (1978) (judicial immunity does not protect a judge who acts in "clear absence of all jurisdiction"); *Harvard L. Rev.*

("Judicial immunity shields judicial acts unless undertaken in clear absence of all jurisdiction"). Ha

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH

THE STATE OF UTAH, Petitioner, vs. **MARK STEWART ALLEN,** Defendant.	**RULE 83 MOTION IN SUPPORT OF VEXATIOUS LITIGANT FINDING** Case No: 211401656 Honorable Tony F. Graf

On September 20, 2024, this Court ordered this case dismissed with prejudice. A minute entry docketed on that date reflects this Court's order. After that minute entry and order to dismiss with prejudice, the Defendant, Mr. Allen, filed no less than 10 motions for various claims and requests. On June 19, 2025, this Court entered a "Notice of Lack of Jurisdiction," indicating to Mr. Allen that the Court could not address the various post-dismissal motions because the case had been dismissed and the court had no jurisdiction over these motions. Nonetheless, Mr. Allen ignored the Court's notice and has filed two more motions as of today's date (June 30, 2025). The Court still finds that it lacks jurisdiction to entertain these motions and will not consider Mr. Allen's requests.

Rule 83 of the Utah Rules of Civil Procedure provides that this Court "may find a person to be a 'vexatious litigant' if the person with or without legal representation" does any of the following:

> (C) In any action, the person three or more times does any one or any combination of the following:
> (i) files unmeritorious pleadings or other papers, [or]
> (ii) files pleadings or other papers that contain redundant, immaterial, impertinent or scandalous matter[.]

If the Court finds a person to be a "vexatious litigant," the Court may on its own motion, and after the person has notice and an opportunity to be heard, enter an order placing limits on the person's ability to further litigate in the case. For example, Rule 83 permits the Court to order that the person obtain legal counsel before proceeding in the pending action, obtain legal counsel before filing any future claim for relief, or seek the court's permission before filing any motion in a pending action or filing any new claim for relief in any court. *See* Utah R. Civ. P. 83(b).

Here, the Court finds Mr. Allen is a vexatious litigant under subparagraph (a)(1)(C)(i)—(ii) of the Rule. Mr. Allen has filed more than 15 "unmeritorious" motions that "contain redundant, immaterial, impertinent or scandalous matter," both after the Court had dismissed the case against him and after the Court notified Mr. Allen specifically that the Court had no further jurisdiction to consider his motions. *See* Dckt. Entries Nos. 143, 151, 156, 157, 164, 167, 172, 178, 179, 183, 192, 195, 196, 202, 203, 204, 205, 207, 208, 209, 210, 211, 212, 213, 214, & 215 . Mr. Allen has not succeeded in these motions and all of them contain redundant and immaterial requests for impertinent matters irrelevant to the case and outside of the Court's jurisdiction. As such, the Court intends to enter orders necessary to prevent Mr. Allen's continued inappropriate conduct in this case. However, because the Rule requires notice and an opportunity to be heard, the Court will permit briefing on this issue. Mr. Allen is hereby instructed to file any response by September 22, 2025. The State of Utah may file any response by the same date. If Mr. Allen wishes to file any response, he is reminded to comply with the trespass order issued against him on June 26, 2025, by Chris Palmer, Court Security Director for the Administrative Office of the Courts.

As a final note, while it may appear inconsistent for this Court to summarily rule it has no jurisdiction to entertain Mr. Allen's post-dismissal motions, but then enter its own motion in

support of finding Mr. Allen a vexatious litigant, the Court notes that in *Vashisht-Rota v. Howell Management Services,* 2021 UT App 133, ¶ 14, the Utah Court of Appeals held, "a court retains jurisdiction to consider the collateral matter of a vexatious litigant order even after a voluntary dismissal . . . ." Jurisdiction over this kind of motion, even after dismissal, is necessary to "protect the judicial system from future abuses." *Id.* (citing *Barton v. Utah Transit Auth.*, 872 P.2d 1036, at 1040 n.6 (Utah 1994)). Therefore, for the limited purpose of finding Mr. Allen a vexatious litigant, and establishing the necessary orders to prevent further abusive or inappropriate conduct, this Court maintains jurisdiction over this issue.

Dated September 8, 2025.

Judge Tony R. Graf

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 211401656 by the method and on the date specified.

MYCASE: MARK STEWART ALLEN markstewartallen@gmail.com
EMAIL: CRAIG PETERSON CRAIGPETERSON@AGUTAH.GOV

Date: September 8, 2025 /s/ Shawn Minter

The "Certificate of Notification" purporting to include Craig Peterson as a party in Case No. 211401656 is another example of a motion filed without any legal standing—particularly when the State has already admitted the matter is duplicative. These acts are not mere procedural missteps; if the Court continues to allow such filings without certifying or preserving the record, it is acting *in clear absence of all jurisdiction*, and judicial immunity will not protect those acts. In *Stump v. Sparkman*, 435 U.S. 349, 355-57 (1978), the U.S. Supreme Court held that a judge "will not be deprived of immunity because [he] acted in error, was done maliciously, or was in excess of his authority," *but* is subject to liability when acting in the "clear absence of all jurisdiction."

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

June 26, 2025

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court Administrator

Mark Stewart Allen
1672 W 630 N
Lindon, UT 84042
markstewartallen@gmail.com

Mr. Allen

This letter serves as official notification being served to you, of a trespass order for all Utah District and Juvenile State Courts within the 4th Judicial District of Utah. This includes Wasatch County District and Juvenile Courthouse, 1361 S. Hwy 40, Heber City UT 84032, Utah County, Provo District and Juvenile Courthouse, 137 N Freedom Blvd, Provo UT, 84601, Spanish Fork District and Juvenile Courthouse, 775 West Center, Spanish Fork UT, 84660, American Fork Juvenile Courthouse, 75E, 80 N, American Fork UT, 84003, Juab County, Nephi District and Juvenile Courthouse, 102 E, 200 N, Nephi UT, 84648, and Millard County, Fillmore District and Juvenile Courthouse, 765 S, Hwy 99, Fillmore UT, 84631.

On June 25th, 2025, you created a disturbance within the Provo Courthouse by using an electronic device to record images within a judicial workspace. This is a violation of Utah Rules of Judicial Administration 4-401.02. In addition your behavior was disruptive to staff, patrons and court operations. Therefore, you are now trespassed from all Utah District and Juvenile State Courts within the 4th Judicial District Court of Utah for a period of one year.

The order is as follows: Mark Stewart Allen, DOB January 29th, 1962 is hereby trespassed from all 4th Judicial District and Juvenile District Courts of Utah for the duration of one year beginning June 26th 2025, and continuing until June 27th, 2026 except for the following reasons:

1. Mr. Allen may enter any 4th Judicial District or Juvenile District Court of Utah within 15 minutes of a (calendared) scheduled hearing which requires his presence and must proceed directly to the courtroom of the hearing. Mr. Allen may utilize the public video court terminals for a scheduled virtual hearing of which he is required for attendance. Mr. Allen may not patronize any judicial clerical spaces, or customer service counters and must depart immediately at the conclusion of the hearing.

2. All filings or communications with any member of the Utah State Courts shall only be conducted in accordance with Utah Courts rules for filing and submitted via 3rd party delivery service or filed by a Utah Bar licensed representative. Furthermore, Clerks have been notified that they may refuse any direct calls for the duration of this order. You may contact Bryson King, legal counsel for the Utah State Courts, with questions or for assistance with your case(s).

If you enter upon any of the courthouses indicated in this letter without a calendared hearing or fail to act in a peaceful manner you will be referred to law enforcement for charges of criminal trespass pursuant to Utah Code 76-6-206.

If you have questions, please feel free to contact me, 801-578-3835, chrisp@utcourts.gov

L Chris Palmer
Administrative Office of the Courts
Court Security Director

CC: Bryson King, Associate General Counsel, Administrative Office of the Courts
Mark Urry, 4th District Court Trial Court Executive
Shelly Waite, 4th Juvenile District Court Executive
Utah County Sheriff
Wasatch County Sheriff
Juab County Sheriff
Millard County Sheriff

Accordingly, the Court is on notice that **whistleblower protections have been invoked**. Any further adverse action in response to these protected disclosures will be independently actionable and will strengthen Respondent's claims for federal investigation, oversight, and remedy.

Let it be known that this trespass notification EXHIBIT ABOVE is not simply mistaken—it is materially false, as the video evidence incontrovertibly shows. Let the Security Director for the AOC explain away the materially false trespass notice, and resign and issue a retraction.

https://youtu.be/YwccA1oqPs0 (video of non disruption in a public area, filing papers of prosecutorial misconduct and judicial misconduct. Reference docket 211401656 June 25th and June 26th 2025 filings to identify why the Court and Clerks are so fraught, evidence of premature record spoilage was recorded and added to the docket. 18 ISC 1519

The pattern of vexatious actions, referring to Respondent without standing, prosecuting the wrong person, and then attempting to cover up prosecutorial and judicial misconduct, is intolerable under the Constitution.

The Court must preserve these acts in the historical record, certify and produce all transcripts and recordings, correct every corrupt record, and hold responsible all persons who misused federal VOCA funding, suppressed evidence, or inflicted harm on Respondent, his family, his career, and his reputation.

Liberty and justice are not platitudes to be preached—they are rights to be practiced. If this Court persists in hiding mistakes rather than correcting them—if official acts are allowed to

stand in clear absence of all jurisdiction—judicial immunity will no longer shield those who violate constitutional duty. *Stump v. Sparkman*, 435 U.S. 349, 355-57 (1978) (judicial immunity does *not* protect acts in the clear absence of all jurisdiction)

The motion under Rule 83 was never grounded in fact—it was mis-guided, inverted, and procedurally defective from the start. If the certified docket, transcripts, WebEx/Zoom recordings, and all audio/video history are not preserved now, that omission constitutes obstruction of justice under Utah law.

The record overwhelmingly supports Respondent. The Court must act to preserve the truth, correct every false filing, and hold accountable those who initiated prosecutions without standing and then attempted to hide their mistakes. If not, the cover-up will be worse than the original injustice. This is no mere technicality—it is the last vestige of liberty and due process in this case, and demands that justice be done, not delayed or denied.

In the present record, there is credible evidence of record spoilage, falsification, conspiracy, obstruction, and fraud upon the court. Under federal law, statutes such as **18 U.S.C. § 1519** (destruction, alteration, or falsification of records in a federal investigation) have been held to criminalize the concealment or alteration of material evidence with the intent to impede or obstruct justice—as in *Yates v. United States*, 574 U.S. 528 (2015), where the misuse of records to interfere with an investigation triggered liability. Justia Law

Moreover, Utah's rules of professional conduct under the Code of Judicial Administration (e.g., UCJA Rule 13-4.1) prohibit misrepresentation and failing to disclose material facts when required, especially in contexts implicating fraud or criminal acts. Utah Courts

There is also well-established common law and equitable doctrine recognizing "fraud upon the court," where a proceeding is corrupted by falsehoods, concealments, or by actions so unfair that they violate due process. The case of *Robinson v. Tripco* (2000 UT App 8) lays out the elements of fraud under Utah law, including false representation of present material fact, knowledge or reckless disregard of falsity, intent to induce action, reliance, and damage. Justia Law

The duty to preserve evidence in litigation or reasonably anticipated litigation is similarly well-recognized, including in spoliation doctrine, which demands sanction for destruction or concealment of evidence. Although many jurisdictions treat spoiliation under tort or procedural sanctions, the underlying principle is that justice cannot proceed when crucial records are lost, destroyed, or hidden. Matthiesen, Wickert & Lehrer S.C.+1

Given these authorities, and given the clear material falsity of the trespass notice, the withholding of certified records and WebEx/Zoom/video history, and the distortion of the record, Respondent respectfully requests that the Court issue orders as follows:

1. Certified accurate records of the docket, all filings, and orders, certified by the clerk.

2. Verbatim WebEx/Zoom/video recordings of all hearings and proceedings, preserved and produced in certified form.

3. Full metadata for all docket entries (dates, authorship, audit logs, alterations), to enable an audit of the record for accuracy, correction, and accountability.

Respectfully submitted,

Mark Stewart Allen
Pro Se Respondent

Dated: 9-19-2025

The mission of the Utah Judiciary is:

"To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law."

"Truth will ultimately prevail where there is pains to bring it to light."

George Washington

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9-19-2025