

Mark Allen  
Address: On File

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

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JUDGE GRAF  
Movant of Rule 83

V.

MARK STEWART ALLEN,  
hereafter Respondent

Petition and Proposed Order for Injunctive  
Relief: Administrative Preservation,  
Certification, and Historic Designation of  
Records

*(Cases 160400655, 171402280, 191400132,  
20190395-CA, and 211401656)*

[Response to Rule 83 Motion]

Case No. 211401656

Hon. Tony F. Graf, Movant of Rule 83

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**COMES NOW** Respondent, Mark Stewart Allen, appearing *pro se* and indigent, and respectfully petitions this Court **solely in its ministerial capacity** for injunctive relief: to **preserve, certify, and correct judicial records of historic and federal significance.**

**This Response arises only because of the Court's Rule 83 motion. Respondent does not seek to reopen dismissed matters, but only to enforce non-discretionary duties of record preservation and certification.**

Because Hon. Tony F. Graf initiated Rule 83, he cannot simultaneously serve as movant and adjudicator. His sole remaining role is administrative: to ensure full record preservation, certification, and referral of these proceedings to appropriate federal oversight authorities, including the Office of Inspector General (OIG), the Department of Justice (DOJ), and the Internal Revenue Service (IRS), for analysis and audit of VOCA funding during the 6 year timeframe of when prosecution was known to lack jurisdiction. (*See Prosecutor Kennard email Analysis Jan 14th 2019 -We have no jurisdiction*)

This Petition does **not reopen dismissed matters**. It arises out of necessity following the Rule 83 motion filed against Respondent. It enforces only what the **Constitution, statutes, and administrative rules** already require:

- Preservation of both accurate and inaccurate records;
- Production of certified copies to Respondent, regardless of indigency; Webex video is indispensable for fraud detection. and
- Certified Court Verbatim Transcripts are essential for correction of clerical errors and omissions and auditing.

**Historic preservation is a prerequisite to any vexatious determination, as the preserved record will demonstrate prosecutorial misconduct, withheld Brady evidence, and misuse of federal funds.** Without certified records, no such determination can constitutionally proceed.

These are **administrative and constitutional prerequisites** to any further judicial finding, including any determination of “vexatiousness.” At present, 0/58 certified records have been produced by the Court during Respondent’s prosecutions. To apply Rule 83 without certified records would be not only improper, but fraudulent.

1. **Certification of accurate records;***(Cases 160400655, 171402280, 191400132, 20190395-CA, and 211401656)*
2. **Correction of inaccurate records;** *(Cases 160400655, 171402280, 191400132, 20190395-CA, and 211401656) and*
3. **Historic preservation and designation of records of collective significance.** *(Cases 160400655, 171402280, 191400132, 20190395-CA, and 211401656)*

This Petition is not adversarial and does not reopen dismissed matters.

It arises solely from the Court’s **ministerial and administrative obligations**, which are non-discretionary.

The Court is bound to preserve accurate records, correct inaccuracies, and ensure the historic integrity of the judicial record.

For purposes of historic preservation, Respondent seeks only what the law already requires: that the full record of tethered cases beginning with the **May 2, 2016 ex parte temporary civil stalking injunction (Case No. 160400655)** and the **XChange docket entry of August 4, 2016 (“Case Settled”)** be certified and preserved.

Failure to do so would not be mere error but obstruction of federal oversight, particularly where proceedings drew on **VOCA, VAWA, STOP, and CARES funds** subject to federal audit.

## **Jurisdictional Clarification**

**This Petition arises post-dismissal with prejudice (September 20, 2024).**

**Once dismissal entered, the State of Utah lost standing.**

Any adversarial motion — including Rule 83 — is procedurally void. The Court’s remaining role is **ministerial and administrative only**: to correct, certify, and preserve records.

**Moreover: XChange Docket, Case No. 160400655:**

***“08-04-2016 Cancelled: STALKING INJUNCTION TRIAL scheduled on August 05, 2016 at 09:00 AM with Judge FRED D HOWARD Reason: Case Settled.”***

Every downstream prosecution (160400655 Order to Show Cause Jan. 2019, 171402280, 191400132, appellate 20190395-CA, and 211401656) tethered to this settled matter.

Yet, despite nearly a decade of proceedings,

- **0/29 certified transcripts,**
- **0/29 WebEx recordings, and**
- **0/3 Zoom screenings video recordings** (Utah County Attorney - record creator) have been produced.

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- **61 absent “Certified Records”**

**Instead, prior judges and prosecutors relied on status minutes, amended minutes, and docket fragments that cannot lawfully substitute for certified verbatim records.**

## **HISTORIC SIGNIFICANCE AND FEDERAL INTEREST**

The cases at issue are tethered by jurisdictional errors, withheld Brady material, and federal funding overlays (VOCA, CARES, VAWA, STOP). Historic preservation is required for accuracy of the record, I am not requesting adjudication merely accurate record preservation which may identify Brady evidence was withheld and timespans of withholding for 42 U.S.C.1983 filings:

- 160400655 (ex parte stalking injunction, May 2, 2016; settled August 4, 2016).
- 160400655 (2019 OSC after ex parte stalking injunction, May 2, 2016; settled August 4, 2016).
- 171402280 (dismissed with prejudice, later expunged).
- 191400132 (expunged, but fraud upon the court on August 1, 2019 hearing; Exhibit M).

- 20190395-CA (appeal adjudicated without exculpatory evidence).

## Case No. 211401656

- **Status:** Dismissed with prejudice on September 20, 2024 (double jeopardy).
- **Subsequent Proceedings:** Subject of a Rule 83 motion. Injunctive relief to preserve records was denied by Lunnen for more than a year, spanning multiple lawful and dutiful requests.
- **Violations Identified:** Post-dismissal Color of Law violations and contract law violations, including failure to sign the contracted September 20, 2024 dismissal with prejudice and to toll expungement pending Allen’s motion.
- **Standing:** Only Allen retains standing to petition the Court. The State lost standing on September 20, 2024.
- **Court’s Role:** Limited to administrative duties: correcting and preserving records, and issuing ministerial orders (including audits) to ensure historical accuracy.
- **Problem Identified:** The consistent failure has been the preservation of errors rather than the preservation of accurate certified records.

Preservation of these records is not for Respondent’s benefit alone — but for federal oversight by DOJ, OIG, IRS, and the Utah State Auditor as well as for due process and equal protection under the law.

**The historic preservation and production of certified records is not optional — it is a prerequisite to any lawful consideration of a “vexatious” ruling.**

**Without accurate, certified, and complete records, no court can make findings consistent with the Constitution or with equal protection under the law.**

**The proceedings Respondent requests preserved will show that the true moving parties were prosecutors who withheld exculpatory Brady evidence, drew down federal VOCA funding, and concealed or altered the record until they were caught.**

**For this reason, the preservation of the complete record — including metadata, backdating, post hoc amendments, and docket changes filed years after the fact — is constitutionally required. Only by producing certified records can future auditors determine who acted, when they acted, and under what authority. Anything less is not preservation; it is obstruction.**

To date: 0/29 certified transcripts, 0/29 WebEx hearings, 0/3 Zoom screenings = 61 absent  
“Certified Records”

## ADMINISTRATIVE PRESERVATION REQUIREMENTS

The Court's obligations are **ministerial, not punitive**. Judicial immunity does not apply to failure of ministerial duties or obstruction of federal oversight.

Failure to comply within 14 days shall be deemed obstruction under 18 U.S.C. §1519 and denial of equal protection under U.S. Const. Amend. XIV.

- ☑ **Certified Docket Ledger & Metadata** – Produce certified dockets for all cases above, with metadata/audit trail identifying all edits, deletions, or amendments since May 2, 2016.
- ☑ **Certified WebEx/Zoom Recordings** – Produce and certify all WebEx and Zoom hearings (29 total WebEx, 3 Zoom screenings).
- ☑ **Certified Transcripts** – Produce and certify all verbatim transcripts for the same hearings. (29 total certified court transcripts absent prosecutorial proceedings)
- ☑ **Withdrawn & Visual Exhibits** – Preserve and certify all withdrawn exhibits and materials presented visually in hearings, including the “ghost document” of August 1, 2019.
- ☑ **GRAMA Requests & Appeals** – Order the AOC to produce every GRAMA request and appeal submitted by Respondent, certified, with a status explanation.
- ☑ **Trespass Order Chain of Custody** – Identify and certify who authored, approved, and circulated the trespass order against Respondent.
- ☑ **VOCA/CARES/VAWA/STOP Records** – Order preservation and certification of all grant applications, authorizations, invoices, payroll reimbursements, and disbursements tied to these cases, down to invoice level, including payments to Lorie Hobbs, Bethany Warr, and Katie Fox.
- ☑ **Expungement Tolling** – Confirm that the expungement certificate remains stayed/tolled until Respondent elects otherwise, preserving the record for federal review.
- ☑ **Referral for Oversight** – Direct referral of all preserved materials to DOJ, OIG, IRS, and Utah State Auditor for compliance review.
- ☑ **Case No. 160400655** (May 2, 2016 Ex Parte Temporary Stalking Injunction through August 4, 2016 “Case Settled” entry)

- Certified docket ledger with metadata/audit trail.
- Certified WebEx/Zoom/audio (if any).
- Certified transcripts.
- Withdrawn/omitted exhibits preserved.
- Administrative preservation of clerk amendments, deletions, or backdating.

☑ **Case No. 171402280** (dismissed with prejudice; expunged)

- Certified docket with metadata.
- Certified WebEx/Zoom/audio.
- Certified transcripts.
- Administrative preservation of tethering back to 160400655.
- Reserved for unsealing if VOCA/CARES/VAWA/STOP funding overlays are identified.

☑ **Case No. 191400132** (expunged; August 1, 2019 “ghost document” hearing)

- Certified WebEx video and transcript of Aug. 1, 2019 hearing (Exhibit M).
- Preservation of withdrawn “ghost document.”
- Certified docket metadata from 2019–2022.
- Administrative preservation of all GRAMA appeals tied to this case.

☑ **Appellate Case No. 20190395-CA**

- Certified docket metadata.
- Certified record of filings/adjudication.
- Administrative preservation of docket anomalies (adjudication without exculpatory evidence).

☑ **Case No. 211401656** (dismissed with prejudice, Sept. 20, 2024; Rule 83 motion filed)

- Certified docket ledger and metadata.
- Certified WebEx/Zoom/audio for all hearings.
- Certified transcripts (0/29 produced to date).
- Preservation of Sept. 24, 2024 stipulation as contract record.
- Preservation of Rule 83 authorship chain-of-custody.

☑ **All Cases (Global Requirements)**

- AOC to produce certified copies of **all GRAMA requests and appeals** submitted by Respondent, with explanation of prior inaction.
- Preservation of **VOCA/CARES/VAWA/STOP funding applications, approvals, invoices, reimbursements**, including payments tied to **Lorie Hobbs, Bethany Warr, and Katie Fox**.
- Referral of all certified records to **DOJ, OIG, IRS, and Utah State Auditor**.

## Federal Significance

These prosecutions drew upon **federal VOCA, VAWA, STOP, and CARES funds**.

All invoices, payroll reimbursements, and grant applications tied to these funds are **federally auditable records**.

Failure to preserve the requested requisite records constitutes obstruction under **18 U.S.C. §§ 1519 and 18 U.S.C. §§ 242** and creates liability under **42 U.S.C. § 1983**.

**Right to Complete Record:** *Griffin v. Illinois*, 351 U.S. 12 (1956) (due process requires access to full record).

- **Right to Transcript Regardless of Indigency:** *Mayer v. Chicago*, 404 U.S. 189 (1971).
- **Judge Cannot Be Movant and Adjudicator:** *In re Murchison*, 349 U.S. 133 (1955).
- **Fraud Upon the Court:** *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944).
- **Disclosure of Exculpatory Evidence Required:** *Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972).
- **Civil Rights Remedy:** 42 U.S.C. § 1983 – Civil action for deprivation of constitutional rights under color of law.
- **Federal Criminal Statutes:** 18 U.S.C. § 242 (color of law violations); § 666 (misuse of federal funds); § 1519 (destruction or falsification of records).
- **Utah Constitutional Guarantees:** Utah Const. Art. I, § 7 (due process); § 11 (open courts, timely remedy); § 24 (uniform operation of laws).

- **Judicial Record Obligations:** Utah Code § 78A-2-208 (all proceedings must be recorded verbatim); UCJA 4-201, 4-202.02 (clerks must preserve and certify records).
  - **GRAMA Obligations:** Utah Code §§ 63G-2-201(1), 63G-2-203(4)(a), 63G-2-604 – requires production of records, fee waivers for indigent requesters, and designation of historically significant records for permanent preservation.
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## INDIGENCY AND PRIOR PRESERVATION ORDERS

Respondent proceeds **indigent** and is constitutionally entitled to certified records without cost. See *Mayer v. Chicago* and GRAMA § 63G-2-203(4)(a). Despite repeated requests, **0/58 certified records** have been produced.

- **Judge Denise Porter** previously unsealed portions of **171402280** and **191400132** and provided Respondent **certified paper copies of audio recordings and docket materials**. This precedent demonstrates the Court’s recognition of the preservation obligation.
  - What has never been produced are the **WebEx/Zoom video recordings** — the true verbatim record. Unlike audio or transcript alone, **video is indispensable** where fraud upon the court occurred visually. For example, on **August 1, 2019**, in Case 191400132, a “ghost document” was physically displayed in open court, misrepresented under oath as a protective order, and then withdrawn from the record. Audio or transcript alone cannot capture this fraud; only certified video can.
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## FEDERAL OVERSIGHT & RECORD PRESERVATION

These Exhibits are filed not solely for the benefit of the presiding Judge, but also for independent review by the United States Department of Justice (DOJ), the Office of Inspector General (OIG), and other federal oversight authorities. Respondent should not have had to request certified records more than once, nor be forced into a GRAMA appeal process to obtain what the Court is already obligated by law to provide.

The record reflects that repeated requests have been met with omission, delay, or denial. Accordingly, this filing is as much a matter of federal record preservation as it is for immediate judicial action.

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## ADMINISTRATIVE VS. PUNITIVE AUTHORITY

By filing a Rule 83 motion after dismissal with prejudice, this Court has implicitly asserted administrative jurisdiction rather than adversarial jurisdiction.

Administrative jurisdiction is bounded by non-discretionary guardrails:

- Certifying accurate dockets (*URCP 52(d), 60(a)*)
- Preserving and producing certified records (*UCJA 4-201, 4-202.02; Utah Code § 78A-2-208*)
- Enforcing stipulations as contracts (*U.S. Const. Art. I, § 10; United States v. ITT Continental Baking Co.*, 420 U.S. 223 (1975))
- Providing record access with indigent protections (*GRAMA §§ 63G-2-201(1), 63G-2-203(4)(a)*)
- Ensuring open courts, due process, and equal protection (*Utah Const. Art. I, §§ 7, 11, 24*)

Punitive or discretionary applications of Rule 83 — such as branding filings “vexatious” — are outside the Court’s lane post-dismissal and void without jurisdiction.

As controlling authority makes clear (*Tripati v. Beaman*, 878 F.2d 351 (10th Cir. 1989); *DeLong v. Hennessey*, 912 F.2d 1144 (9th Cir. 1990); *Vashisht-Rota v. Howell Mgmt.*, 2021 UT App 133),

Rule 83 restrictions require:

1. Notice and opportunity to be heard
2. Clear and convincing evidence of abusive filings and supporting arguments
3. Entry-by-entry findings with identifying information ie: Title: Date of File
4. Narrow tailoring

This case has none of those elements — and cannot, because two related cases have already been expunged for good cause and this one remains unresolved only because certified records have not been provided.

#### NOTICE REGARDING STANDING & AUTOMATIC PETITION TO STRIKE

The State of Utah, having lost standing upon dismissal with prejudice on September 20, 2024, is not a proper party to this proceeding. Any response, filing, or participation by the State:

1. Shall be deemed void ab initio and outside the jurisdiction of this Court.
2. Shall be automatically treated as a Petition to Strike and for Sanctions, requiring the Court to issue findings as to why a non-party filing was permitted.
3. Shall constitute prima facie evidence of further violation under color of law and may be referred for federal review under 42 U.S.C. § 1983 and 18 U.S.C. § 242.

4. May subject participating attorneys to sanctions under Utah R. Civ. P. 11, Utah Code of Judicial Conduct Rule 3.8, and referral to the Utah State Bar for ethical violations

#### **AUTOMATIC PETITION TO STRIKE – Rationale:**

To prevent unnecessary filings and avoid any allegation of “vexatious” conduct, Respondent has built this safeguard directly into the administrative framework.

If the Court or the State act outside the non-discretionary guardrails — by permitting or submitting filings after dismissal with prejudice — such action shall automatically be treated as a Petition to Strike and for Sanctions.

This mechanism helps to ensure:

1. No additional filings are likely required from Respondent to protect his constitutional rights, yet reserved as needed.
2. The Respondent is not burdened to produce additional petitions / motions, because the consequence is self-executing.
3. Judicial economy is preserved, for both parties while unlawful conduct is deterred.

Nothing in this safeguard waives or limits Respondent’s right to file additional motions, petitions, or federal claims if the Court or the State continue to deny his constitutional guarantees.

#### **CONSTITUTIONAL RIGHTS CHECKLIST – NON-DISCRETIONARY**

- Right to a complete and accurate record (*Griffin v. Illinois*, 351 U.S. 12 (1956); URCP 52(d), 60(a); UCJA 4-201, 4-202.02)
- Right to certified transcripts and recordings regardless of indigency (*Mayer v. Chicago*, 404 U.S. 189 (1971); Utah Code § 78A-2-208; GRAMA §§ 63G-2-201(1), -203(4)(a))
- Right to confront accusers (U.S. Const. Amend. VI; *Pointer v. Texas*, 380 U.S. 400 (1965))
- Right to inspect exculpatory evidence (*Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972)) I am not requesting adjudication merely accurate record preservation which may identify Brady evidence was withheld and timespans of withholding for 42 U.S.C.1983 accurate filings.
- Right to petition for redress without retaliation (U.S. Const. Amend. I; *Bill Johnson’s Restaurants v. NLRB*, 461 U.S. 731 (1983))

- ☑ Right of indigent access to judicial process (*Boddie v. Connecticut*, 401 U.S. 371 (1971); *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996))
- ☑ Right to equal protection and uniform operation of laws (U.S. Const. Amend. XIV; Utah Const. Art. I, §§ 11, 24)
- ☑ Right to open courts and timely remedy (Utah Const. Art. I, § 11)

## CONSTITUTIONAL AND STATUTORY AUTHORITIES

- *Griffin v. Illinois*, 351 U.S. 12 (1956) – Right to a complete record as a matter of due process and equal protection.
- *Mayer v. Chicago*, 404 U.S. 189 (1971) – Right to transcripts and records regardless of indigency.
- *In re Murchison*, 349 U.S. 133 (1955) – A judge may not act as movant and adjudicator in the same matter.
- *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944) – Fraud upon the court requires correction to protect the integrity of the judiciary.
- *Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972) – Prosecution must disclose exculpatory evidence; suppression violates due process.
- 28 U.S.C. § 753(b) – Federal law requiring verbatim recording and certification of all court proceedings; persuasive authority establishing the constitutional floor for record completeness.
- 42 U.S.C. § 1983 – Civil remedy for deprivation of constitutional rights under color of law.
- 42 U.S.C. § 12203 – Prohibits retaliation, coercion, intimidation, or interference with individuals asserting rights under the ADA. Physical exclusion from courts and obstruction of electronic filing constitute interference and retaliation.
- 18 U.S.C. §§ 242, 666, 1519 – Federal criminal statutes addressing color of law violations, misuse of federal funds, and falsification or destruction of records.
- Utah Const. Art. I, §§ 7, 11, 24 – Guarantees of due process, open courts, uniform operation of laws, and timely remedy.
- Utah Code § 78A-2-208; UCJA 4-201, 4-202.02 – Utah’s statutory and administrative rules requiring verbatim recording, preservation, and certification of judicial proceedings.
- Utah GRAMA §§ 63G-2-201, 63G-2-203(4)(a), 63G-2-604 – Requires production of records, indigency-based fee waivers, and permanent preservation of historically significant records.

## ADMINISTRATIVE OBLIGATIONS

The Court, acting in its administrative capacity, hereby ORDERS within 14 days that the following duties be certified and performed.

Each obligation shall be directed to the lawful record custodian or third-party record holder responsible for compliance. Judicial immunity does not apply to ministerial/administrative acts, contract enforcement, or color of law violations.

☑ Certified Docket Ledger – Order the Clerk of Court or designated custodian to produce certified docket ledgers with metadata/audit trail specifying the controlling dismissal entry/date/name of filing(s), certifying no backdating, alteration, or deletion. *Cases 160400655, 171402280, 191400132, 20190395-CA, and 211401656. Authority: URCP 52(d), 60(a); UCJA 4-201, 4-202.02; Utah Const. Art. I, § 11.*

☑ Specificity of Alleged “Vexatious” Filings – Require the party or court officer asserting vexatiousness (unless stricken) to identify each challenged filing by docket number, date, and title, with explanation and authority unless the Motion for the Rule 83 is vacated. *Authority: URCP 83; Tripati v. Beaman; DeLong v. Hennessey; Utah Const. Art. I, §§ 7, 11, 24.*

☑ Contract Obligation – September 20, 2024 Stipulated Agreement – Order the Clerk or administrative successor to enforce the stipulation requiring signature and entry of the dismissal order **September 24th 2024, or November 12th 2024**. *Authority: U.S. Const. Art. I, § 10; ITT Continental Baking Co., 420 U.S. 223 (1975).*

☑ Certified WebEx/Zoom Recordings – Order the Judicial Council/AOC or other custodian to produce certified WebEx video recordings for Case Nos. 171402280, 191400132, and 211401656 and Utah County to produce Zoom Screenings for case 191400132 (2 recordings) and 211401656 (1 or more recordings). Failure to provide may be subject to \$500/day civil penalties under GRAMA § 63G-2-403(15)(c). *Authority: Utah Code § 78A-2-208; UCJA 4-201, 4-202.02; GRAMA §§ 63G-2-201(1), 403(15)(c).*

☑ Certified Transcripts – Order the Clerk, AOC, or court contracted court reporter to produce certified verbatim transcripts for all hearings in Case Nos. 171402280, 191400132, and 211401656. Failure to provide shall be subject to \$500/day civil penalties under GRAMA § 63G-2-403(15)(c). *Authority: Griffin v. Illinois, 351 U.S. 12 (1956); Mayer v. Chicago, 404 U.S. 189 (1971); Utah Code § 78A-2-208.*

### ☑ **Administrative Obligations – Trespass Order Identification and Vacatur**

As part of the Court’s ministerial and administrative obligations, the Administrative Office of the Courts Security Office, or any originating official, shall certify in writing the identity of all persons who initiated, approved, and circulated the trespass order issued against Respondent. Said certification shall include chain-of-custody documentation and a list of all downstream recipients of the order. *Authority: Utah Const. Art. I, § 7; UCJA 4-201.*

Further, because the State has lost standing, and only administrative functions remain, the trespass order issued against Respondent is deemed improper and is hereby VACATED as a matter of administrative record correction. The Administrative Office of the Courts shall:

1. Retract all circulation of said order;
2. Remove the order from all security and access systems; and
3. Provide Respondent with written confirmation of its rescission.

**VOCA Funding Certifications** – Order production of VOCA funding records for Case Nos. 171402280, 191400132, and 211401656 from the record custodian or third-party record holder (Utah County Attorney, UOVC, CCJJ, or other entity). Records must identify drawdowns, payroll reimbursements, approving officials, and reimbursement dates. *Authority: 18 U.S.C. §§ 666, 1519; GRAMA § 63G-2-201(1); Utah Const. Art. I, § 24.*

**Referral Obligation** – Order the responsible agency or official to certify referral to DOJ, OIG, and IRS for audit and review if irregularities are identified. *Authority: Utah Const. Art. I, §§ 7 & 11; 42 U.S.C. § 1983; 18 U.S.C. § 242.*

**Certified Dockets & Metadata**

All docket entries from May 2, 2016 forward (Case Nos. 160400655, 171402280, 191400132, 20190395-CA, 211401656) shall be preserved and certified, with metadata showing dates, authors, amendments, deletions, or omissions.

**Certified Transcripts**

All verbatim transcripts shall be produced and certified. Indigency protections apply; fees are waived. *Authority: Griffin v. Illinois, 351 U.S. 12 (1956); Mayer v. Chicago, 404 U.S. 189 (1971).*

**Certified WebEx/Zoom Recordings**

All WebEx and Zoom hearing videos shall be preserved, certified, and produced. This includes withdrawn or visually-presented exhibits (e.g., Aug. 1, 2019 “ghost document” hearing).

**Withdrawn Exhibits**

Any exhibits shown in open court but withdrawn or omitted from the docket shall be certified and preserved.

**GRAMA Requests and Appeals**

The Administrative Office of the Courts shall produce certified copies of all GRAMA requests and appeals submitted by Respondent, with a status report explaining past inaction.

**VOCA, VAWA, STOP, CARES Grant Applications**

All grant applications tied to these cases shall be preserved and certified, including approvals, drawdowns, and reimbursements.

### ☑ **Invoices and Payroll Certifications**

All invoices and payroll reimbursements tied to VOCA/VAWA/STOP/CARES funds shall be preserved and certified, including those tied to **Lorie Hobbs, Bethany Warr, and Katie Fox**.

### ☑ **Referral for Oversight**

Certified copies of all preserved materials shall be made available for independent review by the Utah Legislative Auditor, DOJ, OIG, and IRS.

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## Final Directive

This Court is not asked to reopen litigation or exercise punitive discretion. It is asked to fulfill its administrative duty to certify, preserve, and produce records of historic and federal significance.

Failure to do so will be construed as obstruction of federal oversight and will provide additional grounds for Respondent's pending 42 U.S.C. § 1983 action.

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## JURISDICTIONAL CLARIFICATION

This matter arises post-dismissal with prejudice (September 20, 2024). Once dismissal with prejudice entered, the State of Utah lost standing. No prosecutorial or State filings may be entertained thereafter.

- *United States v. L.A. Tucker Truck Lines, Inc.*, 344 U.S. 33, 38 (1952) – Courts cannot act where jurisdiction is absent.
- *Ex parte Lange*, 85 U.S. 163 (1874) – Once judgment is final, a court cannot extend jurisdiction.
- *Gregory v. Shurtleff*, 2013 UT 18, 299 P.3d 1098 – Standing doctrine in Utah requires a live legal interest; public importance cannot substitute for jurisdiction.

Accordingly, any “motion” filed post-dismissal by any entity lacking standing- including Rule 83, is procedurally void.

## LITMUS TEST FOR ANY COURT

## POST-ORDER ADMINISTRATIVE RECUSAL & REFERRAL

Upon completion of the above administrative record-preservation duties, this Court should disqualify itself from further involvement under URCP Rule 63 and Canon 3E of the Utah Code of Judicial Conduct, given the appearance of conflict and the origins of the Rule 83 motion.

Thereafter, the matter of record integrity, funding compliance, and judicial omissions may be properly referred to independent oversight, including the Office of Inspector General (OIG), the United States Department of Justice (DOJ), the Internal Revenue Service (IRS), and the Utah Judicial Conduct Commission (JCC), to ensure impartial investigation and accountability outside the Fourth District Court.

Respectfully,

s/Mark Stewart Allen  
Pro Se Litigant

Mark Allen  
Address: On File

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

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JUDGE GRAF  
Movant

V.

MARK STEWART ALLEN,  
hereafter Respondent

**[PROPOSED] Order for Injunctive Relief:  
Administrative Preservation, Certification, and  
Historic Designation of Records**

*(Cases 160400655, 171402280, 191400132,  
20190395-CA, and 211401656)*

Case No. 211401656  
Judge: Graf

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Accordingly, IT IS HEREBY ORDERED that the following duties shall be carried out, with certified copies provided to Respondent and preserved for federal oversight. (Check all that apply with administrative obligation)

Accordingly, IT IS HEREBY ORDERED that:

1.  The Court shall select and sign one of the **previously submitted dismissal orders** consistent with the September 20, 2024 stipulation:
2.  Records in Case Nos. 160400655, 171402280, 191400132, 20190395-CA, and 211401656 are preserved and certified, including accurate and inaccurate records, withdrawn exhibits, amendments, and metadata.
3.  The AOC shall produce all GRAMA requests and appeals submitted by Respondent, as certified records, with explanation of prior inaction.
4.  All WebEx and Zoom hearings and transcripts are to be produced in certified form.

5.  All VOCA, CARES, VAWA, STOP, or other grant records tied to these prosecutions shall be produced down to the invoice level.
6.  Expungement is tolled until Respondent elects otherwise, to preserve evidence for federal oversight.
7.  Referral of all records preserved herein shall be made to the DOJ, OIG, IRS, and Utah State Auditor.
8. The Court shall select and sign one of the **previously submitted dismissal orders** consistent with the September 20, 2024 stipulation. Failure to act on the stipulated dismissal within a reasonable time violates the Court’s ministerial obligation to enforce contracts and stipulations of the parties. Authority: U.S. Const. Art. I, § 10 (Contract Clause); *United States v. ITT Continental Baking Co.*, 420 U.S. 223 (1975); URCP 60(a).
  - **Option A:** September 24, 2024 Proposed Order
  - **Option B:** November 12, 2024 Order

**9.  All Certified Transcripts**

All certified court transcripts for Case No. 211401656, and all related hearings (including WebEx/Zoom hearings), shall be produced to Respondent. All fees are waived due to Respondent’s indigency and constitutional necessity of access. Authority: URCP 52(d), URCP 60(a); Utah Code § 63G-2-604; *Chess v. Smith*, 617 P.2d 341 (Utah 1980); *Draper v. Washington*, 372 U.S. 487 (1963).

**10.  All Certified WebEx/Zoom Recordings**

All WebEx hearings and /Zoom screening recordings, shall be ordered preserved and produced in certified form. Necessary subpoenas for Administrative Preservation Shall Issue (Utah County Attorney, Utah Attorney General and Zoom Inc docket entries 04-28-2025) . Authority: Utah Const. art. I, §§ 7 & 11; UCJA 4-202; 18 U.S.C. § 1519.

**11.  Clerk’s Index and Docket Corrections**

The complete clerk’s index and docket entries shall be corrected then certified. Clerical errors and omissions, including contradictory dismissals “with prejudice” and “without prejudice,” shall be corrected so that the record speaks the truth. Authority: URCP 60(a); *Hill v. Hawes*, 320 U.S. 520 (1944); *State v. Winward*, 941 P.2d 627 (Utah Ct. App. 1997).

**12.  Metadata Audit**

A metadata audit of docket entries from August 4, 2016 forward shall be conducted to identify any alterations, backdating, or deletions, with anomalies reported. Authority: Utah Code § 63G-2-604; 18 U.S.C. §§ 1519, 242.

### 13. □ Expungement Tolling

The expungement certificate remains stayed/tolled per the September 20, 2024 oral ruling until Respondent's motion to proceed. This ensures records are preserved for federal review.

Authority: Oral ruling of Sept. 20, 2024; URCP 60(a).

### 14. □ Referral for Oversight

This matter, limited to recordkeeping, shall be referred to the Utah State Auditor, DOJ/OIG, FBI, and IRS for audit of VOCA and related federal funds to determine whether federal resources were misused during duplicative prosecutions. Authority: 42 U.S.C. § 1983; 18 U.S.C. §§ 242, 666, 1519; 34 U.S.C. § 20110.

Having acknowledged the above non-discretionary rights, this Court must now choose one of two outcomes.

1. The Court must now either (a) comply with its ministerial duties and preserve the record,
2. or (b) deny certified records to an indigent litigant—thereby committing a constitutional violation under §1983 and exposing itself to federal sanction.”

## ADMINISTRATIVE OBLIGATION and Constitutional Accountability

### ADMINISTRATIVE OBLIGATION AND CONSTITUTIONAL ACCOUNTABILITY

This Petition does not call upon Judge Graf to adjudicate past misconduct, reopen dismissed matters, or resolve disputed facts.

It calls upon him to do what no prior judge has done: fulfill the judiciary's ministerial duty — to preserve, certify, and correct the record.

The Constitution, federal law, and Utah statutes require these obligations. They are not discretionary. They are prerequisites to due process, equal protection, and the preservation of records of historic and federal significance.

Judge Graf is uniquely positioned to be the solution to a chain of UPSTREAM cumulative errors.

Each upstream failure — from missing certified transcripts and WebEx/Zoom hearings, to withheld Brady evidence and docket alterations — has left Respondent without due process of access to the courts. **The remedy is not to litigate those failures here, but to ensure they are preserved for federal and independent review.**

**By ordering preservation of all records, metadata, and funding documents, and by referring them to appropriate oversight authorities (DOJ, OIG, IRS, JCC), Judge Graf fulfills the Constitution’s guarantees of due process, equal protection, and open courts.**

**By recusing thereafter, he preserves judicial impartiality.**

**Thus, the Court’s choice is not adversarial. It is binary and administrative:**

**(a) LAWFUL OUTCOME – Uphold Constitutional Rights**

The Court ORDERS corrected and certified records to be produced and released, affirming constitutional protections and due process for an indigent litigant.

Authority: Griffin v. Illinois; Mayer v. Chicago; Boddie v. Connecticut; M.L.B. v. S.L.J.; Utah Code § 78A-2-208; GRAMA §§ 63G-2-201(1), -203(4)(a); Utah Const. Art. I, §§ 7, 11, 24.

**(b) UNLAWFUL OUTCOME – Deny Constitutional Rights**

The Court DENIES corrected and certified records, thereby denying constitutional protections and due process to an indigent litigant. Denial constitutes a violation under 42 U.S.C. § 1983; 18 U.S.C. § 242; Utah Const. Art. I, § 7. Judicial immunity does not protect willful violations under color of law.

**Post-Order Recusal**

16.  Upon completion of these ministerial duties, this Court shall **recuse itself** under URCP Rule 63 and Canon 3E of the Utah Code of Judicial Conduct, given the appearance of conflict arising from the Court’s role as movant on Rule 83.

SO ORDERED this \_\_\_ day of \_\_\_\_\_, 2025.

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Honorable Judge Tony F. Graf  
Fourth Judicial District, State of Utah

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9-19-2025