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*Attorneys for Respondents Utah Department of  
Environmental Quality and Division of  
Drinking Water*

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

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Steven J. Onysko,

Petitioner,

v.

Patricia Smith-Mansfield, Chair, Utah State  
Records Committee; Utah State Records  
Committee; Utah Department of  
Environmental Quality; Utah Division of  
Drinking Water Marie E. Owens; and Ying-  
Ying Macauley, Interim Director, Division of  
Drinking Water.

Respondents.

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**UTAH DEPARTMENT OF  
ENVIRONMENTAL QUALITY'S  
OPPOSITION TO MR. TRACY'S UTAH  
R. CIV. P. 20 MOTION FOR  
PERMISSIVE JOINDER**

Civil No. 200907218

Judge: Adam Mow

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Respondents Utah Department of Environmental Quality (“DEQ”) and the Utah Division  
of Drinking Water (the “Division”) by and through counsel of record the Utah Attorney General’s

Office, pursuant to Utah R. Civ. P. 20 files this Opposition to Mr. Tracy's Motion for Leave to Join Third-Party as Co-Petitioner.

**CONCISE STATEMENT OF RELIEF REQUESTED AND  
GROUNDS FOR RELIEF REQUESTED**

**INTRODUCTION**

This is a *de novo* judicial review<sup>1</sup> brought pursuant to Utah Code Ann. § 63G-2-203 (6)(a) and Utah Code Ann. § 63G-2-404 (1)(a) as to the denial of fee waiver made with Petitioner's Government Records Access and Management Act ("GRAMA") request for information from the Utah Division of Drinking Water ("the Division"). The Division initially granted the fee waiver in part and denied in part. Petitioner appealed the denial of the fee waiver to DEQ and the Utah State Records Committee, who both affirmed the denial.

Petitioner requested to view all documents pertaining to water test results for the Emigration Improvement District ("EID") water system including all correspondence and Email. The Division provided Petitioner some of the requested documentation that it could easily locate free of charge. Petitioner's request would require an extensive search of the Division's electronic files. This would entail much time and expense and, as allowed by GRAMA, the Division asked Petitioner to pay for these costs. Petitioner was the only requesting party and was the only party at subsequent appeals. *The Division never rendered a decision precluding production of the requested material.* Petitioner appealed the denial of the fee waiver, eventually up to this Court.

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<sup>1</sup> See *Pledger v. Cox*, 626 P.2d 415, 416 (Utah 1981) (quoting *D. & R. G. W. R. Co. v. Public Service Comm'n*, 98 Utah 431, 436, 100 P.2d 552 (1940)). This matter is a *de novo* review of the record made before in the lower tribunal.

The Court granted DEQ's Motion to Dismiss dismissed two former Division Directors from this matter and has definitively ruled as to what law applies to the fee waiver decision. *See* Dkt. No. 58. Only one day after this decision, Mark Christopher Tracy d/b/a Emigration Canyon Home Owners Association (jointly "Mr. Tracy") filed a motion asking the Court to allow him to join this matter as a Co-Petitioner. Mr. Tracy was not a party in the GRAMA request or the subsequent appeals of the fee waiver. Despite this, Mr. Tracy believes that because he, too, has a general interest in EID water issues and because he believes that this matter involves the common legal issue of "whether defendant's [sic] conduct violates state law", that permissive joinder under Utah R. Civ. P. 20 is appropriate.

DEQ files this Opposition because Mr. Tracy is a stranger to this matter. This is a judicial review of a GRAMA fee waiver denial. Mr. Tracy is not the requesting party and has no interest in the matter. There is no common legal issue between Mr. Tracy's matter and this one. The joinder does not further judicial efficiency nor expedite resolution of this dispute. Mr. Tracy's attempt to characterize this matter in the broadest terms is so that he can join this matter to litigate his own legal disputes regarding EID because he is barred from pursuing any further litigation in this Court because he has been deemed by Judge Kouris to be a vexatious litigant.

Because Mr. Tracy has no connection to this matter, and because the matter is now well-underway with key issues having been litigated, there is no reason to allow for the permissive joinder of Mr. Tracy and his motion should be denied.

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## LEGAL ARGUMENT

### I. **THERE IS NO BASIS TO ALLOW MR. TRACY TO JOIN THIS MATTER AS HE IS A COMPLETE STRANGER TO THIS MATTER WHO WISHES TO RAISE LEGAL ISSUES COMPLETELY UNRELATED TO THE GRAMA FEE WAIVER.**

Mr. Tracy seeks leave from the Court to join this matter as a Co-Petitioner. However, his interests are remote and unrelated to the GRAMA fee waiver denial request that is the basis of this appeal. The joinder of he and his claims does not further judicial efficiency nor expedite the resolution of this case.

Utah R. Civ. P. 20 (a) provides that “[a]ll persons may join in one action as plaintiffs [...] in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action.” Generally, the decision as to whether to pursue “amplified litigation involving multiple claims and multiple parties, or to opt instead for a narrower suit involving fewer claims and fewer parties” *Krejci v. City of Saratoga Springs*, 2013 UT 74, ¶ 15, 322 P.3d 662, 665. Except when the motion is one to join a necessary party, “our rules leave joinder and intervention up to the discretion of the litigants.” *Id.*

By the rule, however, the Court’s discretion as to who may join an action is limited only to claims “arising out of the same transaction” or occurrence and if there is a common question of law or fact. Utah R. Civ. P. 20 (a); *see also Horton Co. v. Int’l Tel. & Tel. Corp.*, 85 F.R.D. 369, 371 (W.D. Pa. 1980) (explaining permissive joinder per Fed. R. Civ. P. 20). Such permissive joinder is in the Court’s discretion “if, in the eyes of the Court, joinder would expedite justice”, or

specifically, promote trial convenience and expedite the final resolution of disputes. *Horton Co.*, 85 F.R.D. at 371.

There is no basis to allow for Mr. Tracy's permissive joinder in this case. This is an appeal of the denial of a GRAMA fee waiver by the Division. *See* Petition at 19-20 (arguing that the Freedom of Information Act ("FOIA") barred GRAMA fees); *see also* Petition Exh. 18 (Decision from Records Committee). The *only* person requesting the relevant information from the Division was the Petitioner. *See* Petition Exh. 1. Petitioner was the only person who appeared at the previous levels of appeal. *See* Petition Exhs. 1-7, 18. Accordingly, the only issue before this Court is the denial of Petitioner's GRAMA fee waiver and the subsequent review by the State Records Committee

Mr. Tracy overbroadly interprets Utah R. Civ. P. 20 to render the limiting language meaningless. The only "occurrence" or "transaction" giving rise to this judicial review is Petitioner's request to view Division material free of charge. Petition at 9-10. Mr. Tracy believes that the "occurrence" is the "de-facto refusal provide access to governmental records related to lead contamination" of the EID's drinking water system. *See* Mot. for Leave at 2. Mr. Tracy misconstrues this matter to be one denying records. This is incorrect because the Division has yet to classify responsive documents in this matter. To the contrary, the Division provided responsive records that it could readily located *gratis* to Petitioner and made it clear that it would provide more documents pending payment of the costs related to locating and producing every responsive item. *See* Petition Exh. 2 at A-81 (referring to data produced free of charge). Additionally, Mr. Tracy admits in his Motion that he already is in possession of Division records that Petitioner seeks

in this case. *See* Mot. for Leave at 2 (referring to test results that Petitioner sought). The only issue on review is the threshold question as to if the Division could charge Petitioner with the costs of locating and producing items responsive to his broad GRAMA request.

Second, there are no common legal or factual issues between Mr. Tracy's matter and this case. In fact, Mr. Tracy does not specify what matter(s) he believes are shared with this GRAMA fee waiver review and he only uses the broadest of terms to characterize his basis for joinder. Mr. Tracy states that the common issue is "whether defendant's [sic] conduct violates state law." *See* Mot. for Leave at 3. The *only* question in this matter is if the Division's partial denial of Petitioner's GRAMA fee waiver was appropriate, not if the Division "violated state law".

It should be clear to the Court that Mr. Tracy's attempt to characterize this case in the broadest terms is mere pretext to allow him to adjudicate his wholly unrelated issues in this matter rather than filing a separate suit. This matter is a judicial review of an administrative action pertaining to a denial of GRAMA fee waiver; not a case to litigate every issue pertaining to the Division's records. Mr. Tracy's Motion contradicts Rule 20's purpose to promote judicial efficiency and expedite a resolution of the dispute. Perhaps Mr. Tracy's sudden interest in this matter is because his ability to initiate and new lawsuits has been restricted thus leaving him to try to join other suits that are already pending. He filed a similar Motion in Petitioner's *other* GRAMA appeal. *See Exhibit A.*<sup>2</sup> That motion cited verbatim the same reasoning as to why permissive joinder was appropriate—because of an alleged de facto denial of access to records and to

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<sup>2</sup> Judge Kelly has set a June 22, 2021, hearing as to Mr. Tracy's request and the respective objection that has been raised.

determine “whether defendant’s [sic] conduct violates state law.” **Exhibit A** at 3. Both motions, couched in broad and ambiguous language, are because on April 15, 2021, Judge Kouris entered a *Decision and Order Denying Motion to Vacate, Awarding Attorneys Fees, and Finding Petitioner Mark Christopher Tracy to be a Vexatious Litigant and Subject to Rule 83 of the Utah Rules of Civil Procedure* (the “**Judge Kouris Order**”). A copy of the Judge Kouris Order is attached as **Exhibit B**. The Judge Kouris Order required Mr. Tracy to obtain leave of the Presiding Judge prior to filing any future litigation.<sup>3</sup> Rather than doing that, Mr. Tracy instead now seeks to join two unrelated suits because Petitioner’s two GRAMA requests pertained to records related to the EID. Such relationship is attenuated at best.

In sum, because Mr. Tracy was not involved in the occurrence giving rise to this case nor has any shared interest in the legal or factual issues of this matter, permissive joinder under Utah R. Civ. P. 20 is not appropriate.

### **CONCLUSION**

Clearly, allowing Mr. Tracy to intervene in this action to appeal the denial of a separate and distinct GRAMA fee waiver request is not appropriate. Mr. Tracy’s Motion demonstrates that he is a complete stranger to this action and allowing him to join does not further judicial efficiency or promote justice.

Accordingly, the Court should DENY the Motion for Leave to Join Third Party as a Co-Petitioner.

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<sup>3</sup> Judge Kouris filed a Minute Entry in this matter earlier on this day indicating that Mr. Tracy had *not* sought approval before filing this Motion. Dkt. No. 60, attached as **Exhibit C**.

DATED this 10<sup>th</sup> day of June 2021.

SEAN D. REYES  
Utah Attorney General

A handwritten signature in blue ink, appearing to read 'S. Reyes', with a long horizontal stroke extending to the right.

MICHAEL A. STAHLER  
Assistant Utah Attorney General  
*Attorneys for Department of Environmental Quality,  
Division of Drinking Water*



**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> of June 2021, I Emailed and transmitted a true and correct copy of the foregoing to be electronically filed with the clerk of the above court, using the Utah Trial Court/ECF System, which sent notification of such filing to the following:

STEVEN ONYSKO  
2286 Doc Holliday Dr.  
Park City, UT 84060  
Onysko5@burgoyne.com  
Petitioner

PAUL H. TONKS  
4315 S. 2700 W. 3<sup>rd</sup> Floor  
Salt Lake City, UT 84129  
phtonks@agutah.gov  
Counsel for Respondent  
State Records Committee

MARK CHRISTOPHER TRACY  
dba Emigration Canyon Home Owners Association  
1160 E. Buchnell Dr.  
Sandy, Utah 84094  
(929) 208-6010  
m.tracy@echo-association.com  
*Proposed Pro Se Co-Petitioner*

# EXHIBIT A

Mark Christopher Tracy  
dba Emigration Canyon Home Owners Association  
1160 E. Buchnell Dr.  
Sandy, Utah 84094  
Telephone: (929) 208-6010  
Email: [m.tracy@echo-association.com](mailto:m.tracy@echo-association.com)  
*Proposed Pro Se Co-Petitioner*

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**IN THE THIRD DISTRICT COURT  
IN AND FOR THE STATE OF UTAH**

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**STEVE ONYSKO**

Petitioner,

vs.

**PATRICIA SMITH-MANSFIELD (CHAIR),  
and EMIGRATION IMPROVEMENT  
DISTRICT**

Respondents.

**MOTION FOR LEAVE TO JOIN THIRD  
PARTY AS CO-PETITIONER**

**Case No.: 200906661**

**Judge: Keith Kelly**

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Pursuant to Rule 20 of the Utah Rules of Civil Procedure (“URCP”), proposed petitioner Mark Christopher Tracy (“Mr. Tracy”) dba Emigration Canyon Home Owners Association (“The ECHO-Association”) hereby moves to join Petitioner Steve Onysko (“Onysko”) as Co-Petitioner, on the grounds that rights to relief arise out of the same series of transactions or occurrences and common questions of law.

**A. INTRODUCTON AND FACUTAL SUMMARY**

This case centers on the de facto denied request for disclosure of government records regarding lead contamination of public drinking-water system no. 18143 owned by Emigration Improvement District (“EID” aka Emigration Canyon Improvement District aka ECID) and

operated by the Simplifi Company (“Simplifi”) through Emigration Canyon Deputy Mayor Jennifer Hawkes (“Deputy Mayor Hawkes”) and her spouse Eric Hawkes (collectively “Simplifi Respondents”).

In response to a request for access to government records under the Utah Government Records and Management Act (“GRAMA”) filed by Onysko on March 30, 2020, EID through its legal counsel denied access to lead-contamination documents required to maintained on the “premises” of the water system operator for a period of 12 years under Utah Administrative Code R309-105-17(2)(a)-(b) thereby leading to Onysko’s petition for de novo judicial review of the denied request for government records.

A year later, on March 31, 2021, in parallel proceedings, upon a similar request and appeal filed by Mr. Tracy, and in response to the Decision and Order issued by the Utah State Records Committee, EID through Simplifi through Mr. Hawkes produced 5 email communications regarding lead contamination of drinking water and certified that all laboratory test results of lead contamination of water system no. 18143 were posted on the EID website administered by Simplifi.<sup>1</sup>

It appears that the Notice of Certification filed by Mr. Hawkes on behalf of EID is demonstrably false. Rather than commence additional legal action and further tax judicial resources during the COVID-19 pandemic, Mr. Tracy requests joinder in the present litigation.

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<sup>1</sup> See true and correct copy of the Notice of Compliance dated March 30, 2021, attached as Exhibit A. Litigation against Simplifi Respondents also regarding willful refusal to disclose government records of lead-contamination maintained at the private residence of Deputy Mayor Hawkes and Mr. Hawkes is current pending with the Utah Court of Appeals. See *Mark Christopher Tracy dba Emigration Canyon Home Owners Association v. Simplifi Company, Jennifer Hawkes and Eric Hawkes* (UT App) Docket No. 20200295-CA (pending).

## B. GROUNDS FOR REQUESTED RELIEF

Such joinder is appropriate because the claims against the defendants:

- Arise out of the same series of occurrences and transactions – *i.e.*, the de facto refusal to provide access to government documents related to lead contamination of public drinking water system no 18143;
- Require the adjudication of common questions of fact and law – *i.e.*, whether defendant's conduct violates state law.

Finally, because joinder of the proposed Co-Petitioner will not deprive the court of jurisdiction in the pending matter, joinder is warranted under Rule 20 URCP.

## C. CONCLUSION

Based upon the foregoing, Mr. Tracy respectfully requests the Court grant this Motion and join Mr. Tracy with Onysko as co-petitioner, and grant other and further relief as the Court may find just and proper.

DATED this 20th day of April, 2021.

MARK CHRISTOPHER TRACY dba  
EMIGRATION CANYON HOME OWNERS  
ASSOCIATION

/s/ Mark Christopher Tracy  
Mark Christopher Tracy  
*Proposed Pro se Co-Petitioner*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of April, 2021, a true and correct copy of the foregoing **MOTION FOR LEAVE TO JOIN THIRD PARTY AS CO-PETITIONER** was sent via electronic mail to the following counsel of record:

STEVEN ONYSKO  
[onysko5@burgoyne.com](mailto:onysko5@burgoyne.com)  
2286 Doc Holliday Dr. Park City,  
UT 84060  
*Pro Se Petitioner*

Jeremy R. Cook  
[jcook@ck.law](mailto:jcook@ck.law)

– and –

Tim Nielsen  
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*Attorneys for Emigration Improvement District*

PAUL H. TONKS  
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Assistant Attorney General  
SEAN D. REYES  
Attorney General  
4315 S. 2700 W. 3rd Floor  
Salt Lake City, Utah 84129  
*Attorneys for Respondent, Utah State Records Committee*

/s/ Mark Christopher Tracy  
Mark Christopher Tracy

# EXHIBIT A

March 30, 2021

Rebekkah Shaw  
Executive Secretary  
State Records Committee  
346 S. Rio Grande Street  
Salt Lake City, UT 84101-1106  
[rshaw@utah.gov](mailto:rshaw@utah.gov)

**RE: Notice of Compliance**

Dear Ms. Shaw:

In accordance with the Decision and Order In Case No. 21-09, the Records Committee ordered that Emigration Improvement District ("EID") do a more thorough search for records responsive to the following records request from Mr. Tracy submitted to the District on September 18, 2020:

"All email correspondence between EID General Manager Eric Hawkes and/or Deputy Emigration Canyon Mayor Jennifer Hawkes of the Simplifi Company with EID trustees Michael Scott Hughes, David Bradford, Brent Tippetts and Dr. Mark Stevens regarding lead contamination of water system 18143 since January 1, 2013."

The letter confirms that I have conducted a second search of my emails (and my wife's emails although she has no involvement with EID) and I have found additional email correspondence between January 1, 2013 and September 18, 2020 (the date of the request) that are response to the request. I have included copies of the emails with this correspondence. In addition, though not responsive to the request, EID has posted all lead testing results on its webpage at <https://www.ecid.org/projects>.

Please let me know if you have any questions or if the Records Committee requires any additional information.



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Eric Hawkes, EID Records Custodian



# EXHIBIT B

The Order of the Court is stated below:

Dated: April 15, 2021  
02:53:03 PM

/s/ MARK KOURIS  
District Court Judge



Prepared and Submitted by:

Jeremy R. Cook (10325)  
**COHNE KINGHORN, P.C.**  
111 E. Broadway, Suite 1100  
Salt Lake City, UT 84111  
Telephone: (801) 363-4300  
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Attorneys for Eric Hawkes, Jennifer Hawkes and Simplifi Company

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**IN THE THIRD DISTRICT COURT  
IN AND FOR THE STATE OF UTAH**

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MARK CHRISTOPHER TRACY, DBA  
EMIGRATION CANYON HOME OWNERS  
ASSOCIATION,

Petitioner,

vs.

SIMPLIFI COMPANY, a Utah Corporation,  
ERIC HAWKES, an individual, and  
JENNIFER HAWKES, an individual

Respondents.

**DECISION AND ORDER  
DENYING MOTION TO VACATE,  
AWARDING ATTORNEY FEES,  
AND  
FINDING PETITIONER MARK  
CHRISTOPHER TRACY TO BE A  
VEXATIOUS LITIGANT AND SUBJECT  
TO RULE 83 OF THE UTAH RULES OF  
CIVIL PROCEDURE**

Case No. 200905074

Judge: Kouris

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This case is a petition for *de novo* judicial review of a denial of a request for documents pursuant to the Utah Government Records Access and Management Act (“GRAMA”). This matter is before the Court on Petitioner’s *Motion to Vacate Memorandum Decision and*

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*Judgement* (sic) (the “**Motion**”). Oral arguments were held on April 7, 2021. The Court having considered the Motion, related memoranda, and the arguments of the parties at the hearing, hereby enters the following decision and order:

### **BACKGROUND**

Emigration Improvement District (“**EID**”) is a Utah local district that is subject to GRAMA. On June 10, 2020, petitioner Mark Christopher Tracy (“**Mr. Tracy**”) submitted a GRAMA request to EID requesting telemetry data for EID’s water wells and water tanks (the “**GRAMA Request**”). The GRAMA Request correctly designated the governmental entity as EID, and EID responded to the GRAMA request. After appealing the purported denial of the GRAMA Request to the chair of EID’s board of trustees, Mr. Tracy brought this action. However, instead of bringing the action against EID, Mr. Tracy named only Eric Hawkes, Jennifer Hawkes and Simplifi Company (“**Respondents**”).

On February 10, 2021, the Court held a hearing on Respondent’s *Motion to Dismiss*. During the hearing, the Court issued is verbal ruling finding in part that GRAMA provides that a records request must be made to a governmental entity, and that EID was the governmental entity. *See* Utah Code Ann. § 63G-2-204(1)(a) (“A person making a request for a record shall submit to the governmental entity that retains the record a written request . . .”). This Court’s decision was the same as a decision issued by Judge Faust on September 16, 2020. *See* Case No. 200905123. In addition, on February 11, 2021, the day after the hearing in this matter, the State Records Committee of the State of Utah (the “**Records Committee**”) heard the appeal of three separate GRAMA requests submitted by Mr. Tracy for records of EID. The Records Committee

found that submitting a GRAMA request to Simplifi Company or Respondents, as opposed to EID, was not proper and denied Mr. Tracy's appeals.

On February 11, 2021 (the day after this Court's decision), Mr. Tracy submitted a new GRAMA request to EID in which he again cc'd Jennifer Hawkes and again stated that the governmental entity was "Emigration Improvement District aka Emigration Canyon Improvement District c/o Simplifi Company." (the "**New GRAMA Request**"). In response to the New GRAMA Request, EID's attorney sent Mr. Tracy an email informing Mr. Tracy that based on his continued inclusion of Simplifi Company and Mrs. Hawkes in the New GRAMA Request, the fees awarded by this Court would need to be paid prior to a response to the New GRAMA Request (the "**Response Email**").

#### **MOTION TO VACATE**

Mr. Tracy brought this Motion based on the argument that the Response Email established "factual representations made to this court regarding the status of Simplifi as a 'private corporation' and Mrs. Hawkes having 'no direct involvement with EID' were designed to improperly influence the decision of the Court and were therefore fraudulent under Rule 60(b)(3) URCP.'" See *Motion*, p. 3. The Court finds that the Motion does not establish any fraud, misrepresentations, or other misconduct of Respondents, or justify relief under Rule 60(b)(3). Specifically, the Response Email only indicated that if Mr. Tracy wanted to continue to take the position that it was proper to submit a GRAMA request to EID c/o Simplifi Company or include Mrs. Hawkes in the GRAMA request, which position is contrary to the decision of this Court,

that Mr. Tracy would be required to pay the fees awarded to Respondents in this case. Nothing in the Response Email suggests that Respondents changed their representations to this Court or their legal arguments in this matter. Accordingly, the Court denies the Motion.

### **ATTORNEYS FEES**

Mr. Tracy was informed at least six times by this Court, Judge Faust, the State Records Committee or EID's attorney that GRAMA requests should be made only to the public entity, Emigration Improvement District. At the hearing, Mr. Tracy was not able to provide any plausible explanation for disregarding the decision of this Court and continuing to include Simplifi Company or Mrs. Hawkes in the New GRAMA Request, which leads this Court to conclude that Mr. Tracy's reason for continuing to include Simplifi Company and Mrs. Hawkes was to continue to harass Respondents. Simply put, Mr. Tracy could have easily avoided any issues by following the decision and order of this Court, but inexplicably chose to disregard the Court's decision and continue to harass Respondents by including them in GRAMA requests that Mr. Tracy knew should be served only on EID.

The Court has previously found that an award of attorney fees is proper pursuant to Utah Code Ann. § 78B-5-825(1), and the Court finds that Respondents should be awarded their reasonable attorneys' fees responding to the Motion.

### **VEXATIOUS LITIGANT**

Rule 83(a)(1) of the Utah Rules of Civil Procedure states that the court may find a person to be a "vexatious litigant" if the person does any of the following:

(a)(1)(B) After a claim for relief or an issue of fact or law in the claim has been finally determined, the person two or more additional times re-litigates or attempts to re-litigate

the claim, the issue of fact or law, or the validity of the determination against the same party in whose favor the claim or issue was determined.

(a)(1)(C) In any action, the person three or more times does any one or any combination of the following:

(a)(1)(C)(i) files unmeritorious pleadings or other papers,

(a)(1)(C)(ii) files pleadings or other papers that contain redundant, immaterial, impertinent or scandalous matter,

(a)(1)(C)(iii) conducts unnecessary discovery or discovery that is not proportional to what is at stake in the litigation, or

(a)(1)(C)(iv) engages in tactics that are frivolous or solely for the purpose of harassment or delay.

The Court finds that Mr. Tracy has violated Rule 83(a)(1)(B) and 83(a)(1)(C). With respect to Rule 83(a)(1)(B), Mr. Tracy served and prosecuted this action after Judge Faust previously issued a decision on the same issue of law. *See* Case No. 200905123. After this Court issued its decision, Mr. Tracy ignored both decisions, again served GRAMA request to EID that were served c/o Simplifi Company and included Mrs. Hawkes, and then Mr. Tracy attempted to utilize EID's response to again argue to this Court that filing an action against on Respondents, and not EID, was proper. With respect to 83(a)(1)(C), the Court has previously found that the Petition in this action including redundant and immaterial allegations that appear to relate to other claims and issues that Mr. Tracy has against EID, and that the Petition was frivolous and filed for the purpose of harassment. The Court also finds that the Motion was unmeritorious.

The Court also finds that the Petition and the Motion were filed for the purpose of harassing Respondents in violation of Rule 11(b)(1) of the Utah Rules of Civil Procedure. As

set forth above, despite repeated opportunities from this Court, Mr. Tracy has failed to ever provide a plausible explanation of why he brought this action against Respondents, but intentionally failed to name the governmental entity, EID; or why Mr. Tracy continued to include Respondents in GRAMA requests despite repeatedly being informed that their inclusion was improper. In accordance with Rule 11(c)(2), the Court finds that an appropriate sanction to deter repetition of such conduct is to find that Mr. Tracy is a vexatious litigant.

Based on the foregoing, the Court finds petitioner Mark Christopher Tracy to be a vexatious litigant in accordance with U.R.C.P. 83(b)(4), and the Court orders that Mr. Tracy must obtain leave from the Presiding Judge of the Court prior to Mr. Tracy filing any future actions in Utah State Courts.

**Approved as to Form:**

/s/ Mark Christopher Tracy  
Mark Christopher Tracy

————— **COURT’S SIGNATURE AND DATE APPEAR AT TOP OF** —————  
**FIRST PAGE OF THIS DOCUMENT**

# EXHIBIT C



**FILED DISTRICT COURT  
Third Judicial District**

**JUN 10 2021**

**Salt Lake County**

By: \_\_\_\_\_ Deputy Clerk

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**THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY, STATE OF UTAH**

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**Matter Involving:**

**Mark Christopher Tracy,  
DBA Emgration Canyon  
Home Owners Assoc.**

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**Minute Entry**

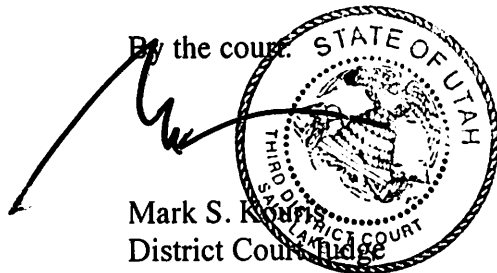
Case No. 200906661 & 200907218  
Judge Mark S. Kouris

On 30 April 2021, this court determined the abovementioned party to be a vexatious litigant (Ut R RCP 83). As such, the litigant is required to “obtain leave of the court before filing any paper, pleading, or motion in a pending action”.

The litigant has motioned or intends to motion for leave to join as a third party in each of the above listed cases. Please be informed that the litigant has not received approval to file those motions and will have to do so prior your consideration of the same.

DATED this 10 June 2021.

By the court.



Mark S. Kouris  
District Court Judge

**CERTIFICATE OF NOTIFICATION**

I certify that a copy of the attached document was sent to the following people for case 200907218 by the method and on the date specified.

MANUAL EMAIL: STEVEN J ONYSKO onysko5@burgoyne.com

MANUAL EMAIL: PAUL MCCONKIE PMCCONKIE@AGUTAH.GOV

MANUAL EMAIL: BRET RANDALL BFRANDALL@AGUTAH.GOV

MANUAL EMAIL: MICHAEL STAHLER MICHAELSTAHLER@AGUTAH.GOV

MANUAL EMAIL: PAUL TONKS PHTONKS@AGUTAH.GOV

MANUAL EMAIL: 3RD MOW TEAM 3rdMowteam@utcourts.gov

06/10/2021

/s/ KIMBERLY WHEELER

Date: \_\_\_\_\_

\_\_\_\_\_

Signature