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District of Utah (Central)
CIVIL DOCKET FOR CASE #: 2:20-cv-00245-RJS**

Garbett v. Herbert et al
Assigned to: Judge Robert J. Shelby
Case in other court: Tenth Circuit, 20-04051
Cause: 42:1983 Civil Rights Act

Date Filed: 04/13/2020
Date Terminated: 01/22/2021
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff**Jan Garbett**

represented by **Michael J. Teter**
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V.

Defendant

Gary Herbert
in his official capacity as Governor of Utah

represented by **David N. Wolf**
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Defendant

Spencer Cox
*in his official capacity as Lieutenant
 Governor of Utah*

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Lance F. Sorenson
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Movant

Lorraine P. Brown

represented by **Lorraine P. Brown**
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Date Filed	#	Docket Text
04/13/2020	<u>1</u>	Case has been indexed and assigned to Magistrate Judge Paul M. Warner. Plaintiff Jan Garbett is directed to E-File the <u>Complaint and cover sheet</u> (found under Complaints and Other Initiating Documents) and pay the filing fee of \$ 400.00 by the end of the business day. NOTE: The court will not have jurisdiction until the opening document is electronically filed and the filing fee paid in the CM/ECF system. Civil Summons may be issued electronically. Prepare the summons using the courts PDF version and email it to utdecf_clerk@utd.uscourts.gov for issuance. (kn) (Entered: 04/13/2020)
04/13/2020	<u>2</u>	COMPLAINT against All Defendants (Filing fee \$ 400, receipt number AUTDC-3546545) filed by Jan Garbett. (Attachments: # <u>1</u> Civil Cover Sheet Civil Cover Sheet) Assigned to Magistrate Judge Paul M. Warner (Teter, Michael) (Entered: 04/13/2020)
04/14/2020	<u>3</u>	**RESTRICTED DOCUMENT** Summons Issued Electronically as to Spencer Cox. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (kn) (Entered: 04/14/2020)
04/14/2020	<u>4</u>	**RESTRICTED DOCUMENT** Summons Issued Electronically as to Gary Herbert.

		Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (kn) (Entered: 04/14/2020)
04/14/2020	5	CERTIFICATE OF SERVICE by Jan Garbett re 4 Summons Issued Electronically, 2 Complaint, 3 Summons Issued Electronically, (Teter, Michael) (Entered: 04/14/2020)
04/14/2020	6	MOTION for Preliminary Injunction and Memorandum in Support filed by Plaintiff Jan Garbett. (Attachments: # 1 Exhibit Ex. 1 Declaration of Jan Garbett, # 2 Exhibit Ex. 2 State and Local Orders, # 3 Exhibit Ex. 3 National Election Related Orders)(Teter, Michael) (Entered: 04/14/2020)
04/14/2020	7	MOTION to Expedite Briefing and Hearing Regarding Motion for Preliminary Injunction and Memorandum in Support filed by Plaintiff Jan Garbett. (Teter, Michael) (Entered: 04/14/2020)
04/14/2020	8	CERTIFICATE OF SERVICE by Jan Garbett re 6 MOTION for Preliminary Injunction and Memorandum in Support (Teter, Michael) (Entered: 04/14/2020)
04/14/2020	9	CERTIFICATE OF SERVICE by Jan Garbett re 7 MOTION to Expedite Briefing and Hearing Regarding Motion for Preliminary Injunction and Memorandum in Support (Teter, Michael) (Entered: 04/14/2020)
04/15/2020	10	NOTICE of Appearance by David N. Wolf on behalf of Spencer Cox, Gary Herbert (Wolf, David) (Entered: 04/15/2020)
04/15/2020	11	NOTICE of Appearance by Lance F. Sorenson on behalf of Spencer Cox, Gary Herbert (Sorenson, Lance) (Entered: 04/15/2020)
04/15/2020	12	NOTICE of Appearance by Margaret B. Vu on behalf of Jan Garbett (Vu, Margaret) (Entered: 04/15/2020)
04/15/2020	13	DOCKET TEXT ORDER FOR CASE TO BE REASSIGNED. Plaintiff's filing of a motion for immediate injunctive relief renders this case ineligible for consent to the jurisdiction of a Magistrate Judge. Accordingly, IT IS HEREBY ORDERED that this case be reassigned to a District Judge through random reassignment. Signed by Chief Magistrate Judge Paul M. Warner on 4/15/2020. (docket text order, no attached document)(lrh) (Entered: 04/15/2020)
04/16/2020	14	Case randomly assigned to Judge Robert J. Shelby per 13 Docket text order. Magistrate Judge Paul M. Warner no longer assigned to the case. (nl) (Entered: 04/16/2020)
04/16/2020	15	Stipulated MOTION to Expedite Motion for Preliminary Injunction and Memorandum in Support filed by Plaintiff Jan Garbett. (Attachments: # 1 Text of Proposed Order) (Teter, Michael) (Entered: 04/16/2020)
04/16/2020	16	ORDER granting in part the Parties' Stipulated Motion for an Expedited Briefing Schedule 15 . Garbett's original Motion to Expedite Briefing 7 is denied as moot. Signed by Judge Robert J. Shelby on 4/16/20. (dla) (Entered: 04/16/2020)
04/21/2020	17	AFFIDAVIT/DECLARATION of Ted Blaszak in Support re 6 MOTION for Preliminary Injunction and Memorandum in Support filed by Plaintiff Jan Garbett. (Attachments: # 1 Exhibit 1 (Proposal), # 2 Exhibit 2 (Contract), # 3 Exhibit 3 (3/17 invoice), # 4 Exhibit 4 (3/23 invoice), # 5 Exhibit 5 (3/30 invoice), # 6 Exhibit 6 (4/6 invoice))(Teter, Michael) (Entered: 04/21/2020)
04/22/2020	18	<u>NOTICE OF HEARING ON MOTION</u> re: 6 MOTION for Preliminary Injunction and Memorandum in Support : (Notice generated by Mary Jane McNamee) Telephone

		Motion Hearing set for 4/27/2020 at 01:30 PM before Judge Robert J. Shelby. Judge Robert J. Shelby has set a Telephone Motion Hearing for <u>4/27/2020 at 1:30 PM (MST)</u> . As a participant, the Telephone Motion Hearing instructions are as follows: 1. Dial 888-808-6929 ; 2. Enter Access Code 2900331 ; 3. Bypass the Security Code; 4. To enter as a participant, press # key. If the call has not been activated by the Court, you will be placed on hold. If you have any questions before the hearing begins, please do not hesitate to call chambers at 801-524-6790, if you are having issues during the hearing, please email the case administrator at mary_jane_mcnamee@utd.uscourts.gov. <i>Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court.</i> (mjm) (Entered: 04/22/2020)
04/22/2020	<u>19</u>	MOTION for Leave to File Excess Pages filed by Defendants Spencer Cox, Gary Herbert. (Attachments: # <u>1</u> Text of Proposed Order)(Wolf, David) (Entered: 04/22/2020)
04/22/2020	<u>20</u>	ORDER granting <u>19</u> Motion for Leave to File Overlength Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction: Defendants' Opposition may consist of up to 35 pages. Signed by Judge Robert J. Shelby on 4/22/20. (dla) (Entered: 04/22/2020)
04/23/2020	<u>21</u>	Defendant's MEMORANDUM in Opposition re <u>6</u> MOTION for Preliminary Injunction and Memorandum in Support filed by Defendants Spencer Cox, Gary Herbert. (Attachments: # <u>1</u> Exhibit #1 Declaration of Justin Lee with supporting Exhibits A through M)(Wolf, David) (Entered: 04/23/2020)
04/24/2020	<u>22</u>	REPLY to Response to Motion re <u>6</u> MOTION for Preliminary Injunction and Memorandum in Support filed by Plaintiff Jan Garbett. (Teter, Michael) (Entered: 04/24/2020)
04/27/2020	24	Minute Entry for proceedings held before Judge Robert J. Shelby: Telephone Conference held on 4/27/2020. Counsel appeared by phone. The court discussed preliminary rulings with counsel re: the telephone motion hearing set for 1:30 p.m. Attorney for Plaintiff: Michael Teter, Margaret Vu, Attorney for Defendant: Lance Sorenson, David Wolf; Justin Lee - Office of Lieutenant Governor of Utah. Court Reporter: Ed Young.(mjm) (Entered: 04/28/2020)
04/27/2020	25	Minute Entry for proceedings held before Judge Robert J. Shelby: Motion Hearing held on 4/27/2020, re: <u>6</u> MOTION for Preliminary Injunction and Memorandum in Support filed by Jan Garbett. Parties appeared by telephone. The court heard oral argument and took the matter under advisement. Counsel will supply the court with their cell phone numbers, to be reached at a later time today with a ruling. Attorney for Plaintiff: Michael Teter, Margaret Vu, Attorney for Defendant: Lance Sorenson, David Wolf; Justin Lee - Lieutenant Governor of Utah. Court Reporter: Ed Young.(mjm) Modified on 4/28/2020 - clerical error corrected (mjm). (Entered: 04/28/2020)
04/27/2020	28	Minute Entry for proceedings held before Judge Robert J. Shelby: Motion Hearing held on 4/27/2020 re: <u>6</u> MOTION for Preliminary Injunction and Memorandum in Support filed by Jan Garbett. Counsel appeared by phone. The court issued the following ruling and stated a written order will be docketed soon. The court concludes Garbett has satisfied her heavy burden to obtain a preliminary injunction. Accordingly, her Motion is GRANTED IN PART and the court ORDERS as follows: 1. The following relief applies only to Jan Garbett and only to the current election cycle. The court partially enjoins enforcement of Utah Code § 20A-9-408(8)(b)(i) and reduces the numerical requirement contained therein by 32% to 19,040 signatures. 2. By Tuesday, April 28,

		2020, at 10:00 a.m., Garbett shall submit to the Lt. Gov.s Office the same packet of signatures she previously tried to deliver (i.e., no more than 20,874 signatures). 3. The Lt. Gov.'s Office shall accept Garbetts signatures and immediately begin verifying how many are valid. The Lt. Gov.'s Office shall employ the same procedures used to evaluate the signatures submitted by other candidates after Executive Order 2020-8 issued. Accordingly, the court enjoins enforcement of Utah Admin. Code R. 623-4-4(A)(5)(b) only as to Jan Garbett during the present election cycle. 4. The Lt. Gov.'s Office shall notify Garbett and the court immediately when either: The Office certifies Garbett has 19,040 valid signatures; or Garbett is mathematically eliminated from the 19,040-signature threshold. Even if the Office determines Garbett has been mathematically eliminated from reaching 19,040 signatures, the Office shall as quickly as reasonably practicable continue to verify all signatures Garbett submits to arrive at the total number of valid signatures. 5. The court extends from April 29, 2020, to May 6, 2020, the deadline by which the Lt. Gov.'s Office must certify the names of the Republican candidates for governor that will appear on the primary ballot. The April 29, 2020 deadline is unaffected as to all other races and candidates. 6. The court extends from May 15, 2020, to May 22, 2020, the State and Federal deadline by which State counties must deliver ballots to overseas and military voters. Attorney for Plaintiff: Michael Teter, Margaret Vu, Attorney for Defendant: Lance Sorenson, David Wolf; Justin Lee - Lieutenant Governor of Utah Office. Court Reporter: Ed Young.(mjm) (Entered: 04/28/2020)
04/28/2020	26	MOTION Allow Supplemental Briefing on Scope of Preliminary Injunction and Memorandum in Support filed by Plaintiff Jan Garbett. (Attachments: # 1 Text of Proposed Order)(Teter, Michael) (Entered: 04/28/2020)
04/28/2020	27	ORDER granting in part 26 Plaintiff's <i>Ex Parte</i> (Not Sealed) Motion for Supplemental Briefing. Signed by Judge Robert J. Shelby on 4/28/20. (dla) (Entered: 04/28/2020)
04/29/2020	29	MOTION Reconsideration and Modification of Preliminary Injunction Order and Memorandum in Support filed by Plaintiff Jan Garbett. (Teter, Michael) (Entered: 04/29/2020)
04/29/2020	30	NOTICE of Plaintiff's Production of Signatures to Lieutenant Governor's Office by Spencer Cox, Gary Herbert re 28 Motion Hearing,,,,,,,,, (Wolf, David) (Entered: 04/29/2020)
04/29/2020	31 R	MEMORANDUM DECISION AND ORDER granting in part 6 Plaintiff's Motion for a Preliminary Injunction. Signed by Judge Robert J. Shelby on 4/29/20. (dla) (Entered: 04/29/2020)
04/30/2020	32	Redacted MOTION to Intervene and Memorandum in Support filed by Movant Lorraine P. Brown. (Attachments: # 1 Affidavit Declaration of Lorraine P. Brown, # 2 Text of Proposed Order) Attorney Lorraine P. Brown added to party Lorraine P. Brown(pty:mov)(Brown, Lorraine) Modified on 5/1/2020: removed repetitive entry text (alt) (Entered: 04/30/2020)
04/30/2020	33	Redacted MOTION to Expedite Motion for Intervention and Required Joinder and Briefing on Preliminary Injunction and Memorandum in Support filed by Movant Lorraine P. Brown. (Brown, Lorraine) (Entered: 04/30/2020)
04/30/2020	34	CERTIFICATE OF SERVICE by Lorraine P. Brown re 33 Redacted MOTION to Expedite Motion for Intervention and Required Joinder and Briefing on Preliminary Injunction and Memorandum in Support , 32 Redacted MOTION to Intervene and Memorandum in Support of <i>Motion for Intervention and Required Joinder</i> (Brown, Lorraine) (Entered: 04/30/2020)

04/30/2020	35	DOCKET TEXT ORDER denying 29 Motion for reconsideration. To facilitate a potential appeal by either or both parties, the court provides notice that Garbetts Expedited Motion for Reconsideration and Modification (Dkt. 29) is DENIED. A written decision explaining the bases for the courts ruling will follow. Signed by Judge Robert J. Shelby on 4/30/2020. No attached document. (chambers) (Entered: 04/30/2020)
05/01/2020	36	NOTICE OF INTERLOCUTORY APPEAL as to 35 Order on Motion for Miscellaneous Relief, 31 R Order on Motion for Preliminary Injunction, Memorandum Decision filed by Jan Garbett. Appeals to the USCA for the 10th Circuit. Filing fee \$ 505, receipt number AUTDC-3563339. (Vu, Margaret) (Entered: 05/01/2020)
05/01/2020	37	Transmission of Preliminary Record to USCA re 36 Notice of Appeal - Interlocutory, as to Tenth Circuit. (Attachments: # 1 Appendix Preliminary Record) (dla) (Entered: 05/01/2020)
05/01/2020	38	USCA Case Number Case Appealed to Tenth Circuit Case Number 20-4051 for 36 Notice of Appeal - Interlocutory, filed by Jan Garbett. (jrj) (Entered: 05/01/2020)
05/01/2020	39	Defendant's MEMORANDUM in Opposition re 32 Redacted MOTION to Intervene filed by Defendants Spencer Cox, Gary Herbert. (Sorenson, Lance) Modified on 5/1/2020: removed repetitive entry text (alt) (Entered: 05/01/2020)
05/01/2020	40 R	WRITTEN ORDER re 29 Motion for Reconsideration (following 35 Docket Text Order of 4/30/20). Signed by Judge Robert J. Shelby on 5/1/20 (alt) (Entered: 05/01/2020)
05/01/2020	41	DOCKET TEXT ORDER directing intervenor-movant Lorraine Brown to file a Reply, if any, to Defendants Opposition docket entry 39 no later than noon (12:00 p.m.) on Monday, May 4, 2020. No attached document Signed by Judge Robert J. Shelby on 5/1/2020. (mjm) (Entered: 05/01/2020)
05/02/2020	42	NOTICE of Final Count of the Signatures to the Lieutenant Governor's Office by Spencer Cox, Gary Herbert re 30 Notice (Other) (Attachments: # 1 Exhibit "A" Signature Count Totals) (Wolf, David) (Entered: 05/02/2020)
05/04/2020	43	Redacted REPLY to Response to Motion re 32 Redacted MOTION to Intervene filed by Movant Lorraine P. Brown. (Brown, Lorraine) (Entered: 05/04/2020)
05/04/2020	44	Supplemental AFFIDAVIT/DECLARATION of Lorraine P. Brown in Support re 32 Redacted MOTION to Intervene <i>and Motion for Joinder</i> filed by Movant Lorraine P. Brown. (Brown, Lorraine) (Entered: 05/04/2020)
05/04/2020	45	NOTICE of MOTION TO TRANSFER FILED IN BROWN V. HERBERT ET AL by Spencer Cox, Gary Herbert (Sorenson, Lance) (Entered: 05/04/2020)
05/04/2020	46	REQUEST to Submit for Decision re 33 Redacted MOTION to Expedite Motion for Intervention and Required Joinder and Briefing on Preliminary Injunction and Memorandum in Support filed by Movant Lorraine P. Brown. (Brown, Lorraine) (Entered: 05/04/2020)
05/04/2020	47	<i>Defendant's</i> ANSWER to Complaint filed by Spencer Cox, Gary Herbert.(Sorenson, Lance) (Entered: 05/04/2020)
05/04/2020	48	MANDATE of USCA as to 36 Notice of Appeal - Interlocutory, filed by Jan Garbett According to the USCA the Mandate of the USDC for the Dist of UT is Dismissed. (Attachments: # 1 Exhibit Mandate Letter) (dla) (Entered: 05/04/2020)
05/04/2020	49	DOCKET TEXT ORDER. On May 4, 2020, Lorraine Browns pending action for declaratory and injunctive relief was transferred from Judge Jenkins to Judge Shelby

		(Case No. 1:20-cv-52).In that action, Brown seeks the same relief she seeks here through her Motion to Intervene.Accordingly, Browns Motion to Intervene, docket entry 32 and Motion to Expedite, docket entry 33 are denied as moot. Signed by Judge Robert J. Shelby on 5/4/2020. (mjm) (Entered: 05/04/2020)
05/13/2020	50	Plaintiff's MOTION for Summary Judgment and Memorandum in Support , Plaintiff's MOTION for Declaratory Judgment and Memorandum in Support filed by Plaintiff Jan Garbett. (Attachments: # 1 Appendix of Evidence)(Teter, Michael) (Entered: 05/13/2020)
06/10/2020	51	Cross MOTION for Summary Judgment <i>or, in the alternative, Motion for Scheduling Order</i> filed by Defendants Spencer Cox, Gary Herbert. (Wolf, David) (Entered: 06/10/2020)
06/10/2020	52	Defendant's MEMORANDUM in Opposition re 50 Plaintiff's MOTION for Summary Judgment and Memorandum in Support Plaintiff's MOTION for Declaratory Judgment and Memorandum in Support filed by Defendants Spencer Cox, Gary Herbert. (Attachments: # 1 Appendix of Exhibits)(Wolf, David) (Entered: 06/10/2020)
06/23/2020	53	Plaintiff's REPLY to Response to Motion re 50 Plaintiff's MOTION for Summary Judgment and Memorandum in Support Plaintiff's MOTION for Declaratory Judgment and Memorandum in Support filed by Plaintiff Jan Garbett. (Teter, Michael) (Entered: 06/23/2020)
06/23/2020	54	Plaintiff's MEMORANDUM in Opposition re 51 Cross MOTION for Summary Judgment <i>or, in the alternative, Motion for Scheduling Order</i> filed by Plaintiff Jan Garbett. (Teter, Michael) (Entered: 06/23/2020)
06/26/2020	55	ORDER REFERRING CASE to Magistrate Judge Jared C. Bennett under 28:636 (b)(1) (A), Magistrate to hear and determine all nondispositive pretrial matters. No attached document. Signed by Judge Robert J. Shelby on 6/26/2020. (mjm) (Entered: 06/26/2020)
07/03/2020	56	Defendant's REPLY to Response to Motion re 51 Cross MOTION for Summary Judgment <i>or, in the alternative, Motion for Scheduling Order</i> filed by Defendants Spencer Cox, Gary Herbert. (Wolf, David) (Entered: 07/03/2020)
01/04/2021	57	REQUEST to Submit for Decision re 51 Cross MOTION for Summary Judgment <i>or, in the alternative, Motion for Scheduling Order</i> , 50 Plaintiff's MOTION for Summary Judgment and Memorandum in Support Plaintiff's MOTION for Declaratory Judgment and Memorandum in Support filed by Defendants Spencer Cox, Gary Herbert. (Wolf, David) (Entered: 01/04/2021)
01/22/2021	58 	MEMORANDUM DECISION AND ORDER denying 50 Motion for Summary Judgment; Motion for Declaratory Judgment; granting 51 Motion for Summary Judgment. Accordingly, the case is DISMISSED WITH PREJUDICE. The Clerk of Court is directed to close the case. Signed by Judge Robert J. Shelby on 1/22/21. (jwt) (Entered: 01/22/2021)
01/22/2021	59	JUDGMENT in favor of Gary Herbert, Spencer Cox against Jan Garbett. Case Closed. Magistrate Judge Jared C. Bennett no longer assigned to case. Signed by Judge Robert J. Shelby on 1/22/21. (jwt) (Entered: 01/22/2021)

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