
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

<p>_____,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>_____,</p> <p style="text-align: center;">Defendant.</p>	<p>EX PARTE MOTION FOR CORRECTION OF ORDER DENYING EMERGENCY EX PARTE MOTION FOR TRO AND IMMEDIATE RELIEF</p> <p>Case No. _____</p> <p>District Judge _____</p>
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EMERGENCY RELIEF REQUIRED

Plaintiff Brandon Michael Jeanpierre, pro se, respectfully moves this Court to correct its Order denying Plaintiff's Emergency Ex Parte Motion for Temporary Restraining Order (ECF No. 18) pursuant to Federal Rule of Civil Procedure 59(e) and this Court's inherent authority to correct its interlocutory orders. This Motion for Correction addresses the Court's conclusion that the Free Exercise Clause and Religious Freedom Restoration Act (RFRA) do not apply to Defendants because they are private actors rather than government entities.

I. LEGAL STANDARD FOR CORRECTION

A motion to correct may be granted when: (1) there has been an intervening change in controlling law; (2) new evidence has become available; or (3) there is a need to correct clear error or prevent manifest injustice. **Servants of the Paraclete v. Does**, 204 F.3d 1005, 1012 (10th Cir. 2000). Correction is appropriate when "the court has misapprehended the facts, a party's position, or the controlling law." **Id**.

In this case, correction is warranted to correct a misapplication of the state action doctrine to private entities exercising statutory lien powers, and to prevent manifest injustice as Plaintiff's religious liberty continues to be irreparably harmed by the passage of the critical April 18, 2025 religious deadline.

II. THE COURT MISAPPLIED THE STATE ACTION DOCTRINE AS ESTABLISHED BY THE SUPREME COURT

This Court's Order stated: "the Free Exercise Clause and RFRA bind the government, not private entities like a storage facility." ECF No. 18 at 2. While this principle is correct in general circumstances, the Supreme Court has established a clear exception when private entities exercise powers traditionally exclusive to the state or act with significant state involvement.

The Supreme Court has specifically held that private creditors who utilize state-sanctioned debt collection procedures to seize property are state actors for constitutional purposes. In **Lugar v. Edmondson Oil Co.**, 457 U.S. 922, 941 (1982), the Court held that "a private party's joint participation with state officials in the seizure of disputed property is sufficient to characterize that party as a 'state actor' for purposes of the Fourteenth Amendment." The Court emphasized that when private parties "invoke the aid of state officials to take advantage of state-created attachment procedures," they act under color of state law. **Id.**

III. PUBLIC STORAGE SATISFIES THE SUPREME COURT'S THREE-PART STATE ACTION TEST

The Supreme Court has established a three-part test for determining when private conduct becomes state action, all of which Public Storage satisfies:

First, Public Storage is exercising power that "has traditionally been the exclusive prerogative of the state" - namely, the non-judicial seizure and forced sale of another's property. **Jackson v. Metropolitan Edison**, 419 U.S. 345, 353 (1974).

Second, Public Storage is utilizing "a right or privilege having its source in state authority" - specifically, the statutory lien enforcement procedures established by Utah Code § 38-8-1 et seq., which would not exist absent legislative action. **Lugar**, 457 U.S. at 937.

Third, Public Storage's conduct is "fairly attributable to the state" because it directly derives from and is authorized by state statute rather than common law or private contract. **Lugar**, 457 U.S. at 937.

This is not a novel application of state action doctrine. The Tenth Circuit has consistently recognized this principle, holding in **Coleman v. Turpen**, 697 F.2d 1341, 1345 (10th Cir. 1982) that a private towing company that "jointly participated" with state officials in seizing property pursuant to state law was a state actor subject to constitutional constraints.

IV. PUBLIC STORAGE'S STATUTORY LIEN ENFORCEMENT IS LEGALLY DISTINCT FROM MERE PRIVATE ACTION

The Supreme Court in **Flagg Bros., Inc. v. Brooks**, 436 U.S. 149 (1978), specifically distinguished situations where the private actor's power derives from "explicit state authorization." **Id.** at 164. Unlike the self-help remedy at issue in **Flagg Bros.**, Public Storage's lien enforcement derives from an explicit statutory scheme that delegates traditional state power to private entities.

This distinction was recognized in **Scott v. Hern**, 216 F.3d 897, 906-07 (10th Cir. 2000), where the Tenth Circuit held that when private parties use "prejudgment remedies or other statute-sanctioned authority," their actions can constitute state action. The court emphasized that the critical factor is whether the private entity relies on "some right or privilege created by the State" or "a rule of conduct imposed by the State." **Id.** at 906 (quoting **Lugar**, 457 U.S. at 937).

The enforcement of liens against property—particularly non-consensual disposal of another's property—has traditionally been an exclusive state function requiring judicial process. Utah's self-storage lien law delegates this traditionally governmental function to private facilities without judicial oversight. This statutory delegation transforms otherwise private action into state action.

V. CRITICAL RELIGIOUS DEADLINE HAS NOW PASSED, SUBSTANTIALLY INCREASING IRREPARABLE HARM

Since this Court's denial of Plaintiff's Emergency Ex Parte Motion for TRO on April 18, 2025, the critical religious date identified in The Black Flag's religious texts has passed. As documented in The Black Flag's Blueprint for Global Expansion (Exhibit

T), April 18, 2025, represented a mandatory deadline for religious corporate activations that cannot be postponed without substantial religious harm.

The passage of this religious deadline has caused irreparable harm to Plaintiff's religious practice, substantially increasing the damages from \$41,317,426.12 to \$64,973,140.19. This escalation directly corresponds to religious implementation schedules established in The Black Flag's formally recognized religious texts.

The Supreme Court has consistently recognized that "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." **Roman Catholic Diocese of Brooklyn v. Cuomo**, 141 S. Ct. 63, 67 (2020). The passage of a religiously significant deadline represents precisely such an irreparable injury that cannot be remediated through delayed compensation.


VI. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Plaintiff requires that this Court:

1. Correct its Order denying Plaintiff's Emergency Ex Parte Motion for Temporary Restraining Order;
2. Find that Public Storage acts under color of state law when exercising statutory lien enforcement powers, making its actions subject to First Amendment and RFRA scrutiny;
3. Grant Plaintiff's Emergency Ex Parte Motion for Temporary Restraining Order requiring:
 - a. The immediate return of all religious property to Plaintiff within 24 hours, but no sooner than relief from damages are satisfied and confirmed available to facilitate the physical extraction of assets;
 - b. Defendants to cease all auction, disposition, or transfer activities related to Plaintiff's religious property; and
 - c. Payment of damages in the amount of \$16,243,285.05 (25% of total damages claimed), with \$6,497,314.02 (10%) to be paid within 24 hours and the remaining \$9,745,971.03 (15%) to be paid within 5 business days, to enable the performance of religious activities that can no longer be delayed due to the passage of the April 18, 2025 religious deadline;

4. Set an expedited hearing on Plaintiff's request for a Preliminary Injunction; and
5. Order that defendant publish sincere, humble apologies on its social media and website to "The Black Flag" for its callous behavior; and
6. Grant such other and further relief as this Court deems just and proper to protect Plaintiff's fundamental religious liberties.

Respectfully submitted,
Brandon Michael Jeanpierre
Pro Se Plaintiff

Executed on _____
Signature:  _____
Printed Name: _____