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June 23, 2010

**HAND DELIVERED**

Mr. Thomas D. Roberts  
Assistant Attorney General  
Utah Attorney General's Office of Public Affairs  
160 East 300 South, Fifth Floor  
Salt Lake City, Utah 84111

Re: Utahns for Ethical Government/e-signatures

Dear Thom:

You undoubtedly now have reviewed the ruling of the Utah Supreme Court in *Anderson v. Bell*. While the holding in that case appropriately does not purport directly to decide any questions surrounding Utahns for Ethical Government's use of e-signatures in its initiative campaign, the reasoning of the court's opinion surely governs, and probably controls, any determination of those issues.

Utahns for Ethical Government ("UEG") continues to believe, as argued in our *amicus* brief, that Mr. Bell, as Lt. Governor, does not have jurisdiction to tell county clerks whether to certify e-signatures on initiative packets. The Lt. Governor's "ruling" on February 10th of this year, coupled with the e-blast communications sent to clerks' offices in April, nevertheless has had the practical effect of causing those officials to refuse to process e-signatures which we have gathered in our campaign. What is more, there is the lingering concern that, even if the clerks were to process e-signatures which have been and could be submitted by our group to them, the Lt. Governor, as in the case of Mr. Anderson, would refuse to count those signatures after they might be transmitted to him from the clerks.

In order to undo the practical harm of the Lt. Governor's ruling and communications with clerks in this regard -- to remove confusion, clear the air, and obtain certainty in connection with the processing and counting of e-signatures in our campaign -- especially with our August 12th deadline fast approaching -- we respectfully request that the Lt. Governor do two things.

First, he should send a letter to all county clerks, retracting his earlier ruling and communications and acknowledging that, in light of the reasoning in *Anderson v. Bell*, e-signatures should be treated as legal signatures and processed accordingly under the initiative statute. The letter should state that, if the signatures are certifiable under the established criterion of the initiative statute (in other words, if signatures, no matter their form, match the name of a registered voter), they should be certified and transmitted as such to the Lt. Governor.

Second, he should clearly indicate that, upon certification of e-signatures by the county clerks to his office, he will count the signatures towards the statute's ten percent thresholds for qualification on the ballot.

As you can imagine, in view of the August 12th deadline, UEG cannot accept further delays caused by the uncertainty which heretofore has surrounded the validity of e-signatures which have been collected in connection with our initiative campaign. Because the Utah Supreme Court's ruling, from our standpoint, removes that uncertainty and puts e-signatures on initiative packets on a sound legal footing, we need the Lt. Governor promptly to act, at this juncture, to repair the damage and clear the path, going forward, for use of e-signatures during the time remaining for signature collection in our initiative effort.

Accordingly, please tell us in writing, no later than 5:00 p.m. next Monday, June 28th, that the Lt. Governor will honor both requests made above, and, moreover, that he will send the letter requested to county clerks no later than June 30th. If we have not heard from you by June 28th, or if your response, even if timely on the 28th, is equivocal in the slightest degree, we shall be forced to interpret these events as a denial of our request and proceed thereafter to seek whatever legal recourse may be available to UEG. In the event, you have been gracious in the past to offer to accept service of pleadings which UEG may file in this respect, and we trust that this offer still stands. If not, please let me know so that alternate arrangements, if necessary, may be made.

Kindest personal regards,

Alan L. Smith

ALS/als

cc: UEG EC (by electronic transmission)