

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

**The Preserve, a Utah Landowner’s Association v. Kamas City, a Utah
municipal corporation, et al.**

The Preserve · No. 2:25-cv-00735-TS-DBP · Decided May 6, 2026

SUMMARY

The United States District Court for the District of Utah denied as moot The Preserve’s motion for a temporary restraining order after a Utah state court invalidated certification of the West Hills incorporation ballot initiative. The court granted in part the defendants’ motion to dismiss, holding that the amended complaint failed to adequately plead RICO predicate acts of wire fraud or honest-services fraud. The court declined supplemental jurisdiction over the remaining state-law claims and dismissed them without prejudice.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Ted Stewart
JURISDICTION	United States District Court for the District of Utah
DECIDED	May 6, 2026
DOCKET	2:25-cv-00735-TS-DBP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for a temporary restraining order, and certain defendants moved to dismiss the amended complaint under the Utah Uniform Public Expression Protection Act and Federal Rule of Civil Procedure 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, distinguishes them from conclusory allegations, and views them in the light most favorable to the nonmoving party. The complaint must contain sufficient factual matter to state a claim that is plausible on its face. Fraud-based RICO predicate acts must be pleaded with particularity under Rule 9(b).
PRECEDENTIAL VALUE	unpublished district court memorandum decision; precedential status unknown

TOPICS

motions to dismiss

civil procedure

municipal law

election law

commercial litigation

PRACTICE AREAS

civil procedure

municipal law

election law

RICO litigation

QUESTIONS PRESENTED

1. Whether the amended complaint adequately pleaded wire fraud and honest-services fraud as predicate acts supporting civil RICO claims under 18 U.S.C. § 1962(c) and a RICO conspiracy claim under 18 U.S.C. § 1962(d).
2. Whether the court should exercise supplemental jurisdiction over the remaining state-law claims after dismissing all federal claims.
3. Whether the plaintiff’s motion for a temporary restraining order remained justiciable after the ballot initiative did not proceed.

HOLDINGS

1. The amended complaint failed to state claims under 18 U.S.C. §§ 1962(c) and 1962(d) because it did not sufficiently plead a pattern of predicate acts. The alleged wire-fraud communications lacked adequately pleaded reliance and injury, and the honest-services-fraud allegations did not allege bribes or kickbacks and also failed Rule 9(b)’s particularity requirement.
2. After dismissing all claims within its original jurisdiction, the court declined to exercise supplemental jurisdiction over the remaining state-law claims and dismissed them without prejudice.
3. The motion for a temporary restraining order was denied as moot because the West Hills incorporation election did not proceed.

KEY QUOTATIONS

“The Court therefore concludes that the Plaintiff fails to state a RICO claim under both 18 U.S.C. §§ 1962(c) and 1962(d) as the Amended Complaint fails to sufficiently plead that Defendants engaged in a pattern of predicate acts.” (at 10)

“When all federal claims have been dismissed, the court . . . usually should[] decline to exercise jurisdiction over any remaining state law claims.” (at 11)

“It is therefore ORDERED that Plaintiff’s Motion for Temporary Restraining Order (Docket No. 2) is DENIED AS MOOT; it is further ORDERED that Defendants’ Motion to Dismiss (Docket No. 21) is GRANTED in part; it is further ORDERED that the remaining state law claims are DISMISSED WITHOUT PREJUDICE.” (at 12)

FACTUAL BACKGROUND

The Preserve owns approximately 266 acres in Summit County, Utah, which it sought to develop through incorporation into the proposed town of West Hills. The plaintiff alleged that Kamas City officials and members of the Kamas Valley Preservation Association coordinated opposition to the incorporation through resolutions,

communications with municipal officials, and public messaging. A Utah state court later invalidated the Lieutenant Governor's certification of the ballot initiative, so the incorporation vote did not occur. The plaintiff asserted RICO, civil conspiracy, Utah statutory, tort, and Utah constitutional claims based on the alleged opposition effort.

PROCEDURAL HISTORY

The Preserve filed this action and an ex parte motion for a temporary restraining order concerning a proposed ballot initiative on incorporation of West Hills, Utah. The court previously denied ex parte relief. After the operative amended complaint was filed, the KVPA defendants moved to dismiss. The court dismissed the federal RICO claims under Rule 12(b)(6), declined supplemental jurisdiction over the remaining state-law claims, dismissed those claims without prejudice, and denied the TRO motion as moot.

DISPOSITION

other

CASES CITED

- McCaffrey v. Henderson, Third District Court, Silver Summit Department, No. 250500258, Docket No. 109 (Utah Dist. Ct. Oct. 14, 2025), cert. denied, No. 20251257-SC (Utah Oct. 28, 2025)
- Robert L. Kroenlein Trust ex rel. Alden v. Kirchhefer, 764 F.3d 1268, 1274 (10th Cir. 2014)
- Gaddy v. Corp. of the President of the Church of Jesus Christ, 148 F.4th 1202, 1210 (D. Utah 2025)
- George v. Urb. Settlement Servs., 833 F.3d 1242, 1248 (10th Cir. 2016)
- Tal v. Hogan, 453 F.3d 1244, 1261, 1263 (10th Cir. 2006)
- Johnson v. Heath, 56 F.4th 851, 858 (10th Cir. 2022)
- BancOklahoma Mortg. Corp. v. Cap. Title Co., Inc., 194 F.3d 1089, 1102 (10th Cir. 1999)
- BancOklahoma Mortg. Corp. v. Cap. Title Co., 193 F.3d 1089, 1103 (10th Cir. 1999)
- Wade v. Gaither, 623 F. Supp. 2d 1277, 1283 (D. Utah 2009)
- Cayman Exploration Corp. v. United Gas Pipe Line Co., 873 F.2d 1357, 1362 (10th Cir. 1989)
- Kousisis v. United States, 605 U.S. 114, 124 (2025)
- Skilling v. United States, 561 U.S. 358, 411, 413 (2010)
- Dietz v. Cypress Semiconductor Corp., 711 F. App'x 478, 483 n.3 (10th Cir. 2017)
- Koch v. City of Del City, 660 F.3d 1228, 1248 (10th Cir. 2011)
- Smith v. City of Enid ex rel. Enid City Comm'n, 149 F.3d 1151, 1156 (10th Cir. 1998)
- GFF Corp. v. Associated Wholesale Grocers, Inc., 130 F.3d 1381, 1384 (10th Cir. 1997)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 557, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)