SUPREME COURT OF UTAH

SALT LAKE COUNTY, DUCHESNE COUNTY, UINTAH COUNTY, WASHINGTON COUNTY, and WEBER COUNTY, political subdivisions of the State of Utah, Plaintiffs/Appellants, v. STATE OF UTAH, DELTA AIRLINES, INC. AND SKY WEST, INC., Defendants/Appellees.	**APPELLANT'S SUPPLEMENTAL BRIEF** Appellate Case No. 20180586-SC District Court Case No.: 170904525

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SUMMARY OF SUPPLEMENTAL ARGUMENT

Through statute, not constitutional amendment, the Utah Legislature has devised a tax assessment scheme - akin to a property tax exemption - for airline property, alone, that compels the non-uniform and unequal taxation of certain aircraft property and shields that taxation from meaningful review. At issue here, Utah Code § 59-2-201(4) ("Valuation Law"), Utah Code § 59-2-804 ("Allocation Law"), and Utah Code § 59-2-1007(2)(b) ("Review Threshold Law") (collectively "Challenged Laws") direct the Utah State Tax Commission in assessing airline property (1) to adhere to a higher, and nowhere else used, evidentiary standard to justify departing from a statutorily mandated airline price guide for determining aircraft value; (2) to grant a discount for some, but not all owners of airline property that is wholly dependent on the number of aircraft owned and that does not pertain to any other owner of taxable personal property; (3) to use a statutory allocation formula that is designed to partially exempt assigned taxable property; and (4) to bar parties such as the Appellant Counties the ability to challenge or review the resulting assessments. (R. 1-30, 908-920); (Appellants' Opening Brief, p. 2-5.); (Appellants' Reply Brief, pp. 4-5). Collectively, and as plainly read, the effect of the Challenged Laws is to lessen the legitimate estimate of fair market value of certain airline property and to thus exempt it from taxation. In doing so, the Challenged Laws prevent uniform and equal assessment and taxation in contravention of the Utah Constitution.

Against this important backdrop, this Court has called on all parties to this appeal to provide supplemental briefing addressing the following questions:

> 1. Did the Counties properly allege as-applied challenges in addition to their facial challenges? If so, what was the factual basis for the as-applied challenges?
>
> 2. Are the alleged facts related to the 2017 tax assessments in the Counties' complaint sufficient to establish that the Counties have been harmed by the Challenged Laws? If not, does the complaint contain another factual basis to support a ripeness determination?
>
> 3. Would it be proper for the court to decide the Counties' "pure[ ] legal questions," in the event we find the Counties' claim are not connected to a concrete set of facts?
>
> 4. Do any of the Counties' claims in this case arise from facts stemming from a tax assessment that is not being challenged, or had not already been challenged, in another case?

Supplemental Briefing Order, June 6, 2019 at pp. 3-4.[1]

Below, the Counties have attempted to fully respond to each separate question posed by the Court. Succinctly, the Counties' claims are "facial" in that they examine whether the terms of the Challenged Statutes measured against the relevant constitutional doctrine pass muster independent of a review of the constitutionality of any particular manner of their applications. (Section II, infra.) But it is because the statutes must be applied, and cannot be avoided, by the Tax Commission, the Counties' claims regarding the statutes' constitutionality can be determined without looking to a single, reduced assessment and attendant pecuniary loss. It is because since their enactment the Challenged Laws' have been and will continue to be applied by the Commission the

[1] Framed in a manner that best captures the issues on appeal and analyzed by the Counties herein, this supplemental brief addressed the Court's additional questions summarized as follows: (1) whether the Counties' claims are as-applied and if so, are they properly pled; (2) whether the facts alleged relative to the 2017 assessment are sufficient to establish a concrete injury to the Counties; (3) whether, absent a "concrete set of facts" it is proper for the Court decide the Counties' claims; and (4) whether the Court may reach the Counties' claims in the absence of challenged tax assessment.

Counties have sufficiently raised ripe questions for the trial court's review. (Sections II, III.B, infra.) To this end, the complaint's allegation regarding the "2017 assessment" are also sufficient to demonstrate harm to the Counties' taxing functions and correlated duties to ensure uniformity and equality in taxation to demonstrate justiciability and ripeness. (Section III, infra.) Lastly, the Counties' claims do not rest upon solely upon tax assessments which may have gone unchallenged or forgone, but rather the unconstitutional limitation the Challenged Laws place on the Counties' appeal to assert an appeal as to certain airline assessments in the first instance.

I. THE CONSTITUTIONAL AND STATUTORY PROVISIONS.

To aid this Court's understanding of the Counties' contentions and to answer the Court's additional questions, resort to the pertinent constitutional and statutory provisions directly related to specific questions posed for appropriate context in addressing the Court's questions is helpful:

Section 2, Article XIII of the Utah Constitution provides in part:

> (1) So that each person and corporation pays a tax in proportion to the fair market value of his, her, or its tangible property, all tangible property in the State that is not exempt under the laws of the United States or under this Constitution shall be:
>
> (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law; and
>
> (b) taxed at a uniform and equal rate.

Utah Code Section 59-2-201(4):

> (b)(i) Except as provided in Subsection (4)(d), the commission shall use an aircraft pricing guide, adjusted as provided in Subsection (4)(c), to determine the fair market value of aircraft assessed under this part.
>
> (ii) The commission shall use the Airliner Price Guide as the aircraft

pricing guide, except that:
(A) if the Airliner Price Guide is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide;
(B) if an aircraft is not listed in the Airliner Price Guide, the commission shall use the Aircraft Bluebook Price Digest as the aircraft pricing guide; and
(C) if the Aircraft Bluebook Price Digest is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide.
(c)(i) To reflect the value of an aircraft fleet that is used as part of the operating property of an airline, air charter service, or air contract service, the fair market value of the aircraft shall include a fleet adjustment as provided in this Subsection (4)(c).

(ii) If the aircraft pricing guide provides a method for making a fleet adjustment, the commission shall use the method described in the aircraft pricing guide.

(iii) If the aircraft pricing guide does not provide a method for making a fleet adjustment, the commission shall make a fleet adjustment by reducing the aircraft pricing guide value of each aircraft in the fleet by .5% for each aircraft over three aircraft up to a maximum 20% reduction.
(d) The commission may use an alternative method for valuing aircraft of an airline, air charter service, or air contract service if the commission:

(i) has clear and convincing evidence that the aircraft values reflected in the aircraft pricing guide do not reasonably reflect fair market value of the aircraft; and

(ii) cannot identify an alternative aircraft pricing guide from which the commission may determine aircraft value.

Utah Code Section 59-2-804:

(1) As used in this section:
* * *(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the calendar year that immediately precedes the January 1 described in Section 59-2-103.
* * *(g) "Mobile flight equipment allocation factor" means the sum of:
(i) the ground hours factor; and
(ii) the revenue ton miles factor.

(h) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.
(i) "Revenue ton miles factor" means the product of:
(i) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles; and
(ii) .50.
* * *(k) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:
(i) during the calendar year that immediately precedes the January 1 described in Section 59-2-103; and
(ii) from flight stages that originate or terminate in this state.
(2) For purposes of the assessment of an airline's mobile flight equipment by the commission, a portion of the value of the airline's mobile flight equipment shall be allocated to the state by calculating the product of:
(a) the total value of the mobile flight equipment; and
(b) the mobile flight equipment allocation factor.

Utah Code Section 59-2-1007(2)(b):

(2) Subject to the other provisions of this section, a county that objects to the assessment of property assessed by the commission may apply to the commission for a hearing on the objection:
. . .
(i) reasonably believes that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:
(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or
(B) 50% greater than the value at which the commission assessed the property for the prior calendar year . . ..

II. THE COUNTIES' CLAIMS CHALLENGE THE VALIDITY OF THE CHALLENGED LAWS MEASURED AGAINST THE CONTROLLING CONSTITUTIONAL PROVISIONS.

The Counties seek to invalidate the Challenged Laws for contravening constitutional mandates of uniformity and equality in taxation of property, on their face, as enacted by the Legislature and as applied by the Utah State Tax Commission

("Commission"). (R. 1-30.)[2] In this regard, the Counties' First, Third, Sixth, Seventh, Eighth, Tenth, and Eleventh causes of action state facial challenges to the statutes' validity and contend the Challenged Laws in all or virtually all of their applications are constitutionally defective. *Id*.; *Cook v. Bell*, 344 P.3d 634, ¶ 29, 344 P.3d 634 ("under the Utah Constitution, a statute may be held unconstitutional both on its face and for any de facto disparate effects on similarly situated parties."); *State v. Lafferty*, 2001 UT 19, ¶ 78, 20 P.3d 342 (A facial challenge is when the statute at issue is incapable of any valid application).

And while for purposes of this appeal, it is true the Counties' claims did not first challenge the tax calculations from any particular tax assessment, because on their face the Challenged Laws violate express constitutional mandates regarding the Commission's conduct of its work – i.e., irrespective of ultimate outcome, the offending statutes require the Tax Commission to conduct airline tax assessments from an unconstitutional starting point – undergoing a prior challenge would be futile and serve no point (R. 1-30). The Counties' challenge lies in the Legislature's misuse of its power through enacting statutory provisions that by their terms employ a structurally unconstitutional non-uniform and unequal compulsory system used by the Utah State Tax Commission ("Commission") for airline property assessment. *Id*.

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2 The parties agree the Challenged Laws are enacted and are applied by the Commission to the assessment of airline property. (R. 1-30 at ¶¶ 1, 14.); Defendant State of Utah's Answer to Plaintiffs' Complaint (R. 260-271 at ¶¶ 1, 14 ("Defendant admits that the Legislature enacted the Challenged Laws and that the Tax Commission applies the Challenged Laws."); Answer by Intervenor Defendants Delta Airlines, Inc. and Skywest, Inc. (R. 610-622 at ¶¶ 1, 14, 53).

The Counties' reluctant concession to a "facial" or "quasi facial" classification of their claims in light of their averments concerning the unconstitutional effect of the statutes' application by the Commission does not have "some automatic effect" nor "control the pleadings and disposition in every case involving a constitutional challenge." *Citizens United v. FEC*, 558 U.S. 310, 130 S.Ct. 876, 893 (2010).[3] Instead, the United States Supreme Court has cautioned that the distinction whether a challenge is facial or as-applied "goes to the breadth of the remedy employed by the Court, not what must be pleaded in a complaint." *Id*. Thus, the fact the Counties bring facial challenges does not automatically compel the application of a specific test, much less the *Salerno* formulation that "no set of circumstances exists under which the [statute] would be valid." *Salerno*, 481 U.S. 739, 745 (1987); *City of Chicago v. Morales*, 527 U.S. 41, 55 n.22 (1999) (plurality opinion) (stating that "[t]o the extent we have consistently articulated a clear standard for facial challenges, it is not the *Salerno* formulation, which has never been the decisive factor in any decision of this Court, including *Salerno* itself."); *see also Washington v. Glucksberg*, 521 U.S 702, 739-40, 117 S.Ct. 2258 (1997) (Stevens, J. concurring) (criticizing the strictness of *Salerno* and noting the debate over the appropriate standard).

3 In *Citizens United v. FEC*, 558 U.S. 310, the Supreme Court held that that "the distinction between facial and as-applied challenges is not so well defined that it has some automatic effect or that it must always control the pleadings and disposition in every case involving a constitutional challenge." *Id.*

Because the Counties' claims facially attack the Challenged Laws' validity against controlling constitutional provisions, the Court should look to the statutes' facial requirements which directly apply to the work of the Commission and not speculate about hypothetical cases or consider the manner in which the Commission has interpreted and applied the statute to any given set of facts. *See* e.g. *Moon Lake Electric Association v. State Tax Commission,* 9 Utah 2d 384, 345 P.2d 612 (1959) (holding unconstitutional a statutory formula that on its face that capped the assessment value of a property for ad valorem tax purposes). Indeed, the Counties need not disprove every possible hypothetical situation in which the statute might be validly applied in order to show a statute is constitutional from the outset.

Following *Salerno,* the Supreme Court has repeatedly considered facial challenges simply by applying the relevant constitutional test to the challenged statute without attempting to conjure up whether there is a hypothetical situation in which the statute might be valid. See, e.g. *Brown v. Entm't Merchs. Ass'n*, 564 U.S. 786, 131 S.Ct. 2729 (2011) (applying strict scrutiny in concluding that statute prohibiting the sale or rental of "violent video games" to minors violated the First Amendment); *Citizens United,* 558 U.S. 310, 898, 903-11, 913 (applying strict scrutiny in striking down, under the First Amendment provision of the Bipartisan Campaign Reform Act of 2002 ("BCRA") barring corporation-funded "electioneering communications."); *Nat'l Endowment for the Arts v. Finley*, 524 U.S. 569, 572-73, 585, 118 S.Ct. 2168 (noting that even though statute providing for NEA funding could be constitutionally applied in certain situations, "these permissible

applications would not alone be sufficient to sustain the statute against respondents' First Amendment challenge"-thereby directly contradicting the "not set of circumstances" test).

Therefore, because the Counties' claims are not tied to a particular assessment, but rather the statutory provisions' unconstitutional terms, they do not fail because a single assessment may (1) meet the statutory hurdle of clear and convincing threshold that allows the Commission to depart from the airline price guide; (2) an assessment's valuation outcome may reach "fair market value," whether even by coincidence4; or (3) a County may ever be able to meet the review threshold necessary to confer subject matter to the Commission to determine an appeal. A law is unconstitutional in every application when the law itself, as opposed to some number of its applications, contains a defect that renders it unconstitutional under the applicable constitutional standard. Marc E. Isserles, *Overcoming Overbreadth: Facial Challenges and the Valid Rule Requirement,* 48 Am.U.L.Rev. 359, 387 (1998) (facial challenges involve an examination of whether the terms of the statute itself "measured against the relevant constitutional doctrine, and independent of the constitutionality of particular applications, contain[ ] a constitutional infirmity that invalidates the statute in its entirety.")

4 It should not go unnoticed by the Court that incorporating the valuation methods into law is unnecessary to reach fair market value. Simply, fair market value is already the standard under the Constitution and if any of the methods under the Challenged laws result in fair market value in any circumstance, the Courts and Commission are already required to so find. Hence, the valuation laws connected to a "clear and convincing standard" as the only out not to use the Valuation Laws serves no purpose but to prevent fair market value where the standard cannot be met, but a different value would have been otherwise reached.

Therefore, in context, having first challenged or been deprived of the ability to administratively appeal a specific 2017 assessment contributes little if anything to the constitutional determinations sought by the Counties. And the more clearly the issues raised here directly attack the validity of the statute the less need exists for the agency involved to shed light on them through exercise of its specialized fact-finding function or application of its administrative expertise to provide a "concrete set of facts."

III. THE COUNTIES' HAVE SUFFICIENTLY PLED CONCRETE INJURY AND THE CLAIMS ARE RIPE.

A declaratory judgment proceeding is available to determine the correct construction of a statute relating to or involving taxation where there is an actual controversy between the parties regarding a taxing. *Salt Lake County v. Bangerter*, 928 P.2d 384 (Utah 1996). An action for a declaratory judgment may be maintained, and declaratory relief may be awarded if the controversy which is the subject of the action is ripe for judicial determination. *Miller v. Weaver*, 66 P.3d 592, 597 (Utah 2003) (citing *Jenkins v. Swan*, 675 P.2d 1145, 1148 (Utah 1983)). That is, a controversy is justiciable such that a declaratory judgment action may be maintained, when present legal rights are affected, not when a controversy is merely anticipated.[5]

Read in a certain light, the Supplemental Briefing Order appears to suggest a brightline rule that in every case where a County challenges only the constitutionality of a

5 The Declaratory Judgment Act "allows for a wide interpretation of what constitutes a justiciable controversy." *Salt Lake Co. Comm'n v. Short* 985 P.2d 899, 903 (Utah 1999). It is sufficient that the parties are adverse, the plaintiff asserts a bona fide claim, and the issues are ripe for adjudication. *Id*.

tax provision, that is where a County has failed to "produc[e] a specific tax assessment that was reduced under [the challenged provision] with a resulting loss of revenue to the relevant to the county" the claim cannot be ripe for adjudication because it would lack the necessary "concrete set of facts" against which the statute may be applied. Supplemental Briefing Order, June 6, 2019, pp. 1-3, citing *Salt Lake City v. Bangerter*, 928 P.2d 384, 385 (Utah 1996). The Court's suggestion, if properly understood, assumes too much.

The most obvious assumption is that administrative factual findings arising from a "reduced assessment" reflecting revenue loss are always material or relevant to the constitutional determination of a statute's validity measured against controlling constitutional provisions. They are not. The Counties raise facial challenges to the statutes' constitutionality, which when viewed in light of the compulsory nature of the Challenged Statutes *are* pure questions of law that need no express application to be rendered void. (R. 1-30); *TDM, Inc. v. Tax Comm'n*, 2004 UT App 433, ¶¶ 4-5 (quoting *Nebeker v. State Tax Comm'n*, 2001 UT 74, ¶ 14, 34 P.3d 180 and citing *Brumley v. Tax Comm'n*., 868 P.2d 796, 799 (Utah 1993)). Rather than state a novel new interpretation that calls on this Court to depart from settled law, the Counties' contention is consistent with precedent. But previously and regarding other facially unconstitutional tax statutes, this Court accepted original jurisdiction to review the statutes' facial conformity with the Utah Constitution without the production of a specific tax assessment. *See e.g. Moon Lake Electric Association, Inc. v. Utah State Tax Commission*, 345 P.2d 612 (Utah 1959) (action by electric and telephone industries originally brought in the district court holding two

property tax statute were structurally unconstitutional on their face without regard to any specific assessment); *see also Baker v. Matheson*, 607 P.2d 233 (Utah 1979).

What is more, this Court's apparent preference for an administratively adjudicated assessment that evidences revenue loss assumes the Counties are always afforded an opportunity to challenge the reduced airline assessment in the first instance. But here, the challenged Threshold Law denies taxing entities - and the taxpayer's they represent - any ability to appeal certain valuations that they reasonably believe fall below fair market value. Utah Code § 59-2-1007(2)(b). Therefore, there may not be a later time at which a court can effectively protect against the unequal and non-uniform taxing structure promulgated by the Challenged Laws provisions because that opportunity never existed.

Moreover, equating harm to pecuniary loss assumes the Counties' legally protectable interest requires some property interest. Utah law does not draw such a narrow definition. Rather, the Counties must demonstrate a personal interest in the court's decision and that it personally suffers some actual or threatened injury as a result of the challenged conduct. *Jenkins*, 675 P.2d at 1148-51. The Counties have done so.

A. The Counties' Harm Lies in the Mandatory Statutory Limitations on Airline Property Assessments That Prevent and Insulate From Review Accurate Assessment To Its Full Value.

The Counties have stated a legally protectable interest in the controversy because the Challenged Laws directly impact the Counties' taxing functions and correlated duties to ensure uniformity and equality in taxation. *See Moon Lake County Bd. of Equalization of Salt Lake County*, 927 P.2d 176, 181 (citing *Kennecott Corp. v. Salt Lake County*, 702

P.2d 451, 454-55 (Utah 1985) ("[C]ounties have standing to challenge determinations by the Tax Commission that directly affect the entities' budgeting and taxing functions."); *County Bd. of Equalization of Salt Lake County v. Utah State Tax Com'n*, 927 P.2d 176, 177 (Utah 1976) (recognizing the right of an entity impacted by the interpretation of tax laws to challenge the constitutionality of those laws.)

Here, the Counties have alleged "through their elected officials . . . administer, assess, and collect property taxes[,]" including the levy and collection of "property tax on all Centrally Assessed property within their jurisdiction." (R. 1-30 at ¶¶ 15, 28-33.) The Counties have shown they play an important role in protecting the uniformity of the ad valorem tax system as applied to property situated within their boundaries. Specifically, "through their elected oficials," the Counties must "ensure that all property in that county is assessed at fair market value, in a uniform and equal manner, so that all taxpayers share their proportionate tax burden" and on behalf of all locally assessed taxpayers (who have no right) challenge valuations of Centrally Assessed entities. (R. 1-30 at ¶¶ 35, 77.)

Directly impacting upon those functions, the Counties alleged that in 2017, the Utah State Tax Commission in complying with the Challenged Laws valued airline property "at an average of 39% less than" the prior year, with a "total loss in airline tax revenues of roughly $5 million", thereby shifting the resulting tax burden from airlines to other individual or small business tax payers. (R. 1-30 at ¶ 7.) However, it is not lost revenue from undervalued airline assessments that serves as the basis for either past or imminent injury to the County.

Rather, the injury or unconstitutional impact caused by the Challenged Laws is the fact the laws prevent the accurate fair market assessment of airline property to its full value in every case. Specifically, the Valuation Laws which the Commission to value *only* airline property at a number resulting from pre-determined methods and through use of predetermined parameters unless the Commission finds by a "clear and convincing" evidentiary standard the statutory method does not "arrive at fair market value." This high standard - exclusively applied to certain airline property - creates a non-uniform, unconstitutional barrier to a fair market value conclusion in every instance because it imposes a limitation on "fair market value" assessment until after the aircraft "value" has in fact been determined to exceed some ceiling. Such an effect, this Court has previously determined to be unconstitutional. *Moon Lake,* 927 P.2d 176.

In *Moon Lake*, the offending statutes placed a cap on value. Striking the statutes, the Court did not need to examine whether any given assessment reached that cap. But the Court determined – regardless of whether the cap was ever reached, it was unconstitutional in every circumstance. Similarly, the Allocation Law, unique only to airline property valuation, prevents accurate assessment by statutorily imposing the use of a mathematical formula that through its formulaic structure results in an allocation of property less than 100%. And equally confounding, the Threshold Law has the facial potential to insulate affected airline valuations from review. (R. 1-30 at ¶¶ 4, 10, 77-82, 120-124.) Summarily, the ad valorem tax system applied to airlines in which the Counties play an integral role in their respective taxing districts suffer constitutional defects and render the Counties

powerless to perform their constitutional duty to ensure uniform, equal, and accurate valuation due to the Challenged Laws unconstitutional statutory scheme until ordered otherwise by a court.

B. Additional "Concrete Set of Facts" Are Not Required to Determine the Counties' Claims.

There is no dispute that the controversy between the parties is whether the Challenged Laws violate constitutional provisions that require the Legislature – and in turn the Tax Commission – to craft law that provide a uniform and equal rate of assessment and taxation on all property in the State according to its fair market value, and that all tangible property in the State not exempt under law shall be taxed at a uniform and equal rate. A statute's constitutionality is a question of law. *State v. Tulley*, 2018 UT 35, ¶ 5, 428 P.3d 1005.

A court cannot pass on the constitutionality of a statute unless the facts have matured, forming the concrete basis against which the statute may be applied. *Baird v. State*, 574 P.2d 713, 716 (Utah 1978). The requisite showing whether "the facts have matured forming a concrete basis" generally requires a party "to allege sufficient facts in their complaint to show that the challenged statutes have been applied to them, or will soon be applied to them, before they have standing to bring either a facial or an as-applied challenge to the statute." (Supplemental Briefing Order, at p. 3) (citing *Jenkins v. Swan*, 675 P.2d 1145, 1149 (Utah 1983). There is no dispute the Challenged Laws apply to and have been applied by the Commission to the assessment of airline property. (R. 130 at ¶¶ 1, 14; R. 260-271 at ¶¶ 1, 14; R. 610-622 at ¶¶ 1, 14). The necessary factual averments

supporting the Counties' claims are set forth in their Complaint at paragraphs 4, 6, 10, 11, 36-41, 58, 59, 74, 77-92, 94-100; 112-114, 120-122, 125. Nothing more need be alleged.

And while the Counties recognize that the law in Utah posits that under most circumstances challenges to tax statutes require factual findings arising from a completed assessment, this is not one of those cases. The Counties' challenge does not arise from the mechanics of tax calculations arising from a tax assessment forgone or being currently appealed. Rather the challenge is to the misuse of legislative authority that calls on the Tax Commission – in every case – to ignore the constitutional mandates of uniformity and equality by applying structurally unconstitutional statutes that prevent legitimate estimates of fair market value.

CONCLUSION

The Counties' factual averments to the 2017 tax assessments, among others, are sufficient to establish ripeness of the Challenged Laws' invalid methodology because the facts necessary to adjudicate the claims (i.e. that statutes enactment) are fully developed and the law at issue affects the Counties in a manner that gives rise to an immediate, concrete dispute—the creation of an unequal and non-uniform taxing *system* and *method*. Administrative fact appeal proceedings are simply ill-suited for the resolution of the purely legal challenges presented here and would result in multiplicity or duplicative lawsuits where, in contrast, decision of this action would provide a tidy global resolution to the uncertainty of the law. Accordingly, a declaratory judgement to settle and afford relief concerning the uncertainty and insecurity of the constitutionally of the Challenges Laws

with respect to the parties' rights, status, and other legal relations is adequate and complete. For these reasons, and those submitted in the Counties' opening and reply briefs, the district court's Ruling and Order dismissing the Counties' First, Third, Sixth, Seventh, Eighth, Tenth, and Eleventh causes of action should be reversed and the matter remanded to the trial court for further proceedings.

Dated this 18th day of July 2019.

By: */s* Jacque M. Ramos
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Certificate of Compliance with Rule Utah Rule of Appellate Procedure 24(a)(11)

Certificate of Compliance with Page or Word Limitation, Typeface Requirements, and Addendum Requirements

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Dated this 18th day of July 2019.

By:*/s* Jacque M. Ramos
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CERTIFICATE OF SERVICE

I certify that on the 18th day of July 2019, a true and correct copy of the foregoing APPELLANT'S SUPPLEMENTAL BRIEF was sent via email to the following:

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