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Attorney for Intervenor-Defendant

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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**AMERICAN ATHEISTS, INC.**, a Texas :  
non-profit corporation; **R. ANDREWS,** :  
**S. CLARK** and **M. RIVERS,** :

Plaintiffs, :

vs. :

**COLONEL SCOTT T. DUNCAN**, Superintendent, :  
Utah Highway Patrol; :  
**JOHN NJORD**, Executive Director, :  
Utah Department of Transportation; :  
**D'ARCY PIGNANELLI**, Executive Director, :  
Department of Administrative Services; and :  
**F. KEITH STEPAN**, Director :  
Division of Facilities Construction and Management :  
Department of Administrative Services, :

Defendants, :

**UTAH HIGHWAY PATROL ASSOCIATION,**

Applicants for Intervention.

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**MOTION TO INTERVENE AND  
REQUEST FOR HEARING**

Case No.: 02:05-CV-00994 DS  
Judge David Sam

PLEASE TAKE NOTICE that the Utah Highway Patrol Association (“UHPA”), by and through counsel, make this Motion pursuant to Fed. R. Civ. P. 24(a)(2) and 24(b)(2) and Fed. R. Civ. P. 19(a), to intervene and be joined as party-defendants in the above-referenced matter. In support of this motion, the UHPA relies on the Declaration of Luke Stradinger and attached

exhibits, Declaration of Lee Perry, Declaration of Edey Brummet, Declaration of Kameron Thorne, and Declaration of Brenda Lund.

UHPA moves to intervene as party-defendants because the Plaintiffs in this action are seeking to enjoin and destroy the efforts and manner by which the UHPA erects memorials to fallen Utah Highway Patrolman. If Plaintiffs succeed in this lawsuit, UHPA will be deprived of its time, effort, money and property expended in erecting and maintaining the memorials, including its interest in expressing and honoring the sacrifice made by fallen troopers and their families and educating about and encouraging safety on Utah Highways.

The UHPA should be granted intervention as of right under Federal Rule of Civil Procedure 24(a)(2) on the following grounds:

1. UHPA's application for intervention is timely being filed less than thirty days after the Complaint was filed;
2. UHPA has unique interests in maintaining the fallen officer memorials which are related to the subject of the action;
3. UHPA is so situated that the disposition of the action may, as a practical matter, impair or impede its ability to protect its interest; and
4. UHPA's interest may not be adequately represented by existing parties to the suit.

Additionally, UHPA should be joined as a necessary party under Federal Rule of Civil Procedure 19 on the following grounds:

1. Complete relief cannot be accorded without the joinder of UHPA; and
2. A disposition by the court will impair UHPA's substantial interests and may subject the parties to further obligations.

The UHPA should alternatively be granted permissive intervention under Federal Rule of Civil Procedure 24(a)(2) because UHPA's interest in preserving and protecting the memorials and the right to erect the memorials and the Plaintiffs application to have them permanently enjoined involve common questions of law and fact.

UHPA has conferred with Defendants' counsel and Defendants have no objection to the intervention.

WHEREFORE, UHPA respectfully requests that this Court summarily grant its Motion to Intervene as a party-defendant or set the motion for oral argument.

Respectfully submitted this \_\_\_\_ day of December, 2005.

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Respectfully Submitted,

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\*Motion Pro Hac Vice concurrently filed.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Intervenor-Defendant's Motion to Intervene and Request for Hearing was served this date upon the following persons:

Brian M. Barnard  
James L. Harris, Jr.  
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Attorneys for Plaintiffs

Mark Shurtleff  
Utah Attorney General  
Utah State Capitol Complex  
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Salt Lake City, UT 84114-2320

Attorney for Defendants

via United States mail, postage prepaid, this the \_\_\_\_ day of December, 2005.

Respectfully Submitted,

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Frank D. Mylar  
Attorney for Intervenor-Defendant