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IN THE DISTRICT COURT, FIRST JUDICIAL DISTRICT
LARAMIE COUNTY, STATE OF WYOMING

JUNTOS, THE UNITARIAN UNIVERSALIST	)	
CHURCH OF CHEYENNE, AND DREW'S	)	
BARBERSHOP,	)	Civil Action No. 2026-CV-0204232
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
BRIAN KOZAK, in his official capacity as	)	
Laramie County Sheriff, and the LARAMIE	)	
COUNTY SHERIFF'S OFFICE,	)	
	)	
Defendants.	)	

**DEFENDANTS' REPLY TO PLAINTIFFS' RESPONSE TO
BRIAN KOZAK AND LARAMIE COUNTY SHERIFF'S OFFICE
MOTION TO DISMISS PURSUANT TO WYO. R. CIV. P. 12(B)(1) AND 12(B)(6)**

Defendants Brian Kozak, in his official capacity as Laramie County Sheriff, and the Laramie County Sheriff's Office (collectively "Defendants"), by and through counsel Amy M. Iberlin of WILLIAMS, PORTER, DAY & NEVILLE, P.C., hereby submit their Reply to *Plaintiffs' Response to Defendants' Motion to Dismiss* ("Response"), as follows:

I. INTRODUCTION

Plaintiffs' Response fails to cure the fundamental defects in their *Complaint* and, in fact, underscores why dismissal is not only appropriate, but required. Plaintiffs seek to circumvent the mandatory prerequisites of the WYOMING GOVERNMENTAL CLAIMS ACT ("WGCA") by mischaracterizing the nature of their claims as being purely for non-monetary relief, a position that ignores the plain language and intent of the Act. Furthermore, Plaintiffs' attempts to establish standing rest on self-inflicted injuries, generalized grievances, and a flawed theory of causation that cannot withstand scrutiny under Wyoming law.

Plaintiffs' entire lawsuit is an attempt to use the judiciary to veto a policy decision with which they disagree, a decision lawfully made by an elected official acting within the scope of his duties to ensure public safety through cooperation with federal partners. They have failed to satisfy the conditions precedent for bringing a suit against a governmental entity and have failed to demonstrate a cognizable, particularized injury sufficient to confer standing. For these reasons, as more fully set forth below, Defendants' *Motion to Dismiss* should be granted and Plaintiffs' *Complaint* should be dismissed in its entirety.

II. ARGUMENT

a. Plaintiffs' Claims are barred by the WGCA.

Plaintiffs' central argument against the application of the WGCA is that the Act does not apply to their claims for declaratory and injunctive relief. This argument is a fundamental misreading of Wyoming law. While Plaintiffs are correct that the Wyoming Supreme Court's decision in *Harmon v. Star Valley Med. Ctr.*, 331 P.3d 1174 (Wyo. 2014), clarified that the WGCA's claim requirements are not jurisdictional, they conveniently ignore that these requirements remain mandatory conditions precedent to suit. Plaintiffs' failure to file a notice of

claim is therefore fatal to their *Complaint*, requiring dismissal under WYOMING RULE OF CIVIL PROCEDURE 12(b)(6).

i. The WGCA Provides the Exclusive Remedy for All Claims Against a Governmental Entity Arising from a Governmental Action, Regardless of the Relief Sought.

Plaintiffs argue that because they do not seek monetary damages, the WGCA is inapplicable. This interpretation is an overly simplistic reading of the law that would create a massive loophole, allowing any claimant to evade the WGCA's requirements simply by styling their relief as "injunctive" or "declaratory." The WGCA defines a "claim" as "any claim against a governmental entity or its public employees for monetary damages." WYO. STAT. ANN. § 1-39-103(a)(i). However, the Act's waiver of immunity and procedural framework apply to actions "sounding in tort." WYO. STAT. ANN. § 1-39-104(a). Plaintiffs' claims, which allege that Sheriff Kozak acted unlawfully and exceeded his authority (*ultra vires*), are the modern equivalent of tort claims against the government. They allege a governmental wrong—an action taken without legal authority—that has allegedly caused them harm. The nature of the underlying alleged wrong, not the label attached to the requested remedy, dictates whether the WGCA applies.

The cases Plaintiffs cite, *Rocky Mountain Oil & Gas Ass'n v. State*, 645 P.2d 1163 (Wyo. 1982), and *Hochalter v. City of Gillette*, 120 P.3d 674 (Wyo. 2005), do not support their sweeping conclusion. Those cases stand for the narrow proposition that a pure question of statutory interpretation, divorced from any underlying tortious conduct or contractual dispute, may not require WGCA compliance. Here, Plaintiffs are not merely asking the Court to interpret a statute in a vacuum; they are challenging specific governmental actions—the execution of three agreements—and alleging direct harm flowing from those actions. They allege that Sheriff Kozak's conduct has caused their organizations to divert funds, lose business, and suffer other

tangible injuries. These are allegations of harm resulting from governmental action, the very type of dispute the WGCA was enacted to govern. Indeed, the relief they seek—a court order invalidating the agreements and enjoining the Sheriff’s Office from performing immigration enforcement—would directly interfere with the allocation of governmental resources and personnel, creating a significant impact on the county fisc that the WGCA’s notice provisions are designed to address. The legislature intended for governmental entities to have notice of *all* such claims to allow for investigation, settlement, and budgetary planning before being forced into litigation, an objective that is thwarted by Plaintiffs’ attempt to sidestep the Act.

b. Even if Non-Jurisdictional, the WGCA’s Claim Requirement is a Mandatory Condition Precedent to Suit, and Plaintiffs’ Failure to Comply Requires Dismissal.

Plaintiffs place significant weight on *Harmon*, arguing it renders Defendants’ WGCA defense meritless. This is incorrect. The Court in *Harmon* held that the claim requirement is not a matter of subject matter jurisdiction under Rule 12(b)(1), but rather a “claim-processing rule” that can be waived by the governmental entity. *Harmon*, 331 P.3d at 1182. The critical distinction Plaintiffs miss is that the requirement, while waivable, is not optional for the claimant. Unless and until the government waives the defense, compliance is a mandatory condition precedent to filing suit.

Here, Defendants have not waived the notice-of-claim requirement; to the contrary, it is the primary basis for their *Motion to Dismiss*. Because compliance is a mandatory prerequisite, Plaintiffs’ failure to file a timely and proper notice of claim means they have failed to satisfy the statutory conditions for bringing their suit. This failure renders their *Complaint* legally insufficient and warrants dismissal for failure to state a claim upon which relief can be granted under WYO. R.

Civ. P. 12(b)(6). The *Harmon* decision re-categorized the defense from a 12(b)(1) issue to a 12(b)(6) issue; it did not eliminate the defense entirely.

In instances like this, “[w]hen a claimant fails to comply with § 1–39–113, **a district court has no jurisdiction to consider claims brought against a governmental entity.**” See *City of Gillette v. Hladky Constr., Inc.*, 2008 WY 34, ¶ 18, 196 P.3d 184, 193 (Wyo. 2008) (emphasis added) (citing *Peterson v. Sweetwater Cnty. Sch. Dist. No. 1*, 929 P.2d 525, 529 (Wyo.1996)). Subject matter jurisdiction is essential to the exercise of judicial power. See *Elliott v. Natrona Cnty. Bd. of Comm’rs.*, 2023 WY 61, ¶ 9, 520 P.3d 1078, 1082 (Wyo. 2023). “If a court does not have subject matter jurisdiction, **it lacks any authority to proceed**, and any decision, judgment, or other order is, as a matter of law, utterly void and of no effect for any purpose.” *Id.* (emphasis added); see also *MH v. First Jud. Dist. Ct. of Laramie Cnty.*, 2020 WY 72, ¶ 6, 465 P.3d 405, 407 (Wyo. 2020) (“If a court lacks subject matter jurisdiction, action taken by that court, other than dismissing the case, is considered to be null and void.”) (internal quotations omitted) (quoting *Devon Energy Prod. Co., LP v. Grayson Mill Operating, LLC*, 2020 WY 28, ¶ 11, 458 P.3d 1201, 1205 (Wyo. 2020)). In the absence of subject matter jurisdiction, dismissal is the proper course, and should be ordered in this case. See *Elliott*, 2023 WY at ¶ 9, 520 P.3d at 1082 (Wyo. 2023).

c. Plaintiffs’ Lack Standing to Bring Their Claims

Even if Plaintiffs could somehow overcome the absolute bar of the WGCA, their *Complaint* must be dismissed because they lack standing. Plaintiffs Juntos and the Unitarian Universalist Church of Cheyenne (“the Church”) have alleged only self-inflicted economic harms and generalized grievances shared by any member of the public who disagrees with a government policy. Plaintiff Drew’s Barbershop (“the Barbershop”) has failed to establish that its alleged

injury is fairly traceable to any action by these Defendants. Their attempt to find refuge in the WAPA fails because the agreements at issue are not “rules” within the meaning of that statute.

i. Juntos and the Church Allege Only Self-Inflicted Harms and Generalized Grievances.

An organization cannot manufacture standing by choosing to spend money in response to a government action it opposes. Yet, that is precisely what Juntos and the Church have done. Their alleged injuries consist of reallocating staff time, creating emergency funds, and establishing new ministries to counteract the perceived effects of the 287(g) agreements. (*Complaint* at ¶¶ 108-113, 119-125). These are not injuries inflicted *by* the Defendants; they are the result of the organizations’ own independent decisions. Unlike the plaintiff in *Protect Our Water Jackson Hole v. Wyoming Dep’t of Env’t Quality*, 566 P.3d 181 (Wyo. 2025), whose prior expenditures were directly related to the very resource (water quality) allegedly harmed by the government’s action, the “harms” here are merely Plaintiffs’ programmatic responses to a law enforcement policy. Allowing such self-inflicted harm to confer standing would mean any organization could sue over any government policy simply by spending money to oppose it. This would eviscerate the standing requirement of a “personal stake” and a “perceptible” harm. *The Tavern, LLC v. Town of Alpine*, 395 P.3d 167, 176 (Wyo. 2017).

Likewise, their claim that they were deprived of an “opportunity to participate in the democratic process” is a quintessential generalized grievance. (*Complaint* at ¶¶ 97-101, 128-129). Every citizen who wishes a policy decision had been made in a different forum or with more public input shares this complaint. A disagreement with the process by which a decision is made—absent a violation of a specific, legally mandated procedure owed to the plaintiff—is not a particularized

injury sufficient to confer standing. Plaintiffs' belief that these agreements should have been subject to a vote by the County Commission does not create a cognizable legal injury.

ii. The Barbershop's Alleged Injury Is Not Fairly Traceable to Defendants' Actions.

The Barbershop's standing claim fails for a simple reason: the ultimate cause of its alleged injury—the loss of its employee, Mr. Montes—was Mr. Montes's violation of federal immigration law, which subjected him to arrest and removal by federal authorities. (*Complaint* at ¶¶ 142, 145). The fact a Laramie County Sheriff's deputy, duly authorized under a 287(g) agreement to act as an agent of federal immigration enforcement, effectuated the arrest does not change the analysis. The deputy was acting “under color of Federal authority.” 8 U.S.C. § 1357(g)(8). Had an ICE agent been driving behind Mr. Montes instead of an LCSO deputy, the result would have been identical. The Barbershop's injury is traceable to federal law and federal enforcement priorities, not to the state-law validity of the intergovernmental agreement that authorized the local deputy to assist in that federal enforcement. The causal chain is simply too attenuated to support standing against these Defendants.

d. The 287(g) Agreements Are Not “Rules” Subject to WAPA.

Finally, Plaintiffs attempt to use WAPA as a means of circumventing traditional standing requirements. This fails because the 287(g) agreements are not “rules” as defined by the Act. WAPA defines a “rule” as an “agency statement of general applicability that implements, interprets and prescribes law, policy or ordinances ... or describes the organization, procedures, or practice requirements of any agency.” WYO. STAT. ANN. § 16-3-101(b)(ix). The 287(g) agreements are intergovernmental contracts. They do not have “general applicability” to the public. They are binding only on the parties—the LCSO and ICE—and they govern the internal training,

supervision, and authorized functions of a specific set of deputized law enforcement officers. They do not prescribe law or policy for Wyoming citizens or create rights or obligations for the public at large.

Because the agreements are not “rules,” the rulemaking procedures of WYO. STAT. ANN. § 16-3-103, including the notice and comment requirements, are wholly inapplicable. Consequently, Plaintiffs cannot claim an injury based on the denial of a procedural right they were never owed. Their WAPA claim (Count III) fails as a matter of law, and it cannot serve as an alternative basis for standing.

III. CONCLUSION

Plaintiffs have failed to comply with the mandatory conditions precedent of the WYOMING GOVERNMENTAL CLAIMS ACT, requiring dismissal of their *Complaint*. Furthermore, they have failed to allege a cognizable, particularized injury that is fairly traceable to Defendants’ conduct, and thus lack the standing necessary to invoke this Court’s authority. For all the foregoing reasons, Defendants respectfully request that the Court grant their *Motion to Dismiss* and dismiss Plaintiffs’ *Complaint* with prejudice.

DATED this 24th day of July 2026.



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served this 24th day of July 2026, addressed to:

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