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**IN THE IRON COUNTY JUSTICE COURT  
IN AND FOR IRON COUNTY, STATE OF UTAH**

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**THE STATE OF UTAH,**

Plaintiff,

vs.

**GOOD CLIENT,**

Defendant.

**MEMORANDUM IN RESPONSE TO  
PLAINTIFF'S "MEMORANDUM  
OPPOSING DEFENDANT'S MOTION  
TO SUPPRESS/DISMISS," AND IN  
SUPPORT OF DEFENDANT'S MOTION  
TO SUPPRESS EVIDENCE AND  
DISMISS THE CASE**

Case Number: 123456789

Judge: Honorable Judge

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The above-captioned defendant, Good Client (hereinafter, "**Defendant**"), by and through his counsel of record, Saul Goodman, respectfully files this *Memorandum in Response to Plaintiff's "Memorandum Opposing Defendant's Motion to Suppress/Dismiss," and in Support of Defendant's Motion to Suppress Evidence and Dismiss the Case* (hereinafter, this "**Memorandum**") in response to the *Memorandum Opposing Defendant's Motion to Suppress/Dismiss* (hereinafter, "**Plaintiff's Memorandum**"), filed on September 14, 2025, by the above-captioned plaintiff, The State of Utah (hereinafter, "**Plaintiff**"), to respond to and oppose Plaintiff's Memorandum, as well as to substantiate Defendant's *Motion further to Suppress Evidence and Dismiss Case* (hereinafter, the "**Motion**") filed on May 1, 2025, as follows:

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## I. INTRODUCTION

This case turns on the following proposition: An officer may not convert a sleeping motorist in a parked vehicle into a DUI investigation by opening the vehicle's door without a warrant or a valid exigent exception.

In the morning of December 14, 2024, Bad Trooper twice observed Defendant's truck parked in a closed business lot with its engine running and headlights on. After a substantial, nonemergency delay—30–45+ minutes by Plaintiff's own telling—Gibbs returned, saw no signs of medical distress, and, before any entry, told dispatch he was out with an intoxicated person and planned field sobriety tests. Only then did he open the unlocked driver's door, awakening Defendant and generating the very cues Plaintiff now relies upon.

Utah's Article I, § 14, and the Fourth Amendment do not permit that sequence. Opening the door was a warrantless search. Plaintiff's sole justification—community caretaking or emergency aid—fails under an objective, immediacy-based standard: The prolonged delay, absence of observable medical crisis, and pre-entry investigatory messaging foreclose any claim of true emergency aid, and less intrusive alternatives existed.

Because every incriminating observation and command flowed from the unlawful entry—the odor of alcohol, red or bloodshot eyes, slurred speech, partial HGN, the exit order, the arrest, the refusal-admonition evidence, and the handgun found during the search incident to arrest—Plaintiff bears, and cannot meet, the burden to prove attenuation, an independent source, or inevitable discovery. Under settled principles of suppression and Utah's independent constitutional protections, the door-opening tainted the causal chain, necessitating the exclusion of all post-entry evidence.

The Court should hold that Bad Trooper's warrantless door-opening exceeded any permissible welfare check and constituted an unreasonable search; reject Plaintiff's community-caretaking or emergency-aid theory; and suppress all derivative evidence as fruit of the poisonous tree. The remaining record cannot sustain the charges, and suppression is necessary to vindicate Article I, § 14, and the Fourth Amendment.

## II. STATEMENT OF ISSUES

The following are the key issues in controversy in this matter, which are addressed and resolved in this Memorandum.

- A. Whether Bad Trooper's warrantless opening of Defendant's unlocked driver door—after a 30–45+ minute nonemergency delay, with no observable medical distress, and after a pre-entry record showing that he was out with an intoxicated person and planned SFSTs—exceeded the community caretaking or emergency aid exception and thus constituted an unlawful search under Utah Const. Art. I, § 14, and the Fourth Amendment.
- B. Whether, because every indicator of impairment and the handgun were discovered only after the unlawful door-opening, and Plaintiff cannot establish attenuation, an independent source, or inevitable discovery, all post-entry observations and derivative evidence must be suppressed as fruit of the poisonous tree.
- C. Whether Bad Trooper's expressed investigatory purpose before entry, combined with the absence of exigency and the prolonged non-intervention, confirms that the door-opening was investigatory rather than caretaking, necessitating the suppression of the ensuing evidence, is the question.

- D. Whether any claimed initial caretaking justification is vitiated by Bad Trooper's 30–45+ minute delay and lack of observed medical distress, thereby rendering the entry unreasonable and all subsequent DUI evidence and the firearm inadmissible.
- E. Assuming *arguendo* that initial contact was permissible, whether Plaintiff nevertheless fails its burden to show attenuation, independent source, or inevitable discovery for the odor of alcohol, red eyes, slurred speech, HGN cues, refusal-admonition evidence, the arrest, and the firearm, mandating suppression under *State v. Rynhart* and *Wong Sun*.

### III. PROCEDURAL POSTURE

On December 14, 2024, at approximately 1:54–1:57 a.m., in the south lot of the Good Restaurant in Cedar City, Utah, Bad Trooper encountered a parked Ford F-150 with its engine running and headlights on, re-approached the vehicle, opened the driver's door, made contact with the occupant—Defendant—and effected an arrest, leading to bookings for DUI, possession of a weapon while under the influence, and refusal of chemical testing.

On May 1, 2025, the defense filed a Motion to Suppress Evidence and Dismiss, challenging Bad Trooper's door opening as an unlawful warrantless entry or search, seeking suppression of all evidence obtained post-entry and dismissal of the charges as fruit of the poisonous tree.

On August 14, 2025, the Court conducted an evidentiary hearing at which Bad Trooper testified; the body-worn camera footage was admitted and considered; and the record was supplemented with dispatch and statements reflecting pre-entry investigatory communications.

On September 14, 2025, Plaintiff filed Plaintiff's Memorandum in opposition, asserting the community caretaking or emergency aid doctrine justified the door opening and that

subsequent observations supplied reasonable suspicion and probable cause for continued detention and arrest.

The matter is now before the Court on the defense's reply in support of suppression, with the Court to determine whether Bad Trooper's entry and all derivative evidence are admissible under the asserted doctrines and applicable constitutional protections.

#### **IV. STATEMENT OF FACTS**

In morning (middle of the night) of December 14, 2024, between approximately 1:54 and 1:57 a.m., Utah Highway Patrol Bad Trooper observed a white Ford F-150 parked in the south lot of the Good Restaurant. The businesses in the area were closed. The truck's headlights were on, and the engine was running. Bad Trooper did not engage with the vehicle at that time.

After a significant interval—characterized by Plaintiff as roughly 30–45+ minutes—Bad Trooper returned to the same lot. The Ford F-150 remained stationary with its lights on and engine running. Bad Trooper parked his patrol car behind and offset from the F-150 without activating emergency lights or siren and left space for the F-150 to pull forward or reverse out of the spot.

On re-approach, Bad Trooper went to the passenger side and observed Defendant in the driver's seat, either asleep or slumped, with a phone in his hand. There were no visible signs of medical trauma, distress, or a medical emergency such as labored breathing, obvious injury, blood, vomiting, or drug paraphernalia.

Bad Trooper returned to his patrol vehicle and notified other troopers. Contemporaneous dispatch and official statements reflect that, before making any entry, he described himself as being “out with an intoxicated person” and indicated he would be conducting standardized field sobriety tests shortly. Another trooper responded to assist.

Without activating emergency lights or otherwise seizing the vehicle's movement, and without seeking a warrant, Bad Trooper decided to conduct what he described as a welfare check. He tried the driver's door handle, found the door unlocked, and opened the door. Defendant then awoke, appearing startled and disoriented from sleep rather than exhibiting signs of a medical crisis.

Following the door opening and Defendant's awakening, Bad Trooper reported detecting an odor of alcohol and observing red, bloodshot eyes and slurred speech. Bad Trooper ordered Defendant to turn off the engine and exit the vehicle.

Defendant declined to perform standardized field sobriety tests both before and after exiting the vehicle. Bad Trooper attempted limited horizontal gaze nystagmus observations and noted a lack of smooth pursuit; however, Defendant stopped participating, and no full SFST battery was completed. Prior to the door opening, no cues of impairment—odor, eyes, speech, or driving conduct—had been recorded.

Bad Trooper concluded that Defendant was highly intoxicated based on the post-entry observations and placed him under arrest for DUI. During a search incident to arrest, Bad Trooper located a Ruger LCP handgun in Defendant's overalls pocket. The firearm was in a soft holster with a full magazine and an empty chamber; a records check showed it was not stolen. Defendant stated he had not taken the firearm into the bar and had pocketed it after leaving.

Importantly, at one point in the scene, police dispatch expressly offered to roll medical personnel, but Bad Trooper declined to have medics dispatched. It is alleged that Bad Trooper apparently did not believe the circumstances were exigent—a medical reason to intervene—that

warranted intervention. If he had such a belief, reason compels the conclusion that he would have certainly taken the offer to dispatch medics.

A transcript of the relevant body-cam footage is attached hereto as “**Exhibit A**,”<sup>1</sup> and it provides the following information showing Bad Trooper’s decline to the offer of medical dispatch:

**A. Dispatch (00:03:33):** “273 Cedar. Just inquire if we need medics to roll.”

**B. Bad Trooper (00:03:38):** “Ten Four. Stand by on that. He is sitting. I can’t get him to wake up. Just gimme one sec. C273. What was the name of the RO on that?”

A parallel composite transcript, attached hereto as “**Exhibit B**,”<sup>2</sup> reflects the same refusal to request EMS:

**A. Dispatch (00:03:33):** “273 Cedar. Just inquire from new medic.”

**B. Trooper (00:03:39):** “Ten Four. Now he’s, I can’t get him to wake up. Just one sec.”

This offered-and-declined medical dispatch contemporaneously undercuts any claim of an objectively imminent medical emergency necessitating immediate, warrantless entry.<sup>3</sup>

At the scene and thereafter, Bad Trooper read the refusal admonition. Defendant refused a breath test. Bad Trooper obtained a warrant for a blood draw; at the hospital, Defendant vacillated and ultimately refused it. He was booked on charges including DUI under Utah Code § 41-6a-502,

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<sup>1</sup> See Exhibit A: *Bad Trooper’s Body-Worn Camera – Warehouse Lot Welfare Check, Door-Opening, Exit Order, Partial HGN, Arrest, and Implied-Consent Sequence* (approx. 01:54–03:38 on December 14, 2024)

<sup>2</sup> See Exhibit B: *Dispatch/Radio + Body-Cam Composite – Initial Observation, EMS Standby, Door-Opening, and On-Scene Interaction* (early encounter segment on December 14, 2024).

<sup>3</sup> See *Brigham City v. Stuart*, 547 U.S. 398, 403–04 (2006) (emergency-aid entry requires objectively reasonable belief that immediate aid is needed); *United States v. Najjar*, 451 F.3d 710, 718 (10th Cir. 2006) (government must show objective, *immediate* need, and reasonable scope).

possession of a weapon while under the influence under § 76-10-528, and refusal of a chemical test under §§ 41-6a-520 and -520.1.

The record before the Court includes transcripts of the audio of body-worn camera video from Bad Trooper depicting the approach, prolonged knocking and light use, the door opening, the interaction with Defendant, and subsequent events. It also includes dispatch or statements reflecting Bad Trooper's pre-entry characterization of the situation as involving an intoxicated person and his plan to conduct SFSTs. Bad Trooper testified at an evidentiary hearing on August 14, 2025; the body-worn camera footage was admitted and considered.

On May 1, 2025, Defendant moved to suppress, asserting that opening the driver's door was a warrantless search unsupported by an exception; that no emergency aid or community caretaking justification applied given the elapsed time, lack of visible medical distress, and pre-entry investigatory messaging; and that all resulting observations, commands, statements, the arrest, the search incident to arrest, and the firearm must be suppressed as fruits of the unlawful entry. Plaintiff opposed, contending the entry was justified under community caretaking or emergency aid and that post-entry observations furnished reasonable suspicion and probable cause. The Court heard evidence on August 14, 2025, and Plaintiff filed Plaintiff's Memorandum on September 14, 2025. The pending issues include factual findings regarding the duration of the pre-entry delay and the content and timing of the pre-entry dispatch, which are relevant to the asserted emergency justification and the scope of any permissible welfare check.

## V. ARGUMENT

- i. OPENING THE UNLOCKED DRIVER'S DOOR TO ROUSE DEFENDANT WAS A WARRANTLESS SEARCH THAT VIOLATED THE FOURTH AMENDMENT AND ARTICLE I, § 14, OF THE UTAH CONSTITUTION; PLAINTIFF CANNOT MEET ITS BURDEN TO JUSTIFY THE INTRUSION UNDER THE EMERGENCY AID OR COMMUNITY CARETAKING DOCTRINE GIVEN THE 30–45+ MINUTE DELAY, THE ABSENCE OF OBJECTIVE MEDICAL EXIGENCY, BAD TROOPER'S PRE-ENTRY INVESTIGATORY INTENT, AND THE AVAILABILITY OF LESS INTRUSIVE ALTERNATIVES; AND ALL POST-ENTRY EVIDENCE—INCLUDING IMPAIRMENT INDICATORS, THE EXIT ORDER, THE ARREST, THE FIREARM, AND REFUSAL EVIDENCE—MUST BE SUPPRESSED AS FRUIT OF THE POISONOUS TREE.

### A. The door-opening was a search under the Fourth Amendment and Article I, § 14.

Physically manipulating and opening a vehicle door to access its occupant is a trespassory, exploratory intrusion into a protected effect that triggers constitutional scrutiny. *New York v. Class* confirms that reaching into a car's interior is a search.<sup>4</sup> Utah's Article I, § 14, affords robust protection independently of the federal baseline, as established in *State v. Larocco*.<sup>5</sup> Because Bad Trooper opened the door without a warrant, Plaintiff bears the burden to prove a specific, narrowly drawn exception applies.

### B. The record proves Bad Trooper pre-announced SFSTs before he opened the door—confirming an investigatory purpose, not bona fide emergency aid.

Bad Trooper's own police paperwork documents—specifically, the Utah Highway Patrol Crime Report R12345678 (attached hereto as “**Exhibit C**”) and the DUI Report Form (attached hereto as “**Exhibit D**”)—expressly state that, before opening the door, Bad Trooper messaged another trooper that he was already “out with an intoxicated” person and would be out on SFSTs within a minute. Specifically, Bad Trooper wrote, “**I returned to my patrol vehicle and sent**

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<sup>4</sup> *State v. Schlosser*, 774 P.2d at 1137.

<sup>5</sup> 794 P.2d 460, 471 (Utah Jan. 1990).

**Second Trooper a message telling him that I was out with an intoxicated individual in the truck and would be out on field sobriety tests in a minute,”<sup>6</sup> and “I returned to my patrol vehicle and sent Second Trooper a message telling him that I was out with an intoxicated individual in the truck and would be out on field sobriety tests in a minute.”<sup>7</sup>**

The emergency-aid or community-caretaking exception is “limited to circumstances in which officers reasonably believe a person ‘immediately’ needs aid,” and any intrusion must be “strictly circumscribed by the exigencies which justify its initiation.”<sup>8</sup>

To meet the criteria of the emergency-aid or community-caretaking exception, there must be an objective, immediate need to protect life or safety, and the manner or scope of intrusion must be tailored to that need.<sup>9</sup>

In applying the above-referenced standards and elements to the facts of this matter, it is compelling to conclude that Bad Trooper’s pre-entry communications—**out with an intoxicated individual . . . [and] out on field sobriety tests in a minute**”—establish an investigatory plan to run DUI SFSTs, not a constrained, time-critical medical rescue. That is incompatible with *Najar*’s immediacy requirement and *Stuart* or *Fisher*’s objective standard. The purpose and scope of the intrusion were investigatory from the outset; the door was opened to start a DUI case, not to render

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<sup>6</sup> Exhibit C: Utah Highway Patrol, Crime Report R12345678, Case No. 123456789, at 2 (December 14, 2024).

<sup>7</sup> Exhibit D: Utah Highway Patrol, DUI Report Form D123456789, at 2 (December 14, 2024).

<sup>8</sup> *United States v. Najar*, 451 F.3d 710, 718 (10th Cir. 2006) (articulating two-part test for exigency: objective immediacy and reasonable scope); *United States v. Gambino-Zavala*, 539 F.3d 1221, 1226 (10th Cir. 2008) (applying *Najar* and emphasizing confinement to the emergency); *Brigham City v. Stuart*, 547 U.S. 398, 403–04 (2006); *Michigan v. Fisher*, 558 U.S. 45, 47–49 (2009) (per curiam).

<sup>9</sup> *See Najar*, 451 F.3d at 718.

urgent aid. Plaintiff's community-caretaking theory, therefore, fails on both prongs (no immediacy and overbroad scope).<sup>10</sup>

Therefore, because Bad Trooper pre-announced SFSTs before the entry, Plaintiff cannot re-characterize the door-opening as emergency aid. All post-entry observations and derivatives are the fruit of the poisonous tree.<sup>11</sup>

**C. Plaintiff bears the burden to prove a narrow “exigency” exception; it has not, and cannot, meet that burden here.**

Warrantless searches are “per se unreasonable . . . subject only to a few specifically established and well-delineated exceptions,” and the government bears the burden to prove an exception applies.<sup>12</sup> Utah’s Article I, § 14, provides independent protection, placing the burden on Plaintiff to justify warrantless intrusions and to purge taint.<sup>13</sup> (1) Specifically, the elements, to be met are the following: There must be (1) articulable facts showing an immediate threat of serious injury or need for aid; there must (2) have been taken the least-intrusive steps and scope must have been strictly tied to that emergency; and Plaintiff’s must prove (1) and (2), and, if the entry is unlawful, to prove attenuation, independent source, or inevitable discovery for each downstream item.<sup>14</sup>

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<sup>10</sup> See *State v. Worwood*, 2007 UT 47, ¶¶ 33–37, 164 P.3d 397 (Utah’s Article I, § 14 independently polices pretext and suppresses fruits of unlawful intrusion).

<sup>11</sup> See *Wong Sun v. United States*, 371 U.S. 471, 484–88 (1963); *Brown v. Illinois*, 422 U.S. 590, 603–05 (1975); *Worwood*, 2007 UT 47, ¶¶ 33–37, 164 P.3d 397.

<sup>12</sup> See *United States v. Najjar*, 451 F.3d 710, 717–18 (10th Cir. 2006) (“Exigent circumstances may justify a warrantless search where (1) officers have an objectively reasonable basis to believe there is an immediate need to protect the lives or safety of themselves or others, and (2) the manner and scope of the search is reasonable.”); *Gambino-Zavala*, 539 F.3d at 1226 (exigency must be real; search must be confined to the emergency); *Brigham City v. Stuart*, 547 U.S. 398, 403–04 (2006) (objective imminence); *Michigan v. Fisher*, 558 U.S. 45, 47–49 (2009) (same).

<sup>13</sup> *State v. Worwood*, 2007 UT 47, ¶¶ 33–37, 164 P.3d 397; *State v. Larocco*, 794 P.2d 460, 469–73 (Utah 1990) (plurality).

<sup>14</sup> See *Najar*, 451 F.3d at 718; *Brown*, 422 U.S. at 603–04; *Worwood*, 2007 UT 47, ¶¶ 33–37, 164 P.3d 397.

In applying the foregoing standards and elements to the case at hand, it is demonstrated that Plaintiff's submission relies only on Bad Trooper's subjective worry. There is no EMT, paramedic, nurse, or physician testimony establishing imminent medical peril. Indeed, the dispatch offered medics, but Bad Trooper declined (Dispatch: "Just inquire if we need medics to roll"; Bad Trooper: "Ten Four. Standby on that . . . ."), and he had already pre-announced SFSTs before entry.<sup>15</sup>

The 30–45+ minute pre-entry delay, the absence of objective medical indicators (no labored breathing, no visible trauma, no vomiting, no overdose paraphernalia), and the failure to accept offered EMS defeat the "immediacy" prong as a matter of law.<sup>16</sup>

Therefore, Bad Trooper was unable to satisfy the following prongs of *United States v. Najar*,<sup>17</sup> which require the existence of specific, articulable facts showing an immediate threat of serious injury or a need for aid: (1) "[an] objectively reasonable [belief of] immediate need to protect the lives or safety of . . . others, and (2) the manner and scope of the search is reasonable." The case of *Najar* assesses that determining whether specific, articulable facts exist must be "guided by the realities of the situation . . . from the viewpoint of 'prudent, cautious, and trained officers.'"<sup>18</sup> And when the exception applies, officers must keep their activity "confined . . . to only those places . . . where an emergency would reasonably be associated."<sup>19</sup>

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<sup>15</sup> See Exhibit A; see, also, Exhibit B.

<sup>16</sup> See *Fisher*, 558 U.S. at 47–49; *Najar*, 451 F.3d at 718.

<sup>17</sup> 451 F.3d 710, 718 (10th Cir. 2006)

<sup>18</sup> *Id.* (quotation marks omitted).

<sup>19</sup> *Id.* at 719.

As proven by Bad Trooper conduct—e.g., waiting 30-45+ minutes before acting, and refusing medical dispatch—he lacked “[an] objectively reasonable [belief of] immediate need to protect the lives or safety of . . . others,” as if there had been an immediate need, he would have acted accordingly, instead of attempting to act under the veil of “exigency” when he opened Defendant’s door without having first observed clear signs of medical need. Indeed, a person merely sleeping or lounging in their car is not enough to form a “reasonable” belief that there was a specific, articulable medical need, as there are myriad reasons why a person could be sleeping or lounging in their car, all of which fall short of showing an immediate medical need. Furthermore, Bad Trooper failed to act reasonable regarding “the manner and scope of the search . . .,” as there were myriad other less-intrusive ways to detect a medical need, which, again, said “medical need” never existed; indeed, had Defendant, for example, been bleeding or showing signs of impaired respiration or no respiration, this would have suggested to the reasonable mind that there was a medical need. Sleeping or lounging in one’s car does not rise to the level of leading the reasonable person to reasonably believe that said sleeping or lounging could be reasonably interpreted as an immediate medical need.

Furthermore, Plaintiff cannot shift its burden to prove exigency to Defendant by arguing that the defense failed to disprove exigency. Under Najjar and Utah’s Article I, § 14, Plaintiff must do the proving—and it has not: the only “evidence” of medical urgency is Bad Trooper’s say-so, contradicted by his own conduct (EMS offer declined; pre-announced SFSTs; investigatory sequence). With the entry unlawful, all post-entry evidence is presumptively tainted, and Plaintiff

then bears the further burden to establish attenuation, independent source, or inevitable discovery for each item—something it does not even attempt to do with admissible, non-speculative proof.<sup>20</sup>

Therefore, reason compels the conclusion that Plaintiff has not carried its burden, which burden is imposed upon Plaintiff pursuant to *State v. Worwood*,<sup>21</sup> which provides that “[o]nce a defendant adequately challenges a warrantless seizure, Plaintiff bears the burden of proving the reasonableness of law enforcement’s action,”<sup>22</sup> and that “[o]nce a valid constitutional challenge is made, the burden shifts to Plaintiff to prove that its warrantless action was justified.”<sup>23</sup> Because part of the reasons for the warrantless search are predicated upon Bad Trooper’ ostensive determination of exigency (which “determination” was clearly made outside the scope of reasonableness and, perhaps, deliberate and contaminated by bias), Plaintiff has the burden to prove that the purported “exigency” justified the warrantless action, as exigency was the pretext for the warrantless search. Plaintiff has the burden to prove a narrow emergency-aid exception, and it may not shift that burden to the defense, as made evident by *Worwood*.

On this record—EMS offered and declined, SFSTs pre-announced, no objective medical crisis, delay inconsistent with imminence—suppression is required under the Fourth Amendment and Utah Const. Art. I, § 14.<sup>24</sup>

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<sup>20</sup> *Brown*, 422 U.S. at 603–05; *Worwood*, 2007 UT 47, ¶¶ 33–37, 164 P.3d 397.

<sup>21</sup> 2007 UT 47, ¶ 39, P.3d 397.

<sup>22</sup> *State v. Worwood*, 2007 UT 47, ¶ 39, 164 P.3d 397.

<sup>23</sup> *Id.* at ¶ 40.

<sup>24</sup> See *Wong Sun*, 371 U.S. at 484–88; *Brown*, 422 U.S. at 603–05; *Worwood*, 2007 UT 47, ¶¶ 33–37, 164 P.3d 397.

**D. The emergency aid or community caretaking exception does not apply to this record.**

The emergency aid doctrine permits warrantless entry only when objective, articulable facts would lead a reasonable officer to believe someone inside needs immediate aid for serious injury or an imminent threat, and the response is tailored to that exigency.<sup>25</sup> Here, Plaintiff's proof fails on both the objective-need and tailoring prongs.

First, objective need: Bad Trooper left the truck undisturbed for 30–45+ minutes after first observing it—a delay irreconcilable with any claim of immediacy. When he returned, the unchanged scene showed a parked truck in a private lot, engine running, and an occupant apparently asleep or slumped with a phone—no crash, blood, labored breathing, vomit, medical paraphernalia, hypothermia cues, smoke, or signs of overdose. This is the antithesis of *Fisher's* smashed windows, blood, and violent tumult, or Stuart's ongoing altercation.<sup>26</sup>

Second, purpose and tailoring: Before opening the door, Bad Trooper messaged dispatch that he was “out with an intoxicated person” and would be doing SFSTs—an admission of investigatory purpose. Utah and federal courts require an objectively caretaking, not investigatory, purpose and a response limited to addressing the perceived emergency.<sup>27</sup> The door-opening here was not a minimal welfare check narrowly aimed at resolving an imminent medical crisis; it was the gateway to a planned DUI investigation.

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<sup>25</sup> See *Brigham City v. Stuart*, 547 U.S. 398 (2006); *Michigan v. Fisher*, 175 L. Ed. 2d 410, 410 (Jan. 2009); *United States v. Najar*, 451 F.3d 710, 718 (10th Cir. 2006); and *State v. Anderson*, 910 P.2d 1229, 1229 (Utah Jan. 1996).

<sup>26</sup> See *Michigan v. Fisher*, 175 L. Ed. 2d at 410; see *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 398.

<sup>27</sup> See *State v. Anderson*, 910 P.2d at 1229; see *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 398.

**E. Plaintiff’s anticipated counterarguments fail.**

Plaintiff may argue that nonresponsiveness to knocking and a late-night, running engine created exigency. But the record shows extensive knocking and a strobe that “typically” rouses occupants, coupled with no other distress indicators. Many people sleep through knocks in parked cars, and this fact alone does not establish a serious, immediate threat. If Bad Trooper truly believed immediate aid was necessary, waiting 30–45+ minutes was unreasonable; the delay itself defeats any claim of exigency. Nor does a running engine convert apparent sleep into an emergency: there was no evidence of carbon monoxide risk, extreme weather, or vehicle movement. *Cady’s* community caretaking rationale is inapposite: the case involved a disabled vehicle and inventory-like concerns on a public way, not an intrusion into an occupied, parked vehicle on private property to initiate a DUI investigation.<sup>28</sup> Finally, Plaintiff may assert that once the door was opened and impairment indicators were detected, reasonable suspicion and probable cause matured. That argument begs the question: those indicators exist only because of the unlawful entry. They cannot retroactively justify the intrusion.<sup>29</sup>

**F. Even assuming some caretaking concern, the intrusion was unnecessary and overbroad.**

Emergency aid requires the least intrusive means reasonably available. Alternatives abounded: continue verbal hailing or use the PA, run the plate, and identify or locate the registered owner, summon medical personnel to assess, maintain observation, or attempt to rouse by louder external means without entering. Bad Trooper bypassed these measures while contemporaneously

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<sup>28</sup> *Cady v. Dombrowski*, 413 U.S. 433 (1973) at 442–448.

<sup>29</sup> *State v. Schlosser*, 774 P.2d at 1137.

signaling a DUI investigation. Opening the door—crossing the constitutional threshold—was not the least restrictive step and exceeded any permissible welfare scope.<sup>30</sup>

**G. All post-entry evidence is the fruit of the poisonous tree and must be suppressed.**

Because the door-opening was unlawful, all observations and evidence obtained thereafter—odor of alcohol, bloodshot eyes, slurred speech, partial HGN, the exit order, the arrest, the firearm found in the search incident to arrest, and the chemical-test requests or refusals—are tainted and inadmissible absent attenuation, independent source, or inevitable discovery.<sup>31</sup> Plaintiff has identified no intervening circumstance or lawful independent source. *Mimms* or *Wilson* are inapplicable because there was no lawful traffic stop to anchor an exit order.<sup>32</sup> Without the tainted observations, Plaintiff lacks probable cause for DUI, the predicate for refusal sanctions, and the basis for weapons-under-the-influence. Suppression under both the Fourth Amendment and Article I, § 14, and the interpretation there of by *Larocco*, is required.<sup>33</sup>

**H. Remedy.**

The Court should find the door-opening was an unlawful search not justified by emergency aid or community caretaking, suppress all post-entry evidence and derivative fruits, and dismiss the charges for lack of admissible evidence. This result vindicates the constitutional line between bona fide welfare checks and investigatory pretexts, ensuring that caretaking remains narrowly tailored to genuine emergencies.<sup>34</sup>

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<sup>30</sup> *State v. Schlosser*, 774 P.2d at 1132.

<sup>31</sup> See *Wong Sun v. United States*, 371 U.S. at 471; *Brown v. Illinois*, 45 L. Ed. 2d 416, 416 (Jan. 1975).

<sup>32</sup> See *Pennsylvania v. Mimms*, 434 U.S. 106 (1977).

<sup>33</sup> See *Utah Const. Art. I, § 14*; *State v. Larocco*, 794 P.2d at 472–473.

<sup>34</sup> See *Cady v. Dombrowski*, 413 U.S. 433 (1973) at 433.

- ii. ALL POST-ENTRY OBSERVATIONS AND DERIVATIVE EVIDENCE—INCLUDING ODOR OF ALCOHOL, RED OR BLOODSHOT EYES, SLURRED SPEECH, PARTIAL HGN, THE EXIT ORDER, THE ARREST, THE REFUSAL EVIDENCE, AND THE FIREARM—MUST BE SUPPRESSED AS FRUITS OF THE UNLAWFUL WARRANTLESS DOOR-OPENING; PLAINTIFF HAS NOT MET ITS BURDEN TO SHOW ATTENUATION, INDEPENDENT SOURCE, OR INEVITABLE DISCOVERY UNDER *WONG SUN*, *BROWN V. ILLINOIS*, AND UTAH’S INDEPENDENT PROTECTIONS UNDER ARTICLE I, § 14.

**A. Primary illegality and causal nexus.**

Physically opening a parked vehicle’s door to access an occupant is a search under the Fourth Amendment and Article I, § 14.<sup>35</sup> Here, Bad Trooper chose not to intervene for 30–45+ minutes after first observing the truck. When he returned, he parked without emergency lights, left egress paths open, and contemporaneously messaged dispatch that he was “out with an intoxicated person” and would be doing SFSTs—objectively signaling an investigative DUI purpose, not an emergent medical one. Only after prolonged but nonemergency knocking did he try the handle, find the door unlocked, and open it. No specific, articulable facts suggested an immediate need for medical aid. A running engine and a slumped or sleeping adult, with no signs of injury, distress, or medical crisis—especially after a deliberate delay—does not satisfy the emergency-aid threshold.<sup>36</sup> The entry, therefore, violated both constitutions.

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<sup>35</sup> See *New York v. Class* (opening a door to gain access is a search); *State v. Larocco* (Utah affords robust vehicle protections under § 14); *State v. Larocco*, 794 P.2d at 460.

<sup>36</sup> See *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 398; *Michigan v. Fisher*, 175 L. Ed. 2d at 410; and *United States v. Najjar*, 451 F.3d 710, 718 (10th Cir. 2006) at 710.

**B. Because the door-opening was unlawful, Plaintiff must show that the challenged evidence was not obtained by exploitation of that illegality.<sup>37</sup>**

The record is unequivocal: every impairment indicator and the firearm were discovered only after the door was opened and Defendant was roused. Before entry, Bad Trooper had no odor, no speech, no eyes, no HGN, and no admission—indeed, no independent basis for reasonable suspicion or probable cause. The causal chain runs directly from the unconstitutional door-opening to the observations, the exit order, the arrest, the search incident to arrest, and the refusal-related evidence.

**C. Plaintiff's community-caretaking or emergency-aid theory fails.**

Community caretaking cannot be a pretext for criminal investigation, and emergency aid requires an objectively reasonable belief of immediate need. Bad Trooper's own conduct defeats exigency: He left the scene for a substantial interval, returned without emergency signaling, left clear avenues of departure, and pre-announced a DUI or SFST investigation before any medical observations. Those facts make it clear that door-opening was a means to initiate an impairment investigation, not to provide urgent aid.<sup>38</sup> At most, the facts supported continued attempts at consensual contact or calling medical services—both nonintrusive alternatives. Utah's Article I, § 14, as articulated in *Larocco*, demands scrutiny of warrantless vehicle entries; on these facts, Plaintiff cannot shoulder its burden.<sup>39</sup>

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<sup>37</sup> See *Wong Sun v. United States*, 371 U.S. at 471; *Brown v. Illinois*, 45 L. Ed. 2d at 416; and *State v. Larocco*, 794 P.2d at 472–473.

<sup>38</sup> See *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 398; *Michigan v. Fisher*, 558 U.S. 45 (2009) (requiring ongoing emergency); *Gambino-Zavala*, 539 F.3d 1221 (10th Cir. 2008) (exigency must be real, not speculative)..

<sup>39</sup> See *State v. Larocco*, 794 P.2d at 471.

**D. Even assuming a narrow welfare check could justify minimal intrusion, the scope must be strictly tied to neutralizing a medical emergency.**

Once Defendant awoke without signs of medical crisis, the caretaking rationale ended.<sup>40</sup>

Transitioning to a criminal DUI investigation based solely on post-entry exposure exceeded any caretaking scope and taints all ensuing evidence.<sup>41</sup>

**E. *Brown v. Illinois* attenuation factors compel suppression.**

First, temporal proximity: the odor, eyes, speech, and partial HGN were perceived immediately upon and because of the door-opening. This weighs heavily for suppression. Second, intervening circumstances: there were none independent of the illegality. A suspect's compliance or refusal after an unlawful command does not purge the taint. No warrant or independent lawful stop intervened; no consensual encounter arose free of the entry. Third, purpose and flagrancy: the pre-entry planned SFSTs, the deliberate pre-entry delay, the lack of emergency indicators, and the choice to open the unlocked door to develop impairment cues all show investigatory purpose and exploitation of the entry—precisely what *Brown* seeks to deter. Therefore, each factor favors suppression; Plaintiff's burden is unmet.

**F. No independent source.**

Plaintiff cannot point to any lawful, untainted source that would have produced the same observations or the firearm. Before the entry, Bad Trooper had no impairment indicators; he lacked reasonable suspicion or probable cause.<sup>42</sup> The post-entry cues are derivative of the unlawful

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<sup>40</sup> *Cady v. Dombrowski*, 413 U.S. 433 (1973) at 442–448.

<sup>41</sup> *Wong Sun v. United States*, 371 U.S. at 488.

<sup>42</sup> *State v. Schlosser*, 774 P.2d at 1137.

intrusion; the arrest and search incident to arrest are likewise derivative.<sup>43</sup> Without an independent lawful basis existing before the door-opening, an independent source fails as a matter of law.<sup>44</sup>

**G. No inevitable discovery.**

Inevitable discovery requires proof, by a preponderance, that proper, routine, and actively pursued lawful procedures would have uncovered the same evidence absent the illegality. Plaintiff identifies none. Speculation that Defendant “would have woken up anyway,” “would have rolled down the window,” or “would have exited,” is conjecture—not an ongoing, lawful procedure. There was no separate lawful stop being executed, no pending warrant, no medical dispatch en route, and no impound or inventory process underway.<sup>45</sup> Therefore, without a concrete, active, and lawful pathway, the principle of inevitable discovery does not apply.

**H. The exit order, arrest, firearm, and refusals are fruits.**

*Pennsylvania v. Mimms* and *Maryland v. Wilson* permit exit orders during lawful traffic stops; they do not authorize commands born of an unlawful entry where no stop occurred.<sup>46</sup> The exit order here flowed from the tainted impairment observations, leading to arrest, a search incident to arrest, and the discovery of the Ruger LCP handgun. Because the arrest lacked a lawful predicate independent of the tainted evidence, the firearm must be suppressed. The refusal admonition, the breath-test refusal, and the blood-draw warrant or refusal are equally derivative: each step was

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<sup>43</sup> *Wong Sun v. United States*, 371 U.S. at 471.

<sup>44</sup> *State v. Worwood*, 164 P.3d 397, 411 (Utah Jan. 2007).

<sup>45</sup> See *Wong Sun v. United States*, 371 U.S. at 471; *Brown v. Illinois*, 45 L. Ed. 2d at 416; *State v. Worwood*, 164 P.3d at 397.

<sup>46</sup> *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 124.

triggered only after the unconstitutional entry produced impairment cues. Absent attenuation, those items are inadmissible fruits.<sup>47</sup>

**I. Utah’s independent constitutional protection reinforces exclusion.**

Article I, § 14, as applied in *State v. Larocco*, provides broader protection for vehicle searches than the federal baseline.<sup>48</sup> Bad Trooper’s warrantless entry into a parked vehicle—following a purposeful delay and pretextual investigatory intent—violates Utah’s constitution and triggers exclusion.<sup>49</sup> On this record, Plaintiff has neither justified the entry nor carried its burden to break the causal chain.

**J. Remedy.**

Therefore, the proper remedy in this matter is to suppress all post-entry observations and derivative evidence: odor, red or bloodshot eyes, slurred speech, partial HGN, all statements and refusals, the exit order and ensuing arrest, and the firearm found in the search incident to arrest.<sup>50</sup> With those fruits excluded, the DUI, refusal, and weapons-under-the-influence counts lack admissible proof and must be dismissed.<sup>51</sup>

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<sup>47</sup> *Wong Sun v. United States*, 371 U.S. at 471.

<sup>48</sup> *State v. Larocco*, 794 P.2d at 472–473.

<sup>49</sup> *Id.* at 471.

<sup>50</sup> *Wong Sun v. United States*, 371 U.S. at 485.

<sup>51</sup> *Id.* at 488.

- iii. BAD TROOPER'S WARRANTLESS OPENING OF DEFENDANT'S VEHICLE DOOR WAS AN UNCONSTITUTIONAL SEARCH; PLAINTIFF HAS NOT CARRIED ITS BURDEN TO JUSTIFY THE INTRUSION UNDER THE EMERGENCY-AID OR COMMUNITY-CARETAKING EXCEPTION, PARTICULARLY UNDER THE INDEPENDENT PROTECTIONS OF UTAH CONSTITUTION ART. I, § 14. GIVEN THE 30-45+ MINUTE NON-INTERVENTION, LACK OF VISIBLE MEDICAL DISTRESS, AND BAD TROOPER'S PRE-ENTRY ANNOUNCING A DUI INVESTIGATION AND PLANNED SFSTS, ANY CLAIMED EXIGENCY WAS OBJECTIVELY UNREASONABLE AND, AT A MINIMUM, THE INTRUSION'S SCOPE AND PURPOSE WERE INVESTIGATORY RATHER THAN CARETAKING; AND ALL POST-ENTRY OBSERVATIONS AND DERIVATIVE EVIDENCE MUST BE SUPPRESSED AS FRUIT OF THE POISONOUS TREE, REQUIRING DISMISSAL.

**A. Opening the door requires a search warrant or a valid exception.**

Utah law squarely holds that physically manipulating and opening a car door to access the passenger compartment is a search.<sup>52</sup> Under both the Fourth Amendment and the Utah Constitution. Art. I, § 14, warrantless searches are per se unreasonable, unless Plaintiff proves a specific, narrowly drawn exception.

*Larocco* further strengthens Defendant's case, as *Larocco* establishes that Utah has a stricter approach to warrantless automobile searches: the automobile exception requires both probable cause and exigency. The Utah Supreme Court decision in *Larocco* articulates that independent state constitutional limits are more protective than federal law for vehicle intrusions. Therefore, the Court should decide upon this matter's suppression issue solely on Utah Article I, § 14, grounds, without reaching broader federal doctrines. The Court should apply Utah's much stricter standard on warrantless car searches, as opposed to the less rigorous federal standard. In

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<sup>52</sup> See *State v. Schlosser*, 108 Utah Adv. Rep. 38 (1989); cf. *New York v. Class*, 475 U.S. 106 (1986); *State v. Schlosser*, 774 P.2d at 1137.

applying these more stringent standards, Plaintiff's burden of proof is therefore much higher, a burden that Plaintiff cannot meet.

Plaintiff, therefore, bears the burden to justify Bad Trooper's door-opening under emergency aid or community caretaking.<sup>53</sup> Therefore, Plaintiff bears the burden to prove each element of the charges, as articulated hereinabove.

**B. The emergency-aid or community-caretaking exception is not met on this record.**

The emergency-aid or community-caretaking exception permits warrantless entry only when specific, articulable facts would lead an objectively reasonable officer to believe a person inside needs immediate assistance.<sup>54</sup> Here, the critical facts defeat immediacy: (a) Bad Trooper first observed the truck running with headlights on, then deliberately left for approximately 30–45+ minutes, returning to identical conditions; (b) there were no signs of medical distress—no labored breathing, injury, vomiting, or distress sounds visible or audible on approach, which fact is further supported by Bad Trooper decline of dispatch's offer to dispatch medics, as, indeed, had there been actual signs of medical distress, reason compels the conclusion that Bad Trooper would have accepted medical dispatch; (c) Plaintiff points to the time of night and a running engine, but cites no evidence of extreme temperatures, carbon monoxide buildup, or other escalating hazard; and (d) the only heightened fact—nonresponsiveness to knocks and a strobe—arose after Bad Trooper had already chosen not to intervene for a prolonged interval, undermining any claim that

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<sup>53</sup> See *State v. Larocco*, 135 Utah Adv. Rep. 16 (1990).

<sup>54</sup> See *Brigham City v. Stuart*, 547 U.S. 398 (2006); *Michigan v. Fisher*, 558 U.S. 45 (2009); *United States v. Najar*, 451 F.3d 710 (10th Cir. 2006). *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 398; *Michigan v. Fisher*, 175 L. Ed. 2d at 410; *United States v. Najar*, 451 F.3d 710, 718 (10th Cir. 2006) at 710.

immediate entry was necessary. If an emergency truly existed, the protracted delay and lack of new, worsening facts are irreconcilable with urgent aid.

**C. Utah’s independent constitutional protections further constrain pretextual use of caretaking.**

Under art. I, § 14, courts scrutinize both the objective basis and the scope or purpose of intrusions.<sup>55</sup> Exhibit C and Exhibit D clearly show that before opening the door, Bad Trooper announced he was “out with an intoxicated person” and would be out on SFSTs shortly. That objective, documented framing reveals an investigatory mission. Even if a minimal welfare check could be justified, Utah’s constitution demands the intrusion be narrowly tailored to the caretaking purpose and not used to gather evidence of crime. The sequence here—door opened, immediately followed by odor-of-alcohol observations, commands to shut off the engine and exit, and initiation of HGN—confirms that the primary thrust was investigation, not aid.<sup>56</sup> Under *Larocco*, that pretextual pivot is impermissible.

**D. Plaintiff’s counterarguments fail under objective scrutiny.**

Plaintiff may argue that nonresponsiveness at 1:57 a.m. in a running vehicle justified entry. But objective reasonableness is measured at the time of entry, including the lead-up. The 30–45+ minute non-intervention, absence of any change in conditions, and lack of specific danger (no weather threats, fumes, or medical indicators) negate the need for immediacy. Plaintiff may invoke *Brigham City* or *Fisher* to deem subjective intent irrelevant; yet those cases still require an objectively urgent need—here missing—and, under Utah’s Art. I, § 14, courts independently

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<sup>55</sup> See *State v. Larocco*, 794 P.2d at 472–473 (recognizing robust, independent state protections and suppressing evidence when warrantless intrusions are investigatory in nature).

<sup>56</sup> *Id.* at 472–473.

police scope and pretext.<sup>57</sup> Nor can Plaintiff bootstrap post-entry observations (odor, eyes, slurred speech) to justify the entry; ex post facto facts cannot retroactively manufacture exigency.<sup>58</sup> Finally, attempts to liken this to routine welfare checks overlook that Bad Trooper already declared his DUI investigative report and anticipated SFSTs, which are concrete indicators that this was not a limited, health-focused intervention.

**E. Less intrusive means and proportionality cut against Plaintiff.**

The record shows Bad Trooper attempted to knock and received light stimuli after his prolonged delay. He did not, however, observe any medical crisis or attempt intermediate, less intrusive measures consistent with caretaking, such as continued verbal engagement from outside while summoning medical personnel or verifying environmental hazards—the immediate decision to open the door after an investigation-oriented admission betrays the non-caretaking purpose. Where less intrusive steps could have reasonably clarified or mitigated any risk, Utah’s constitution disfavors warrantless entry.<sup>59</sup>

**F. Without a lawful entry, there was no lawful escalation to seizure or arrest.**

All inculpatory observations arose only after the door was opened: odor of alcohol, red or bloodshot eyes, slurred speech, and the partial HGN. Because the entry was unlawful, those observations are the fruits of that illegality and must be excluded.<sup>60</sup> Lacking a valid traffic stop, *Pennsylvania v. Mimms* and *Maryland v. Wilson* do not authorize ordering Defendant from the

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<sup>57</sup> *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 400.

<sup>58</sup> *State v. Worwood*, 164 P.3d at 409.

<sup>59</sup> See *State v. Larocco*, 794 P.2d at 469–471 (requiring narrow tailoring under state protections).

<sup>60</sup> *Wong Sun v. United States*, 371 U.S. 471 (1963); *Brown v. Illinois*, 422 U.S. 590 (1975). *Wong Sun v. United States*, 371 U.S. at 471.

vehicle.<sup>61</sup> The arrest that followed is therefore unsupported by untainted probable cause, rendering the search incident to arrest unlawful; the handgun discovered in Defendant's pocket must be suppressed. Likewise, any refusal evidence presupposes a lawful investigation and request under Utah Code §§ 41-6a-520, -520.1; absent a valid seizure, the refusal evidence is inadmissible.

**G. Plaintiff has not shown attenuation, an independent source, or inevitable discovery.**

Plaintiff has advanced no alternative exception to purge the taint. There is no separate, lawfully obtained basis for the DUI indicators or the firearm. No attenuation factors—temporal break, intervening circumstances, or Miranda advisement—sever the causal chain.<sup>62</sup> Therefore, the evidence exists solely because of the unlawful door opening; it must be excluded.

**H. Remedy.**

Under the Fourth Amendment and Utah Const. Art. I, § 14, the Court should suppress all post-entry observations and statements (odor, eyes, speech, HGN, commands or responses), the arrest, the search incident to arrest (including the firearm), and all refusal-related evidence.<sup>63</sup> With Plaintiff's proof wholly dependent on tainted evidence, the DUI, refusal, and weapons-under-the-influence charges cannot proceed and should be dismissed.<sup>64</sup>

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<sup>61</sup> *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 106.

<sup>62</sup> *See Brown. Brown v. Illinois*, 45 L. Ed. 2d at 416.

<sup>63</sup> U.S. Const. Amend. IV at 471; Utah Const. Art. I, § 14

<sup>64</sup> *Wong Sun v. United States*, 371 U.S. at 471.

- iv. ALL POST-DOOR-OPENING EVIDENCE—INCLUDING ODOR OF ALCOHOL, RED EYES, SLURRED SPEECH, PARTIAL HGN OBSERVATIONS, REFUSAL-ADMONITION EVIDENCE, AND THE HANDGUN FOUND DURING THE SEARCH INCIDENT TO ARREST—MUST BE SUPPRESSED AS FRUIT OF THE UNLAWFUL DOOR-OPENING BECAUSE PLAINTIFF CANNOT CARRY ITS BURDEN TO PROVE ATTENUATION, INDEPENDENT SOURCE, OR INEVITABLE DISCOVERY UNDER THE FOURTH AMENDMENT AND UTAH CONST. ART. I, § 14.

**A. Threshold illegality and causal nexus.**

Opening the unlocked driver door was a warrantless search of the vehicle’s interior under both the Fourth Amendment and Utah Const. Art. I, § 14. Physical intrusion into a vehicle cabin is a search absent consent, warrant, or a narrowly tailored exception. Plaintiff’s pretextual “community caretaking or emergency aid” justification fails on this record: Bad Trooper first observed the truck running and then chose not to intervene for 30–45+ minutes; upon returning, he messaged dispatch he was “out with an intoxicated person” and would be conducting SFSTs; he then engaged in prolonged knocking and strobe-lighting without observing any signs of injury or medical crisis. That sequence objectively conveys an investigatory purpose, not a need for immediate medical aid.<sup>65</sup> Because the entry was unlawful, all evidence obtained thereafter is presumptively tainted. Plaintiff bears the burden to show a break in causation for each challenged item.<sup>66</sup>

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<sup>65</sup> *United States v. Najjar*, 451 F.3d 710, 718 (10th Cir. 2006) at 715.

<sup>66</sup> See *Wong Sun*; *Brown v. Illinois*; *State v. Worwood*; and, under Utah’s independent constitutional protections, *State v. Larocco*; *Wong Sun v. United States*, 371 U.S. at 488; *Brown v. Illinois*, 45 L. Ed. 2d at 416; *State v. Larocco*, 794 P.2d at 472–473.

**B. Odor of alcohol, red or bloodshot eyes, and slurred speech.**

Temporal proximity is instantaneous—Bad Trooper first perceived each only after opening the door and awakening Defendant.<sup>67</sup> There were no intervening circumstances, such as valid consent, an outstanding warrant, or a preexisting lawful basis, that were untainted by the entry. Purpose or flagrancy strongly weighs against attenuation: the official statements indicating an intoxication investigation and planned SFSTs, along with bypassing a warrant or using less intrusive methods (e.g., continued observation, summoning medical personnel without entry), demonstrate an investigatory, not caretaking, intent and a deliberate choice to conduct a search.<sup>68</sup> All three Brown factors thus cut against attenuation; these observations must be suppressed.<sup>69</sup>

**C. Partial HGN observations.**

The partial HGN resulted from a continued seizure that flowed directly from the unlawful entry and awakening.<sup>70</sup> Defendant's refusal to complete SFSTs did not purge the taint; the unconstitutional entry and command-based detention enabled the attempted HGN itself. *Id.* at 485. No intervening event broke the causal chain, and the same purpose or flagrancy concerns apply. Suppression is required.<sup>71</sup>

**D. Order to exit, arrest, and refusal-admonition evidence.**

The order to exit and ensuing arrest cannot be justified under *Pennsylvania v. Mimms* or *Maryland v. Wilson* because there was no lawful traffic stop.<sup>72</sup> The “probable cause” for DUI

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<sup>67</sup> *State v. Schlosser*, 774 P.2d at 1137.

<sup>68</sup> *Cady v. Dombrowski*, 413 U.S. 433 (1973) at 442–448.

<sup>69</sup> *Brown v. Illinois*, 45 L. Ed. 2d at 416.

<sup>70</sup> *Wong Sun v. United States*, 371 U.S. at 485.

<sup>71</sup> *Id.* at 488

<sup>72</sup> *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 106.

derived entirely from the tainted post-entry indicators. A chemical-test request is lawful only if incident to a lawful arrest supported by untainted probable cause. Because the arrest was the fruit of the illegal entry, all refusal-admonition evidence (and any warrant-process evidence premised on that arrest) is likewise fruit and must be excluded.<sup>73</sup>

**E. A handgun was discovered in a search incident to arrest.**

The firearm was located only because of a search incident to an arrest that depended on the unlawfully obtained impairment indicators. When the arrest falls, the search-incident exception evaporates, and the handgun must be suppressed as fruit of the poisonous tree.<sup>74</sup>

**F. An independent source is unavailable.**

Independent source requires that the evidence actually be obtained—factually and legally—through a source wholly independent of the illegality. Plaintiff has identified none. Before the door-opening, officers had no admissible impairment observations, no consensual interaction, and no alternative lawful process underway that produced any challenged evidence.<sup>75</sup> The odor, eye condition, speech, partial HGN, refusal-admonition sequence, and the gun were all first discovered only after the unlawful entry.<sup>76</sup> Hypothetical alternative avenues do not satisfy the doctrine.

**G. Inevitable discovery is speculative and inapplicable.**

Inevitable discovery requires a showing by a preponderance that lawful investigative steps, already in progress or that would have been pursued independent of the illegality and pursuant to

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<sup>73</sup> See *Wong Sun v. United States*, 371 U.S. at 471.

<sup>74</sup> *Id.* at 471.

<sup>75</sup> *State v. Schlosser*, 774 P.2d at 1137.

<sup>76</sup> *Wong Sun v. United States*, 371 U.S. at 485.

established procedures, would have led to the evidence. The record contains no standardized tow or inventory policy triggered before the entry, no medical-transport protocol initiated, and no lawful basis for detention or arrest prior to the unconstitutional opening of the door.<sup>77</sup> Any suggestion that Defendant would have awakened and driven away, leading to a lawful stop, is conjecture. Similarly, an inventory search under *Cady* requires impoundment pursuant to standardized criteria, which did not occur in *Cady*.<sup>78</sup> Any attempt by Plaintiff to satisfy this doctrine fails for each item.

**H. Even assuming a limited caretaking entry, the scope was exceeded and does not salvage the evidence.**

Emergency aid permits only actions reasonably necessary to address immediate medical need. Here, once Defendant awoke alert and without any objectively apparent medical distress, the caretaking rationale ended.<sup>79</sup> Pivoting to DUI investigation, commanding exit, and attempting HGN were investigatory steps requiring independent reasonable suspicion and probable cause untainted by the entry—neither existed.<sup>80</sup> Thus, even under a narrowed rationale, all subsequent evidence remains tainted.<sup>81</sup>

**I. Utah's Article I, § 14 provides robust, independent grounds for exclusion.**

Larocco underscores Utah's strong protection of privacy in vehicles and the requirement that exceptions be narrowly applied.<sup>82</sup> Bad Trooper's prolonged delay, pre-entry investigatory

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<sup>77</sup> *State v. Schlosser*, 774 P.2d at 1137.

<sup>78</sup> 413 U.S. 433 (1973) at 433.

<sup>79</sup> *United States v. Najar*, 451 F.3d 710, 718 (10th Cir. 2006) at 719.

<sup>80</sup> *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 124.

<sup>81</sup> *Wong Sun v. United States*, 371 U.S. at 488.

<sup>82</sup> *State v. Larocco*, 794 P.2d at 472–473.

declaration, and warrantless physical intrusion are precisely the kind of conduct Utah's Constitution disfavors. Suppression under Article I, § 14 is independently warranted, and Worwood places the burden squarely on Plaintiff to establish attenuation or an exception item-by-item—something it has not done.<sup>83</sup>

#### **J. Remedy.**

Because Plaintiff cannot prove attenuation, independent source, or inevitable discovery, the Court must suppress (1) the odor, red eyes, and slurred speech; (2) partial HGN observations; (3) the order to exit, arrest, and all refusal-admonition evidence; and (4) the handgun found during the search incident to arrest.<sup>84</sup> Without these, the DUI, refusal, and weapon-under-the-influence counts lack admissible proof and cannot stand.<sup>85</sup> The motion to suppress should be granted in full, with dismissal of the affected charges for lack of evidence.

- v. ALL POST-ENTRY DUI OBSERVATIONS, REFUSAL-ADMONTION EVIDENCE, AND THE FIREARM MUST BE SUPPRESSED AS FRUIT OF BAD TROOPER'S UNCONSTITUTIONAL, WARRANTLESS OPENING OF DEFENDANT'S DRIVER'S DOOR IN VIOLATION OF UTAH CONST. ART. I, § 14; PLAINTIFF'S COMMUNITY-CARETAKING OR EMERGENCY-AID THEORY FAILS UNDER AN OBJECTIVE STANDARD, AND NO ATTENUATION, INDEPENDENT SOURCE, OR INEVITABLE DISCOVERY SALVAGES THE TAINTED EVIDENCE UNDER STATE V. WORWOOD AND BROWN V. ILLINOIS

#### **A. The door-opening was a warrantless search that violated Utah Const. Art. I, § 14.**

Utah courts treat an officer's physical intrusion into a vehicle—such as opening a door—as a search that must be supported by a warrant or a specifically established exception.<sup>86</sup> Here, Bad

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<sup>83</sup> *State v. Worwood*, 164 P.3d at 411.

<sup>84</sup> *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 124.

<sup>85</sup> *Wong Sun v. United States*, 371 U.S. at 488.

<sup>86</sup> See *State v. Larocco*, 794 P.2d at 472–473 (recognizing robust, independent protections under art. I, § 14); *State v. Schlosser*, 774 P.2d at 1137 (physical entry into a vehicle triggers constitutional scrutiny).

Trooper tried the driver's door, found it unlocked, and opened it. That act was a search. Plaintiff bears the burden to prove an exception. It has invoked community caretaking or emergency aid, but the objective facts do not satisfy that narrow, exigency-based doctrine.

**B. The emergency-aid or caretaking exception fails on this record.**

The emergency-aid or caretaking exception doctrine authorizes warrantless entry only where officers reasonably believe, based on specific, articulable facts, that immediate aid is required to address an objectively apparent emergency. Objective indicators of an ongoing emergency are absent. Bad Trooper initially observed a parked F-150 in a closed lot with its engine running and lights on. He then chose not to intervene for approximately 30–45+ minutes, conduct fundamentally inconsistent with a perceived need for immediate, emergency aid. When he returned, nothing had changed externally. Bad Trooper' statement that he would conduct an SFST, prior to even approaching Defendant, shows an investigatory DUI purpose, not a primary motive of emergency aid. Although Defendant did not respond to knocking and flashlight or strobe, there were no visible signs of medical trauma, collision, overdose symptoms, or other acute peril to himself or others. On these facts, a reasonable officer could not conclude that immediate, door-opening intrusion was necessary to render aid. The deliberate 30–45+ minute delay fatally undercuts any claim of exigency; an emergency cannot be both urgent and deferred at Bad Trooper's convenience.

**C. Even if a limited welfare check were permissible, the scope exceeded the exception.**

The caretaker role is circumscribed to addressing the perceived emergency. Once Defendant awoke when touched and spoken to, he was responsive. Bad Trooper's shift to DUI investigation—ordering the engine off, commanding an exit, and attempting HGN—exceeded any

welfare purpose and required separate reasonable suspicion or probable cause independent of the entry.<sup>87</sup>

**D. No other exception applies.**

Plaintiff has not identified consent, probable cause plus exigency, or a warrant. *New York v. Class* does not authorize opening a door absent an independent lawful basis. The door-opening, therefore, violated art. I, § 14.

**E. Under *Worwood* and *Wong Sun*, all post-entry observations and derivative evidence are fruits of the illegal search.**

Utah applies a causation analysis grounded in *Wong Sun* and adopted in *Worwood*: Plaintiff must show the challenged evidence was not obtained by exploitation of the primary illegality.<sup>88</sup> Here, every impairment indicator—odor of alcohol, bloodshot eyes, slurred speech, and partial HGN cues—was first perceived only after the unlawful opening of the driver’s door roused Defendant and initiated a seizure.<sup>89</sup> Those observations could not have been obtained without the unconstitutional intrusion. The subsequent orders to shut off the engine and exit, the refusal-admonition sequence, the arrest, and the search incident to arrest (yielding the Ruger LCP) all flowed directly from the unlawful entry.<sup>90</sup>

**F. The *Brown v. Illinois* attenuation factors compel suppression.**

Temporal proximity is immediate: the odor, eyes, and speech were perceived at the moment Defendant awoke, directly resulting from the door-opening. There were no intervening

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<sup>87</sup> *State v. Schlosser*, 774 P.2d at 1137. None existed prior to the door-opening; *State v. Larocco*, 794 P.2d at 471.

<sup>88</sup> *Id.* at 488; *State v. Worwood*, 164 P.3d at 411.

<sup>89</sup> *State v. Schlosser*, 774 P.2d at 1137.

<sup>90</sup> *State v. Larocco*, 794 P.2d at 472–473.

circumstances independent of the entry that supplied reasonable suspicion or probable cause. The purpose or flagrancy factor weighs against Plaintiff: Bad Trooper's pre-entry communications, including "out with an intoxicated person" and planning SFSTs, combined with the nonemergency 30–45+ minute delay, indicate an investigatory objective cloaked in caretaking rhetoric, not a good-faith emergency response. This is precisely the type of exploitation the exclusionary rule is designed to deter under Utah law.

**G. Plaintiff has not met, and cannot meet, any alternative doctrine.**

Independent source does not apply; there was no separate, lawful avenue producing the same observations. Inevitable discovery is inapplicable because there is no lawful investigative path that would have inevitably uncovered the odor, speech, or firearm absent the unlawful entry and arrest. Attenuation over time is lacking; the causal chain is unbroken and immediate.<sup>91</sup>

**H. Without the tainted observations, there was no lawful basis to detain, to order Defendant from the vehicle, to arrest, or to search incident to arrest.**

Plaintiff cannot bootstrap reasonable suspicion or probable cause from post-entry facts. Prior to the door-opening, the untainted facts amount to: a parked truck with engine running and lights on in a closed lot, and a nonresponsive occupant to window-knocking. Standing alone, these do not create reasonable suspicion or probable cause of DUI under Utah Code § 41-6a-502. *Pennsylvania v. Mimms* or *Maryland v. Wilson* authorizes ordering occupants out only in the context of a lawful stop; there was no lawful stop or seizure here.<sup>92</sup> Consequently, the refusal-

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<sup>91</sup> See *Wong Sun v. United States*, 371 U.S. at 491.

<sup>92</sup> See *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 106.

admonition evidence, which presupposes a lawful DUI investigation, the arrest, and the search incident to arrest, is a derivative fruit and must be suppressed.<sup>93</sup>

**I. Utah’s independent constitutional protections reinforce exclusion.**

Utah Const. Art. I, § 14, as interpreted in *Larocco* and *Worwood*, provides robust protection against warrantless intrusions and mandates suppression when officers conduct a search without a valid exception and derive all incriminating evidence from that illegality.<sup>94</sup> Plaintiff chose not to seek a warrant during its 30–45+ minute window, did not encounter an objectively emergent condition, and announced an investigatory DUI purpose before entry. Under Utah’s exclusionary rule, the DUI impairment indicators, the refusal-admonition evidence, and the firearm discovered incident to the tainted arrest must be suppressed. Utah Const. Art. I, § 14.

**J. Remedy.**

Therefore, the Court should suppress (1) all observations obtained after the unlawful door-opening, including the odor of alcohol, red or bloodshot eyes, slurred speech, and partial HGN;<sup>95</sup> (2) all statements and refusal-admonition evidence; and (3) the firearm discovered during the search incident to arrest. With the fruits excluded, the remaining record lacks admissible evidence to support the DUI, refusal, or weapons-under-the-influence charges, as noted in *Wong Sun v. United States*.<sup>96</sup> Suppression is therefore required, and dismissal should follow for lack of admissible proof.

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<sup>93</sup> See *State v. Worwood*, 164 P.3d at 397; *Wong Sun v. United States*, 371 U.S. at 471.

<sup>94</sup> *State v. Larocco*, 794 P.2d at 472–473; *State v. Worwood*, 164 P.3d at 411.

<sup>95</sup> *State v. Schlosser*, 774 P.2d at 1137.

<sup>96</sup> 371 U.S. at 488.

- vi. ALL POST-ENTRY EVIDENCE—INCLUDING ODOR, BLOODSHOT EYES, SLURRED SPEECH, PARTIAL HGN, THE EXIT ORDER, THE ARREST, THE REFUSAL EVIDENCE, AND THE HANDGUN FOUND IN THE SEARCH INCIDENT TO ARREST—MUST BE SUPPRESSED AS FRUIT OF THE POISONOUS TREE UNDER UTAH CONST. ART. I, § 14, AND THE FOURTH AMENDMENT BECAUSE THE CAUSAL CHAIN BEGINS WITH THE UNLAWFUL DOOR OPENING AND PLAINTIFF CANNOT MEET ITS BURDEN TO PROVE ATTENUATION, INDEPENDENT SOURCE, OR INEVITABLE DISCOVERY.

**A. Plaintiff bears the burden to justify warrantless searches and seizures and, when an illegality is established, to prove that downstream evidence is not tainted.**

Utah's exclusionary rule under Article I, § 14 is robust and independent.<sup>97</sup> Opening the unlocked driver door of a parked, occupied vehicle to access the occupant is a search that requires a warrant or a firmly rooted exception.<sup>98</sup> On this record, Plaintiff's only incriminating observations arose after Bad Trooper unlawfully opened the door and physically contacted Defendant. That establishes a direct causal nexus between the illegality and every subsequent evidentiary item.

**B. The causal nexus is undisputed.**

Because before the door was opened, Bad Trooper had only a parked truck with its engine running and an unresponsive occupant visible through closed windows—no odor of alcohol, no speech, no HGN, no red eyes—the circumstances lack a nexus establishing probable cause. Plaintiff's own evidence confirms that Bad Trooper's first detections of alcohol odor, slurred speech, and red eyes occurred immediately after the door opening and awakening. Those observations produced the exit command, the refusal advisements, the arrest, and the search incident to arrest that yielded the handgun. Accordingly, all probable cause and reasonable

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<sup>97</sup> See *State v. Larocco* (Utah) (recognizing independent state constitutional protections and exclusion); *State v. Worwood* (Utah) (placing the burden on the State to establish an exception and to overcome taint); *Wong Sun v. United States* (requiring suppression of evidence obtained by exploitation of illegality).

<sup>98</sup> *State v. Schlosser*, 774 P.2d at 1137.

suspicion derive from the unlawful entry, satisfying the nexus requirement under *Wong Sun* and *Worwood* and shifting the burden to Plaintiff to prove a recognized exception to the fruit-of-the-poisonous-tree doctrine.<sup>99</sup>

**C. Attenuation fails under *Brown v. Illinois*.**<sup>100</sup>

Utah courts apply *Brown*'s three-factor test: (1) temporal proximity; (2) intervening circumstances; and (3) purpose and flagrancy of the misconduct. First, temporal proximity is immediate. The body-worn camera shows that within seconds of opening the door, Bad Trooper perceived the odor of alcohol, eyes, and speech. No meaningful lapse of time separates the illegality from the acquisition of each item of evidence. Second, there were no intervening circumstances supplying independent lawful grounds; Defendant's brief questioning of the commands and refusal to perform SFSTs cannot create independent cause where the encounter itself was tainted, and any HGN cues were observed only after the unlawful entry. Third, the purpose or flagrancy factor weighs against attenuation. Bad Trooper signaled—in real time via dispatch—his intent to be “out with an intoxicated person” and to conduct SFSTs before forcing entry, after a 30–45+ minute non-emergent delay, and in the absence of visible medical distress. This record demonstrates investigatory purpose under the guise of caretaking, not a constrained, time-critical emergency aid response. Under *Brown* and *Worwood*, Plaintiff cannot show attenuation.<sup>101</sup>

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<sup>99</sup> See *Wong Sun v. United States*, 371 U.S. at 471; *State v. Worwood*, 164 P.3d at 397.

<sup>100</sup> See *Brown v. Illinois*, 45 L. Ed. 2d.

<sup>101</sup> See *State v. Worwood*, 164 P.3d.

**D. An independent source is inapplicable.**

To invoke that doctrine, Plaintiff must demonstrate a genuinely independent, lawful source that would have produced the same evidence unconnected to the illegal entry. Here, the odor, the speech characteristics, the red eyes, and the partial HGN were perceivable only after the door was opened and Defendant was awakened. Bad Trooper, therefore, violated Defendant's rights against unreasonable searches, as there was no reasonable reason to assume that Defendant's physical appearance and position observed before the door was open indicated the need for medical care. The arrest flowed from those observations, and the handgun was discovered solely in the search incident to that arrest. There is no separate warrant, no parallel lawful investigation, and no other officer with independent observations. Plaintiff's theory is necessarily derivative of the door opening; therefore, an independent source cannot save the evidence.<sup>102</sup>

**E. Inevitable discovery also fails.**

Utah law prohibits speculative inevitability; Plaintiff must prove by a preponderance that established, lawful investigative steps, already in motion and wholly independent of the illegality, would have uncovered the same evidence.<sup>103</sup> The record shows no active, alternative, lawful path. Bad Trooper had not initiated a welfare-medical response by EMS with a plan to enter upon objective exigency lawfully, had not obtained a warrant, and had not conducted a lawful stop.<sup>104</sup> Suggesting that Defendant would have eventually awakened or driven is conjecture and depends on the very illegality that produced the evidence. Moreover, any hypothetical future driving would

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<sup>102</sup> See *Wong Sun v. United States*, 371 U.S. at 471.

<sup>103</sup> See *State v. Worwood*, 164 P.3d at 411.

<sup>104</sup> See *United States v. Najjar*, 451 F.3d 710, 718 (10th Cir. 2006) at 715–719.

itself have required a lawful stop and an independent cause not present here.<sup>105</sup> Without a concrete, active, and independent path, the principle of inevitable discovery does not apply.<sup>106</sup>

**F. Because Plaintiff cannot carry its burden on attenuation, an independent source, or inevitable discovery, the exclusionary rule requires suppression of all fruits of the unlawful entry.**

The exclusionary rule demands the suppression of all post-entry sensory observations (odor, eyes, speech, partial HGN); (b) the exit order and any response thereto; (c) the arrest for DUI; (d) the refusal-admonition evidence and any alleged refusal, which presuppose a lawful seizure and lawful request; and (e) the handgun recovered in the search incident to the tainted arrest.<sup>107</sup> Once these items are excluded, Plaintiff lacks admissible evidence to sustain DUI, refusal, or weapons under the influence. The Court should grant the motion, suppress the fruits, and dismiss for lack of admissible evidence.

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<sup>105</sup> See *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 111–112.

<sup>106</sup> See *Wong Sun v. United States*, 371 U.S. at 488.

<sup>107</sup> See *Larocco*, *Worwood*, *Wong Sun*, and *Brown*.

- vii. BAD TROOPER’S WARRANTLESS OPENING OF DEFENDANT’S VEHICLE DOOR VIOLATED THE FOURTH AMENDMENT AND ARTICLE I, § 14 OF THE UTAH CONSTITUTION BECAUSE, AT THE MOMENT OF ENTRY, THERE WERE NO SPECIFIC, ARTICULABLE FACTS ESTABLISHING AN OBJECTIVELY IMMINENT MEDICAL EMERGENCY, BAD TROOPER’S OWN DELAY AND OFFICIAL REPORTS REVEALED AN INVESTIGATORY PURPOSE (PLANNED SFSTS) RATHER THAN BONA FIDE EMERGENCY AID, LESS INTRUSIVE ALTERNATIVES WERE AVAILABLE, AND THE ENTRY’S SCOPE AND TIMING WERE NOT TAILORED TO ANY TRUE CARETAKING NEED; ALL POST-ENTRY EVIDENCE—INCLUDING IMPAIRMENT INDICATORS, THE ARREST, THE FIREARM, AND REFUSAL EVIDENCE—MUST, THEREFORE, BE SUPPRESSED AS FRUIT OF THE POISONOUS TREE.

**A. Plaintiff bears the burden to justify a warrantless entry.**

Under *Brigham City v. Stuart* and *Michigan v. Fisher*, the emergency-aid doctrine permits entry only when specific, articulable facts give rise to an objectively reasonable belief that someone inside needs immediate aid for a serious, imminent medical emergency, and the intrusion is limited to that need. Here, the record shows no such imminence: Defendant was slumped but breathing in a parked vehicle, with no crash, no visible injury, no medical symptoms, and no environmental hazards. Critically, Bad Trooper first saw this scene, departed for approximately 30–45+ minutes without intervening, and returned to find the same static conditions. That delay powerfully undercuts any claim of immediacy; true exigency does not tolerate half an hour of inaction.<sup>108</sup>

**B. Objective purpose and pre-entry intent further defeat Plaintiff’s caretaking claim.**

Before opening the door, Bad Trooper messaged dispatch that he was “out with an intoxicated person” and would be conducting SFSTs shortly. Under *Brigham City*’s objective test, contemporaneous conduct and communications reveal that the entry’s primary purpose was

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<sup>108</sup> See *United States v. Najjar*, 451 F.3d 710, 718 (10th Cir. 2006) at 710.

investigatory—not the provision of emergency aid.<sup>109</sup> *Cady* requires that community caretaking be separated from criminal investigation, but Bad Trooper’s planned SFSTs suggest otherwise.<sup>110</sup> Bad Trooper’s tactical choices also reflect investigation rather than a medical rescue: he parked without emergency lights or a medical response, attempted to rouse with knocks and a strobe, and only then tried the handle and opened the door to initiate contact for a DUI investigation he had already announced.<sup>111</sup>

**C. Even if a welfare check was permissible from outside the vehicle, opening the door was a search that required a warrant or a valid exception.**

Plaintiff cannot convert a routine rousing attempt into emergency aid where Bad Trooper himself created no urgency and perceived none for 30–45+ minutes. The availability of less intrusive alternatives—such as continued observation, summoning EMS, using a PA system, running the plate and contacting the registered owner, or waiting a few more minutes to see if normal stimuli would awaken the occupant—confirms the absence of a need to breach the door immediately. See *Najar* (consideration of less intrusive means and immediacy).<sup>112</sup> Utah’s Article I, § 14 places heightened emphasis on the reasonableness and tailoring of caretaking intrusions; Bad Trooper neither summoned medical personnel nor acted with the rapidity consistent with a genuine emergency, but instead opened the door only after announcing his intent to perform SFSTs.<sup>113</sup>

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<sup>109</sup> See *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 398.

<sup>110</sup> See *Cady v. Dombrowski*, 413 U.S. 433 (1973) at 433.

<sup>111</sup> See *State v. Schlosser*, 774 P.2d at 1137.

<sup>112</sup> See *United States v. Najar*, 451 F.3d 710, 718 (10th Cir. 2006) at 715–719.

<sup>113</sup> See Utah Const. Art. I, § 14.

**D. Plaintiff may argue that a sleeping, nonresponsive driver in a running vehicle presents inherent danger.**

But the facts here do not reflect imminent harm. The truck was parked in a lot with an open egress path; there was no gear engagement, no foot on the accelerator, no evidence of carbon monoxide risk, no signs of overdose, seizure, or respiratory distress, and no escalating danger. At the same time, Bad Trooper waited 30–45+ minutes. In *Fisher* and *Brigham City*, officers confronted active, unfolding emergencies—blood, violent altercations, visible injury—where any delay risked grave harm.<sup>114</sup> By contrast, Bad Trooper’s conduct treated this as non-urgent until he decided to pursue SFSTs. That sequence renders the emergency-aid narrative objectively implausible.

**E. Post-entry observations cannot bootstrap justification.**

The odor of alcohol, red eyes, and slurred speech arose only after the unlawful opening of the door. They cannot retroactively supply reasonable suspicion or probable cause. *Wong Sun* and *Brown v. Illinois* bar reliance on fruits of unconstitutional conduct absent attenuation, independent source, or inevitable discovery.<sup>115</sup> Plaintiff has identified none. There is no independent source for the odor or observed impairment, no intervening circumstances purging taint, and no inevitable discovery because, absent the unlawful entry, there was no lawful basis to compel exit, arrest, or search. The weapon found during the search incident to arrest likewise falls within the tainted arrest.<sup>116</sup>

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<sup>114</sup> See *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 398.

<sup>115</sup> See *Wong Sun v. United States*, 371 U.S. at 471.

<sup>116</sup> See *State v. Worwood* (Utah emphasizes robust exclusion for Article I, § 14 violations).

**F. Scope and manner also matter.**

Even if a limited welfare check were justified, Bad Trooper's actions must be strictly circumscribed to resolving the perceived medical need.<sup>117</sup> Bad Trooper did not summon EMS or conduct a medical assessment beyond opening the door and immediately transitioning to commands to shut off the engine and exit for a DUI investigation he had preplanned. That is not caretaking; it is evidence-gathering. The mismatch between the claimed emergency and the investigative steps taken confirms pretext and defeats the exception under both the Fourth Amendment and Article I, § 14. U.S. Const. Amend. IV. Utah Const. Art. I, § 14.

**G. Because Plaintiff cannot carry its burden to justify the warrantless entry under emergency aid or community caretaking, the Court should suppress all evidence obtained after the door was opened, including impairment observations, any statements, the arrest, the firearm seized incident to arrest, and refusal-related evidence. With the core evidence excluded, the DUI, refusal, and weapons-under-the-influence counts lack admissible support and must be dismissed.**

Suppressing all evidence vindicates the constitutional limits articulated in *Brigham City*, *Fisher*, *Cady*, and *Najar*, and enforces Utah's independent protections under Article I, § 14.<sup>118</sup>

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<sup>117</sup> See *Brigham City*; *Najar*.

<sup>118</sup> See *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 398; *Michigan v. Fisher*, 175 L. Ed. 2d at 410; *Cady v. Dombrowski*, 413 U.S. 433 (1973) at 433; *United States v. Najar*, 451 F.3d 710, 718 (10th Cir. 2006) at 710; Utah Const. Art. I, § 14.

viii. ALL POST-ENTRY EVIDENCE—INCLUDING IMPAIRMENT OBSERVATIONS, COMMANDS AND REFUSALS, THE ARREST, AND THE FIREARM—IS SUPPRESSIBLE AS FRUIT OF AN UNJUSTIFIED WARRANTLESS DOOR-OPENING, WHERE PLAINTIFF FAILED TO PROVE AN OBJECTIVELY REASONABLE EMERGENCY-AID OR CARETAKING BASIS AND HAS NOT CARRIED ITS BURDEN TO ESTABLISH ATTENUATION, INDEPENDENT SOURCE, OR INEVITABLE DISCOVERY UNDER THE FOURTH AMENDMENT AND UTAH CONST. ART. I, § 14.

**A. Plaintiff’s case rises and falls on the warrantless opening of Defendant’s driver door.**

Opening Defendant’s car door was a search under both the Fourth Amendment and the Utah Constitution. I, § 14, because it physically intruded into a constitutionally protected area to access an occupant and obtain information.<sup>119</sup> *New York v. Class* confirms that opening a car door to see or access what is otherwise concealed is a search; Utah’s independent constitutional jurisprudence, particularly *State v. Larocco*, requires strict scrutiny of warrantless intrusions and places the burden squarely on Plaintiff to justify them under a specifically delineated exception.<sup>120</sup>

**B. Plaintiff invokes “community caretaking” or emergency aid, but the record forecloses that exception under the objective standard articulated in *Brigham City v. Stuart* and *Michigan v. Fisher*.**

*Brigham City v. Stuart* and *Michigan v. Fisher* permit warrantless entry only when specific, articulable facts would lead a reasonable officer to believe someone inside needs immediate aid. Here, there were no objective signs of medical distress: no visible injury, blood, breathing difficulty, seizure activity, or incoherence observable through the windows. To the contrary, Bad Trooper (a) first observed the same static situation and elected not to intervene, (b) left for approximately 30–45+ minutes (defense evidence suggests longer) while nothing changed, and (c)

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<sup>119</sup> See U.S. Const. Amend. IV; Utah Const. Art. I, § 14.

<sup>120</sup> See *State v. Larocco*, 794 P.2d at 471.

contemporaneously messaged dispatch that he was “out with an intoxicated person” and would be doing SFSTs—before any entry or medical assessment. That sequence defeats any claim of immediacy and reveals an investigatory purpose inconsistent with the narrow emergency-aid doctrine. *United States v. Najar* underscores that the exception turns on immediate need; prolonged delay and pre-entry investigative intent are antithetical to exigency.<sup>121</sup>

**C. Nor did the scope of the intrusion stay tethered to a welfare check.**

Even if initial concerns were credited, Bad Trooper’s conduct exceeded what was necessary to ascertain and address a medical emergency. He opened the door to initiate a DUI investigation—precisely what he forecast in his official reports. Utah’s Article I, § 14, analysis is independently protective and requires both an objectively reasonable basis to believe aid is immediately needed and a scope limited to that need.<sup>122</sup> Therefore, Plaintiff cannot satisfy either prong on this record. Accordingly, the door-opening was unlawful.

**D. Once the entry is unlawful, the analysis of the fruits is straightforward.**

*Wong Sun v. United States* and *State v. Worwood* require the suppression of evidence obtained through the exploitation of the initial illegality. Every incriminating observation Plaintiff relies on—the odor of alcohol, red or bloodshot eyes, slurred speech, and partial HGN—was first perceived only after the door was opened and Defendant was awakened. Those facts did not exist in Bad Trooper’s knowledge base pre-entry and cannot bootstrap a justification for the intrusion. Likewise, the orders to turn off the engine and exit the vehicle, the ensuing refusal dynamics, and the arrest flowed directly from the unlawful entry and post-entry observations.

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<sup>121</sup> See *United States v. Najar*, 451 F.3d 710, 718 (10th Cir. 2006) at 710.

<sup>122</sup> See *State v. Larocco*, 794 P.2d at 471.

**E. Under *Brown v. Illinois*, attenuation requires intervening circumstances sufficient to dissipate the taint, weighed alongside temporal proximity and the purpose or flagrancy of the misconduct.**

Here, the temporal proximity was immediate; there were no intervening lawful bases that arose independent of the entry; and the announcement of an intoxication investigation and impending SFSTs demonstrates a purpose to investigate rather than to address an emergent threat. Plaintiff has not asserted attenuation, independent source, or inevitable discovery, and in any event cannot meet its burden to prove any purging doctrine on these facts. *Worwood* places that burden on Plaintiff; silence or speculation is insufficient.<sup>123</sup>

**F. Plaintiff may argue that the running engine and unresponsiveness justified opening the door. But the law requires more than a hunch of impairment or a generalized welfare interest.**

*Brigham City* and *Fisher* insist on concrete indicators of immediate danger.<sup>124</sup> The prolonged non-intervention, the absence of objective medical distress, the availability of less intrusive measures (such as continued knocking, calling out, or summoning medical personnel), and Bad Trooper's contemporaneous intent to conduct SFSTs collectively defeat any claim that opening the door without a warrant was objectively necessary to render aid. General "community caretaking" divorced from exigency does not authorize home or vehicle entries; *Cady v. Dombrowski* concerned impounded vehicles and does not license warrantless intrusions into occupied cars in the field absent true exigency.<sup>125</sup>

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<sup>123</sup> See *State v. Worwood*, 164 P.3d at 397.

<sup>124</sup> See *Brigham City v. Stuart*, 547 U.S. 398 (2006) at 400.

<sup>125</sup> See *Cady v. Dombrowski*, 413 U.S. 433 (1973) at 442–448.

**G. Plaintiff cannot salvage the exit order or arrest by invoking *Mimms* or *Wilson*, as those cases presuppose a lawful traffic stop, which is absent here.**

Defendant was in a parked vehicle on private property. Any authority to command him out arose only from Bad Trooper's unlawful entry and the fruits thereof. Because reasonable suspicion and probable cause materialized exclusively from post-entry observations, they cannot retroactively justify the intrusion or the arrest.<sup>126</sup>

**H. With the impairment observations suppressed, there is no lawful basis for the DUI investigation, no valid refusal admonition or consequence under §§ 41-6a-520 and -520.1, and no probable cause to support the arrest.**

The search incident to arrest that yielded the handgun was therefore invalid, and the firearm must be suppressed as a derivative fruit.<sup>127</sup> Utah's exclusionary rule under Article I, § 14 reaches both direct and indirect fruits, and Plaintiff's failure to establish any exception mandates exclusion.<sup>128</sup>

**I. Because Plaintiff's proof on each charged offense depends on tainted post-entry evidence, suppression is required for dismissal due to a lack of admissible evidence.**

Pursuant to the foregoing, the Court should enter findings that (1) the door-opening was a warrantless search;<sup>129</sup> (2) no objectively reasonable emergency-aid or caretaking basis existed under the circumstances;<sup>130</sup> (3) all inculpatory observations and the firearm were obtained only after and because of the entry; and (4) Plaintiff failed to prove attenuation, independent source, or

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<sup>126</sup> See *Wong Sun v. United States*, 371 U.S. at 471.

<sup>127</sup> See *id.* at 488; see, also, *Worwood*.

<sup>128</sup> See *State v. Larocco*, 794 P.2d at 472–473.

<sup>129</sup> See *State v. Schlosser*, 774 P.2d at 1137. (

<sup>130</sup> See *United States v. Najjar*, 451 F.3d 710, 718 (10th Cir. 2006) at 710.

inevitable discovery.<sup>131</sup> On those findings, the Court should suppress all post-entry evidence and dismiss the charges and, consequently, dismiss the case.<sup>132</sup>

- ix. BAD TROOPER’S WARRANTLESS OPENING OF DEFENDANT’S DRIVER’S DOOR WAS A SEARCH UNDER ARTICLE I, § 14, OF THE UTAH CONSTITUTION AND THE FOURTH AMENDMENT. PLAINTIFF’S SOLE PROFFERED EXCEPTION—COMMUNITY CARETAKING OR EMERGENCY AID—FAILS UNDER AN OBJECTIVE, IMMEDIACY-BASED STANDARD GIVEN THE 30–45+ MINUTE DELAY, THE ABSENCE OF OBSERVABLE MEDICAL DISTRESS, AND BAD TROOPER’S CONTEMPORANEOUS INVESTIGATORY MESSAGING THAT HE WAS “OUT WITH AN INTOXICATED PERSON” AND PREPARING SFSTS. BECAUSE NO OTHER EXCEPTION APPLIES, ALL POST-ENTRY EVIDENCE—including IMPAIRMENT INDICATORS, COMMANDS AND ENSUING DETENTION, THE ARREST, AND THE FIREARM FOUND DURING THE SEARCH INCIDENT TO ARREST—MUST BE SUPPRESSED AS FRUIT OF THE POISONOUS TREE, LEAVING THE CHARGES UNSUPPORTED BY ADMISSIBLE EVIDENCE.

- A. Opening the door was a search requiring a warrant or a narrowly tailored exception. Physically manipulating and opening a vehicle’s door to access its interior is a classic search: it intrudes upon a constitutionally protected effect to obtain information not otherwise available from a lawful vantage point.**

Utah law accords at least equal, and often greater, protection for vehicles under Article I, § 14. Utah Const. Art. I, § 14. *State v. Larocco* emphasizes Utah’s stricter scrutiny of automobile searches and Plaintiff’s burden to prove a specific exception narrowly fitted to the claimed need.<sup>133</sup> Bad Trooper exceeded a consensual “knock and observe” welfare check by opening the unlocked door to contact a nonresponsive occupant; that act crossed the constitutional line and requires a valid exception.<sup>134</sup>

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<sup>131</sup> See *State v. Worwood*, 164 P.3d at 411.

<sup>132</sup> See *Wong Sun v. United States*, 371 U.S. at 488.

<sup>133</sup> See *State v. Larocco*, 794 P.2d at 469–471.

<sup>134</sup> See *id.* at 471.

**B. The emergency aid or community caretaking exception fails under an objective test.**

Emergency aid justifies warrantless entry only when officers reasonably believe immediate entry is necessary to render aid to someone facing an imminent risk of serious harm.<sup>135</sup> Objective facts here defeat any immediacy: (a) Bad Trooper initially observed the parked, running truck, then left and did not intervene for approximately 30–45+ minutes; (b) upon return, the scene was unchanged with no visible injury, blood, medical device, crash damage, smoke, or other acute hazard; and (c) before opening the door, Bad Trooper messaged dispatch that he was “out with an intoxicated person” and would be out on SFSTs shortly—contemporaneous evidence of an investigatory DUI purpose, not a primary caretaking need. A reasonable officer who truly perceived an imminent medical emergency would not disengage for half an hour, then plan SFSTs before entry.

**C. Utah’s Article I, § 14, imposes an additional least-intrusive-means constraint that Plaintiff cannot meet.**

Even assuming some welfare concern, Utah’s constitution requires Plaintiff to prove that the intrusion was strictly tied to, and no broader than, what was necessary to address an immediate medical need promptly.<sup>136</sup> Less intrusive options were readily available but not pursued before entering the vehicle: continued vigorous knocking or use of a PA system; summoning EMS to assess through the windows and provide medical direction; running the plate to attempt phone contact; attempting to rouse by siren chirp or air horn; or positioning a spotlight. The body-worn camera and testimony show prolonged nonresponse to knocking, but nonresponse by a sleeping,

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<sup>135</sup> See *Brigham City v. Stuart*; *Michigan v. Fisher*, 558 U.S. 45 (2009); *United States v. Najjar*.

<sup>136</sup> See *State v. Larocco*, 794 P.2d at 472–473.

uninjured-looking occupant in a parked vehicle—after a 30–45+ minute officer delay—does not create an exigency that makes opening the door the least intrusive, immediately necessary step. Absent visible distress, the mere fact that the engine was running does not transform the situation into an emergency justifying entry.<sup>137</sup>

**D. No alternative exception rescues the search.**

Plaintiff has not shown consent, either express or implied. There was no probable cause to search the vehicle's interior prior to entry, foreclosing the automobile exception under Utah's stricter approach.<sup>138</sup> No articulable officer-safety threat existed outside the vehicle that would justify a protective sweep-style entry; Bad Trooper left avenues for the truck to depart and did not block it, further belying any imminent threat.<sup>139</sup> And exigent circumstances independent of emergency aid are absent: the scene presented no ongoing crime or imminent destruction of evidence justifying entry.<sup>140</sup>

**E. Plaintiff cannot bootstrap reasonable suspicion or probable cause from observations obtained only after the unlawful entry.**

All critical impairment indicators—odor of alcohol, red or bloodshot eyes, slurred speech, and the partial HGN—arose only after the door was opened and Defendant was roused. Those observations cannot retrospectively justify the entry. There was no traffic stop and no lawfully initiated seizure prior to the door opening; the command to exit and the continued detention are therefore tainted.

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<sup>137</sup> See *id.* at 471.

<sup>138</sup> See *id.* at 469–471; *State v. Anderson*, 910 P.2d at 1236–1237.

<sup>139</sup> See *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 111–112.

<sup>140</sup> See *United States v. Najjar*, 451 F.3d 710, 718 (10th Cir. 2006) at 715–719.

**F. Fruits must be suppressed; no attenuation, independent source, or inevitable discovery applies.**

The arrest for DUI flowed directly from the post-entry observations, and the search incident to arrest that yielded the Ruger LCP was derivative. The refusal evidence likewise depends on the legality of the underlying seizure and investigation. Plaintiff has not argued, much less proved, attenuation, independent source, or inevitable discovery. On this record, those theories are waived or unsupported.<sup>141</sup> Consequently, suppression must extend to all post-entry evidence, including impairment indicators, statements, the arrest, the firearm, and refusal-related evidence.

**G. Remedy.**

Therefore, under the Fourth Amendment and independently under Article I, § 14, the Court should find the door-opening search unlawful and suppress all evidence obtained thereafter.<sup>142</sup> With the fruits excluded, Plaintiff cannot establish the essential elements of DUI under § 41-6a-502, refusal under §§ 41-6a-520 and -520.1, or weapons-while-under-the-influence under § 76-10-528. The Court should grant the motion to suppress in full and dismiss for lack of admissible evidence.<sup>143</sup>

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<sup>141</sup> See *Brown* (attenuation factors).

<sup>142</sup> See *State v. Schlosser*, 774 P.2d at 1137.

<sup>143</sup> See *Wong Sun v. United States*, 371 U.S. at 488.

x. ASSUMING THE DOOR-OPENING WAS UNLAWFUL, EVERY INCRIMINATING OBSERVATION AND ACTION THAT FOLLOWED—THE ODOR OF ALCOHOL, RED EYES, SLURRED SPEECH, PARTIAL HGN, THE ORDER TO EXIT, THE ARREST, AND THE HANDGUN DISCOVERED IN THE SEARCH INCIDENT TO ARREST—MUST BE SUPPRESSED AS FRUIT OF THE POISONOUS TREE UNDER WONG SUN AND STATE V. RYNHART BECAUSE PLAINTIFF CANNOT MEET ITS BURDEN TO PROVE ATTENUATION, AN INDEPENDENT SOURCE, OR INEVITABLE DISCOVERY

**A. Plaintiff bears the burden.**

Once a primary constitutional violation is shown, all derivative evidence is presumptively inadmissible unless Plaintiff proves that it was obtained by means sufficiently distinguishable to purge the taint or via an independent, lawful path.<sup>144</sup> as Utah’s Article I, § 14, provides at least coextensive, and often greater, protection than the federal minimum.<sup>145</sup> The record here shows a tight, unbroken causal chain: Bad Trooper learned nothing inculpatory until he opened Defendant's door. At this point, all the DUI indicators and the ensuing arrest were immediately obtained and then exploited to discover the firearm.

**B. Causal nexus is direct and dispositive.**

Before the door-opening, Bad Trooper had no lawfully acquired impairment evidence: no odor through closed windows, no speech, no HGN, and no lawful basis to command exit. His own statements include “out with an intoxicated person” and anticipated SFSTs, revealing investigatory intent rather than an objectively emergent medical necessity.<sup>146</sup> Only after unlawfully opening the unlocked door and physically engaging Defendant did Bad Trooper first detect the odor of alcohol, observe red or bloodshot eyes and slurred speech, attempt partial HGN, and order Defendant out.<sup>147</sup>

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<sup>144</sup> See *id.* at 471; *State v. Rynhart*.

<sup>145</sup> See *State v. Larocco*, 794 P.2d at 460.

<sup>146</sup> See *State v. Schlosser*, 774 P.2d at 1137.

<sup>147</sup> See *id.*

The arrest and the search incident that yielded the handgun rested entirely on those post-entry observations. But-for causation and exploitation are therefore established for each challenged item, satisfying *Wong Sun*'s nexus requirement and shifting the burden to Plaintiff to prove an exception.<sup>148</sup>

**C. Attenuation fails under *Brown v. Illinois* as applied in *Rynhart*.**

First, temporal proximity: the odor, eye observations, and speech occurred instantaneously upon the unlawful entry. The exit order, refusal-related admonitions, arrest, and search followed in quick succession. Near-simultaneity weighs heavily against attenuation. Second, intervening circumstances: none lawfully broke the chain. There was no valid consent, no independent lawful stop, and no new, untainted basis to detain or arrest arising from a source other than the unlawful entry. *Mimms* or *Wilson's* exit-order authority presupposes a lawful stop; there was none here.<sup>149</sup> Third, purpose and flagrancy: the forecast of SFSTs, the prolonged nonemergency delay of 30–45+ minutes, and the lack of visible medical distress show an investigatory use of a welfare rubric. Using a caretaking rationale as a pretext to open a door and generate DUI evidence is precisely the sort of purposefulness that *Brown* condemns and that Utah courts condemn under Article I, § 14. Utah Const. Art. I, § 14. On this record, all three *Brown* factors cut decisively against attenuation for each piece of evidence.

**D. An independent source is unavailable.**

To invoke it, Plaintiff must identify a genuinely separate, lawful evidentiary path that actually produced, or would have produced, the same evidence untainted by the illegality. There

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<sup>148</sup> See *Wong Sun v. United States*, 371 U.S. at 471.

<sup>149</sup> See *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 106.

is none. Prior to the door-opening, Plaintiff had only a parked vehicle with its engine running and an unresponsive occupant—insufficient, without more, to smell alcohol, hear slurred speech, observe HGN, or lawfully command an exit.<sup>150</sup> No parallel investigation, tip, or lawful stop existed. The post-entry observations were the exclusive basis for reasonable suspicion, probable cause, the exit order, and the arrest.<sup>151</sup> Because Plaintiff cannot point to any independent, lawfully obtained information that would have justified the same actions, the doctrine does not apply.<sup>152</sup>

**E. Inevitable discovery collapses into conjecture.**

Plaintiff must prove by a preponderance that routine, specific, and lawful steps already in motion—or that would inevitably and lawfully have occurred—would have led to the same evidence without relying on leads from the unlawful entry. Speculation that Bad Trooper could have waited longer until Defendant awoke voluntarily is insufficient and contradicted by the record showing that sustained knocking and a strobe did not rouse him. Any further step that would have produced the same evidence—opening the door, ordering an exit, conducting SFSTs, or arrest—would have required a lawful predicate that was absent until after the unlawful entry.<sup>153</sup> Nor can Plaintiff show that agency policy mandated some alternative, independent welfare protocol that would lawfully have yielded the odor or slurred speech. Without a concrete, preexisting process to discover the evidence, inevitable discovery fails.<sup>154</sup>

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<sup>150</sup> See *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) at 124.

<sup>151</sup> See *State v. Schlosser*, 774 P.2d at 1137.

<sup>152</sup> See *Wong Sun v. United States*, 371 U.S. at 488.

<sup>153</sup> See *State v. Schlosser*, 774 P.2d at 1137.

<sup>154</sup> See *Wong Sun v. United States*, 371 U.S. at 488.

**F. Because the order to exit and the arrest rest on tainted observations, downstream fruits must be suppressed.**

The odor, red eyes, slurred speech, and partial HGN were observed only after and due to the unlawful door-opening. Those observations furnished the sole basis to order Defendant out, to escalate the seizure, and to arrest him. The handgun was discovered solely in a search incident to that arrest. Under *Wong Sun* or *Rynhart*, each is the fruit of the poisonous tree and must be excluded.<sup>155</sup>

**G. Utah's independent constitutional protections reinforce suppression.**

Article I, § 14, and *Larocco* require rigorous scrutiny of warrantless intrusions, particularly in vehicles.<sup>156</sup> The combination of a delayed approach, pretextual investigatory purpose, and immediate exploitation of the illegal entry to generate DUI evidence contravenes Utah's stricter privacy guarantees. Even if Plaintiff could meet the federal baseline (it cannot), the Utah Constitution independently mandates exclusion.<sup>157</sup>

**H. The evidence of refusal and weapons count also falls.**

The implied-consent admonitions and refusals are downstream of an unlawful seizure and investigation and, therefore, inadmissible.<sup>158</sup> The weapons-under-the-influence charge depends on the arrest and search incident thereto; if the arrest is suppressed, the firearm is also dismissed.<sup>159</sup>

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<sup>155</sup> See *id.* at 471; see, also, *State v. Worwood* (excluding evidence where the State fails to meet its burden to show an exception to suppression).

<sup>156</sup> See *State v. Larocco*, 794 P.2d at 469–471.

<sup>157</sup> See *id.* at 472–473; *State v. Schlosser* (recognizing robust state exclusionary principles).

<sup>158</sup> See *Wong Sun v. United States*, 371 U.S. at 471.

<sup>159</sup> See *State v. Worwood*, 164 P.3d at 411.

With the core DUI indicators and the handgun excluded, Plaintiff lacks admissible evidence to proceed. *Id.* at 409.

**I. In sum, Plaintiff cannot carry its burden to show attenuation, independent source, or inevitable discovery.**

All post-entry evidence—including odor, red eyes, slurred speech, partial HGN, the exit order, the arrest, and the handgun—must be suppressed as fruit of the unlawful door-opening under *Wong Sun*, *Rynhart*, and Utah’s Article I, § 14.<sup>160</sup> The Court should grant the motion to suppress and, in light of the resulting evidentiary void, dismiss the charges.

**XI. CONCLUSION**

Pursuant to the foregoing, reason compels the strong and indubitable conclusion that Bad Trooper’s act of opening Defendant’s unlocked driver’s door was a warrantless search that violated the Fourth Amendment and Article I, § 14 of the Utah Constitution. Plaintiff bears the burden to justify this intrusion. It has not and cannot do so under emergency-aid or community-caretaking principles. The record shows (1) a 30–45+ minute non-intervention that defeats any claim of immediacy; (2) no specific, articulable facts of an objectively imminent medical emergency; (3) Bad Trooper’s pre-entry admission that he would conduct DUI investigation, and the planned SFSTs reveal an investigatory—not caretaking—purpose; and (4) available, less intrusive alternatives that were not pursued. Under Utah’s independent constitutional protections, these facts foreclose the exception and render the door-opening unconstitutional.

Because the constitutional violation is the but-for and proximate cause of Plaintiff’s case, all post-entry evidence is fruit of the poisonous tree and must be suppressed. That includes every

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<sup>160</sup> See *Wong Sun v. United States*, 371 U.S. at 471; *State v. Rynhart*; and Utah Const. Art. I, § 14.

post-entry observation and derivative item: odor of alcohol, red or bloodshot eyes, slurred speech, partial HGN, the exit order, ensuing detention and arrest, the refusal-admonition evidence, and the handgun recovered during the search incident to arrest. Plaintiff has not carried its burden to establish attenuation, independent source, or inevitable discovery under *Wong Sun*, *Brown v. Illinois*, *State v. Larocco*, *State v. Worwood*, and Utah Const. Art. I, § 14.

Accordingly, the Court should (1) hold that Bad Trooper's warrantless door-opening was an unconstitutional search under the Fourth Amendment and Article I, § 14; (2) suppress all post-entry observations and derivative evidence as fruits of that illegality; and (3) dismiss the charges for lack of admissible evidence. The Constitution requires nothing less.

## **XII. REQUEST FOR RELIEF**

WHEREFORE, pursuant to the foregoing facts alleged, legal arguments made, and compelling legal conclusions reached, Defendant hereby respectfully requests that this Honorable Court issue Defendant the following relief:

- A.** Hold that Bad Trooper's warrantless door-opening was an unconstitutional search under the Fourth Amendment and Article I, § 14.
- B.** Suppress all post-entry observations and derivative evidence as fruits of that illegality.
- C.** Dismiss the charges and, consequently, the case for lack of admissible evidence.
- D.** Issue any such other, further, and different relief as the Court deems proper, just, and equitable under the circumstances of this matter.

DATED October 15, 2025.

/s/ Saul Goodman  
Saul Goodman,  
*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 15, 2025, I caused to be served, via the Court's electronic filing system, a true and correct copy of the foregoing upon the **Iron County Justice Court prosecutor, Mister Prosecutor**, who is **counsel for Plaintiff**.

/s/ Saul Goodman

**SAMPLE**  
Altioem Legal Services