

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MIGUEL COCA, et al.,

Plaintiffs,

v.

CITY OF DODGE CITY, KANSAS, a
municipal corporation, et al.,

Defendants.

Case No. 22-cv-1274-EFM-RES

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to District of Kansas Local Rule 7.1(f), Plaintiffs notify the Court of the decision of the United States Supreme Court in *Health and Hospital Corporation of Marion County v. Talevski*, 599 U.S. ___, (2023) (No. 21-806), attached hereto as Exhibit A, issued on June 8, 2023. In *Talevski*, the Supreme Court held that private plaintiffs could sue to enforce their rights under the Federal Nursing Home Reform Act under 42 U.S.C. § 1983. The Supreme Court further held that the presumption of § 1983 enforceability for federal statutory rights cannot be rebutted merely by pointing to “a detailed enforcement regime that also protects those interests,” unless that enforcement regime is “*incompatible* with individual enforcement under §1983.” *Talevski*, slip op. at 19 (emphasis original; internal quotation marks omitted).

In their pending motions to amend and certify, Docs. 79, 80, Defendants contend that private plaintiffs do not have a § 1983 cause of action to enforce Section 2 (“Section 2”) of the Voting Rights Act of 1965 (“VRA”), 52 U.S.C. § 10301. The Supreme Court’s decision in *Talevski* lends additional support to the Court’s rejection of such an argument in its denial of Defendants’ Motion to Dismiss, *see* Doc. 71, in that it further clarifies the incredibly high bar a party must clear to rebut the presumption of § 1983 enforceability for federal rights. Given

that “Section 2 contain[s] clear rights-creating language” and “does not contain a comprehensive enforcement scheme incompatible with individual enforcement,” *id.* at 12, *Talevski* therefore further warrants denying Defendants’ request for extraordinary relief under 28 U.S.C. § 1292(b) for interlocutory review of their claim that Plaintiffs cannot enforce Section 2 via § 1983. *See* Pls.’ Opp. to Defs.’ Mot. to Amend and Certify, Doc. 86.

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Dated: June 9, 2023

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CERTIFICATE OF SERVICE

Pursuant to D. Kan. Loc. R. 5.1(f), I hereby certify that on this 9th day of June 2023, a true and correct copy of the foregoing was served via the United State District Court's CM/ECF system on all parties or persons requiring notice, including upon attorneys for defendants:

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