

Diego Rodriguez  
1317 Edgewater Drive #5077  
Orlando, FL 32804  
(208) 891-7728

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ST. LUKE’S HEALTH SYSTEM, LTD; ST.  
LUKE’S REGIONAL MEDICAL CENTER,  
LTD; CHRIS ROTH, an individual; NATASHA  
D. ERICKSON, MD, an individual; and TRACY  
W. JUNGMAN, NP, an individual,  
Plaintiffs,

vs.

AMMON BUNDY, an individual; AMMON  
BUNDY FOR GOVERNOR, a political  
organization; DIEGO RODRIGUEZ, an  
individual; FREEDOM MAN PRESS LLC, a  
limited liability company; FREEDOM MAN  
PAC, a registered political action committee; and  
PEOPLE’S RIGHTS NETWORK, a political  
organization,  
Defendants.

Case No. CV01-22-06789

**MEMORANDUM IN OPPOSITION  
TO PLAINTIFF’S OBJECTION TO  
CLERK’S RECORD**

**MEMORANDUM IN OPPOSITION TO “MEMORANDUM IN OPPOSITION TO  
MOTION TO DISMISS OBJECTION TO CLERK’S RECORD ON APPEAL”**

Comes now, defendant Diego Rodriguez, to submit this memorandum in opposition to Plaintiff’s “MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS OBJECTION TO CLERK’S RECORD ON APPEAL”

On June 13th, 2024, the Plaintiffs in this case filed a “MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS OBJECTION TO CLERK’S RECORD ON APPEAL” along with the “DECLARATION OF JENNIFER M. JENSEN IN SUPPORT OF

## MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS OBJECTION TO CLERK'S RECORD ON APPEAL."

The Plaintiff asserts that they filed their objection to the Clerk's Record in a timely manner, when they simply did not. Their assertion is untrue.

### I. INTRODUCTION

Plaintiff's assert that they filed their objection to the Clerk's Record, "...within 27 days of service of the clerk's record, which was served on May 7, 2024." This is simply untrue as the record shows that the Plaintiff was served on May 2, 2024, and not on May 7, 2024.

### II. BACKGROUND

Plaintiff acknowledges in their Memorandum that, "*On Thursday, May 2, 2024, at 4:34 PM, the clerk's office (via [SecureFileTransferNotification@adacounty.id.gov](mailto:SecureFileTransferNotification@adacounty.id.gov)) emailed Plaintiffs' counsel's office with a link to download the clerk's record for the pending appeal.*" This is the legal and authoritative means for proper service on this case, and the date was noted as being May 2<sup>nd</sup>, 2024. **Plainly stated, LEGAL SERVICE was made on May 2, 2024.**

Plaintiff wants to make the argument that because they were unable to access the files on May 2<sup>nd</sup>, and were not able to get their problem resolved until May 7<sup>th</sup>, that the date of service should be changed to May 7<sup>th</sup>, and not May 2<sup>nd</sup>. These dates are evidently important because the Idaho Appellate Rule 29(a) states, "*The parties shall have 28 days from the date of the service of the transcript and the record within which to file objections to the transcript or the record, including requests for corrections, additions or deletions. In the event no objections to the reporter's transcript or clerk's or agency's record are filed within said 28-day time period, the transcript and record shall be deemed settled.*"

### III. ARGUMENT

There is no debate nor question about the date when the Plaintiff's received service from the Clerk's office (which was May 2<sup>nd</sup>), nor is there any debate about the date in which the Plaintiff filed their objection (which was June 3<sup>rd</sup>, 2024).

These dates are 32 days apart, which is exactly 4 days past the Idaho Appellate rule deadline of 28 days. The Plaintiff realizes and knows that they have missed the Idaho Appellate rule deadline and are therefore trying to change the date of service so that they can manipulate the rules in their favor. Unfortunately, the date of service is firmly established as having been May 2<sup>nd</sup>, 2024. *If the Plaintiff could not receive, obtain, or access the files or paperwork until a later date, that issue simply does not change the date of service.*

I, as the defendant, likewise did not receive all of the files for the Clerk's Record until 2 weeks after the service date since I live over 2,000 miles away in Florida and the files were mailed to me on USB drives, and I was out of the country when the package arrived. However, the Idaho Appellate Rule 29(a) plainly states, "*Service may be by personal delivery or by mail. If service is made by mail it shall be accompanied by a certificate indicating the date of mailing.*"

The reason why it must be accompanied by a certificate indicating the date of mailing is because the date of service is established as the date that service was made and not the date that the recipient actually received it. This is why it is a full 28 days and not 14 days (as is normal or customary) because it provides sufficient time for a recipient to receive and respond, even if they are receiving service via US postal mail (which can be slower than other delivery methods).

This is also why the Idaho appellate rule requires the date of mailing to be accompanied by "*...a certificate indicating the date of mailing*" because the date of mailing is the legal date of service, and not the date that the recipient actually received the files, documents, or paperwork.

I received my copies from the Clerk a full week AFTER the Plaintiff's and I am nevertheless subject to the 28 day rule and the date of service as being on May 2<sup>nd</sup>, 2024. I, as the Defendant, am subject to this rule, to these dates, and to this timeline, and the Plaintiff's must be subject to it as well.

Therefore, regardless of the Plaintiff's claim that they were unable to access electronic documents on the day they received service, the legal standard as presented in Idaho Appellate Rule 29(a) is that service is legally made on the date it is made and not on the date that a recipient was able to access it or receive it.

DATED: June 17th, 2024

By: /s/ Diego Rodriguez  
Diego Rodriguez

## CERTIFICATE OF SERVICE

I certify I served a copy to: (name all parties or their attorneys in the case, other than yourself)

Erik F. Stidham (ISB #5483)  
HOLLAND & HART LLP  
800 W. Main Street, Suite 1750  
Boise, ID 83702-5974

☐ By Mail  
☐ By fax  
☒ By Email/iCourt/eServe  
efstidham@hollandhart.com

Ammon Bundy  
P.O. Box 1062  
Cedar City, Utah 84712

☐ By Mail  
☐ By fax  
☒ By Email/iCourt/eServe

Diego Rodriguez  
1317 Edgewater Dr #5077  
Orlando, FL 32804

☐ By Mail  
☐ By fax  
☒ By Email/iCourt/eServe  
freedommanpress@protonmail.com

DATED: June 17th, 2024

By: /s/ Diego Rodriguez

Diego Rodriguez