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MAY 11 2022

PHIL McGRANE, Clerk
By JAMIE MARTIN
DEPUTY

**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; and
NATASHA D. ERICKSON, MD, 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.

CV 01 22 06789

**MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

The St. Luke's Parties respectfully request this Court enter a protective order prohibiting harassment, intimidation, or threats toward the St. Luke's Parties, Mr. Roth, Dr. Erickson, potential witnesses, and others related to the controversy, including those whom Defendants have already targeted online and in-person.

I. INTRODUCTION

The St. Luke's Parties seek a protective order prohibiting Defendants, and third-parties acting in concert with or at the direction or encouragement of Defendants, from interfering with the judicial process of this case. As set forth in the contemporaneous Motion for Preliminary Injunction and supporting evidence, Defendants have harassed the St. Luke's Parties and engaged in a campaign of disseminating false information. Based on the organized nature of Defendants' course of conduct and the revenue and political attention the smear campaign has generated, the St. Luke's Parties anticipate that Defendants will persist and likely escalate their wrongful conduct now that this lawsuit has been filed. Consistent with their prior course of conduct, Defendants will likely continue making false statements regarding the St. Luke's Parties; harassing the St. Luke's Parties and potential witnesses online, in the media, at their homes, or at their place of business; doxing the St. Luke's Parties and potential witnesses; and interfering with the St. Luke's Parties' and potential witnesses' business operations. As Defendants have done up to this point, it is anticipated that they will continue to encourage their followers and supporters to take the above actions as well. Such conduct will necessarily interfere with the judicial process of this case by harassing and potentially intimidating witnesses.

II. ARGUMENT

A. THIS COURT HAS AUTHORITY TO MANAGE THE PROCEEDINGS BEFORE IT.

Idaho courts have inherent authority "to protect and maintain the dignity and integrity of the court room and to achieve the orderly and expeditious disposition of cases." *Talbot v. Ames Constr.*, 127 Idaho 648, 652, 904 P.2d 560, 564 (1995) (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991)). This judicial authority to manage its proceedings is inherent; stated

differently, it does not arise from statutes and rules and therefore is not limited to statutes and rules. *See Chambers*, 501 U.S. at 43 (The courts’ inherent powers “are ‘governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs[.]’”) (quoting *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962)); *Am. Unites for Kids v. Rousseau*, 985 F.3d 1075, 1088 (9th Cir. 2021) (The courts have inherent powers “to manage their own affairs,” which are “not conferred by rule or statute.”).

Accordingly, the court may manage conduct in relation to a pending matter, when those acts “degrade the judicial system[.]” *Chambers*, 501 U.S. at 42, 44 (holding that, even where Rule 11 and statutory authority were not broad enough to reach “acts which degrade the judicial system,” the court had inherent authority to sanction conduct related to the litigation).¹

In addition to the court’s inherent power, Idaho statutes enumerate the court’s powers to manage the proceedings before it. *See, e.g.*, I.C. § 1-1603(2) (“Every court has power . . . [t]o enforce order in the proceedings before it[.]”); I.C. § 1-1901(1) (“Every judicial officer has power . . . [t]o preserve and enforce order in his immediate presence, and in the proceedings before him, when he is engaged in the performance of an official duty.”); I.C. § 1-1902 (providing that judicial officers may punish for contempt); I.C. § 7-601(9) (Contempt of court includes “any . . . unlawful interference with the process or proceedings of a court”).

In managing the judicial process and ensuring a fair trial, courts can minimize the negative impact of pervasive and hostile attention focused on the litigation. Sensational cases, such as this one, are particularly susceptible to pervasive and hostile attention that can interfere

¹ *Cf.* I.R.C.P. 65(d)(2) (Preliminary injunctions bind not only the parties but also their agents and third parties “who are in active concert or participation” with them); *Portland Fem. Women’s H. Ctr. v. Advocates for Life*, 859 F.2d 681, 686 (9th Cir. 1988) (affirming preliminary injunction scope, which bound third parties acting in concert with defendant demonstrators).

with the judicial process and the appearance of witnesses. “The courts must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences.” *Sheppard v. Maxwell*, 384 U.S. 333, 362-63 (1966). Parties and others “coming under the jurisdiction of the court should [not] be permitted to frustrate its function.” *Id.* One method of preventing such interference is through a protective order limiting what parties and their supporters may say or do in the public sphere. *Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 553-64 (1976) (recognizing higher standard required to limit the press than the parties to the case).

B. DEFENDANTS HAVE ORGANIZED A CAMPAIGN OF HARASSMENT, INTIMIDATION, AND THREATS AND LIKELY WILL CONTINUE TO HARASS, INTIMIDATE, AND THREATEN WITNESSES IF A PROTECTIVE ORDER IS NOT ENTERED.

Defendants have engaged in multiple instances of conduct that, if repeated now that this lawsuit has been filed, would constitute witness intimidation. Witness intimidation is a criminal act. I.C. § 18-2604(1) (providing it is a misdemeanor to “willfully intimidate[], influence[], impede[], deter[], threaten[], harass[], obstruct[] or prevent[]” a witness or potential witness from testifying “freely, fully and truthfully” in a civil proceeding).

In fact, Defendants have expressly stated that their purpose is to harass and shame the subjects of their smear campaign—those whom Defendants baselessly assert were involved in a child trafficking ring and all of whom are potential witnesses in this case.² Pursuant to this goal, Defendants have posted false statements about Mr. Roth and Dr. Erickson online.³ Defendants have targeted others online who allegedly had some involvement with the Infant.⁴ Defendants

² These statements are the subject of the St. Luke’s Parties’ motion for preliminary injunction, filed contemporaneously with this motion. Memorandum in Support of a Motion for a Preliminary Injunction, at 15.

³ *Id.* at 7-9.

⁴ See People Responsible, available at <https://freedomman.org/cyrus/kidnappers/> (last visited May 11, 2022); Meet Kelly Shoplock, An Evil Cog in Idaho’s Child Trafficking Machine,

have encouraged their followers to do the same.⁵ Defendants have attempted to overwhelm the St. Luke's Parties' business operations by encouraging followers to call telephone numbers needed for hospital operations and harassing hospital employees on their way to work.⁶ And Rodriguez has engaged in a course of conduct flouting legal processes by revealing private information regarding the child protective custody proceedings publicly.⁷ In addition to targeting potential witnesses, Defendants' practice is try and disrupt the legal process through the harassment and intimidation of judges, court staff, and counsel.⁸

available at <https://freedomman.org/cyrus/archive/meet-kelly-shoplock-an-evil-cog-in-idahos-child-trafficking-machine/> (last visited May 11, 2022); Meet Sean King, Meridian's Finest Groper, available at <https://freedomman.org/cyrus/archive/sean-king-meridians-finest-groper/> (last visited May 11, 2022); April 1st – The Impossibility of CPS Social Worker's Objectivity, available at <https://freedomman.org/cyrus/archive/impossibility-of-cps-social-workers-objectivity/> (last visited May 11, 2022).

⁵ March 16th – Shelter Care Hearing End of Day Update, available at <https://freedomman.org/cyrus/archive/shelter-care-hearing-end-of-day-update/> (last visited May 11, 2022); March 16th – Prayer and Protesting Continues, available at <https://freedomman.org/cyrus/archive/prayer-and-protesting-continues/> (last visited May 11, 2022).

⁶ Declaration of Erik Stidham in Support of Motion for Preliminary Injunction, filed concurrently herewith, Exs. C, F; St. Luke's Condemns Harassment at Hospital and Over the Phone, available at <https://www.ktvb.com/article/news/local/st-lukes-boise-lockdown-protest-baby/277-35ea8216-2b63-4918-a720-936f083914b3> (last visited May 11, 2022).

⁷ See There is ZERO Evidence for Imminent Danger, available at <https://freedomman.org/cyrus/archive/zero-evidence-for-imminent-danger/> (last visited May 11, 2022); April 3rd – Adjudicatory Hearing Postponed, available at <https://freedomman.org/cyrus/archive/adjudicatory-hearing-postponed/> (last visited May 11, 2022); March 16th – Shelter Care Hearing End of Day Update, available at <https://freedomman.org/cyrus/archive/shelter-care-hearing-end-of-day-update/> (last visited May 11, 2022); March 16th – Shelter Care Hearing Live Updates, available at <https://freedomman.org/cyrus/archive/shelter-care-hearing-live-updates/> (last visited May 11, 2022).

⁸ See, e.g., Constitutional Rights Violated by Meridian Police and Judge Laurie Fortier, available at <https://freedomman.org/cyrus/archive/constitutional-rights-violated-by-meridian-police-and-judge-laurie-fortier/> (last visited May 11, 2022); Show of Solidarity for Baby Cyrus on April 8th,

The St. Luke's Parties respectfully request that this Court use its inherent powers to order Defendants and their followers not to interfere with the judicial process in relation to this lawsuit by harassing, intimidating, or threatening the St. Luke's Parties, potential witnesses, the Court and its staff, and legal counsel or participants in the judicial process in any way. This includes, but is not limited to, direct actions or inciting their followers to act. Defendants' prior actions have been pervasive and hostile and are likely to remain so. Defendants and their followers should be prevented from making false or harassing statements online, in the media, at homes, or business; doxing; creating threats of public attack; disrupting potential witnesses' families and businesses; and interfering with business operations. Defendants' continued actions are likely to interfere with the Court's ability to manage its docket and court room, to identify a fair and impartial jury, and to summon witnesses to testify at trial. Indeed, Defendants' prior actions and anticipated future actions are all intended to prevent the St. Luke's Parties and their legal counsel, the Court and its staff, and potential witnesses' participation in the legal process.

DATED: May 11, 2022.

HOLLAND & HART LLP

By: /s/ Erik F. Stidham

Erik F. Stidham

Counsel for Plaintiffs

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available at <https://freedomman.org/cyrus/archive/show-of-solidarity-for-baby-cyrus/> (last visited on May 11, 2022).