

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

St Lukes Health System LTD, St
Lukes Regional Medical Center LTD,
Chris Roth, Natasha Erickson, MD,
Tracy Jungman

Plaintiff,

vs.

Ammon Bundy, Ammon Bundy for
Governor, Diego Rodriguez,
Freedom Man PAC, Peoples Rights
Network, Freedom Man Press LLC
Defendant.

Case No. CV01-22-06789

Orders on Motions for Sanctions

On September 6, 2022, two motions came before the Court for hearing including the Plaintiffs' Motion for Sanctions and Contempt against Ammon Bundy, filed Aug. 12, 2022, and also the Plaintiffs' Motion for Sanctions and Contempt against Diego Rodriguez, filed Aug. 19, 2022.

Erik Stidham appeared at the hearing for all Plaintiffs.

Neither Ammon Bundy or Diego Rodriguez has filed a notice of appearance or any responsive pleading as of the time of the hearing. Neither Ammon Bundy nor Diego Rodriguez personally appeared at the hearing.

Since Ammon Bundy or Diego Rodriguez did not personally appear at the hearing, the Court deferred ruling on the portions of the motions related to contempt under Idaho Rule of Civil Procedure 75 or Idaho Code § 7-610. The Plaintiffs may re-notice a hearing on the contempt portions of the Motions for Sanctions and Contempt pursuant to Idaho Rule of Civil Procedure 75(d) and/or request a warrant of attachment and bail under Idaho Rule of Civil Procedure 75(e) in the future if Plaintiffs desire to proceed on the contempt portions of the motions.

The hearing and this decision only address the portion of the motions addressing discovery sanctions.



LEGAL STANDARD

Idaho Rule of Civil Procedure 37(b)(2)(A) states allows the Court to issue “further just orders” if a party “fails to obey an order to provide or permit discovery.” The Court finds there is no meet and confer requirement between the parties when the Court has already issued an order related to discovery. See *generally* IDAHO RULE CIV. PRO. 37. See also 27 C.J.S. *Discovery* § 69; see also 7 MOORE’S FEDERAL PRACTICE - Civil § 37.40 (2022). “Instead of or in addition to” any further orders or sanctions by the Court, “the court must order the disobedient party...to pay the reasonable expenses, including attorney’s fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.” IDAHO R. CIV. PRO. 37(b)(2)(C). “The imposition of sanctions for discovery violations is committed to the discretion of the trial court.” *Roe v. Doe*, 129 Idaho 663, 666, 931 P.2d 657, 660 (Ct. App. 1996).

Any sanctions imposed by the court must be appropriate and consider if the sanction’s effect will “impose liability on the offending party, establish the outcome of or preclude evidence on a central issue, or end the litigation entirely.” 27 C.J.S. *Discovery* § 69. The Idaho courts have determined that an “award of costs and explicit warnings are among ‘the appropriate preliminary measures’ which the trial court may take to attempt to force compliance before resorting to” more drastic measures and sanctions.” *Roe v. Doe*, 129 Idaho 663, 667, 931 P.2d 657, 661 (Ct. App. 1996) (quoting *Ashby v. W. Council, Lumber Prod. & Indus. Workers*, 117 Idaho 684, 687, 791 P.2d 434, 437 (1990)).

ORDERS

a. Motion for Sanctions against Ammon Bundy

For reasons stated from the bench on September 6, 2022, the Court GRANTS IN PART the Motion for Sanctions against Ammon Bundy filed Aug. 12, 2022 and finds it appropriate to order Ammon Bundy to sit for a Deposition to answer the questions posed in Interrogatories numbers 1, 2, 3, 4, and 5 that were granted in the Court’s Order issued on June 3, 2022 and the Court’s Amended Order issued July 12, 2022 since no response to the Interrogatories were received by Plaintiff by the August 5, 2022 deadline.



In order to ensure a timely deposition, the Court sets the following deadlines:

1. By **September 9, 2022** Plaintiffs must provide Defendant Bundy with three possible dates for the deposition between September 19, 2022 and September 30, 2022.
2. Defendant Bundy must respond with his choice of date for the deposition by **September 14, 2022**;
3. St. Luke's must then file a notice of deposition with the chosen date by **September 16, 2022**.

Defendant Bundy is **ORDERED** to attend the deposition on the date and time provided on the filed Notice of Deposition. If Defendant Bundy does not respond to Plaintiffs' proposed dates by the Court-ordered deadline or does not attend the subsequently scheduled deposition, he will be subject to additional sanctions without a hearing or notice and may be held in contempt of Court and fined accordingly. The Court also **ORDERS** that Defendant Bundy is to pay the costs of the deposition that are costs that would not have been incurred but for Mr. Bundy's failure to respond to the Interrogatories proposed by Plaintiffs since Mr. Bundy was on notice of Plaintiffs' intent to seek this discovery and was mailed the Court's Orders for at least three months prior to the hearing on September 6, 2022.

Further, the Court finds it must award the Plaintiffs' the costs and fees incurred in filing the motion for sanctions and appearing at the hearing on September 6, 2022.

Plaintiffs must file a memorandum of costs and fees associated with the Motion for Sanctions and the deposition no later than fourteen days after the scheduled deposition or, if the Defendant fails to timely respond with a deposition date, then such memorandum must be filed no later than fourteen days after September 15, 2022.

b. Motion for Sanctions against Diego Rodriguez

For reasons stated from the bench on September 6, 2022, the Court GRANTS IN PART the Motion for Sanctions against Diego Rodriguez filed Aug. 19, 2022 and finds it appropriate to order Ammon Bundy to sit for a Deposition to answer the questions posed in Interrogatories numbers 1, 2, 3, 4, and 5 that were granted in the Court's Order issued on June 3, 2022 and the Court's Amended Order issued July 12, 2022 since no response to the Interrogatories were received by Plaintiff by the August 5, 2022 deadline.

In order to ensure a timely deposition, the Court sets the following deadlines:



1. By **September 16, 2022** Plaintiffs must provide Defendant Bundy with three possible dates for the deposition between September 27, 2022 and October 7, 2022.
2. Defendant Rodriguez must respond with his choice of date for the deposition by **September 22, 2022**;
3. St. Luke's must then file a notice of deposition with the chosen date by **September 23, 2022**.


Defendant Rodriguez is **ORDERED** to attend the deposition on the date and time provided on the filed Notice of Deposition. If Defendant Rodriguez does not respond to Plaintiffs' proposed dates by the Court-ordered deadline or does not attend the subsequently scheduled deposition, he will be subject to additional sanctions without a hearing or notice and may be held in contempt of Court and fined accordingly. The Court also **ORDERS** that Defendant Rodriguez is to pay the costs of the deposition that are costs that would not have been incurred but for Mr. Rodriguez's failure to respond to the Interrogatories proposed by Plaintiffs since Mr. Rodriguez was on notice of Plaintiffs' intent to seek this discovery and was mailed the Court's Orders for at least three months prior to the hearing on September 6, 2022.

Further, the Court finds it must award the Plaintiffs' the costs and fees incurred in filing the motion for sanctions and appearing at the hearing on September 6, 2022.

Plaintiffs must file a memorandum of costs and fees associated with the Motion for Sanctions and the deposition no later than fourteen days after the scheduled deposition or, if the Defendant fails to timely respond with a deposition date, then such memorandum must be filed no later than fourteen days after September 22, 2022.

IT IS ORDERED.

Dated: 9/7/2022 6:05:59 PM



Lynn Norton
District Judge



CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the attached to: **9/8/2022 11:41:21 AM**

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Dated: 09/08/2022

Phil McGrane
Clerk of the Court

By: Janine Korsen
Deputy Clerk

