

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

Memorandum Decision and Order
Granting Protective Order RE:
Depositions but Denying Sanctions

Plaintiffs' Motion for Sanctions and Protective Order Relating to Limited Deposition of Diego Rodriguez Set for October 5, 2022, filed October 4, 2022, came before the Court for hearing on November 22, 2022.

Appearances: Eric Stidham for Plaintiffs
Diego Rodriguez did not appear
Orders of default are entered for the other defendants

The Plaintiffs' Motion for Sanctions and Protective Order Relating to Limited Deposition of Diego Rodriguez Set for October 5, 2022,¹ with supporting memorandum² and Declaration.³ The Plaintiff filed a Supplemental Declaration in Support on November 8, 2022.⁴ These matters were considered by the Court in reaching this decision.

¹ Motion for Sanctions and Protective Order Relating to Limited Deposition of Diego Rodriguez Set for October 5, 2022, filed Oct. 4, 2022.

² Memorandum in Support of Motion for Sanctions and Protective Order Relating to Limited Deposition of Diego Rodriguez Set for October 5, 2022 ("Sanction Memo"), filed Oct. 4, 2022.

³ Declaration of Erik F. Stidham in Support of Motion for Sanctions and Protective Order Relating to Limited Deposition of Diego Rodriguez Set for October 5, 2022 ("Sanction Dec"), filed Oct. 4, 2022.

⁴ Supplemental Declaration of Erik F. Stidham in Support of Motion for Sanctions and Protective Order Relating to Limited Deposition of Diego Rodriguez Set for October 5, 2022 ("Supp. Sanction Dec"), filed Nov. 6, 2022.



Idaho Rule of Civil Procedure 7(b)(3) governs the time for filing motions and responses (unless a different timeframe is required under statute or another rule of civil procedure pursuant to I.R.C.P. 7(b)(3)(I)).

Idaho Rule of Civil Procedure 7(b)(3)(A) required the written motion, along with any affidavit(s), memorandum, or brief supporting the motion to be filed with the court and served on the opposing party at least fourteen days prior to the day designated for hearing. At the hearing, counsel for Plaintiffs indicated that a Second Supplemental Declaration had been filed on November 21, 2022. That Second Supplemental Declaration was not timely filed or served to be considered at the hearing on November 22, 2022. Therefore, the Second Supplemental Declaration, filed November 21, 2022, was not considered by the Court in reaching this decision.

Idaho Rule of Civil Procedure 7(b)(3)(B) required any opposing affidavit(s), memorandum, or brief to be filed with the court and served on the moving parties at least seven days before the designated hearing. The due date for service of any response by Mr. Rodriguez was November 15, 2022, and no timely response was filed.

The Fourth Judicial District Local Rule 5.2 provides:

5.2. If the opposing party or his or her attorney does not appear, and if the motion has been properly and timely noticed for hearing with proof of due service, the court may render a decision on the merits of the motion.

The Plaintiffs make three requests in their motion:

First, the Plaintiffs request the Court issue “a protective order pursuant to I.R.C.P. 26(c) limiting attendance at any deposition, absent leave from the Court, to legal counsel, the individual parties, and a single designated representative of the legal entity parties.” To ensure the efficacy of the discovery process and to ensure a fair trial for all parties, the Court **GRANTS** the request for a protective order and will issue a separate Protective Order limiting attendance at depositions in this case without prior court approval.

Second, Plaintiffs request additional sanctions for Rodriguez’s actions leading up to the deposition on October 5, 2022.



On October, 4, 2022, Rodriguez sent an email to his “followers” after the Plaintiffs filed their Motion for Sanctions that indicated the Plaintiffs would send a new video deposition link. The e-mail that Rodriguez sent to his “followers” stated that he would send the new link to his followers, but he was only asking them to attend the deposition, with his email stating in part:

I am planning on attending tomorrow, Wednesday October 5th at 8:30 am Mountain Time, via the Zoom link below. However, if Erik is successful in manipulating the courts and violating your Constitutional right to attend, he may try to switch the Zoom link. If so, I will forward the new Zoom link to you in the morning right before the deposition. If you are able to attend, I kindly ask that you just observe and demonstrate your support by simply attending, and that you do not attempt to disrupt in any way. We should all behave just like we would in a physical court room (this is all obvious, but people like Erik panic unless we give these disclaimers).⁵

(emphasis in original, original was written in red for this section only for emphasis). When the new video deposition link was created on October 5th, Rodriguez then also sent this new zoom link to his followers/supporters.

While the Motion for Sanctions was filed before this broadcast of the new deposition link, the Court had not yet ruled on the Motion for Sanctions or issued any protective order related to depositions.

The Court finds that Rodriguez attended the deposition on October 5, 2022, and the answered the questions related to the expedited discovery order. So, the purpose of the ordered deposition was fulfilled.

Based on these facts, the Court **DENIES** any request for further sanctions related to the October 5, 2022 deposition and the Court finds that a protective order granted above is sufficient to assure the efficacy of future depositions and a fair trial.

Finally, Plaintiffs request the Court grant the Motion for Protective Order that was filed May 11, 2022 and enter the proposed order when considering that motion along with the updated information provided with this motion.

Since the May 11, 2022 Motion for Protective Order, along with its memorandum and proposed order, do not have a certificate of service, there is no proof that Diego

⁵ Supp. Sanctions Dec, Exhibit A.



Rodriguez was served with that motion, memorandum or proposed order. Therefore, the Court does not consider that motion properly before the Court at the November 22, 2022 hearing. The Court will require Plaintiffs to serve that motion and other filings in support on Mr. Rodriguez with a new notice of hearing to allow Defendant Rodriguez an opportunity to respond to that motion in full within the timelines required in I.R.C.P. 7(b).

At the hearing on November 22, 2022, the Court provided Plaintiffs' counsel a copy of Fourth Judicial District Administrative Order 21-05-21-2, effective May 21, 2021, which currently governs video recording and broadcast of court proceedings at the Ada County Courthouse. A copy of that order is being provided to Mr. Rodriguez with this decision. While the public may attend hearings at the Ada County Courthouse, such attendance is governed by Fourth Judicial District Administrative Order 21-05-21-2 and Idaho Court Administrative Rule 45 which is cited in that order.

CONCLUSION

The Plaintiffs' Motion for Sanctions and Protective Order Relating to Limited Deposition of Diego Rodriguez Set for October 5, 2022, filed October 4, 2022, is granted in part and denied in part.

The Court **GRANTS** the request for a protective order and will issue a separate Protective Order limiting attendance at depositions in this case.

The Court **DENIES** any request for further sanctions related to the October 5, 2022 deposition, finding that the above protective order is sufficient to assure the efficacy of future depositions and a fair trial.

The Court requires service of the full Motion for Protective Order, filed May 11, 2022, along with its memorandum and proposed order, and a new Notice of Hearing, on Diego Rodriguez with a proper certificate of service filed before the Court will consider entering the protective order that was proposed on May 11, 2022.

IT IS ORDERED

Dated: 11/28/2022 6:49:15 PM


Lynn Morton
District Judge



CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the attached to:

Erik F. Stidham
Diego Rodriguez

efstidham@hollandhart.com
freedommanpress@protonmail.com

E-mail
 E-mail

Phil McGrane
Clerk of the Court

Dated: 11/29/2022

By: Janine Korsen
Deputy Clerk

