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**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 SUPPORT OF
MOTION FOR LEAVE TO AMEND
COMPLAINT TO ALLEGE PUNITIVE
DAMAGES AGAINST DIEGO
RODRIGUEZ**

FILED UNDER SEAL

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	BACKGROUND	2
A.	Plaintiffs Provided Care to A Malnourished and Dehydrated Infant.....	2
B.	Rodriguez Operates the Freedom Man Website and Entities and Is Intertwined with Bundy, His Campaign, and PRN.....	3
C.	Rodriguez Defamed, Endangered, Threatened, and Harassed Plaintiffs in an Effort to Subvert a CPS Case, over Which Plaintiffs Had No Control.....	4
1.	St. Luke’s Provided Needed Care to the Infant in Early March of 2022; Dr. Erickson Did Not Inform DHW.	4
2.	The Infant’s Health Declined after Discharge, and Law Enforcement Brought Him Back to St. Luke’s.	4
3.	Bundy and Rodriguez Developed and Implemented a Campaign of Harassment and Threats Against Plaintiffs.	5
4.	The Infant Was Moved to St. Luke’s Boise; Rodriguez Defamed Plaintiffs and Directed Followers to Disrupt St. Luke’s and Harass Plaintiffs.	6
5.	The Infant Was Discharged.	7
6.	Rodriguez Knowingly Harmed Plaintiffs.	7
7.	Defendants Continue to Defame and Call for Harassment.	8
III.	PLAINTIFFS HAVE SHOWN A REASONABLE LIKELIHOOD OF PROVING AT TRIAL FACTS TO SUPPORT PUNITIVE DAMAGES.....	9
A.	Punitive Damages Are Available When Defendant Performs a Bad Act with a Bad State of Mind.	9
B.	Acts Taken in Concert with Others Are Imputed to All Conspirators.....	10
C.	The <i>Cuddy Mountain</i> Factors Show Amendment Is Appropriate.	10
1.	Rodriguez Engaged in a Course of Oppressive Conduct.....	11
2.	Rodriguez Knew the Likely Consequences of His Conduct.....	14
3.	Plaintiffs Sustained Actual Harm.....	14

4.	Expert Testimony Weighs in Favor of Amendment.	15
IV.	CONCLUSION.....	15

TABLE OF AUTHORITIES

<u>CASES</u>	Page(s)
<i>Abbie Uriguen Oldsmobile Buick v. U.S. Fire Ins. Co.</i> , 95 Idaho 501, 511 P.2d 783 (1973).....	10
<i>Akers v. D.L. White Constr., Inc.</i> , 156 Idaho 37, 320 P.3d 428 (2014).....	11, 12, 14
<i>Alexander v. Stibal</i> , 161 Idaho 253, 385 P.3d 431 (2016).....	12
<i>Barlow v. Int'l Harvester Co.</i> , 95 Idaho 881, 522 P.2d 1102 (1974).....	10, 13
<i>Boise Dodge, Inc. v. Clark</i> , 92 Idaho 902, 453 P.2d 551 (1967).....	12
<i>Cox v. Stolworthy</i> , 94 Idaho 683, 496 P.2d 682 (1972), <i>overruled in part on other grounds by Cheney v. Palos Verdes Inv. Corp.</i> , 104 Idaho 897 (1983)	14
<i>Cuddy Mtn. Concrete Inc. v. Citadel Constr. Inc.</i> , 121 Idaho 220, 824 P.2d 151 (Ct. App. 1992).....	10, 12, 14
<i>Curtis v. Firth</i> , 123 Idaho 598, 850 P.2d 749 (1993).....	14
<i>Highland Enters. v. Barker</i> , 133 Idaho 330, 986 P.2d 996 (1999).....	10
<i>Jolley v. Puregro Co.</i> , 94 Idaho 702, 496 P.2d 939 (1972).....	10
<i>Magic Valley Radiology Assocs. P.A. v. Prof. Bus. Servs. Inc.</i> , 119 Idaho 558, 808 P.2d 1303 (1991).....	13
<i>Myers v. Workmen's Auto. Ins. Co.</i> , 140 Idaho 495, 95 P.3d 977 (2004).....	10, 14
<i>Student Loan Fund v. Duerner</i> , 131 Idaho 45, 951 P.2d 1272 (1997).....	12

<i>Thompson v. Dalton</i> , 95 Idaho 785, 520 P.2d 240 (1974).....	11
<i>Thurston Enters. v. Safeguard Bus. Sys.</i> , 164 Idaho 709, 435 P.3d 489 (2019).....	10, 11
<i>Todd v. Sullivan Constr. LLC</i> , 146 Idaho 118, 191 P.3d 196 (2008).....	9, 10
<i>Vendelin v. Costco Wholesale Corp.</i> , 140 Idaho 416, 95 P.3d 34 (2004).....	14, 15
<i>Village of Peck v. Denison</i> , 92 Idaho 747, 450 P.2d 310 (1969).....	11
<i>Walston v. Mon. Life Ins. Co.</i> , 129 Idaho 211, 923 P.2d 456 (1996).....	15

STATUTES

Idaho Code § 6-1604(2).....	9
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I. INTRODUCTION

Motivated by reputational and financial gain, Diego Rodriguez, in concert with the other Defendants, launched a coordinated smear campaign against Plaintiffs. Here, law enforcement brought an infant suffering from severe dehydration and malnutrition (“Infant”) to St. Luke’s for urgent medical care. St. Luke’s provided the needed care. But in contrast to that simple truth, Rodriguez fabricated a dark conspiracy that Plaintiffs Dr. Erickson, NP Tracy Jungman, Mr. Roth, St. Luke’s Health System, and St. Luke’s Regional Medical Center participated in a kidnapping and child trafficking ring that profited from the sexual abuse and murder of children and that Infant had been kidnapped and was being trafficked by this ring.

Rodriguez directed these lies at volatile groups, including readers of his website, members of Defendant People’s Rights Network (“PRN”), and devotees of anti-government, conspiracy websites. He amplified his lies by holding himself out as a “pastor” battling the “wicked” and by leveraging his connection with Defendant Ammon Bundy. He spread his lies using “click-bait” marketing tactics, blast emails, and through posts on his web site. While the Plaintiffs were providing much-needed medical care to the Infant, Rodriguez incited violence against them. Rodriguez decreed Mr. Roth, Dr. Erickson, and NP Jungman were so wicked that his followers needed to destroy their personal and professional lives. Disregarding those depending on the hospital for care, Rodriguez called for his followers to shut down the hospital with a flood of harassing phone calls, to arrive in force, and to demand the immediate release of the Infant. Magnifying the risk of violence, Rodriguez falsely declared that immediate, forceful action was needed to make the hospital relinquish custody before the Infant could be stolen, trafficked, and put at risk of sexual abuse and murder.

As Rodriguez intended, a mob of hundreds arrived at the hospital—well-armed and

hostile—shouting invectives and death threats. The mob shut down the hospital and endangered the lives of patients, visitors, and staff. Dr. Erickson, NP Jungman, and Mr. Roth became targets based on Rodriguez’s lies and suffered considerable harm, continuing to this day. Unrepentant, Rodriguez (residing in a location he refuses to disclose) still relentlessly markets the Infant and rebroadcasts the false conspiracy he manufactured, seeking financial profit and self-promotion.

As Rodriguez acted outrageously, intentionally, and for his own gain, Plaintiffs are likely to prove punitive damages at trial and should be allowed to amend their complaint.

II. BACKGROUND

A. PLAINTIFFS PROVIDED CARE TO A MALNOURISHED AND DEHYDRATED INFANT.

St. Luke’s Health System is a not-for-profit health system that operates St. Luke’s Regional Medical Center (“St. Luke’s”). Roth Decl., ¶ 3. St. Luke’s provides medical care to everyone who comes to its hospitals, including minor children brought in by the Idaho Department of Health and Welfare (“DHW”) or law enforcement. Roth Decl., ¶ 8. When a child is brought to St. Luke’s by DHW or law enforcement, St. Luke’s provides medical care; St. Luke’s does not determine who should have custody of the child or when the child can be released to the parents. *Id.*; Mesaros Decl., ¶¶ 5-6. Those determinations are made by DHW or a judge. *Id.*

Plaintiff Mr. Roth is President and CEO of St. Luke’s. Roth Decl., ¶ 3. He administers the hospital network and makes no individual patient care decisions. Roth Decl., ¶ 4. Plaintiff Dr. Erickson is a St. Luke’s pediatric hospitalist. Dr. Erickson Decl., ¶ 2. Plaintiff NP Jungman is a nurse practitioner at St. Luke’s CARES clinic who specializes in pediatrics. Jungman Decl., ¶¶ 2. Dr. Erickson and NP Jungman provided necessary medical care to the Infant. Dr. Erickson Decl., ¶ 2; Jungman Decl., ¶¶ 7-8, 12, Ex. A at 1-57.

B. RODRIGUEZ OPERATES THE FREEDOM MAN WEBSITE AND ENTITIES AND IS INTERTWINED WITH BUNDY, HIS CAMPAIGN, AND PRN.

Rodriguez's failed attempt to earn political office in 2014 and his repeated posts targeting political opponents and the LGBTQ+ community have "earned" him followers, primarily among the Christian Nationalist movement. Stidham Decl., Ex. 48, 55. Rodriguez is an Ammon Bundy acolyte and a central figure in PRN. *See id.*, Exs. 48, 54. PRN serves as an "Uber-like" militia response system, in which PRN leaders can direct members to "act in physical defense of [a] person" whose rights PRN leaders perceive are being violated by "perpetrators." *Id.*, Ex. 46.

Not only is Rodriguez a PRN leader, but he is also financially intertwined and dependent upon PRN and Defendant Ammon Bundy for Governor ("Bundy for Governor"). Members of PRN make payments to Rodriguez's Freedom Tabernacle Church LLC. *Id.*, Exs. 1, 38.

Rodriguez, through his entity Power Marketing, received about \$30,000 from Bundy for Governor, and monies from Freedom Tabernacle Church were diverted to the Bundy campaign. *Id.*, Exs. 4, 23. Rodriguez also provided "in-kind" donations to the campaign. *Id.*, Ex. 4 at 14.

Rodriguez constantly promotes his personal brand and seeks to monetize his notoriety. *See, e.g., id.*, Ex. 48, 56, 76. While it is unclear that he has any clients other than Bundy, Rodriguez promotes himself as a marketing consultant, motivational speaker, religious book author (e.g., "Beware of that Woman Jezebel"¹), founder of Freedom Tabernacle Church, head of Defendant Freedom Man Press, and now as an expert on child protective services. *Id.*

Rodriguez is solely responsible for the content on the website freedomman.org. *Id.*, Ex. 32 (Depo. 21:9-15). Freedomman.org specializes in political attacks and conspiracy theories and subscribes to the harassment of political opponents through doxing. *See, e.g., Exs. 50-52, 78.*

¹ <https://www.dominionbooks.org/books/general/jezebel/>

C. RODRIGUEZ DEFAMED, ENDANGERED, THREATENED, AND HARASSED PLAINTIFFS IN AN EFFORT TO SUBVERT A CPS CASE, OVER WHICH PLAINTIFFS HAD NO CONTROL.

1. St. Luke's Provided Needed Care to the Infant in Early March of 2022; Dr. Erickson Did Not Inform DHW.

On March 1, 2022, the Infant's parents took him to the St. Luke's Boise emergency room because he had been vomiting for weeks and had lost about four pounds in the past four months. Jungman Decl., Ex. A at 20. With the parents' consent, the Infant was admitted for treatment through March 4, 2022. Dr. Erickson Decl., ¶¶ 3-5; Jungman Ex. A at 1. Dr. Erickson and other St. Luke's providers treated the Infant during that time. *Id.* The Infant was diagnosed with severe malnutrition because, among other things, the Infant's weight was well below the first percentile, and the Infant showed signs of muscle wasting. Jungman Decl., Ex. A at 1, 22, 25-26, 33. The Infant received IV fluids because he would not breastfeed or bottle feed. Dr. Erickson Decl., ¶¶ 3-5; Jungman Decl., Ex. A at 26-27. The Infant was also fed via a nasal tube. Dr. Erickson Decl., ¶¶ 3-5; Jungman Decl., Ex. A at 31. At discharge, the nasal tube remained in place, and Dr. Erickson explained to the parents that the Infant would need continued nasal feeds and frequent follow-up monitoring by the Infant's primary care physician after discharge. Dr. Erickson Decl., ¶¶ 4-5; Jungman Decl., Ex. A at 34-35. Dr. Erickson did not inform DHW or any other government entity about the Infant at any time. Dr. Erickson Decl., ¶ 6.

2. The Infant's Health Declined after Discharge, and Law Enforcement Brought Him Back to St. Luke's.

The Infant lost significant weight after discharge. Jungman Decl., ¶ 6, Ex. A at 41. On March 11, 2022, when the parents failed to bring him to a scheduled weigh-in with the primary care provider (not affiliated with St. Luke's), DHW referred the case to the CARES clinic. Jungman Decl., ¶¶ 2, 4-6, Ex. A at 1. There, NP Jungman reviewed the records and informed DHW she would stay late so the parents could bring in the Infant. *Id.*, ¶ 6. The parents and Infant

did not show up as promised and did not respond to phone calls from DHW. *Id.*

Obligated to protect public safety, the Meridian Police determined the Infant was at risk of imminent harm. *See* Jungman Decl., Ex. A at 1. Meridian Police located the Infant and placed him in temporary DHW custody until a shelter care hearing in court could be held. *Id.* Once in DHW custody, the Infant was taken to St. Luke's Meridian hospital. Jungman Decl., ¶ 7, Ex. A at 1. In the early hours of Saturday, March 12, 2022, providers at St. Luke's Meridian evaluated the Infant. Dr. Erickson Decl., ¶ 8; Jungman Decl., Ex. A at 1-5. Given the Infant's severe malnutrition and dehydration, the medical providers decided to transfer him to the pediatric floor of St. Luke's Boise for specialized care. Dr. Erickson Decl., ¶ 8.

3. Bundy and Rodriguez Developed and Implemented a Campaign of Harassment and Threats Against Plaintiffs.

Promptly after the Infant was taken into temporary DHW custody, Rodriguez connected with Bundy. Subsequent events and use of the same language implies they coordinated their talking points in advance. Flynn Decl., ¶ 10; *see* Stidham Decl., Exs. 7-11, 13-15, 19-22, 35-37, 39, 57-66. They concocted a conspiracy theory that Dr. Erickson, NP Jungman, Mr. Roth, and St. Luke's participated in a vast kidnapping and child trafficking ring that sexually abused and killed children for profit. *Id.* Against that backdrop, Rodriguez and Bundy decreed the trafficking ring had targeted the Infant. *Id.* They falsely represented that the Infant had been in good health and was not in need of medical care. *Id.*, Exs. 57 (40:15-18), 65 (3:50-4:10). Further, Rodriguez, working with the other Defendants, falsely stated the Infant was being mistreated by St. Luke's and, absent action by his followers, St. Luke's was going to harm, steal, and traffic the Infant. *Id.*, Exs. 7, 9, 39 at 3-4, 57 (43:30-55:42), 59. Bundy and Rodriguez directed PRN to activate its thousands of members to begin harassing and disrupting St. Luke's. *Id.*

4. The Infant Was Moved to St. Luke's Boise; Rodriguez Defamed Plaintiffs and Directed Followers to Disrupt St. Luke's and Harass Plaintiffs.

When the Infant was transferred to St. Luke's Boise early on March 12, 2022, the Infant was not healthy. Price Decl., ¶¶ 5-6, Ex. A; Jungman Decl., Ex. A at 4. The Infant weighed only thirteen pounds and fourteen ounces. Jungman Decl., Ex. A at 41. He had lost more than half of a pound since being discharged eight days earlier, a dangerous loss given the Infant's state. *Id.*; Price Decl., ¶ 5. The Infant's feeding tube—which was in place when St. Luke's discharged the Infant—was no longer in place. Dr. Erickson Decl., ¶ 8; Jungman Decl., Ex. A at 5. The Infant's lips were cracked and dry, his fontanelle sunken. Jungman Decl., Ex. A at 4. The Infant's ribs and spine were showing. *Id.*, Ex. A at 45; Price Decl., Ex. A. The Infant had low blood sugar and kidney and liver dysfunction consistent with acute dehydration. Jungman Decl., Ex. A at 48. In short, the Infant's health had dramatically worsened under the parents' care since March 4th.

St. Luke's again cared for the Infant through nasal feeding and rehydration. Price Decl., ¶ 8; Jungman Decl., ¶¶ 7-8. The Infant's health improved, and he gained weight. Price Decl., ¶ 15, Exs. A, B. St. Luke's providers gave the Infant's parents detailed updates, and they consented to the treatment plan. Price Decl., ¶¶ 7-9.

While St. Luke's treated the Infant, Defendants continued to sell their false conspiracy that the Infant was one victim of many as DHW, courts, law enforcement, and Plaintiffs together to kidnap, traffic, sexually abuse, and murder babies. Stidham Decl., Exs. 7-11, 13-15, 19-22, 35-37, 57-66, 82-83. Rodriguez also falsely accused St. Luke's of vaccinating the Infant against the parents' wishes. *Id.*, Ex. 37; Price Decl., ¶ 16. He incited web chat groups engaging in discussions of violence against St. Luke's. Stidham Decl., Ex. 83.

Defendants made Dr. Erickson a prime target for violence, stating without basis that she had "started the whole thing" by calling DHW. Stidham Decl., Exs. 50, 32 (Depo. 55:12-56:13).

In fact, she had not contacted DHW; all she had done was provide necessary medical treatment to the Infant. Dr. Erickson Decl., ¶¶ 3-8; Jungman Decl., Ex. A at 27-30.

As directed by Rodriguez, Bundy, and PRN, an armed mob established itself at St. Luke's Boise starting on March 12. Abbondandolo Decl., ¶¶ 4-16; Mesaros Decl., ¶¶ 6-7; Hoff Decl., ¶¶ 3-6; Price Decl., ¶ 12; Coggins, ¶¶ 7-23. On March 15th, Rodriguez, along with Bundy, issued emergency orders and calls to arms for militia members rush to the hospital to prevent the Infant's release into DHW's care. Stidham Decl., Exs. 18, 59, 82 (demonstrative timeline). The responding mob, estimated at 500 to 600, created such a threat that the hospital had to lockdown on March 15th. Abbondandolo Decl., ¶¶ 10-11; Mesaros Decl., ¶¶ 20-21. Rodriguez instructed his followers to flood St. Luke's with calls to disrupt St. Luke's business. Abbondandolo Decl., ¶ 12; Mesaros Decl., ¶¶ 12-13; Hoff Decl., Ex. A; Stidham Decl., Ex. 66 (23:51-24:20), 82. The crowd shouted invective and accused St. Luke's employees of being "kidnappers" and "murderers." Coggins Decl., ¶¶ 8, 14. Rodriguez declared St. Luke's "wicked" and called followers to "crush the necks of the wicked." Stidham Decl., Ex. 66 (20:40-20:45).

5. The Infant Was Discharged.

Despite this firestorm, St. Luke's care again caused the Infant's condition to improve significantly. Price Decl., ¶¶ 14-15; Jungman Decl., Ex. A at 40-42. On March 15, 2022, St. Luke's discharged the Infant as the Infant was medically stable, gaining weight, tolerating oral feeding, and healthy enough for outpatient care. *Id.*

6. Rodriguez Knowingly Harmed Plaintiffs.

Rodriguez bragged publicly that he wanted to harass and shame Plaintiffs with claims of child kidnapping, child trafficking, and murder such that St. Luke's employees would be shunned by their families and lose their careers, while St. Luke's itself would be run out of

business. Stidham Decl., Exs. 66 (22:30-22:40, 25:00-25:21), 67 (44:00-46:30). He was motivated by financial gain, driving traffic to his website, growing and activating the PRN, and garnering as much media attention for himself as he could. *See id.*, Ex. 69. He solicited money based on false representations relating to the Infant, the circumstances leading to DHW's intervention, the parents' financial condition, and Plaintiffs—calling them kidnappers and criminals. *Id.*, Exs. 7, 17, 39 at 3-4, 57 (49:20-50:50), 66 (26:40-27:00), 32 (Depo 64:3-65:17). A center piece in Rodriguez's media appearances was a solicitation for donations to his family members, the parents of the Infant. *Id.* Likewise, the solicitation for donations was advertised on freedomman.org. *Id.*, Ex. 32 (Depo. 64:3-65:17).

The solicitations were also solicited based on false statements regarding the parents' liability for the medical care provided by St. Luke's. Rodriguez repeatedly lied that Plaintiffs were performing unnecessary medical tests and treatments, extending time at the hospital, and extorting the Infant's parents. *Id.*, Exs. 39 at 3-4, 67 (0:00-0:17); Price Decl., ¶ 16.

Despite knowing that the Infant's parents had not incurred significant liability for the medical care received at St. Luke's, Rodriguez, assisted by the other Defendants, continued to solicit donations, and received more than \$115,000 based on misrepresentations that Plaintiffs had engaged in wrongdoing and that St. Luke's had created huge financial liability for Rodriguez's family. Stidham Decl., Exs. 10, 17, 68; Price Decl., ¶ 16.

7. Defendants Continue to Defame and Call for Harassment.

Rodriguez's efforts to harm Plaintiffs continue. Seeking to benefit politically and financially from the false conspiracy Defendants manufactured, Rodriguez created the group "People Against Child Trafficking." *Id.*, Exs. 56, 67, 71. On March 26, 2022, Rodriguez and Bundy organized and heavily advertised a rally held as part of a fundraising effort by Bundy for

Governor on property owned by one of Bundy's companies. *Id.*, Ex. 56, 67 (33:00-33:12).

During this rally, Rodriguez displayed defamatory images of Dr. Erickson on a large movie screen while falsely stating, among other things, that Dr. Erickson kept the Infant in the hospital to "rack[] up the bill," that Plaintiffs engaged in kidnapping and child trafficking for money, implying sexual abuse, and that Plaintiffs were taking part in the "greatest child trafficking ring in the history of the world." *Id.*, Exs. 67 (44:56-45:11), 71.

Rodriguez bragged about shutting down St. Luke's phones system such that the hospital "couldn't even operate." *Id.*, Ex. 67 (38:50-42:00). Rodriguez used defamatory speech to incite people to join PRN and to take the fight against Plaintiffs, supposed kidnappers and child traffickers "all the way to the end." *Id.*, Ex. 71 at 1-13, 33-45. Rodriguez's false statements were streamed and posted to social media sites and to Defendants' websites. *Id.*, Ex. 67.

Rodriguez's efforts to use the Infant to profit persists. He continues appearing on programs to defame Plaintiffs. *Id.*, Ex. 69. He continues selling the Infant's story as a reason why people should be a part of PRN and, in turn, give money to Rodriguez's Freedom Tabernacle. *Id.*, Exs. 38, 56 (0:35-1:40), 67 (33:07), 71 at 40. He recently bragged he is setting up a new website perpetuating his defamatory statements against the Plaintiffs and targets Plaintiffs' counsel. *Id.*, Exs. 28 at 7-8, 77.

III. PLAINTIFFS HAVE SHOWN A REASONABLE LIKELIHOOD OF PROVING AT TRIAL FACTS TO SUPPORT PUNITIVE DAMAGES

A. PUNITIVE DAMAGES ARE AVAILABLE WHEN DEFENDANT PERFORMS A BAD ACT WITH A BAD STATE OF MIND.

Idaho Code § 6-1604(2) mandates amendment of pleadings when the movant shows a reasonable likelihood of proving facts at trial to support an award of punitive damages. Whether punitive damages may be pleaded depends on whether plaintiff can demonstrate "a reasonable

likelihood” that defendant performed ““a bad act [with] a bad state of mind.”” *Todd v. Sullivan Constr. LLC*, 146 Idaho 118, 123, 191 P.3d 196, 201 (2008) (quoting *Myers v. Workmen’s Auto. Ins. Co.*, 140 Idaho 495, 503, 95 P.3d 977, 985 (2004)). At the motion to amend stage, the court considers competent evidence, even if there is conflicting evidence. *See id.*

The “purpose behind punitive damages is both to punish and to deter.” *Abbie Uriguen Oldsmobile Buick v. U.S. Fire Ins. Co.*, 95 Idaho 501, 504, 511 P.2d 783, 786 (1973). Punitive damages are especially fitting when a defendant endangers others, as such “antisocial conduct” must be deterred. *Jolley v. Puregro Co.*, 94 Idaho 702, 710-11, 496 P.2d 939, 947-48 (1972).

B. ACTS TAKEN IN CONCERT WITH OTHERS ARE IMPUTED TO ALL CONSPIRATORS.

Carrying out a coordinated, tortious act in concert with others supports punitive damages against all conspirators. *See Highland Enters. v. Barker*, 133 Idaho 330, 342, 349, 986 P.2d 996, 1008, 1015 (1999) (holding that protesters were each liable for punitive damages based on their participation in the common scheme to disrupt plaintiff’s road construction and rejecting protesters’ argument that zeal for their cause negated punitive damages liability); *Barlow v. Int’l Harvester Co.*, 95 Idaho 881, 889, 522 P.2d 1102, 1110 (1974) (“When . . . several defendants conspired to commit a tort . . . all the defendants involved in the conspiracy can be held liable for the overt act which is committed by one of the defendants pursuant to the conspiracy.”).

C. THE CUDDY MOUNTAIN FACTORS SHOW AMENDMENT IS APPROPRIATE.

Factors a court should consider on a motion to amend to add punitive damages are (1) continuing oppressive conduct; (2) defendant’s knowledge of likely consequences; (3) whether plaintiff was harmed; (4) expert testimony; and (5) whether there is a special relationship between the parties. *Thurston Enters. v. Safeguard Bus. Sys.*, 164 Idaho 709, 725, 435 P.3d 489, 505 (2019) (citing *Cuddy Mtn. Concrete Inc. v. Citadel Constr. Inc.*, 121 Idaho 220, 229-30, 824

P.2d 151, 160-61 (Ct. App. 1992)). To grant amendment, the court need not determine every factor weighs in favor of punitive damages. *See id.* at 726-27, 435 P.3d at 506-07 (affirming punitive damages over objection that parties had only an ordinary commercial relationship). While no special relationship exists here, the other factors heavily favor amendment.

1. Rodriguez Engaged in a Course of Oppressive Conduct.

Rodriguez acted outrageously in several ways, each of which establishes this factor.

a. Rodriguez Threatened the Safety of Others.

Courts have long recognized that threatening others' safety constitutes the oppressive conduct warranting punitive damages. *See, e.g., Akers v. D.L. White Constr., Inc.*, 156 Idaho 37, 53, 320 P.3d 428, 444 (2014) (affirming punitive damages when defendant "bullied, threatened, and intimidated" plaintiff, trespassed on plaintiff's property, and obstructed police investigation, showing "conscious disregard and disrespect for the law"); *Thompson v. Dalton*, 95 Idaho 785, 786, 791, 520 P.2d 240, 241, 246 (1974) (affirming punitive damages against defendant who rendered plaintiff temporarily homeless by repossessing the mobile home in which she lived, thus threatening her safety); *Village of Peck v. Denison*, 92 Idaho 747, 752, 450 P.2d 310, 315 (1969) (affirming punitive damages because defendant threatening to disrupt water supply and contaminate water endangered about 200 people's safety).

Rodriguez, acting in concert with the other Defendants, incited the protestors to threaten the safety of Plaintiffs and all those at St. Luke's Boise. Abbondandolo Decl., ¶¶ 4-16, Exs. A, B, F; Coggins Decl., ¶¶ 7-24; Hoff Decl., ¶¶ 3-8; Stidham Decl., Exs. 7, 11-12, 14, 18-19, 27, 30, 35-36, 50-51, 53. He knowingly used inflammatory statements—falsely and publicly accusing Plaintiffs and others of kidnapping, trafficking, sexually abusing, and killing children to whip up the mob. *Id.* Rodriguez then stated the Infant was being mistreated by St. Luke's and had been

vaccinated against the wishes the parents. *Id.*, Exs. 11, 14. Then, having incited their followers with a conspiracy of widespread sexual abuse and murder, he identified and publicized the names, contact information, and photos of a few specific “perpetrators,” including Mr. Roth, Dr. Erickson, and NP Jungman. *Id.*, Exs. 7, 50-51. Rodriguez stood outside the hospital calling those involved in the medical intervention on behalf of the Infant “wicked” and declaring, “crush the necks of the wicked.” *Id.*, Ex. 66 (20:40-20:45).

Rodriguez continues to oppress Plaintiffs to this day, repeating the defamatory statements and maintaining the false statements and photos of Plaintiffs on freedomman.org. *E.g., id.*, Exs. 29, 39, 50-51. Like the defendant in *Akers*, he has intimidated and harassed for his own gain, demonstrating “conscious disregard and disrespect for the law.” 156 Idaho at 53.

b. Rodriguez Used Lies to Further His Own Financial Interests.

Courts consistently hold that using false statements to further one’s own financial interest warrants punitive damages. *See, e.g., Alexander v. Stibal*, 161 Idaho 253, 264, 385 P.3d 431, 442 (2016) (falsely claiming cancer healing power and selling plaintiff course work on bogus healing practices); *Student Loan Fund v. Duerner*, 131 Idaho 45, 53, 951 P.2d 1272, 1280 (1997) (making recklessly false statements to credit reporting agencies about plaintiff debtor); *Cuddy Mtn.*, 121 Idaho at 230, 824 P.2d at 161 (falsifying records to avoid paying for work performed); *Boise Dodge, Inc. v. Clark*, 92 Idaho 902, 904, 909, 453 P.2d 551, 553, 558 (1967) (rolling back used car odometers to inflate sale price).

The case law explained above involved much less inflammatory or far-reaching lies than those presented here. Rodriguez spread false statements that the Infant had been “kidnapped,” that St. Luke’s was “famous for killing people,” that Plaintiffs were “criminals,” “killers,” and “child traffick[ers].” Stidham Decl., Exs. 57 (6:20-6:50), 7-8, 10-11, 14-15, 19, 21-22, 24-26, 34-

37. Rodriguez stated the Infant was “healthy” and had been taken for “no reason.” *Id.*, Ex. 29. In reality, the Infant was dangerously dehydrated and malnourished, requiring medical intervention. Dr. Erickson Decl., ¶¶ 3-8; Jungman Decl., ¶¶ 4-8, 16, Ex. A at 1-57; Price Decl., ¶¶ 5-6, 8, 14-15. Rodriguez broadcasted the deceptive narrative, using the lies as a hook for far-right media outlets, engaging in dozens of interviews in which he promoted his freedomman.org website. *E.g., id.*, Exs. 57, 69.

c. Rodriguez Disrupted Plaintiffs’ Business and Professions.

Intentionally disrupting another’s business satisfies the outrageousness standard. *See, e.g., Barlow*, 95 Idaho at 891-98, 522 P.2d at 1112-19 (agents of defendant engaged in a concerted course of conduct designed to destroy plaintiff’s business by making false statements to plaintiff’s partner and primary financier about plaintiff’s character, calling plaintiff a liar and thief and stating he could be put in jail); *Magic Valley Radiology Assocs. P.A. v. Prof. Bus. Servs. Inc.*, 119 Idaho 558, 560, 567, 808 P.2d 1303, 1305, 1312 (1991) (defendant withheld ledger cards plaintiff needed in order to coerce plaintiff to pay a contested debt).

Rodriguez did worse than those in *Barlow* or *Magic Valley Radiology*. He expressly stated he wanted to disrupt St. Luke’s ability to provide medical care, disrupt the individual Plaintiffs’ livelihoods, and cause them to be ostracized and rejected by their own families and by the community. Stidham Decl., Exs. 57 (51:18-55:42), 66 (22:37-25:21), 67 (44:00-46:30). His conduct disrupted St. Luke’s ability to serve the public, causing the Boise hospital to lock down and preventing the public from receiving needed care. Abbondandolo Decl., ¶¶ 4-16, Exs. A-F; Mesaros Decl., ¶¶ 3-27; Coggins Decl., ¶¶ 9-12. He caused Mr. Roth, Dr. Erickson, and NP Jungman reputational harm, interfering with their ability to carry on their professions. Flynn Decl., ¶¶ 8-12; Roth Decl., ¶¶ 18-19; Dr. Erickson Decl., ¶¶ 10-23; Jungman Decl., ¶¶ 17-26.

2. Rodriguez Knew the Likely Consequences of His Conduct.

This factor weighs in favor of punitive damages when the defendant either knew the likely consequences of his conduct or consciously disregarded the rights of others. *See Cuddy Mtn. Concrete*, 121 Idaho at 230 (affirming punitive damages where defendant “decided to terminate [the] contract in an unreasonable manner and with no regard for the consequences of the breach of the contractual relationship”); *Cox v. Stolworthy*, 94 Idaho 683, 685, 496 P.2d 682, 684 (1972) (affirming punitive damages when defendant’s trespass demonstrated conscious disregard of plaintiff’s property rights), *overruled in part on other grounds by Cheney v. Palos Verdes Inv. Corp.*, 104 Idaho 897 (1983). For punitive damages to be proper, the defendant need not have intended the harmful outcome to the plaintiff. *See Vendelin v. Costco Wholesale Corp.*, 140 Idaho 416, 424, 95 P.3d 34, 42 (2004) (no abuse of discretion in allowing punitive damages when there was evidence of reckless disregard of industry standard causing customer injury).

Here, Rodriguez expressed his intent to harm Plaintiffs outright. He stated that he wanted to ruin Plaintiffs’ reputations and cause them to be ostracized. Stidham Decl., Ex. 66 (22:37-25:21). Rodriguez bragged about disrupting St. Luke’s business. *Id.*, Ex. 67 (38:50-42:00). He shouted that he wanted the “necks of the wicked” to be “crushed” after calling Plaintiffs “wicked.” *Id.*, Ex. 66 (20:40-20:45). There is no question he knew, as a PRN leader, that his actions inciting a mob against supposed kidnappers invited violence. *Id.*, Ex. 7, 46, 48.

3. Plaintiffs Sustained Actual Harm.

Any type of harm to plaintiff supports this factor. *Myers*, 140 Idaho at 503, 95 P.3d at 985; *see Akers*, 156 Idaho at 52-53, 320 P.3d at 443-44 (affirming punitive damages when defendant’s threats caused emotional harm); *Curtis v. Firth*, 123 Idaho 598, 609, 850 P.2d 749, 760 (1993) (affirming when same evidence proved emotional distress and punitive damages).

St. Luke's incurred reputational harm and economic loss due to the business interruption Rodriguez caused. Mesaros Decl., ¶¶ 24-27; Roth Decl., ¶¶ 25-26; Abbondandolo Decl., ¶¶ 10, 12, 15, 17. Rodriguez's conduct and threats caused Mr. Roth, Dr. Erickson, and Ms. Jungman out-of-pocket losses, as they were compelled to install home security systems. Roth Decl., ¶¶ 22-23; Dr. Erickson Decl., ¶¶ 20-21; Jungman Decl., ¶ 23, Ex. B. Moreover, Dr. Erickson and Ms. Jungman suffered emotional distress manifesting in physical symptoms due to Rodriguez's incitement of his followers, lies, and doxing. Dr. Erickson Decl., ¶¶ 13-20; Mr. Erickson Decl., ¶¶ 7-11; Jungman Decl., ¶¶ 17-26; English Decl., ¶¶ 4-6.

4. Expert Testimony Weighs in Favor of Amendment.

Relevant to punitive damages, expert testimony may be used to prove issues including the defendant's state of mind and outrageousness of the conduct. *See, e.g., Vendelin*, 140 Idaho at 422-24, 95 P.3d at 40-42; *Walston v. Mon. Life Ins. Co.*, 129 Idaho 211, 216, 220-22, 923 P.2d 456, 461, 465-67 (1996). Here, Plaintiffs' experts speak to (1) the benefit inuring to Rodriguez through his wrongdoing (Flynn Decl., ¶¶ 8-12); (2) the persistent harm to Plaintiffs owing to the defamatory statements that were posted on and will remain on the internet (*id.*); and (3) the psychological harm inflicted on Dr. Erickson and Ms. Jungman (LaCroix Decl., ¶¶ 12-23).

IV. CONCLUSION

Rodriguez acted with reckless disregard for public safety, spread lies for his own aggrandizement, and acted with intent to harm. The Motion should be granted.

DATED: December 5, 2022.

HOLLAND & HART LLP

By: /s/ Erik F. Stidham

Erik F. Stidham

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of December, 2022, I caused to be filed and served, via iCourt, a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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