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Counsel for Plaintiffs

**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 and an unincorporated
association,

Defendants.

Case No. CV01-22-06789

**MEMORANDUM IN SUPPORT OF
MOTION TO SEAL THIRD AMENDED
COMPLAINT**

St. Luke’s Health System, Ltd., St. Luke’s Regional Medical Center, Ltd., Chris Roth,

Dr. Natasha D. Erickson, and Tracy W. Jungman, (collectively, “St. Luke’s Parties”), by and

through their counsel, Holland & Hart, LLP, hereby submit this Memorandum in Support of their Motion to Seal.

The St. Luke's Parties request an order sealing unredacted copies of the following paper (hereinafter the "Protected Document"):

1. Third Amended Complaint and Demand For Jury Trial.

The Protected Document is being filed concurrently with this Motion to Seal.

The Protected Document should be sealed to prevent the disclosure of protected health information ("PHI"). The St. Luke's Parties are filing a redacted copy of the Protected Document concurrently herewith, which Plaintiffs request be made publicly accessible.

An Unredacted copy of the Protected Document should be sealed subject to the Health Insurance Portability and Accountability Act ("HIPAA") privacy and security regulations. *See* 45 C.F.R. part 164; I.C.A.R. 32(g)(1) (exempting "[d]ocuments and records to which access is otherwise restricted by state or federal law" from disclosure).

The Protected Document contains PHI. *See* 45 C.F.R. § 160.103. PHI is individually identifiable health information, which relates to health, health care, or payment and either identifies the individual or for which "there is a reasonable basis to believe the information can be used to identify the individual." 45 C.F.R. § 160.103. While the St. Luke's Parties can use this PHI for health care operations, *see* 45 C.F.R. §§ 164.501, 164.506, including legal purposes, they seek to disclose the information minimally necessary to accomplish the intended purpose. 45 C.F.R. § 164.502.

Because of the widespread publicity surrounding the circumstances addressed in the Protected Document, many of the allegations and statements in the Protected Document can be used to identify the individual patient. The St. Luke's Parties cannot pursue their claims against

Defendants without disclosing PHI and cannot file unredacted copies of the Protected Document publicly and comply with the directive to only disclose the information minimally necessary.

Defendants themselves have publicly disclosed significant portions of the PHI referenced in the Protected Document, as demonstrated through the publicly available documents referenced in the Protected Document, but that does not eliminate the St. Luke's Parties' obligation not to disclose such information.

Therefore, the St. Luke's Parties seek to have unredacted copies of the Protected Document filed under seal in order to protect PHI and to disclose the information minimally necessary in accord with HIPAA's privacy regulations. It is also necessary that redacted copy of the Protected Document be made publicly accessible. *See* I.C.A.R. 32(a) ("The public has a right to access the judicial department's declarations of law and public policy, and to access the records of all proceedings open to the public").

DATED: February 10, 2023.

HOLLAND & HART LLP

By: */s/Erik F. Stidham*

Erik F. Stidham
Jennifer M. Jensen

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2023, 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:

Ammon Bundy for Governor
P.O. Box 370
Emmett, ID 83617

- U.S. Mail
- Hand Delivered
- Overnight Mail
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/s/ Erik F. Stidham

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