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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 and an unincorporated  
association,

Defendants.

Case No. CV01-22-06789

**PLAINTIFFS' MEMORANDUM IN  
SUPPORT OF MOTION FOR LEAVE  
TO FILE FOURTH AMENDED  
COMPLAINT**

Plaintiffs, by and through their attorneys of record, Holland & Hart LLP, hereby submit  
this Memorandum in Support of their Motion for Leave to File a Fourth Amended Complaint.

## **INTRODUCTION**

Plaintiffs seek to amend their Complaint solely to add new factual allegations in support of all claims, which have occurred in the interim since they last moved to amend their Complaint. While the last motion to amend was pending, Defendants increased their media attack on the Plaintiffs, expanding their false statements and broadcasting those false statements to a broad audience. As reflected in proposed Fourth Amended Complaint, the Defendants have made new false statements regarding the care of the Infant and regarding an expanding false conspiracy theory. The new substantive allegations are significant defamatory statements, made with the intention of harming Plaintiffs. For example, Defendant Bundy makes false statements regarding Dr. Erickson and regarding St. Luke's care of the Infant. In addition, Defendant Rodriguez, in a particularly disturbing and offensive manner, has engaged in increasing amounts of hate speech and slurs directed at the LGBTQ+ community and has manufactured lies that "people of faith" are somehow being targeted and that kidnapped children are being trafficked to "homos" who abuse and kill the children. These increasingly alarming false statements from Defendant Rodriguez are intended to incite followers to harass and commit violence against the Plaintiffs. They could not have been included in the last amendment to the Complaint because they had not yet occurred or had not been discovered when the last motion to amend was filed. Under Idaho Rule of Civil Procedure 15's liberal standard for amendment of pleadings, this Motion should be granted because it has been brought in good faith and without undue delay. No prejudice to the Defendants will result.

## **PROCEDURAL BACKGROUND**

The operative Complaint contains eight causes of action: defamation, invasion of privacy, intentional infliction of emotional distress, common law trespass, statutory trespass, unfair

business practices, violations of the Idaho Charitable Solicitation Act, and civil conspiracy. The Complaint has been amended three times. The Amended Complaint added a new plaintiff. The Third Amended Complaint added a prayer for punitive damages, new requests for declaratory relief and factual allegations that had occurred in the interim since the last amendment—but no new causes of action.<sup>1</sup>

All Defendants are in default, except Diego Rodriguez. The case is in the discovery stage.

## ARGUMENT

### 1. Idaho Rule of Civil Procedure 15(a) Strongly Favors Granting Leave to Amend.

A party may amend its pleading after a responsive pleading has been filed “with the opposing party’s written consent or the court’s leave.” Idaho R. Civ. P. 15(a)(2). While the district court has discretion in deciding a motion to amend under Rule 15(a), the standard favors amendment. *See Hayward v. Valley Vista Care Corp.*, 136 Idaho 342, 345, 33 P.3d 816, 819 (2001) (“In the interest of justice, district courts should favor liberal grants of leave to amend a complaint.”) (internal quotation marks omitted).

This means that “[i]n the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendment previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be

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<sup>1</sup> There never was an operative Second Amended Complaint. On December 6, 2022, Plaintiffs filed a Motion to Amend the Complaint to Allege Punitive Damages, which sought permission under Idaho Code § 6-1604 to file a Second Amended Complaint that alleged in the prayer for relief a request for punitive damages. While that motion was pending, on January 10, 2023, Plaintiffs filed a Motion to Amend the Complaint under Idaho R. Civ. P. 15, to file a Third Amended Complaint that contained further factual allegations that had arisen in the interim since the First Amended Complaint had been filed. The court heard both motions together and granted them concurrently.

‘freely given.’” *Smith v. Great Basin Grain Co.*, 98 Idaho 266, 272, 561 P.2d 1299, 1305 (1977) (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)).

For instance, the Idaho Supreme Court has reversed denial of leave to amend, even when the motion was filed long after litigation commenced and could have the effect of “changing the focus of [the] lawsuit.” *Spur Prods. Corp.*, 142 Idaho at 44-45, 122 P.3d at 303-04 (reversing denial of motion to amend when plaintiff sought to add a new malpractice claim two years into the lawsuit); *see also Thomas v. Med. Ctr. Physicians, P.A.*, 138 Idaho 200, 204, 211, 61 P.3d 557, 561, 568 (2002) (reversing denial of motion seeking to add claims for intentional and negligent infliction of emotional distress a year and a half after litigation commenced); *Carl H. Christensen Family Trust v. Christensen*, 133 Idaho 866, 871, 993 P.2d 1197, 1202 (1999) (reversing denial when plaintiff sought to add fraud claims almost ten months after the original complaint and there was no prejudice to defendants because “the basic facts giving rise to their claims were already known”).

“The purpose behind allowing a party to amend its [pleading] is so all claims will be decided on their merits and to provide notice of the claim and the facts at issue.” *Iron Eagle Dev., LLC v. Quality Design Sys., Inc.*, 138 Idaho 487, 492, 65 P.3d 509, 514 (2003). Indeed, “[g]iven the policy of the Idaho Rules of Civil Procedure to provide a ‘just, speedy and inexpensive determination in every action,’” it would be “manifestly unreasonable” to deny amendment and effectively force a litigant to file a whole new lawsuit in order to resolve the entire controversy. *Clark v. Olsen*, 110 Idaho 323, 326-27, 715 P.2d 993, 996-97 (1986) (reversing denial of motion to amend).

## **II. In this Case, Justice Requires Leave to Amend.**

The Court should permit amendment because none of the circumstances warranting denial exist in this case. *See Great Basin Grain Co.*, 98 Idaho at 272, 561 P.2d at 1305 (motion should be granted unless there is bad faith or dilatory motive, undue delay, prejudice to the opposing party, repeated failure to cure deficiencies by amendment previously allowed, or futility of amendment).

First, Plaintiffs seek to amend in good faith. Declaration of Erik Stidham (“Stidham Decl.”), ¶ 5. The new allegations in the proposed Fourth Amended Complaint are based on acts attributable to the various Defendants that have occurred or been discovered since the most recent amendment of the Complaint. *Id.*, ¶¶ -32.

Second, Plaintiffs have no dilatory motive and have not unduly delayed moving to amend. They bring this Motion during the course of discovery and as early as possible. Defendants continue to make new, false statements about Plaintiffs. Some repeat prior misrepresentations, but many are new—including false accusations of misdiagnosis, which obviously cause reputational harm. As Defendants continue to shift their narrative and publish it to the world, Plaintiffs must add the fresh falsehoods in their Complaint.

Third, Defendants will not be prejudiced by amendment. The amendment provides Defaulted Defendants a renewed opportunity to respond to the allegations in this lawsuit and thus does not cause prejudice. The amendment also will not prejudice Diego Rodriguez, who has appeared. He is aware of the newly added allegations because they concern his own acts or the acts of his affiliates and affiliated entities. *See Stidham Decl.*, ¶¶ 2-4.

Fourth, amendment would not be futile. Plaintiffs seek to add further factual allegations to their already-existing cause causes of action. The newly discovered and added allegations

provide important details regarding the ongoing nature of the defamation and conspiracy perpetuated by and profited off of by Defendants.

### CONCLUSION

For the above reasons, Plaintiffs respectfully request that the Court grant their Motion for Leave to File a Fourth Amended Complaint.

DATED: February 14, 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 14th 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 via Process Server
- Overnight Mail
- Email/iCourt/eServe:

Ammon Bundy for Governor  
c/o Ammon Bundy  
4615 Harvest Ln.  
Emmett, ID 83617-3601

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*/s/ Erik F. Stidham*

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