

Erik F. Stidham (ISB #5483)  
Jennifer M. Jensen (ISB #9275)  
HOLLAND & HART LLP  
800 W. Main Street, Suite 1750  
Boise, ID 83702-5974  
Telephone: 208.342.5000  
Facsimile: 208.343.8869  
E-mail: [efstidham@hollandhart.com](mailto:efstidham@hollandhart.com)  
[jmjensen@hollandhart.com](mailto:jmjensen@hollandhart.com)

*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  
PLAINTIFFS' MOTION FOR  
SANCTIONS FOR FAILURE TO  
APPEAR AND MOTION TO COMPEL  
AGAINST AMMON BUNDY, AMMON  
BUNDY FOR GOVERNOR, AND  
PEOPLE'S RIGHTS NETWORK**

Plaintiffs, St. Luke's Health System, Ltd., St. Luke's Regional Medical Center, Ltd.,

Chris Roth, Natasha D. Erickson, M.D., and Tracy W. Jungman, NP ("Plaintiffs"), by and

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR SANCTIONS  
FOR FAILURE TO APPEAR AND MOTION TO COMPEL AGAINST AMMON  
BUNDY, AMMON BUNDY FOR GOVERNOR, AND PEOPLE'S RIGHTS  
NETWORK - 1**

through their attorneys of record, Holland & Hart LLP, hereby submit this Memorandum in Support of Plaintiffs Motion for Sanctions for Failure to Appear and Motion to Compel Against Ammon Bundy, Ammon Bundy for Governor, and People’s Rights Network (“Motion”).

## I. INTRODUCTION

This is a familiar story. Defendants Ammon Bundy (“Bundy”), People’s Rights Network (“PRN”), and the Ammon Bundy for Governor campaign (the “Bundy Campaign”) (collectively, the “Bundy Defendants”) continue to defy the legal process and frustrate Plaintiffs’ attempts to acquire needed evidence. This time, the Bundy Defendants refused to appear for properly noticed depositions in Boise and refused to respond to properly propounded discovery requests. This is the second time Bundy has refused to appear for a deposition. It is also the second time Bundy has ignored Plaintiffs’ discovery requests.

As alleged in this lawsuit, the Bundy Defendants conspired to harm and harass the Plaintiffs in order to garner donations for themselves, increase their political capital, and grow their network of supporters. By refusing to provide deposition testimony and discovery responses, the Bundy Defendants effectively deny Plaintiffs from getting evidence that will help them prove their claims, establish damages, and obtain justice.

In an effort to move this case forward, Plaintiffs bring this Motion requesting that the Bundy Defendants be sanctioned pursuant to Idaho Rules of Civil Procedure 30(d)(3) and 37(d). Specifically, Plaintiffs seek an order mandating that the Bundy Defendants (1) be required to sit for depositions within ten days of the Court’s order and (2) pay all reasonable costs and attorney fees associated with the depositions they refused to attend, the future depositions the Court may order, and bringing this Motion.

Plaintiffs also bring this Motion pursuant to Idaho Rule of Civil Procedure 37(a) requesting that the Court compel the Bundy Defendants to respond to Plaintiffs' outstanding discovery requests within ten days of the Court's order.

While I.R.C.P. 37(a)(1) indicates an attempt to meet and confer is required before filing a motion to compel, Plaintiffs are unable to meet and confer here given the Bundy Defendants' absolute refusal to engage with counsel for Plaintiffs. Although it is clear that any attempt to meet and confer with the Bundy Defendants would be futile, Plaintiffs have attempted, in good faith, to confer with the Bundy Defendants in an effort to obtain the discovery without court action by sending a letter to Bundy. *See* I.R.C.P. 37(a)(1); *see also* *Care Envtl. Corp. v. M2 Techs., Inc.*, No. CV-05-1600 (CPS), 2006 U.S. Dist. LEXIS 35396, at \*9 (E.D.N.Y. May 30, 2006) (“Courts have excused a failure to meet and confer where: (1) under the circumstances, the parties do not have time to attempt to reach an agreement; or (2) an attempt to compromise would have been clearly futile.”) (citations omitted); *O'Neal v. Las Vegas Metro. Police Dep't*, No. 2:17-cv-02765-APG-EJY, 2020 U.S. Dist. LEXIS 143119, at \*4 (D. Nev. Aug. 10, 2020) (“futility is recognized as an exception to the meet and confer requirement”).<sup>1</sup>

The Bundy Defendants should not be allowed to continue to frustrate the discovery process. The Court's assistance is necessary and proper here.

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<sup>1</sup> The Idaho Supreme Court “prefer[s] to interpret the Idaho Rules of Civil Procedure in conformance with interpretations of the same language in the federal rules.” *Westby v. Schaefer*, 157 Idaho 616, 622, 338 P.3d 1220, 1226 (2014). Idaho Rule of Civil Procedure 37(a)(1) is identical to Federal Rule of Civil Procedure 37(a)(1). *Compare* I.R.C.P. 37(a)(1) to Fed. R. Civ. P. 37(a)(1).

## II. BACKGROUND

Since this lawsuit was filed in May 2022, the Bundy Defendants have flouted their discovery obligations, mocked the Court, and defied the judicial process. On July 12, 2022, the Court ordered Bundy to respond to certain interrogatories related to Bundy’s ownership and control of PRN. *See* Am. Order Granting Mot. to Expedite Disc. Bundy ignored that order.

On September 8, 2022, the Court ordered “Ammon Bundy to sit for a Deposition to answer questions” relating to his ownership and control of PRN. Order on Mot. for Sanctions. Bundy ignored that order.

On October 19, October 24, and December 9, Plaintiffs properly served Bundy, PRN, and the Bundy Campaign with discovery requests. *See* Declaration of Erik F. Stidham in Support of Motion for Sanctions for Failure to Appear (“Stidham Decl.”), Ex. A. They didn’t respond. *See id.*, ¶ 4. Plaintiffs’ counsel then sent the Bundy Defendants a “meet and confer” letter pursuant to Idaho Rule of Civil Procedure 37(a)(1) on March 7, 2023. *See id.*, Ex. B. Again, they didn’t respond. *See id.*, ¶ 4.

Similarly, on January 18, 2023, Plaintiffs properly noticed depositions of Bundy, PRN, and the Bundy Campaign for January 31, February 2, and February 7, respectively. *See id.*, Ex. C. The depositions were to be conducted in Boise at the offices of Holland & Hart. *See id.* Notices of the depositions were served on the Bundy Defendants on January 18, 2023—nearly two weeks before the first deposition was to take place. *See id.*, ¶ 6, Ex. D. Then, a few days before the first deposition was to take place, Plaintiffs’ counsel sent the Bundy Defendants a reminder letter with copies of the deposition notices informing them of their depositions and stating that Plaintiffs “will seek sanctions from the Court” if they fail to appear. *See id.*, Ex. E.

None of the Defendants objected to the depositions, they didn't file any motion to terminate the depositions, and they didn't confer with Plaintiffs' counsel to reset the dates. *See id.*, ¶ 8.

Accordingly, Plaintiffs' counsel prepared for the depositions, hired videographers and court reporters, and appeared at the depositions on the scheduled dates and times. *See id.*, ¶ 9. The Bundy Defendants never showed. *Id.*

On January 19, 2023, the Court entered a Protective Order prohibiting the Bundy Defendants from, among other things, intimidating, threatening, or harassing any person because such person has testified. *See* Protective Order. The Protective Order further prohibited the Bundy Defendants from intimidating, influencing, impeding, deterring, threatening, harassing, obstructing, or preventing a potential witness from testifying in this proceeding. *See id.* Bundy did not comply with that order. *See* Feb. 7, 2023 Mem. in Supp. of Mot. for Contempt Against Bundy and PRN at 3-5 (“Motion for Contempt”). Instead, he publicly declared the Ada County Court “a complete abomination” and continued to publicly threaten, harass, and defame Plaintiffs and their counsel. *Id.* at 3-5.

The Bundy Defendants' continued refusal to comply with discovery necessitates this Motion. And their persistent disregard of prior Court orders justifies the sanctions sought.

### **III. ARGUMENT**

#### **A. THE COURT SHOULD SANCTION BUNDY UNDER IDAHO RULES OF CIVIL PROCEDURE 30(d)(3) AND 37(d).**

##### **1. The Requirements for Sanctions Under Rules 30 and 37 Are Met.**

Idaho Rule of Civil Procedure 30(d)(3) expressly empowers courts to impose an “appropriate sanction, including the reasonable expenses and attorney’s fees incurred by any

party, or any other sanction listed in Rule 37(b), on a person who impedes, delays, or frustrates the fair examination of the deponent.” I.R.C.P. 37(d)(3).

Similarly, Idaho Rule of Civil Procedure 37(d) provides sanctions for a “Party’s failure to attend its own deposition . . . .” I.R.C.P. 37(d). It states that the court may, on motion, order sanctions if “a party or a party’s officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a)(4), fails, after being served with proper notice, to appear for that person’s deposition.” I.R.C.P. 37(d). Sanctions under Rule 37(d) “may include any of the orders listed in Rule 37(b)(2)(A)(i)—(vi).” I.R.C.P. Rule 37(d)(3).

Whether to impose sanctions, and what sanctions to impose, are committed to the trial court’s discretion. *See State Ins. Fund v. Jarolimek*, 139 Idaho 137, 75 P.3d 191, 193 (2003); *see also* Order on Motions for Sanctions (“The imposition of sanctions for discovery violations is committed to the discretion of the trial court.”) (quoting *Roe v. Doe*, 129 Idaho 663, 666, 931 P.2d 657, 660 (Ct. App. 1996)).

Sanctions pursuant to Rules 30(d)(3) and 37(d) are appropriate here. Plaintiffs properly noticed the depositions of Bundy, PRN, and the Bundy Campaign to occur on January 31, February 2, and February 7, 2023, respectively. *See* Stidham Decl., Ex. C. The notices of the depositions were personally served on January 18, 2023, allowing the Bundy Defendants time to prepare for the deposition. *See id.*, ¶ 6. On January 27, 2023, the Bundy Defendants were sent a reminder letter. *See id.*, Ex. E. None of the Bundy Defendants contacted Plaintiffs’ counsel to object to, reset, or modify the depositions. *See id.*, ¶ 8. Nor did they file any such motions with the Court. Accordingly, Plaintiffs’ counsel prepared for the depositions, hired videographers and court reporters, and appeared at the depositions on the scheduled dates and times. *See id.*, ¶ 9.

Despite having been properly served and given adequate time to prepare for the depositions, the Bundy Defendants failed to attend any of the depositions. *See id.* The Bundy Defendants “impede[d], delay[ed], or frustrate[d] the fair examination of the deponents,” *see* I.R.C.P. 30(d)(3), and they failed, “after being served with proper notice, to appear for” their own deposition, *see* I.R.C.P. 37(d). The requirements for sanctions under Rules 30(d)(3) and 37(d) are met here.

**2. The Court Should Order the Bundy Defendants to Appear at a Deposition Within Ten Days and It Should Order Them to Pay Plaintiffs’ Expenses.**

“In Idaho, two general rules guide a trial court in imposing sanctions.” *Noble v. Ada Cty. Elections Bd.*, 135 Idaho 495, 20 P.3d 679, 683 (2000). The trial court must: (1) balance the equities by comparing the culpability of the disobedient party with the resulting prejudice to the innocent party; and (2) consider whether lesser sanctions would be effective. *See id.* at 499-500, 20 P.3d at 683-84 (citations omitted). “A court need only make express findings on these factors when the sanction deprives a party of the opportunity to go forward on the merits of the claim.” *Id.* at 500, 20 P.3d at 684. “[A]fter applying this balancing test, the court should impose a sanction which will most substantially lead to the efficient administration of justice.” *Roe*, 129 Idaho at 667, 931 P.2d at 661.

Plaintiffs request the Court order the Bundy Defendants to (1) sit for consecutive depositions within ten days of the entry of the Court’s order on this Motion and (2) pay Plaintiffs’ fees and costs incurred in preparing for and attending the properly noticed depositions, preparing for and attending any future Court-ordered depositions, and bringing this motion. An order to this effect is justified by balancing the equities, and a lesser sanction would likely be ineffective.

The equities favor the sanctions requested because the Bundy Defendants are highly culpable. They repeatedly ignore Court orders and refuse to engage in discovery while simultaneously continuing to publicly defame, harass, and intimidate Plaintiffs. *See, e.g.*, Motion for Contempt at 4-5. Moreover, although they were given sufficient notice of their scheduled depositions, they never communicated to Plaintiffs’ counsel that they were not going to attend, nor did they file a motion seeking to terminate or limit the depositions. *See* Stidham Decl., ¶¶ 5-8. Because the Bundy Defendants never lodged a formal objection to any of the depositions, Plaintiffs’ counsel proceeded to prepare for and attend the depositions, only to find out that the Bundy Defendants refused to show. *See id.*, ¶¶ 8-9. In short, the Bundy Defendants’ actions are to blame for causing Plaintiffs to waste time and money prosecuting this case.

The Bundy Defendants’ actions are highly prejudicial to Plaintiffs because their depositions are needed for Plaintiffs to advance their claims. In addition to providing support for the claims (including punitive damages claims) against the Bundy Defendants, the discovery is needed to support the claims against Defendant Diego Rodriguez (“Rodriguez”). *See* Fourth Am. Compl. and Demand for Jury Trial at 40. Moreover, even if Plaintiffs ultimately obtain a default judgment against the Bundy Defendants, Plaintiffs will be required to prove damages. The depositions of the Bundy Defendants will enable Plaintiffs to obtain evidence needed to establish damages.

Finally, lesser sanctions will not be effective. Although an “award of costs and explicit warnings are among the appropriate preliminary measures which a trial court may take to force compliance with procedural rules[,]” Bundy’s demonstrative pattern of ignoring court orders and disrespecting the judiciary shows that warnings and costs will not be effective. *Ashby v. W.*



*Council, Lumber Prod. & Indus. Workers*, 117 Idaho 684, 687, 791 P.2d 434, 437 (1990).

Moreover, with trial only months away, Plaintiffs are running out of time to take the needed depositions. Forcing Plaintiffs to wait and see if explicit warnings and costs will persuade the Bundy Defendants to attend their depositions will only prolong the time it will take Plaintiffs to prepare for trial and pursue their claims, especially considering the unlikelihood that the Bundy Defendants will heed the Court's warnings. Accordingly, the sanctions sought are appropriate.

Plaintiffs also seek their reasonable fees and costs incurred in preparing for and attending the properly noticed depositions and for bringing this motion pursuant to I.R.C.P. 30(d)(3) (sanctions may include "the reasonable expenses and attorney's fees incurred by any party") and I.R.C.P. 37(d)(3) ("Instead of or in addition to these sanctions, the court must require the party failing to act, the attorney advising that party, or both 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"). Given the extended notice the Bundy Defendants received to attend their depositions, their obstructionist behaviors exhibited throughout this lawsuit, their defiance of the Court and the judicial process, and their inability to provide any explanation for their failure to attend, their failure to attend the properly noticed depositions was not substantially justified and no circumstances make an award of expenses unjust.

Therefore, the Bundy Defendants should be held jointly and severally liable for all of Plaintiffs' attorney fees and costs incurred in preparing for and attending the missed depositions, preparing for and attending any future depositions the Court orders, and bringing this Motion. *See Vieth Law Offices v. Wiker*, 2017 Ida. Dist. LEXIS 12, \*6 (holding defendants jointly and

severally liable for all attorney fees and costs incurred preparing for the deposition, attending the deposition, and bringing the motion for sanctions when the defendant had a “representative role in the rest of the Defendant entities”).

In sum, because the Bundy Defendants are highly culpable for their refusal to attend their properly noticed depositions, and because Plaintiffs are prejudiced by the Bundy Defendants’ actions, the equities favor the relief sought. *See Noble*, 135 Idaho at 499-500, 20 P.3d at 683-84.

**B. THE COURT SHOULD COMPEL THE BUNDY DEFENDANTS TO RESPOND TO PLAINTIFFS’ OUTSTANDING DISCOVERY REQUESTS WITHIN TEN DAYS AND SHOULD ORDER THE BUNDY DEFENDANTS TO PAY PLAINTIFFS’ FEES AND COSTS IN BRINGING THIS MOTION.**

The Court should compel the Bundy Defendants to respond to Plaintiffs’ outstanding discovery requests within ten days. *See* I.R.C.P. 37(a) (empowering the Court to compel discovery). To date, the following discovery requests are outstanding as to the Bundy Defendants: (1) Plaintiff St. Luke’s Health System, LTD’s Second Interrogatories, First Requests for Production to Defendant Ammon Bundy, served October 19, 2022; (2) Plaintiff St. Luke’s Health System LTD’s First Interrogatories and Requests for Production to Defendant Ammon Bundy for Governor, served October 24, 2022; and (3) Plaintiff St. Luke’s Health System, LTD’s First Interrogatories and Requests for Production to Defendant People’s Rights Network, served December 9, 2022 (collectively, the “Outstanding Discovery Requests”). *See* Stidham Decl., ¶ 2, Ex. A. These requests seek relevant information Plaintiffs need to establish their claims and prove their damages.

Months have passed since the Outstanding Discovery Requests were served, and to date, Plaintiffs have received no response. *See id.*, ¶ 4. Plaintiffs’ “meet and confer” letter also went unanswered. *See id.* The Bundy Defendants have completely failed to abide by the time limits provided for by the Rules. *See* I.R.C.P. 30(b)(2) (30 days to respond to interrogatories); I.R.C.P.

34(b)(2)(A) (30 days to respond to requests for production). Because the Bundy Defendants' refusal to provide discovery prejudices Plaintiffs by preventing them from acquiring relevant information—indeed, expert disclosures are less than a week away and Plaintiffs still do not have needed discovery—the Bundy Defendants should be compelled to respond within ten days.

If an Idaho court grants a motion to compel, it is required to award the moving party its “reasonable expenses incurred in making the motion, including attorney’s fees” unless (1) the movant filed the motion before attempting in good faith to obtain the discovery without court action; (2) the opposing party’s nondisclosure, response, or objection was substantially justified; or (3) other circumstances make an award of expenses unjust. I.R.C.P. 37(a)(5)(A). None of these exceptions apply here, and Plaintiffs are entitled to their reasonable expenses incurred in making this Motion, including attorney fees.

#### IV. CONCLUSION

For the reasons stated above, Plaintiffs respectfully request that the Court grant their Motion to Compel and Motion for Sanctions.

DATED: March 7, 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 7th day of March, 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	<input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered via Process Server <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Email/iCourt/eServe:
Ammon Bundy for Governor c/o Ammon Bundy 4615 Harvest Ln. Emmett, ID 83617-3601	<input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered via Process Server <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Email/iCourt/eServe:
Ammon Bundy 4615 Harvest Ln. Emmett, ID 83617-3601	<input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered via Process Server <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Email/iCourt/eServe:
People's Rights Network c/o Ammon Bundy 4615 Harvest Ln. Emmett, ID 83617-3601	<input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered via Process Server <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Email/iCourt/eServe:
People's Rights Network c/o Ammon Bundy P.O. Box 370 Emmett, ID 83617	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivered via Process Server <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Email/iCourt/eServe:
Freedom Man Press LLC c/o Diego Rodriguez 1317 Edgewater Dr. #5077 Orlando, FL 32804	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Email/iCourt/eServe:
Freedom Man Press LLC c/o Diego Rodriguez 9169 W. State St., Ste. 3177 Boise, ID 83714	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Email/iCourt/eServe:

Freedom Man PAC  
c/o Diego Rodriguez  
1317 Edgewater Dr., #5077  
Orlando, FL 32804

- U.S. Mail
- Hand Delivered
- Overnight Mail
- Email/iCourt/eServe:

Diego Rodriguez  
1317 Edgewater Dr., #5077  
Orlando, FL 32804

- U.S. Mail
- Hand Delivered
- Overnight Mail
- Email/iCourt/eServe:

[freedommanpress@protonmail.com](mailto:freedommanpress@protonmail.com)

*/s/ Erik F. Stidham*

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Erik F. Stidham  
OF HOLLAND & HART LLP

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