

Erik F. Stidham (ISB #5483)
Jennifer M. Jensen (ISB #9275)
Zachery J. McCraney (ISB #11552)
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
jmjensen@hollandhart.com
zjmccraney@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,

Defendants.

Case No. CV01-22-06789

**MEMORANDUM IN SUPPORT OF
MOTION TO COMPEL AND FOR
SANCTIONS AS TO PEOPLE’S RIGHTS
NETWORK AND AMMON BUNDY FOR
GOVERNOR**

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

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

I. INTRODUCTION

Pursuant to the Court’s Order Compelling Ammon Bundy, Ammon Bundy for Governor, and People’s Rights Network to Respond to Discovery and Notices of Deposition filed April 24, 2023 (hereinafter the “April 24 Order”), PRN and the Bundy Campaign were required to make a designation under Rule 30(b)(6) of their respective representatives to be deposed no later than May 1, 2023. *See* Affidavit of Erik Stidham in Support of Motion to Compel and for Sanctions as to People’s Rights Network and Ammon Bundy for Governor, Ex. A (hereinafter “Stidham Aff.”). Plaintiffs duly noticed the Rule 30(b)(6) depositions of PRN and the Bundy Campaign. Stidham Aff., Ex. B. PRN and the Bundy Campaign failed to designate representative(s) in accordance with the Court Order. *See id.*, ¶ 2. PRN and the Bundy Campaign has long avoided their discovery obligations in this case. The April 24 Order arose from PRN’s and the Bundy Campaign’s failure to appear for depositions and respond to discovery. PRN and the Bundy Campaign are engaging in more of the same; Plaintiffs should not be further prejudiced by additional delay.

II. ARGUMENT

A. THE COURT SHOULD COMPEL AND SANCTION IDAHO RULES OF CIVIL PROCEDURE 30(D)(3) AND 37(B).

Idaho Rule of Civil Procedure 30(d)(3) 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(b) provides that “If a party or a party's officer, director, or managing agent, or a witness designated under Rule 30(b)(6) or 31(a)(4), fails to obey an order to provide or permit discovery, including an order under Rule 35, or 37(a), the court where the action is pending may issue further just orders.” Sanctions under Rule 37(b)(2) may include:

- (i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;
- (ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (iii) striking pleadings in whole or in part;
- (iv) staying further proceedings until the order is obeyed;
- (v) dismissing the action or proceeding in whole or in part;
- (vi) rendering a default judgment against the disobedient party; or
- (vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination and initiating contempt proceedings.

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 are appropriate here. The Court Order specifically stated PRN and the Bundy Campaign were to designate a representative under Idaho Rule of Civil Procedure 30(b)(6) no later than May 1, 2023. a representative to serve as its designated representative. *See* Stidham Aff., Ex. A. PRN and the Bundy Campaign failed to designate. *See id.*, ¶ 2. This is despite the fact that Plaintiffs additionally served a notice upon

PRN and the Bundy Campaign on April 27, 2023 which reminded them of their obligation to designate. *See id.*, Ex. B. The failure to designate indicates PRN and Bundy plan on disregarding all of the obligations imposed by the April 24 Order.

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(b)(2)(C) (“Instead of or in addition to the orders above, the court must order the disobedient party, 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 their prior avoidance of discovery obligations and the clearly worded April 24 Order, their violation is not substantially justified and no circumstances make an award of expenses unjust.

B. THE COURT SHOULD COMPEL PRN AND THE BUNDY CAMPAIGN TO DESIGNATE A REPRESENTATIVE AND SHOULD ORDER PEOPLE’S RIGHTS NETWORK TO PAY PLAINTIFFS’ FEES AND COSTS IN BRINGING THIS MOTION.

The Court should compel PRN and the Bundy Campaign pursuant to Idaho Rule of Civil Procedure 37(a)(3)(A)(ii) to designate a representative for a Rule 30(b)(6) deposition.

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) then 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.

III. CONCLUSION

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

DATED: May 2, 2023.

HOLLAND & HART LLP

By: /s/ Erik F. Stidham

Erik F. Stidham

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 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
- Email/iCourt/eServe:

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

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

Ammon Bundy
4615 Harvest Ln.
Emmett, ID 83617-3601

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

People's Rights Network
c/o Ammon Bundy
4615 Harvest Ln.
Emmett, ID 83617-3601

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

People's Rights Network
c/o Ammon Bundy
P.O. Box 370
Emmett, ID 83617

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

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

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

Freedom Man Press LLC
c/o Diego Rodriguez
9169 W. State St., Ste. 3177
Boise, ID 83714

- U.S. Mail
- Hand Delivered
- Overnight Mail
- 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

/s/ Erik F. Stidham

Erik F. Stidham
OF HOLLAND & HART LLP

21405533_v2