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Jennifer M. Jensen (ISB #9275)
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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

DECLARATION OF ERIK F. STIDHAM

I, Erik F. Stidham, being first duly sworn upon oath, depose and state as follows:

1. I am an attorney with the firm of Holland & Hart LLP (“Holland & Hart”) and serve as counsel for the Plaintiffs in this case. I make this declaration based on my personal knowledge.

2. Attached hereto as **Exhibit A** is a true and correct copy of an email to court clerk Janine Korsen dated May 22, 2023 regarding a Notice of Removal being filed by Defendant Diego Rodriguez.

3. Attached hereto as **Exhibit B** is a true and correct copy of an email to attorney Erik Stidham from Defendant Diego Rodriguez dated May 23, 2023.

4. Attached hereto as **Exhibit C** is a true and correct copy of the May 19, 2023 Letter and Order from United States District Court Judge Nye.

Executed this 23rd day of May, 2023.

/s/ Erik F. Stidham

Erik F. Stidham

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd 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 via Process Server
- 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 via Process Server
- 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

21525259_v1

Exhibit A

From: Freedom Man Press <freedommanpress@protonmail.com>
Sent: Monday, May 22, 2023 11:15 PM
To: Janine Korsen
Cc: Erik Stidham
Subject: Re: St. Luke's v. Bundy/Rodriguez
Attachments: Diego Notice to Remove to Federal Court.pdf

External Email

Hello Janine -

I have just filed a NOTICE TO REMOVE TO FEDERAL COURT which will be personally served to Erik Stidham and the Ada County Courthouse tomorrow, along with its proper filing at the Federal District Court of Idaho.

Pursuant to 28 U.S. Code § 1446(d): "*Promptly after the filing of such **notice of removal** of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded." Therefore the hearing that was reset for tomorrow must likewise be vacated.*

Thank you.

Diego Rodriguez
Freedom Man Press

----- Original Message -----

On Monday, May 22nd, 2023 at 10:28 AM, Janine Korsen <dckorsjp@adacounty.id.gov> wrote:

Diego Rodriguez
1317 Edgewater Dr #5077
Orlando, FL 32804
freedommanpress@protonmail.com
(208) 891-7728

Defendant in Propria Persona

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Ammon Bundy, Ammon Bundy for
Governor, Diego Rodriguez, Freedom Man
PAC, People's Rights Network, Freedom
Man Press LLC,

CASE NO. CV01-22-06789

**NOTICE OF REMOVAL TO FEDERAL
COURT**

Petitioners, vs

St. Lukes Health System LTD, St. Lukes
Regional Medical Center LTD, Chris Roth,
Natasha Erickson, MD, Tracy Jungman,
Respondents.

COMES NOW Diego Rodriguez, giving NOTICE OF REMOVAL, pursuant to 28 U.S. Code § 1446(a):

“A defendant or defendants desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.”

JURISDICTION AND VENUE

1. Jurisdiction and Venue is proper before this Court pursuant to Title 28 U.S.C. Section 1441 et. seq.; Title 28 U.S.C. Section 1443 et. seq., in that this case involves Federal Civil Rights

violations against Petitioners and also done under color of law; and Title 28 Section 1446. Venue is proper also pursuant to U.S.C. Title 28 Section 1391 et. seq.

2. Additional Jurisdiction and Venue for this action in that it involves a Federal Question, Title 28 U.S.C. Section 31. and Title 28 U.S.C. Sections 1343(3) and (4).

3. Furthermore, Jurisdiction and Venue is proper before this Court pursuant to 28 U.S.C. Section 1441 (b)(2) and 28 U.S.C. Section 1332, as this case involves controversies between citizens of different states, where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

PARTIES TO THE ACTION

4. Petitioner Diego Rodriguez appears before this Court in Propria Persona and is a Defendant in an Idaho State Court civil proceeding, Case No, CV01-22-06789, currently before the 4th Judicial District Court, County of Ada, State of Idaho.

5. Respondents are represented by the law firm, Holland and Hart, Erik F. Stidham, Jennifer M. Jensen, and Zachery J. McCraney, all attorneys licensed with the Idaho State Bar.

FEDERAL QUESTION / DUE PROCESS

6. I, Diego Rodriguez, initially filed to join Ammon Bundy's petition (another defendant on this case) but had my petition completely overlooked, ignored, and considered "moot." The arguments I made have therefore not been considered by this court and I am asking for proper due process under the law; to have my arguments heard and properly responded to. The U.S. Constitution guarantees me my right to due process of law both under the 5th and the 14th Amendment.

7. Also, I am being persecuted for having exercised my right of free speech, which is guaranteed by the 1st amendment in the U.S. Constitution—an issue which likewise brings this matter into Federal jurisdiction.

DIVERSITY OF CITIZENSHIP

8. I, Diego Rodriguez, am not a citizen of the state of Idaho, nor was I a citizen of the state of Idaho when this case was originally filed in May of 2022. The United States Constitution is

extremely clear on the jurisdiction of the Federal judiciary in such cases. In Article III, Section 2, Clause 1 of the U.S. Constitution, it states quite plainly, for anybody with the ability to read and understand that, *“The Judicial Power shall extend to all Cases...to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States...”* It could not be any clearer that this lawsuit which is a “controversy” or legal complaint between citizens of Idaho and myself, a citizen of Florida, is under Federal jurisdiction according to the U.S. Constitution and should not be held in a local court in Idaho. There is no higher law in the land than the U.S. Constitution and Article III, Section 2, Clause 1 demands that the Federal court take this case into its jurisdiction.

9. There plainly exists a controversy over Diversity of Citizenship which demands that this civil lawsuit be removed from the State Court. 28 U.S. Code § 1441(a) plainly states, *“Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”* The same section of 28 U.S. Code § 1441 “Removal Based on Diversity of Citizenship,” in subsection (b) refers to the determination of jurisdiction of the Federal Court under Section “1332(a) of this title,” where the statute plainly states, *“(a)The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—(1)citizens of different States...”*

Therefore, in addition to the plainly written U.S. Constitution, which is the highest law of the land, and which trumps all other laws or statutes, even the U.S Code states that a “civil action” between “citizens of different states” where “the controversy exceeds the sum or value of \$75,000” shall have its jurisdiction in the Federal Court. So both the U.S. Constitution and the U.S. Code agree that this case must be removed from State Court and put into the Federal Court.

INTERPOLATION OF “COMPLETE DIVERSITY”

10. In Judge David Nye’s written respond to Ammon Bundy’s petition to move this case to the federal court, Judge Nye stated, *“Complete diversity exists if none of the plaintiffs is a citizen of the same state as any of the defendants”* and he used this spurious and specious interpretation to reject Ammon’s argument. However, this is a wholly untrue interpretation. First of all,

nowhere does the US Constitution nor US Code require “*complete diversity*” where “*none of the plaintiffs is a citizen of the same state as any of the defendants.*” That fact alone should stand on its own as demonstrating that the interpretation of “total diversity” is a total interpolation of thoughts and words, and is not part of any written law—especially not the US Constitution.

Furthermore, the case laws quoted by Judge Nye is in no way representative or similar to the case at hand as Ammon and I are individual citizens and not corporations or companies.

Such an interpretation would mean that if someone from Idaho decided to sue 50 people, 1 from each of the 50 states, then so long as one of those defendants was from Idaho, then the case would still be handled in an Idaho Court room, with Idaho judges, an Idaho jury, Idaho news media, Idaho social pressures, and Idaho control—guaranteeing a totally biased and unfair outcome for all of the defendants but especially the 49 who did not live in Idaho. That is not what the law says and that was not the intent of the framers of the Constitution.

FOUNDERS INTENT

11. As a matter of pragmatism, I now can see the absolute wisdom of our Founding Fathers when they put this rule in our beloved Constitution, because after a year of harassment, frivolous filings, and legal abuse—as a citizen of another state, I am at a complete disadvantage and am unable to properly respond and participate since I am a citizen of another state over 2,000 miles away. It is simply not fair and our Founding Fathers recognized this fact.

To further support this assertion, please note that U.S. Supreme Court Justice Felix Frankfurter said, “*Diversity jurisdiction is founded on assurance to nonresident litigants of courts free from susceptibility to potential local bias. The Framers of the Constitution, according to Marshall, entertained ‘apprehensions’ lest distant suitors be subjected to local bias in State courts, or, at least, viewed with ‘indulgence the possible fears and apprehensions’ of such suitors.*” *Guaranty Trust Co. v. York, 326 U.S. 99 (1945).*

PRAYER FOR RELIEF

WHEREFORE Petitioners PETITION this Court for an ORDER TRANSFERRING the Idaho Civil Case, CASE NO. CV01-22-06789 be transferred to the jurisdiction of the United States District Court for The District of Idaho, as soon as possible that Petitioner may be heard and Federal questions addressed, as well as any other relief deemed just and proper under the circumstances.

DATED THIS DAY, the 22nd of May, 2023.

DIEGO RODRIGUEZ

Diego Rodriguez
freedommanpress@protonmail.com
(208) 891-7728

VERIFICATION

I, Diego Rodriguez, do hereby verify that the contents contained herein are true and correct to the best of my belief and knowledge pursuant to the laws of the United States of America, this 22nd day of May, 2023.

DIEGO RODRIGUEZ

Diego Rodriguez, Petitioner Pro Se

CERTIFICATE OF SERVICE

That the original and one copy of the foregoing instrument titled NOTICE OF REMOVAL TO FEDERAL COURT was filed with the United States District Court, for the District of Idaho, located at 550 West Front Street, Suite 400, Boise, Idaho, 83724.

Service time: _____ Service Date: _____ Server Initials: _____

That the original and one copy of the foregoing instrument titled NOTICE OF REMOVAL TO FEDERAL COURT was served to the respondent's counsel Holland & Hart, Attn: Erik Stidham at 800 West Main Street, Suite 1750 Boise, ID 83702-5974.

Service time: _____ Service Date: _____ Server Initials: _____

That the original and one copy of the foregoing instrument titled NOTICE OF REMOVAL TO FEDERAL COURT was served to the Clerk of the 4th Judicial District Court, County of Ada, State of Idaho, Attn: Judge Lynn Norton at 200 West Front Street, Boise ID, 83702.

Service time: _____ Service Date: _____ Server Initials: _____

Exhibit B

From: Freedom Man Press <freedommanpress@protonmail.com>
Sent: Tuesday, May 23, 2023 12:23 AM
To: Erik Stidham
Subject: Re: FW: St. Luke's v. Bundy/Rodriguez/Sanctions will be sought against you unless you withdraw frivolous motion.

External Email

Dirty Erik He/Him/His Stidham,

Why are you wasting your client's time and money? Why are you evil in your heart? Why are you a homosexual? Why do you love to love men? It is unnatural and sinful.

Leviticus 18:22 - *You shall not lie with a male as with a woman; it is an abomination.*

Leviticus 20:13 - *If a man lies with a male as with a woman, both of them have committed an abomination; they shall surely be put to death; their blood is upon them.*

Jude 1:7 - *Just as Sodom and Gomorrah and the surrounding cities, which likewise indulged in sexual immorality and pursued unnatural desire, serve as an example by undergoing a punishment of eternal fire.*

Romans 1:26-28 - *For this reason God gave them up to dishonorable passions. For their women exchanged natural relations for those that are contrary to nature; and the men likewise gave up natural relations with women and were consumed with passion for one another, men committing shameless acts with men and receiving in themselves the due penalty for their error. And since they did not see fit to acknowledge God, God gave them up to a debased mind to do what ought not to be done.*

Why are you such a fag, Dirty Erik He/Him/His? Why? Just Why?

Why did you commit the crime of INTIMIDATION BY FALSE ASSERTION OF AUTHORITY when you threatened Garth Gaylord with contempt of court? Why do you hate obedience to the law? Why are you a criminal who loves to commit crimes? Why did you do it a second time with Robert Jones? Why do you commit crimes repeatedly? Are you a sociopath, a psychopath? Or just a traumatized munchkin fag who got dumped in the garbage can too many times by the high school jocks? It's time to let that go, Dirty Erik.

Why have you perjured yourself? Why have you forced me to file so many bar grievances against you and your Law Firm? Why do you want your insurance rates to go up? Why do you want to be disbarred? Why do you want to force your law firm to fire you so they can preserve their insurance? Why are you so full of wickedness and deceit?

Stop playing games, Dirty Erik. Your gamesmanship and wickedness is coming to an end. Not even the evil staff at St. Luke's can handle your impotence and incompetence anymore. Stop stealing their money! Stop telling lies on TV. Stop defaming Ammon Bundy. Stop being a fag and REPENT, Dirty Erik.

Stop being Dirty Erik He/Him/His Stidham. Repent. You must repent.

Diego Rodriguez
Freedom Man Press

----- Original Message -----

On Tuesday, May 23rd, 2023 at 12:55 AM, Erik Stidham <EFStidham@hollandhart.com> wrote:

Mr. Rodriguez,

Your removal is frivolous. As you well know, each of the supposed bases for removal stated in your Notice were rejected by Judge Nye based on longstanding, binding precedent.

You are clearly bringing this for an improper purpose. I assume you are aware of the significance of signing a Notice of Removal subject to Rule 11.

In the state court action, you appeared and even stipulated to a trial setting for July 10, 2023. Even if you had a valid basis for removal (which you do not have), you waived the right to removal long ago. You know that.

What you are trying to do is transparent. You apparently think you can delay things by filing another Notice of Removal with the intention of filing an appeal. This plan of yours will not work.


You are wasting my clients' time and money. If you do not withdraw the Notice of Removal, my clients will seek fees and sanctions against you. The time has come for a jury to resolve the case.

Regards,

Erik Stidham

He / Him / His (What's this?)

Partner, Holland & Hart LLP

efstidham@hollandhart.com | T: (208) 383-3934 | M: (208) 283-

CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this email.

From: Freedom Man Press <freedommanpress@protonmail.com>
Sent: Monday, May 22, 2023 11:15 PM
To: Janine Korsen <dckorsjp@adacounty.id.gov>
Cc: Erik Stidham <EFStidham@hollandhart.com>
Subject: Re: St. Luke's v. Bundy/Rodriguez

External Email

Hello Janine -

I have just filed a NOTICE TO REMOVE TO FEDERAL COURT which will be personally served to Erik Stidham and the Ada County Courthouse tomorrow, along with its proper filing at the Federal District Court of Idaho.

Pursuant to 28 U.S. Code § 1446(d): "*Promptly after the filing of such **notice of removal** of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded." Therefore the hearing that was reset for tomorrow must likewise be vacated.*

Thank you.

Diego Rodriguez

Freedom Man Press

----- Original Message -----

On Monday, May 22nd, 2023 at 10:28 AM, Janine Korsen <dckorsjp@adacounty.id.gov> wrote:

Exhibit C

UNITED STATES DISTRICT & BANKRUPTCY COURTS
DISTRICT OF IDAHO

Stephen W. Kenyon
CLERK OF COURT
208.334.1976



JEFF SEVERSON
DEPUTY CLERK OF COURT
208-334-9464

May 19, 2023

To: Clerk, Ada County Fourth Judicial District Court
200 W. Front Steet
Boise, ID 83702

From: U.S. District Court
550 W. Fort Street, Suite 400
Boise, ID 83724

Re: U.S. District Court Case No. 1:23-cv-00212-DCN
Ada County Fourth Judicial District Court Case No. CV01-22-06789
Case Name: Bundy et al v. St. Lukes Health Systems et al

Clerk of Ada County Fourth Judicial District Court:

This case has been transferred to your District per the enclosed Memorandum Decision and Order

Please acknowledge receipt of the above and return the acknowledgment to the U.S. District Court in Boise.

Received by:

Date received:

Acknowledgment can be returned to:
Clerk, U.S. District Court, District of Idaho
Attn: Jocelyn Dunnegan, Deputy Clerk
550 West Fort Street, Suite 400
Boise ID 83724

Enclosures as stated

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

AMMON BUNDY; AMMON BUNDY
FOR GOVERNOR; DIEGO
RODRIGUEZ; FREEDOM MAN PAC;
PEOPLE'S RIGHTS NETWORK; and
FREEDOM MAN PRESS LLC,

Plaintiffs,

v.

ST. LUKE'S HEALTH SYSTEM LTD.;
ST. LUKE'S REGIONAL MEDICAL
CENTER LTD.; CHRIS ROTH;
NATASHA ERICKSON, MD; and
TRACY JUNGMAN,

Defendants.

Case No. 1:23-cv-00212-DCN

**MEMORANDUM DECISION AND
ORDER**

I. INTRODUCTION

Before the Court is Defendants' Motion to Dismiss or Remand (Dkt. 6), Motion to Seal (Dkt. 5), Motion to Expedite and Proceed Without Hearing (Dkt. 12), Motion to Expedite (Dkt. 18), and Expedited Motion to Clarify (Dkt. 19). Plaintiff Diego Rodriguez also filed a "Petition to Enjoin Petitioner Ammon Bundy in Transferring From State Court to Federal Court."¹ Dkt. 7.

Having reviewed the record, the Court finds that the facts and legal arguments are adequately presented. Thus, in the interest of avoiding further delay, and because oral argument would not significantly aid its decisional process, the Court will decide the Motion without oral argument. Dist. Idaho Loc. Civ. R. 7.1(d)(1)(B).

¹ Although Rodriguez uses the term "enjoin," based on the Petition, it is clear that Rodriguez is seeking to "join," or consent, to Bundy's notice of removal.

For the reasons set forth below, the Court GRANTS the Motion to Dismiss or Remand. Dkt. 6. The Court DISMISSES the Motion to Seal (Dkt. 5), the Motions to Expedite (Dkts. 12, 18), the Expedited Motion for Clarification (Dkt. 19), and the Petition to Enjoin (Dkt. 7) as MOOT. The Court REMANDS this case back to state court. Further, the Court retains limited jurisdiction over Defendants' request for attorneys' fees and for other sanctions the Court may impose.

II. BACKGROUND

This case began in the State of Idaho's Fourth Judicial District Court, nearly a year ago, when Defendants St. Luke's Health System Ltd., St. Luke's Regional Medical Center Ltd., Chris Roth, Natasha Erickson, MD, and Tracy Jungman (collectively "St. Luke's," unless otherwise stated) filed a civil lawsuit against Plaintiffs Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man PAC, People's Rights Network, and Freedom Man Press LLC (collectively "Bundy," unless otherwise stated). In its suit, St. Luke's brought state law claims for defamation, false-light invasion of privacy, intentional infliction of emotional distress, common law trespass, statutory trespass, violations of Idaho's Unfair Business Practices Act, violations of Idaho's Charitable Contributions Act, and civil conspiracy. Dkt. 6-1, at 4.

These claims arise out of events that took place in March 2022, beginning with St. Luke's treating an infant who was temporarily placed in the custody of the Idaho Department of Health and Welfare due to health and safety concerns. Dkt. 6-3, at ¶¶ 3–4. Specifically, St. Luke's alleges that Bundy, in concert with the other Plaintiffs, launched a smear campaign against St. Luke's claiming that it was participating in a "widespread

conspiracy to kidnap Christian children and traffic those children to homosexual couples who would then sexually abuse and kill the children.” Dkt. 6-1, at 2. Bundy and his supporters also blocked an ambulance bay at St. Luke’s Meridian and took other actions that disrupted operations and caused St. Luke’s Boise to be locked down for a period of time. *Id.* Further, St. Luke’s alleged that Bundy harassed and doxed its employees. *Id.*

Bundy never appeared in the state court proceedings and has been sanctioned multiple times, including being held in contempt. *Id.* at 2. St. Luke’s amended its complaint four times, and ultimately, obtained a default judgment due to Bundy’s nonparticipation. A trial has been set for July 10, 2023. Bundy states that his nonparticipation was a cost-saving strategy, and he argues that the state judge’s delay in entering a default judgment, and St. Luke’s amendments, prejudiced him.

Bundy filed a Notice of Removal on May 1, 2023 (Dkt. 1), and a Memorandum in Support on May 8 (Dkt. 2). St. Luke’s filed its Motion to Dismiss or Remand on May 8, 2023, arguing that subject matter jurisdiction does not exist and that Bundy removed the case to merely obstruct the state court proceedings. Bundy responded in opposition to the Motion. Dkt. 11. St. Luke’s then filed its first Motion to Expedite (Dkt. 12) noting it did not intend to reply to its Motion and urging the Court to expeditiously resolve this matter. Having received all briefing, the matter is ripe for adjudication.

III. LEGAL STANDARD

The “power of removal is not to be found in express terms in any part of the [C]onstitution.” *Martin v. Hunter’s Lessee*, 14 U.S. 304, 349 (1816). Thus, “[t]he right to remove a case from a state to federal court is purely statutory and its scope and the terms

of its availability therefore are entirely dependent on acts of Congress.” 14C C. Wright & A. Miller, *Federal Practice and Procedure Jurisdiction* § 3721 (Rev. 4th ed. 2023). Removal from state court is governed by 28 U.S.C. § 1441. The most frequent type of removal that the Court deals with is when a defendant in a civil lawsuit removes an action to federal court. *See* 28 U.S.C. §§ 1441, 1442. A civil suit must meet certain criteria for a defendant to do this. *Id.*

Federal courts “strictly construe the removal statute against removal.” *Sharma v. HSI Asset Loan Obligation Tr. 2007-1*, 23 F.4th 1167, 1170 (9th Cir. 2022) (cleaned up). “Where doubt regarding the right to removal exists, a case should be remanded to state court.” *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003).

IV. ANALYSIS

The Court first addresses the Motion to Dismiss or Remand (Dkt. 6) before discussing the remaining Motions.

A. Motion to Dismiss or Remand (Dkt. 6)

“Article III establishe[d] a ‘judicial department’ with the province and duty . . . to say what the law is’ in particular cases and controversies.” *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 218 (1995) (quoting *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177, 2 (1803)). Notwithstanding this constitutional authority to exercise judicial power, federal district courts are congressionally circumscribed creatures that have limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co of Am.*, 511 U.S. 375, 377 (1994). In other words, the Court cannot act beyond the bounds set by law, for our constitutional republic is a “government of laws, and not of men.” *Marbury*, 5 U.S. at 163.

Having reviewed the complaint, the Notice of Removal, and the rest of the record, the Court must remand this case back to state court because it lacks subject matter jurisdiction, and the Notice of Removal is procedurally defective.

1. Subject Matter Jurisdiction

Federal district courts can only hear cases that arise in diversity or present a federal question. See U.S. Const. art. III §§ 1, 2; 28 U.S.C. §§ 1331, 1332. Beyond these two categories, subject matter does not exist.

Diversity jurisdiction exists when there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332(a)(1); *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996). Complete diversity exists if none of the plaintiffs is a citizen of the same state as any of the defendants. *Caterpillar*, 519 U.S. at 68; *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005). In other words, if any plaintiff is a citizen of the same state as any defendant, diversity is destroyed, and the federal court does not have subject matter jurisdiction. *Owen Equipment & Erection Co. v. Kroger*, 437 U.S. 365, 373 (1978).

The diversity statute considers citizenship, not residency, for purposes of determining whether complete diversity exists. *Krueger v. Stively*, 2019 WL 1373640, at *2 (D. Idaho Mar. 25, 2019) (cleaned up). A natural person's state citizenship is determined by his state of domicile, not his state of residence. *Id.* (citing *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001)). Domicile is the permanent home where the person resides with the intention to remain or to which he intends to return. *Id.* A corporation is a citizen of the state "by which it has been incorporated" and the state "where it has its

principal place of business.” 28 U.S.C. § 1332(c)(1); *Montrose Chem. Corp. of Cal. v. Am. Motorists Ins. Co.*, 117 F.3d 1128, 1134 (9th Cir. 1997).

Here, complete diversity does not exist. Each of the St. Luke’s parties are citizens of Idaho. Dkt. 6-1, at 8. Ammon Bundy is a citizen of Idaho, residing in Emmett. Dkt. 1, at 1. This alone defeats the complete diversity requirement. What’s more, several of the Plaintiff entities are also citizens of Idaho for diversity purposes. Freedom Man PAC is a political action committee registered in Idaho. Dkt. 6-1, at 8. Further, the People’s Rights Network, as an unincorporated association, “has the citizenship of all of its members.” *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (citing *Carden v. Arkoma Assocs.*, 494 U.S. 185, 195–96 (1990)). While the Court does not know the citizenship of all 60,000 members of the association, it does know that one of the Network’s members, Ammon Bundy, is an Idaho resident. St. Luke’s argues that determining the citizenship of Rodriguez and Freedom Man Press is a more difficult task, but the Court need not wade into this discussion any further. Complete diversity does not exist. Because the Court finds that the parties are not diverse, the only jurisdictional issue remaining is whether the case presents a federal question.

2. Federal Question

Federal district courts have original jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. It is not enough to show that the litigation will necessarily engage a federal question. *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149, 152 (1908). The federal question must be the gateway to the case. *See id.* Thus, a federal question exists only if: (1) federal law creates the cause of

action, or (2) a substantial question of federal law is a necessary element of a plaintiff's well-pleaded complaint. *Coeur d'Alene Tribe v. Hawks*, 933 F.3d 1052, 1055 (9th Cir. 2019); *Caterpillar*, 482 U.S. at 392. Critically, cases “may not be removed to federal court on the basis of a federal defense.” *Caterpillar*, 482 U.S. 386, 393 (1987). This is true even when the federal defense is one that can be readily anticipated by the plaintiff. *Franchise Tax Bd. of Calif. v. Construction Laborers Vacation Trust of S. Cal.*, 463 U.S. 1, 10 (1983).

In its complaint, St. Luke's brings claims solely based on state law. For this reason, the Court is unable to exercise federal question jurisdiction. This is true, even though Bundy's Petition anticipates raising federal defenses—defenses that are also available in state court.

Ultimately, because this case lacks diversity and a federal question, the Court has no jurisdiction to reach the merits. It must remand the case.

3. Equal Rights Removal

Bundy also invokes 28 U.S.C. § 1443 in his Petition. Under this limited removal mechanism, a petition must satisfy the two-part test articulated by the Supreme Court:

(1) petitioners must assert, as a defense to the prosecution, rights that are given to them by explicit statutory enactment protecting equal racial civil rights; (2) petitioners must assert that the state courts will not enforce that right, and that allegation must be supported by reference to a state statute or a constitutional provision that purports to command the state courts to ignore the federal rights.

Idaho v. Oelker, 2021 WL 126202, at *2 (D. Idaho Jan. 13, 2021) (cleaned up).

Here, Bundy has not alleged that he faces disparate racial treatment and has not referenced a state statute or constitutional provision purporting to command the state court

to ignore his federal rights. For this reason, the Court finds that removal is improper under § 1443.

4. Additional Procedural Defects

The Court also finds additional procedural defects that require remand.

First, 28 U.S.C. § 1446 requires that a notice of removal be filed within 30 after receipt of service. By waiting for almost a year into the state suit, and after a default judgment was entered against him, Bundy's Notice was filed long after the applicable deadline.

Second, as corporations and entities, Ammon Bundy for Governor, Freedom Man PAC, and Freedom Man Press must be represented by an attorney; none can proceed "pro se," nor can Bundy (or anyone else who is not an attorney) represent their interests. Dist. Idaho Loc. Civ. R. 83.4(d). Additionally, because these entities are not represented by counsel, they have technically not appeared, so they have not given consent to removal under 28 U.S.C. § 1466.

Third, Bundy failed to comply with the filing requirements, including filing a copy of the entire state court record. *See* Dist. Idaho Loc. Civ. R. 83.4(d).

Each of these reasons requires remanding this case.

Lastly, Bundy, Rodriguez, and the Plaintiff entities are admonished that, in the future, if they are ever in federal court again, they are expected to conduct themselves with civility as required under District of Idaho Local Rule (Civil) 83.8. While zealous advocacy is always anticipated, the Court takes great umbrage when parties denigrate or threaten opposing parties or counsel.

B. Other Motions

Given that the Court lacks subject matter jurisdiction and is remanding this case, all other Motions are dismissed as moot.

This aside, the Court retains jurisdiction to decide matters related to fees, costs, and sanctions (if sought and deemed appropriate).

V. CONCLUSION

The Court takes seriously its duty to “administer justice without respect to persons, and do equal right to the poor and rich.” 28 U.S.C. §453. Regardless of size, stature, or sophistication, all are equal under the law. All parties are required to proceed in the federal courts according to the rule of law. “No man is above the law, and no man is below it.” President Theodore Roosevelt, Third Annual Message to Congress (Dec. 7, 1903). In this vein, the Court reaches its decision.

VI. ORDER

The Court HEREBY ORDERS:

1. Defendants’ Motion to Dismiss or Remand (Dkt. 6) is GRANTED.
2. All other Motions (Dkts. 5, 7, 12, 18, 19) are DISMISSED as MOOT.
3. This case is REMANDED to the Fourth Judicial District of the State of Idaho, county of Ada.
4. The Court retains limited jurisdiction over Defendants’ request for attorneys’ fees and for other sanctions the Court may impose. Defendants have 30 days to submit a motion for costs, fees, and or any other relief they seek. Pursuant to local rule,

Bundy will have 21 days to respond. Dist. Idaho Loc. Civ. R. 7.1(c). Defendants may elect to file a reply 14 days thereafter.



DATED: May 19, 2023

A handwritten signature in black ink, appearing to read "David C. Nye". The signature is written over a horizontal line.

David C. Nye
Chief U.S. District Court Judge