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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; DONO
CUSTOS, INC., 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 FOR SANCTIONS AS TO
DONO CUSTOS, INC.**

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, submit this Memorandum in Support of

**MEMORANDUM IN SUPPORT OF MOTION FOR SANCTIONS AS TO DONO
CUSTOS, INC. - 1**

their Motion for Sanctions as to Dono Custos, Inc. (“Dono Custos”) pursuant to Idaho Rule of Civil Procedure 30(d)(3).

I. INTRODUCTION

Dono Custos, a corporate entity formed and controlled by Ammon Bundy, failed to appear for its properly noticed deposition on May 19, 2023. Plaintiffs seek their reasonable expenses and attorney’s fees incurred in relation to the deposition pursuant to Idaho Rules of Civil Procedure 30 and 37.

II. BACKGROUND

Dono Custos was formed and is controlled by Ammon Bundy. *See* Declaration of Jennifer M. Jensen in Support of Motion for Sanctions as to Dono Custos, Inc. (“Jensen Decl.”), Ex. A at 2 (filing information showing Ammon Bundy as “President / Director”). According to its website, Dono Custos exists in part to serve as a conduit for donations. *Id.*, Ex. B (Dono Custos “Common Questions”). Despite its purportedly charitable nature, Dono Custos is a for-profit entity. *Id.* It funnels money from supporters of Defendant People’s Rights Network to unknown recipients. *See id.*, Ex. C (People’s Rights Network donation page). Its financial transactions are entangled with Freedom Tabernacle, Incorporated, Diego Rodriguez’s entity. *See id.*, Ex. C, Ex. D. Dono Custos is organized under the laws of Wyoming and has its principal place of business in Cheyenne, Wyoming. *Id.*, Ex. A at 1.

On April 7, 2023, Plaintiffs obtained a subpoena for Rule 30(b)(6) deposition duces tecum of Dono Custos from the District Court of the First Judicial District, State of Wyoming, County of Laramie (the “Subpoena”). *Id.*, ¶ 6. The same day, Plaintiffs filed a Notice of Intent to serve the Subpoena. *Id.*; 4-07-23 Notice of Intent at 1.

On April 14, 2023, the Subpoena was duly served on Dono Custos's registered agent for service of process. *Id.*, ¶ 7; 4-19-23 Return of Service at 2. Plaintiffs filed the Return of Service with the Court. *Id.*

The deposition was set for May 19, 2023, in Cheyenne, Wyoming. *Id.*, ¶ 8; *see* 4-07-23 Notice of Intent at 6.

Plaintiffs' counsel contacted Bundy via email (aebundy@bundyfarms.com) on three separate occasions prior to the deposition (on May 8, 12, and 18). *Id.*, ¶ 9, Ex. E. This email address is Bundy's. *Id.*, ¶ 9. Bundy has emailed Plaintiffs' counsel through it before. *Id.* Plaintiffs' counsel attached to the emails a copy of the Notice of Intent, the Subpoena, and the Return of Service. *Id.*, ¶ 9, Ex. E. Plaintiffs' counsel reminded Bundy that the deposition was set to go forward on May 19, 2023. *Id.* Seeking to avoid needless expenditure of fees and costs in the event Dono Custos refused to appear for the deposition, Plaintiffs' counsel asked Bundy to inform Plaintiffs if no representative of Dono Custos would appear. *Id.* Despite the three emails, Plaintiffs' counsel received no response. *Id.*, ¶ 9.

Having properly noticed the deposition, and hearing nothing from Dono Custos, Plaintiffs' counsel prepared for the deposition and traveled to Cheyenne for it. *Id.*, ¶ 11. No representative of Dono Custos appeared for the deposition.¹ *Id.* Dono Custos did not produce any documents. *Id.*

¹ Due to construction at the original deposition site, Plaintiffs had to move the deposition to a new location, a few blocks away in Cheyenne. Jensen Decl., ¶ 10. Plaintiffs notified Bundy of this change of address on May 12 and 18, 2023. *Id.* ¶ 10, Ex. E. No one from Dono Custos showed up at either site on May 19, 2023 for the deposition. *Id.*, ¶ 11.

III. ARGUMENT

A. THE IDAHO RULES OF CIVIL PROCEDURE REQUIRE PAYMENT OF THE REASONABLE EXPENSES INCURRED WHEN A DEPONENT FAILS TO APPEAR FOR DEPOSITION.

Idaho Rule of Civil Procedure 30 provides for sanctions when a person “impedes, delays, or frustrates the fair examination of [a] deponent.” I.R.C.P. 30(d)(3). Such sanctions may include reasonable expenses and attorney’s fees incurred. *Id.* And the Court may also impose any sanction under Rule 37(b). *Id.*

Rule 37(b) permits sanctions where the action is pending:

- (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.

I.R.C.P. 37(b)(2)(A).

B. DONO CUSTOS SHOULD BE ORDERED TO PAY THE REASONABLE EXPENSES AND ATTORNEY’S FEES INCURRED IN PREPARING FOR AND ATTENDING THE DEPOSITION.

Dono Custos should be required to pay the reasonable expenses and attorneys’ fees incurred for the Dono Custos deposition. Under Rule 30(d)(3), the fair examination of Dono Custos has been frustrated by its failure to attend or produce any documents. Under Rule 37(b)(2)(C), there is no substantial justification for the failure to attend the deposition. Dono Custos was fully informed of the deposition, was properly served, and its Principal / Director,

Bundy, was sent courtesy copies of the subpoena and details on three occasions. There is no excuse for the refusal to abide by the Subpoena. Reasonable expenses and attorney's fees are warranted.

IV. CONCLUSION

For the foregoing reasons, Plaintiffs request that the Court sanction Dono Custos, Inc. for its failure to appear and award reasonable expenses and attorney's fees.

DATED: May 23, 2023.

HOLLAND & HART LLP

By: /s/ Erik F. Stidham

Erik F. Stidham

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2023, I caused to be filed via iCourt, and served 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

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/s/ Erik F. Stidham

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