

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 and an unincorporated
association,

Defendants.

Case No. CV01-22-06789

**MEMORANDUM IN SUPPORT OF
MOTION TO COMPEL DISCOVERY TO
DISCOVERY REFEREE**

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 ("St. Luke's Parties"), by and through their attorneys of record, Holland & Hart LLP, hereby submit this Memorandum in Support of Plaintiffs' Motion to Compel Discovery to Discovery Referee ("Motion"). By making this Motion, St. Luke's Parties do not waive their right to seek relief through motions currently before the Court, to seek evidentiary rulings through motions in limine, or to seek any other relief that is available under law and equity.

I. INTRODUCTION

A hearing has been set with the Discovery Referee for June 2, 2023, on this motion, which is a final effort by St. Luke's Parties to obtain discovery from Defendant Diego Rodriguez ("Rodriguez") prior to the rapidly approaching July 10, 2023 trial.¹ On April 25, 2023, Judge Norton appointed Senior Judge Copsey as Discovery Referee for this case ("April 25 Order"). As provided in the April 25 Order, the Discovery Referee has authority to rule on the Parties' discovery motions and to issue discovery-based sanctions. *See* April 25 Order at 11.

The written discovery sought by this motion should have been provided to St. Luke's Parties months-and-months ago. The depositions of Rodriguez and his entities should also have occurred months ago, which would have given St. Luke's Parties sufficient time to investigate responses and seek further discovery, as necessary, to support their claims and to respond to defenses and anticipated defenses. There is no way now for any court order to make up for the

¹ St. Luke's Parties' acknowledge that the deadline for providing supplements to requests for written discovery was May 26, 2023. To the extent necessary, St. Luke's Parties' ask the Discovery Referee to permit Rodriguez to supply supplemental and additional discovery. The deadline for completion of all depositions is June 9, 2023.

disadvantage caused to St. Luke's Parties at trial due to Rodriguez's failure to adhere to the Court's orders compelling discovery.

However, in a final effort to obtain discovery from Rodriguez, St. Luke's Parties ask the Discovery Referee to exercise her discretion to compel Rodriguez to immediately: (1) provide answers to interrogatories; (2) supply documents responsive to requests for production; (3) supply subpoenaed documents; and (4) to appear in person at depositions, as ordered. St. Luke's Parties also ask that the Court issue any appropriate sanctions under Idaho Rule of Civil Procedure 37, including an award of the reasonable costs and fees incurred in the Motion.

II. BACKGROUND

This lawsuit has been pending for more than a year. Despite diligent efforts from the outset, St. Luke's Parties have been unable to obtain even basic discovery from Rodriguez or the relevant entities he controls.² Rodriguez has failed to fairly comply with every discovery order issued by the Court.³ St. Luke's Parties' discovery requests, motions, the Court's orders, and Rodriguez's responses to the same, if any, are summarized in the chart below.

² In addition to support provided by the case record as a whole, St. Luke's Parties hereby specifically incorporate the background and materials provided in support of their May 2, 2023, Motion for Contempt Against Defendant Diego Rodriguez, including particularly, the information set forth in the Memorandum in Support at 10-11, Jennifer M. Jensen Affidavit in Support of Motion for Contempt ("Jensen Aff. Contempt"), ¶¶ 2, 4, 5, and 6.

³ Rodriguez has violated every order the Court has entered, except arguably the September 8, 2022 order granting St. Luke's Parties sanctions against him in the form of sitting for a limited deposition. The deposition took place on October 5, 2022, but Rodriguez refused to answer a number of questions, and such refusal later became the subject of further orders that he provide responses to St. Luke's Parties' questions. *See* Jensen Aff. Contempt, ¶ 26.

Discovery Request or Motion	Rodriguez Response to Discovery Request	Date of and Order Compelling Discovery	Discovery Ordered	Rodriguez Response to Discovery Order
<p>May 12, 2022, Motion to Permit Expedited Discovery</p> <p>May 12, 2022, First Interrogatories to Defendant Diego Rodriguez</p>	<u>None.</u>	June 3, 2022, Order Granting Motion to Expedite Discovery; Amened June 12, 2022	Ordered to provide answers to Interrogatories 1-5 by August 4, 2022	No answers provided by August 4, 2022
August 19, 2022, Motion for Sanctions and for Contempt (Diego Rodriguez)		September 8, 2022, Order on Motions for Sanctions	Ordered to sit for deposition and provide supplemental answers to Interrogatories 1-5 on or before September 22, 2022	<p>October 5, 2022, Diego Rodriguez sat for his deposition, via Zoom, <i>see</i> n. 3.</p> <p>September 28, 2022, Responses to Plaintiffs First Set of Interrogatories to Defendant Diego Rodriguez</p>
October 7, 2022, Second Interrogatories and First Requests for Production to Defendant Diego Rodriguez	November 7, 2022, Defendant's Responses To Plaintiffs Second Set Of Interrogatories To Defendant Diego Rodriguez			
November 18, 2022, Notice of Videotaped	Deposition did not go forward.			

Deposition of Diego Rodriguez				
December 23, 2022, Amended Notice of Videotaped Deposition of Diego Rodriguez	<u>None.</u> Rodriguez failed to appear at his properly noticed and scheduled deposition, January 10-11, 2023, Orlando, Florida.			
December 28, 2022, First Interrogatories and Requests for Production to Defendant Freedom Man Press LLC	<u>None.</u>			
December 28, 2022, First Interrogatories and Requests for Production to Defendant Freedom Man PAC	<u>None.</u>			
January 3, 2023, Subpoena Duces Tecum of Power Marketing Agency, LLC	<u>None.</u> Rodriguez failed to designate a representative to appear at the deposition noticed and scheduled for February 3, 2023.			
January 3, 2023, Subpoena Duces Tecum of Power Marketing Consultants LLC	<u>None.</u> Rodriguez failed to designate a representative to appear at the deposition noticed and			

	scheduled for February 3, 2023.			
January 3, 2023, Subpoena Duces Tecum of Freedom Tabernacle, Incorporated	<u>None.</u> Rodriguez failed to designate a representative to appear at the deposition noticed and scheduled for February 6, 2023.			
December 6, 2022 Motion to Compel Defendant Rodriguez to Respond to Discovery		February 8, 2023, Order Compelling Defendant Rodriguez to Respond to Discovery	Ordered to supplement deposition responses to Interrogatories Nos. 1, 2, 3, 4, 5 with full responses; fully respond to Interrogatories Nos. 6, 8, 11, 14, 15, 28, and 29-32; respond to Requests for Production Nos. 16, 19, 22, 23, 37, and 41; and appear in-person for a deposition in December 2022	No supplements provided; no appearance for deposition in December 2022
March 21, 2023, First Requests for Admission to Defendant Diego Rodriguez	<u>None.</u>			
April 21, 2023, Third Set of Interrogatories and Second Set of Requests for Production of Documents to	<u>None.</u>			

Diego Rodriguez				
April 21, 2023, Second Set of Requests for Admission to Defendant Diego Rodriguez	<u>None.</u>			
April 21, 2023, Second Interrogatories and Requests for Production to Defendant Freedom Man Press LLC	<u>None.</u>			
April 21, 2023, Second Interrogatories and Requests for Production to Defendant Freedom Man PAC	<u>None.</u>			
March 7, 2023, Motion for Sanctions Against Rodriguez for Failure to Comply with Court Orders		April 25, 2023, Order Granting Plaintiffs' Motion for Sanctions Against Rodriguez for Failure to Comply with Court Orders	Ordered to travel to Boise to attend a deposition by May 24, 2023; during the deposition, answer questions to supplement and provide answers to interrogatories; that Rodriguez provide or bring responsive documents to the deposition, as directed in the Court's order.	No documents provided; no 30(b)(6) witness designations made; no appearance at depositions.
April 27, 2023 Second Amended Notice of Deposition of	<u>None.</u> Rodriguez failed to appear at his deposition scheduled for			

Diego Rodriguez	May 12 and 15, 2023.			
May 5, 2023, Amended Subpoena Duces Tecum of Freedom Tabernacle, Incorporated	<u>None.</u> Rodriguez failed to designate a representative to appear for the May 22, 2023 deposition or to produce documents.			
May 5, 2023, Amended Subpoena Duces Tecum of Power Marketing Consultants, LLC	<u>None.</u> Rodriguez failed to designate a representative to appear for the May 23, 2023 deposition or to produce documents.			
May 5, 2023, Amended Subpoena Duces Tecum of Power Marketing Agency, LLC	<u>None.</u> Rodriguez failed to designate a representative to appear for the May 23, 2023 deposition or to produce documents.			

Despite his marked and repeated refusal to comply with the Court’s discovery orders, Rodriguez did, however, find time to serve written discovery on St. Luke’s Parties. Declaration of Erik F. Stidham in Support of Motion to Compel Discovery, ¶ 2, Ex. A. St. Luke’s Parties provided answers and responses to Rodriguez’s written discovery on April 18, 2023 and supplemented the answers and responses on May 26, 2023, and May 31, 2023. *Id.* ¶ 3, Ex. B. St. Luke’s Parties have also sought, as recently as May 25, 2023, to coordinate with Rodriguez and obtain a response to the subpoenas duces tecum served on his entities, Freedom Tabernacle, Inc.,

Power Marketing Consultants, LLC, and Power Marketing Agency, LLC. Stidham Dec., ¶ 4, Ex. C. Counsel for St. Luke's Parties notified Rodriguez of the June 2, 2023 hearing with the Discovery Referee on May 25th as well. *Id.*

III. DISCUSSION

Unfortunately, this is not a typical discovery dispute situation where, a party participating in a lawsuit objects to discovery requests, the parties meet and confer but fail to resolve the issue, a motion to compel or protect is filed, the court resolves the dispute through motion practice, and the parties comply with the resultant order. Instead, this case presents the highly irregular situation where a party (Rodriguez) refuses to supply court-ordered answers and responses to St. Luke's Parties written discovery, to appear for his court-ordered deposition, or to designate witnesses for the depositions of entities he controls, while waging a battle against Plaintiffs in the court of public opinion. All the while, Rodriguez has also received the benefit of judicial process because St. Luke's Parties' have timely responded to and supplemented their answers and responses to his written discovery requests.

With July 10, 2023 trial date quickly approaching, St. Luke's Parties ask the Discovery Referee to issue an order compelling Rodriguez to appear in person at his deposition by June 9, 2023, to designate 30(b)(6) representatives for Freedom Man PAC, Freedom Man Press, LLC, Power Marketing Agency, LLC and Power Marketing Consultants, LLC and to cause the representatives to appear, in person, at depositions by June 9, 2023, and to immediately provide the following written discovery answers and responses:⁴

⁴ The written discovery sought by St. Luke's Parties is set forth in the interrogatories, requests for production, and subpoenas duce tecum included with the Stidham Decl., ¶¶ 5-14, Ex. D-M.

Interrogatories to Defendant Rodriguez:

1. Fully supplement responses to Interrogatories Nos. 1, 2, 3, 4, 5;
2. Provide answers to Interrogatories Nos. 6, 8, 11, 14, 15, 28, 29-32; and
3. Provide answers to Third Set of Interrogatories.

Requests for Documents to Defendant Rodriguez:

1. Provide responsive documents to Requests for Production Nos. 16, 19, 22, 23, 37, and 41; and
2. Provide responsive documents to Second Set of Requests for Production of Documents.

Discovery to Defendant entities Freedom Man Press LLC and Freedom Man PAC

1. Provide answers and responses to First Interrogatories and Requests for Production to Defendant Freedom Man Press LLC;
2. Provide answers and responses Second Interrogatories and Requests for Production to Defendant Freedom Man Press LLC;
3. Provide answers and responses to First Interrogatories and Requests for Production to Defendant Freedom Man PAC; and
4. Provide answers and responses to Second Interrogatories and Requests for Production to Defendant Freedom Man PAC.

Discovery to Other Rodriguez Entities

1. Provide documents responsive to May 5, 2023 Amended Subpoena Duces Tecum of Power Marketing Agency, LLC;
2. Provide documents responsive to May 5, 2023 Amended Subpoena Duces Tecum of Power Marketing Consultants, LLC; and

3. Provide documents responsive to May 5, 2023 Amended Subpoena Duces Tecum of Freedom Tabernacle, Incorporated.

IV. CONCLUSION

For the reasons set forth above, St. Luke's Parties respectfully request that the Discovery Referee grant the Motion to Compel Discovery, issue any sanctions necessary and appropriate under Rule 37, and to award reasonable fees and costs incurred by St. Luke's Parties in bringing this Motion.

DATED: May 31, 2023.

HOLLAND & HART LLP

By: */s/Erik F. Stidham*

Erik F. Stidham

Jennifer M. Jensen

Zachery J. McCraney

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 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

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

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

- U.S. Mail
- Hand Delivered
- 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
- 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

21560391_v1