

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

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

Plaintiff,

vs.

Ammon Bundy, Ammon Bundy for  
Governor, Diego Rodriguez,  
Freedom Man PAC, Peoples Rights  
Network, Freedom Man Press LLC  
Defendant.

Case No. CV01-22-06789

Memorandum Decision and Orders on Amended  
Motion for Sanctions against All Defendants

Plaintiffs Motion for Sanctions against Defendant Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man PAC, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations, filed May 10, 2023, and their Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man PAC, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations, filed May 26, 2023, came before the Court for hearing on June 6, 2023.

Appearances: Erik Stidham for Plaintiffs

Diego Rodriguez, a self-represented litigant, did not appear at this hearing

All other parties have defaulted<sup>1</sup> and did not appear at the hearing

Plaintiffs filed a Motion for Sanctions against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man PAC, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations,

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<sup>1</sup> An Order of Default was originally ordered against Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network on September 2, 2022. An Order of Default was originally ordered against Freedom Man Press LLC and Freedom Man PAC on September 13, 2022. The following are the Orders of Default related to the Fourth Amended Complaint filed March 3, 2023: Order of Default on Fourth Amended Complaint Against Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network, filed Apr. 24, 2023; and Order of Default by Freedom Man Press LLC and Freedom Man PAC, filed June 1, 2023.



with supporting Declarations<sup>2</sup> Dr. Rachel Thomas<sup>3</sup> and Dr. Michael Wheaton,<sup>4</sup> all filed May 10, 2023. This motion was originally noticed for hearing on May 23, 2023 (the day Diego Rodriguez attempted to remove this case a second time although Judge Nye dismissed his “Notice” as “moot” on May 26, 2023).<sup>5</sup> The Plaintiffs then filed an Amended Motion for Sanctions against Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man PAC, and the People’s Rights Network for Refusal to Comply with Court Orders and Discovery Obligations,<sup>6</sup> with a supporting memorandum<sup>7</sup> and Declaration from Erik F. Stidham,<sup>8</sup> all filed on May 26, 2023. Plaintiffs also filed a motion<sup>9</sup> and memorandum<sup>10</sup> to shorten time which was granted, so the Court considered this Amended Motion on June 6, 2023.

No timely-filed opposition brief was filed by any defendant to the original motion, the amended motion, or the motion to shorten time.

The Plaintiffs argue that the Defendants’ continued failure to comply with court orders related to discovery is wrongful conduct, inadequately corrected by this court’s previous orders compelling discovery, and previous sanctions.

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<sup>2</sup> Plaintiffs indicated on the face of the motion that a Declaration from Detective Steven Hansen was filed in support of this motion. However, no such declaration was filed digitally or conventionally.

<sup>3</sup> Declaration of Rachel Thomas, filed May 10, 2023.

<sup>4</sup> Declaration of Michael Wheaton, M.D. in Support of Plaintiffs Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People’s Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations, filed May 10, 2023.

<sup>5</sup> See Memorandum Decision and Order, 1:23-CV-00212-DCN, filed in this case May 24, 2023; and *also* Notice of Idaho USDC Order (Dkt. 31) Holding Rodriguez’s Attempted Removal Was Moot, Ex. A, filed June 1, 2023.

<sup>6</sup> Plaintiffs Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People’s Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations, filed May 26, 2023.

<sup>7</sup> Memorandum in Support of Plaintiffs Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People’s Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations, filed May 26, 2023.

<sup>8</sup> Declaration of Erik F. Stidham in Support of Plaintiffs Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People’s Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations, filed May 26, 2023 (“Stidham Dec. ISO Am. Mtn. Sanctions”).

<sup>9</sup> Motion to Shorten time, filed May 26, 2023.

<sup>10</sup> Memorandum in Support of Motion to Shorten time, filed May 26, 2023.



The Plaintiffs now request this Court order the following remedies “to mitigate the negative consequences of the Defaulted Defendants’ and Rodriguez’s wrongful conduct”:

- Default of Rodriguez;
- Designate facts be taken as established for purposes of the action;
- Prohibit Defaulted Defendants and Rodriguez from introducing evidence opposing the Plaintiffs’ claims;
- Prohibit Defaulted Defendants and Rodriguez from seeking to exclude any evidence offered into evidence by the Plaintiffs;
- That the Court impose adverse inferences on the Defaulted Defendants and Rodriguez for their failure to comply with their discovery obligations; and
- That the Court hold the Defaulted Defendants and Rodriguez in contempt of court for their failure to obey the court orders.

The Plaintiffs urge that “At least three of types of sanctions are appropriate here: default, exclusion of evidence, and adverse inferences.”<sup>11</sup>

## I. LEGAL STANDARDS

“Pro se litigants are held to the same standards and rules as those represented by an attorney.” *Suitts v. Nix*, 141 Idaho 706, 709, 117 P.3d 120, 123 (2005) (quoting *Twin Falls County v. Coates*, 139 Idaho 442, 445, 80 P.3d 1043, 1046 (2003)). Additionally, “Pro se litigants are not accorded any special consideration simply because they are representing themselves and are not excused from adhering to procedural rules.” *Nelson*, 144 Idaho at 718, 170 P.3d at 383 (citing *Sammis v. Magnetek, Inc.*, 130 Idaho 342, 346, 941 P.2d 314, 318 (1997)).

Idaho Rule of Civil Procedure 37(d)(2) provides that if a party fails, after being served with proper notice, to appear for that person’s deposition; or after being properly served with interrogatories or a request for production or inspection, fails to serve its answers, objections, or written response, then the Court may order sanctions which may include those listed in Rule 37(b)(2)(A)(i) through (vi). These 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;

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<sup>11</sup> Pls’ Memo, p, 6.



- (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.

Instead of, or in addition to, these sanctions, Idaho Rule of Civil Procedure 37(d)(3) provides the court must require the party failing to act 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.

Discovery sanctions are "intended to punish misconduct and deter others involved in litigation to prevent abuse in connection with discovery[.]" *Devault v. Steven L. Herndon, P.A.*, 107 Idaho 1, 2, 684 P.2d 978, 979 (1984) (citing *Nat'l Hockey League v. Metro. Hockey Club, Inc.*, 427 U.S. 639 (1976)). The purpose is to "facilitate fair and expedient pretrial fact gathering" and to "prevent surprise at trial." *Westby v. Schaefer*, 157 Idaho 616, 623, 338 P.3d 1220, 1227 (2014). "It follows, therefore, that discovery rules are not intended to encourage or reward those whose conduct is inconsistent with that purpose." *Id.*

The Court of Appeals of Idaho has also set forth the circumstances under which a court may impose the more severe sanctions including dismissing an action with prejudice or entering a default judgment as a sanction:

[F]or a trial court to properly dismiss a case with prejudice for failure to comply with procedural rules, several circumstances must be shown: (1) a clear record of delay; (2) ineffective lesser sanctions; and (3) at least one aggravating factor of (a) delay from intentional conduct; (b) delay by the [party] personally; or (c) delay causing prejudice to the [opposing party]. These factors must appear in the record in order to facilitate appellate review.

*Peterson v. McCawley*, 135 Idaho 282, 16 P.3d 958 (Ct. App. 2000) (citing *Ashby v. Western Council, Lumber Production and Industrial Workers*, 117 Idaho 684, 687, 791 P.2d 434, 437 (1990)). The Idaho Supreme Court has held "[a]n award of costs and explicit warnings are among the appropriate preliminary measures which a trial court may take to force compliance with procedural rules before taking the drastic measure of dismissal with prejudice." *Ashby*, 117 Idaho at 688, 791 P.2d at 438.

Aside from sanctions for non-compliance with discovery, the Court already has certain authority to enter a default judgment against any defendant where an Order for Default has



been entered. Pursuant to Idaho Rule of Civil Procedure 55(b)(2), prior to entering a default judgment:

The court may conduct hearings or make referrals when, to enter or effectuate judgment, it needs to:

- (A) conduct an accounting;
- (B) determine the amount of damages;
- (C) establish the truth of any allegation by evidence; or
- (D) investigate any other matter.

The Court finds that Ammon Bundy, Ammon Bundy for Governor, the People's Rights Network, Freedom Man Press LLC, and Freedom Man PAC already have an Order for Default entered against them related to the Fourth Amended Complaint so each of these Defendants are not entitled to appear or make arguments at a default damages hearing. Rather the hearing is for the Court to evaluate the sufficiency of evidence for the claimed damages based on the defaulted claims.

While I.R.C.P. 55(b)(2) vests the court with discretion to conduct such hearings, or order such references as are necessary in order to determine the amount of damages for which a party is liable, that Rule does not permit the court to ignore the long-established precept that on default all well pleaded factual allegations in the complaint are deemed admitted.

*Cement Masons'-Employers' Tr. v. Davis*, 107 Idaho 1131, 1132, 695 P.2d 1270, 1271 (Ct. App. 1985). So, the Court finds it can rely on the Fourth Amended Complaint and supporting evidence submitted by the Plaintiffs at the default damages hearing to determine the damages for purposes of entering a default judgment against any defaulted defendant without considering opposing argument or evidence from any defaulted defendant.

## II. ANALYSIS

The Defaulted Defendants are Ammon Bundy, Ammon Bundy for Governor, People's Rights Network, Freedom Man Press LLC, and Freedom Man PAC. Diego Rodriguez filed an Answer originally on September 6, 2022, and then also filed an Answer to the Fourth Amended Complaint on March 15, 2023. Therefore, the Court will discuss the conduct, compliance or noncompliance, and sanctions (if warranted) of each defendant separately below.

### A. Ammon Bundy

Ammon Bundy has never filed a responsive pleading or any response to any motion in this litigation. He has never appeared in court or in this proceeding, did not respond to



summons and service of pleadings, and has not appeared even when served notices of hearings or even when he was summonsed to appear on a Motion for Contempt.<sup>12</sup> An Order for Default has been entered against him for his failure to file a responsive pleading.<sup>13</sup>

The Court previously issued its Order Compelling Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network to Respond to Discovery and Notices of Deposition on April 24, 2023, that ordered the following related to Ammon Bundy:

IT IS HEREBY ORDERED that the Defendant Ammon Bundy must:

- 1) Answer Plaintiff St. Luke's Health System, Ltd's, Second Interrogatories, First Requests for Production to Defendant Ammon Bundy served on October 19, 2022 no later than May 8, 2023; and
- 2) Sit for a deposition at the time and place noticed by Plaintiffs and such deposition must be completed no later than May 24, 2023.

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Failure to comply with this Order by Ammon Bundy, Ammon Bundy for Governor, and/or People's Rights Network will result in sanctions listed in Idaho Civil Rule of Procedure 37(b) which 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 opposing designated claims, including the claim for punitive damages, or from introducing designated matters in evidence;
- (iii) staying further proceedings until the order is obeyed;
- (iv) rendering a default judgment against the disobedient party; or
- (v) treating as contempt of court the failure to obey any order and initiating contempt proceedings; and
- (vi) an award of fees and costs against the disobedient party for failing to comply with the Order to Compel.

Bundy did not respond by providing the required responses to interrogatories and requests for production by that extended May 8, 2023 deadline.

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<sup>12</sup> The original Motion for Contempt against Ammon Bundy and People's Rights Network was filed Feb. 7, 2023. No one appeared when that motion was set for hearing with a Notice of Hearing. Then Court then required service by summons. A Renewed Motion for Contempt was filed March 30, 2023. Ammon Bundy still failed to appear after summonsed to the arraignment. The Court issued a Warrant of Attachment for Ammon Bundy on April 18, 2023, and that warrant still remains unserved at this time.

<sup>13</sup> An Order of Default was originally ordered against Ammon Bundy on Sept. 2, 2022 and then another Order of Default on Fourth Amended Complaint Against Ammon Bundy was filed Apr. 24, 2023.



Bundy did file a Memorandum in Support of Petition to Transfer Case from State Court to Federal Court in the United States District Court of Idaho. He provided notice to this Court of that Petition on May 8, 2023—the deadline set by this Court’s Order compelling him to respond to discovery. In the Federal Court’s decision,<sup>14</sup> it notes Bundy filed the Notice of Removal on May 1, 2023 and his memorandum in support on May 8, 2023. Ultimately, Judge Nye determined there was not diversity, any federal question, or any Equal Rights violation that would confer jurisdiction for the Federal Court to consider this case. Judge Nye also determined that Bundy’s notice was procedurally defective for reasons including Bundy did not file to remove within 30 days of this action being commenced—instead waiting an entire year to pursue removal. While this Court is unaware of why Judge Nye concludes his decision this way, that decision concludes with a warning:

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.

Judge Nye entered his order remanding this case back to state court on May 19, 2023.

The Plaintiffs had filed this Motion for Sanctions while the Notice of Removal was pending and then filed their Amended Motion once jurisdiction was returned to state court.

Bundy still did not respond the discovery requests after jurisdiction was returned to state court or any time before the June 6, 2023 hearing.

Plaintiffs have served discovery requests and notices of depositions on Ammon Bundy.<sup>15</sup> Bundy’s failure to comply with deposition notices are addressed in this Court’s Memorandum Decision and Orders for Sanctions on Motions for Sanctions Re: Depositions issued contemporaneously with this decision. Plaintiffs served the following discovery requests on Ammon Bundy:

Plaintiff St. Luke’s Health System, Ltd.’s Second Interrogatories, First Requests for Production to Defendant Ammon Bundy, served October 19, 2022;<sup>16</sup>

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<sup>14</sup> Notice of Idaho USDC Decision and Order (Dkt.26), Ex. A, filed in this case May 19, 2023.

<sup>15</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶¶ 4-14 and Exs. A-H.

<sup>16</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 5, Ex. A.



Third Set of Interrogatories and Second Set of Requests for Production of Documents to Ammon Bundy, served on April 21, 2023.<sup>17</sup>

Ammon Bundy did not respond to either set of discovery requests.

Bundy had previously failed to respond to expedited discovery requests so this Court had previously awarded sanctions<sup>18</sup> and fees for those violations,<sup>19</sup> and the fees ordered as sanctions remain unpaid.<sup>20</sup> The Plaintiffs moved for contempt<sup>21</sup> but since they are seeking a criminal sanction in that proceeding (a fine), personal jurisdiction is necessary, and Bundy has not appeared under a Notice of Hearing or a Summons in that proceeding so a warrant of attachment was issued and currently remains unserved. Plaintiffs also tried to obtain discovery responses through a deposition, but Bundy has repeatedly failed to appear for depositions and has been sanctioned for those failures to appear.<sup>22</sup>

While sanctions for discovery violations are appropriate, the Court has already entered an Order of Default against Ammon Bundy and has previously awarded fees for failure to appear at an earlier scheduled deposition ordered to obtain his discovery responses since he failed to respond in writing to the requests. There is a clear record of delay in Bundy providing any response in this case, any lesser sanctions have been ineffective, and the previous Motion for Contempt and Renewed Motion for Contempt has been ineffective in gaining Bundy's cooperation or compliance. Further, his late-filed attempted removal to Federal court and failure to appear in state court to answer the Motion for Contempt demonstrates Bundy's efforts to delay additional sanctions or consequences for his previous violations. This delay has caused prejudice to the Plaintiffs because the delay has permitted time for additional violations of this Court's Preliminary Injunction and Protective Orders and permitted time for additional adverse

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<sup>17</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 11, Ex. G.

<sup>18</sup> See Order on Motion for Sanctions, filed Sep. 8, 2022.

<sup>19</sup> See Order Awarding Fees, filed Oct. 12, 2022.

<sup>20</sup> See Three Gem County Sheriff's Officer Personal Return of Service (Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network), each filed on October 17, 2022 and each with \$0 collected.

<sup>21</sup> The original Motion for Contempt against Ammon Bundy and People's Rights Network was filed Feb. 7, 2023. No one appeared when that motion was set for hearing with a Notice of Hearing. Then Court then required service by summons. A Renewed Motion for Contempt was filed March 30, 2023. Ammon Bundy still failed to appear after summonsed to the arraignment. The Court issued a Warrant of Attachment for Ammon Bundy on April 18, 2023, and that warrant still remains unserved at this time.

<sup>22</sup> See Memorandum Decision and Orders for Sanctions on Motions for Sanctions Re: Depositions, filed June 13, 2023.





online postings about the Plaintiffs in this case. So, although it is a severe sanction, this Court finds entry of a default judgment after the requisite default damages hearing is warranted against Ammon Bundy.

The Court GRANTS IN PART AS TO AMMON BUNDY the Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations.

This Court ORDERS:

- 1) This Court will deem admitted any factual allegations pled by Plaintiffs in the Fourth Amended Complaint against Ammon Bundy.
- 2) This Court will make a determination of damages based on supporting evidence submitted by the Plaintiffs at the default damages hearing since the claims are not for a sum certain, and after that determination will enter a default judgment.
- 3) This court will not consider any requested but undisclosed evidence from Ammon Bundy during a default damages hearing.
- 4) This court will not consider opposing argument from Ammon Bundy during a default damages hearing since he is in default.

No requests for admissions were part of any of the discovery requests in this case so the court cannot deem those requests as admitted.<sup>23</sup>

To the extent that Plaintiffs request this Court enter adverse inferences against Bundy for his failures to comply with discovery, the Plaintiffs have not provided a list of what inferences they want the Court to make. So, the Court will not enter any adverse inferences at this time, recognizing Plaintiffs are entitled to a default judgment. Still, the Court will prohibit Ammon Bundy from producing any undisclosed evidence at the default damages hearing of this matter.

Since the Court granted Plaintiffs' Amended Motion, the Court does not find any reason that an award of fees for bringing this motion is unjust. Therefore, the Court orders Ammon Bundy to pay reasonable costs and fees to Plaintiffs for their costs incurred in filing and pursuing this motion. The Plaintiffs must file a separate memorandum of costs and fees related to the

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<sup>23</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶¶ 4, 11 and Exs. A, G.



Ammon Bundy's failure to answer Plaintiffs' Second Interrogatories, First Requests for Production and their Third Set of Interrogatories and Second Set of Requests for Production of Documents within fourteen days of service of this decision.

### **B. Diego Rodriguez**

Diego Rodriguez filed his original Answer September 6, 2022. The Court served Rodriguez with its General Outline of Trial Procedures for a Pro Se Party on September 28, 2022. Rodriguez personally appeared for a videoconference scheduling conference on October 11, 2022, entered into a Stipulation for Scheduling and Planning that was filed on October 11, 2022, and also requested in writing service in this case by e-mail on October 14, 2022. The Court entered its Notice of Trial Setting on October 12, 2022 that orders adherence by Rodriguez and Plaintiffs to all dates and deadlines in the Stipulation for Scheduling and Planning. Rodriguez also appeared at a second videoconference hearing on December 20, 2022, where the Court explained to Rodriguez (and he acknowledged) that he must request videoconference hearings and the Court must grant that request in order to obtain a videoconference hearing.. However, Rodriguez did not appear for properly noticed hearings on November 22, 2022, January 24, 2023, February 21, 2023, or February 28, 2023. Despite Rodriguez's continuing absence from hearings and absence from noticed depositions, Rodriguez filed an Answer to the Fourth Amended Complaint on March 15, 2023. The Court then held hearings on March 21, 2023, April 18, 2023, and May 23, 2023 and Rodriguez failed to attend each of these hearings.

Diego Rodriguez joined<sup>24</sup> in Ammon Bundy's Petition to move this case to Federal Court discussed under section A. above. Ultimately, Judge Nye determined there was not diversity, any federal question, or any Equal Rights violation that would confer jurisdiction for the Federal Court, and that the Motion was procedurally defective for reasons including that it was not filed within 30 days of this action being commenced—instead waiting an entire year to pursue removal.<sup>25</sup> Again, the Court notes Judge Nye's cautionary admonishment at the end of that

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<sup>24</sup> Petition to Enjoin Ammon Bundy in Transferring from State Court to Federal Court, with notice provided to this Court on May 9, 2023. As Judge Nye noted, although its title included the term "Enjoin," the Petition actually sought to join Bundy's request.

<sup>25</sup> Notice of Idaho USDC Decision and Order (Dkt.26), Ex. A, filed in this case May 19, 2023.



decision also applied to Rodriguez and the Plaintiff entities. Judge Nye entered his order remanding this case back to state court on May 19, 2023.

In spite of Judge Nye's Decision and Order entered May 19, 2023, on May 23, 2023, someone (and the Court does not know who because there was a blank certificate of service) left Rodriguez's May 23, 2023 Notice of Removal to Federal Court at the clerk's counter on the first floor of the Ada County Courthouse. That Notice did not have a file stamp from the Federal court showing the notice had actually been filed. The hearing on a Motion for Sanctions and also a Motion for Contempt against Rodriguez were set for hearing on May 23, 2023. Rather than attending this Court's hearing or filing responses to the motions actually noticed for hearing May 23, 2023, he filed his "moot" Notice of Removal to Federal Court (which this court referenced on the record on May 23, 2023 as "frivolous" since it was filed after jurisdiction in this case had already been returned to the Fourth Judicial District). This Court views Rodriguez's moot or frivolous second attempt to remove this case to Federal court as an attempt to delay sanctions and contempt proceedings. Judge Nye immediately dismissed Rodriguez's second attempt to remove this case to Federal court as moot.<sup>26</sup>

Rodriguez was not a defaulted party when the discovery requests were served and he was not a defaulted party when these motions were noticed and heard. Yet, Rodriguez failed to file any timely written response to these motions as required by the civil rules and this Court's scheduling orders.<sup>27</sup>

Diego Rodriguez's failure to comply with deposition notices are addressed in this Court's Memorandum Decision and Orders for Sanctions on Motions for Sanctions Re: Depositions issued contemporaneously with this decision.

Plaintiffs served the following discovery requests on Diego Rodriguez after he was served with the Summons and Complaint and after he filed his Answer in this case:

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<sup>26</sup> Notice of Idaho USDC Decision and Order (Dkt.31) Holding Rodriguez's Attempted Removal was Moot, Ex. A, filed in this case June 1, 2023.

<sup>27</sup> I.R.C.P. 7(b)(3)(B) requires any response or opposing affidavits to be filed seven days before a noticed hearing; the Order Granting Motion to Shorten Time, entered June 2, 2023, required Rodriguez to file any response no later than June 5, 2023. Fourth Judicial District Local Rule 5.2, eff. Apr. 20, 2020, states:

If the moving party or his or her attorney appears to argue the motion at the time set, if the opposing party ... does not appear, and if the motion has been properly and timely noticed for hearing with proof of due service, the court may render a decision on the merits of the motion.



Plaintiff St. Luke's Health System, Ltd.'s Second Set of Interrogatories and First Set of Requests for Production of Documents to Defendant Diego Rodriguez served on October 7, 2022.<sup>28</sup> Any response was due no later than November 7, 2022. Rodriguez did not serve any response to these interrogatories or requests for production by that date. Idaho Rule of Civil Procedure 37 provides sanctions for a party's failure to respond to discovery. The Court entered many orders and sanctions trying to get Rodriguez to fully respond to those discovery requests.

Then Plaintiffs served an additional Third Set of Interrogatories and Second Set of Requests for Production of Documents to Diego Rodriguez, served on April 21, 2023.<sup>29</sup> The responses to these interrogatories and requests for production were required no later than May 22, 2023 but no responses were served to the Plaintiffs by that date. On May 23, 2023, counsel for Plaintiffs' contacted Diego Rodriguez by e-mail at the [freedommanpress@protonmail.com](mailto:freedommanpress@protonmail.com) e-mail address that Diego Rodriguez provided the Court for service of all documents in the case in his written Notice with the Court Requesting Service by Email, filed October 14, 2022.<sup>30</sup> Plaintiffs' counsel encouraged Rodriguez to withdraw his frivolous Notice of Removal filed May 23, 2023. Rodriguez responded by e-mail from that same e-mail address to Plaintiffs' counsel Stidham on May 23, 2023 at 12:23 (approximately two hours before the hearing set on the Motion for Sanctions) with an e-mail using derogatory and disparaging language specifically to insult Plaintiffs' counsel.

Given that response and also previous similar responses to requests to meet and confer about discovery failures, this Court finds it was not necessary to further meet and confer before filing the Amended Motion for Sanctions requesting additional sanctions for Rodriguez's failure to respond to Third Set of Interrogatories and Second Set of Requests for Production of Documents to Diego Rodriguez, served on April 21, 2023.

Idaho Rule of Civil Procedure 26(a)(2) permits discovery by interrogatories and 26(a)(3) production of documents, electronically stored information, or tangible things. Idaho Rule of Civil Procedure 33(b)(2) required Rodriguez to serve answers and any objections to interrogatories not later than thirty days after being served with the interrogatories unless that time was shortened by stipulation or by order of the court. Idaho Rule of Civil Procedure 34(b)(2)(A) required Rodriguez to respond to the requests for production not later than thirty days after

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<sup>28</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 14, Ex. J.

<sup>29</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 12, Ex. H.

<sup>30</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 13, Ex. I.



being served with the requests unless that time was shortened by stipulation or by order of the court. This Court did not receive any motion for protective order related to these discovery requests or any motion to extend time to respond to each discovery request.

The Court finds that Diego Rodriguez has failed to respond to the Second Set of Interrogatories and First Set of Requests for Production of Documents to Defendant Diego Rodriguez when responses were due no later than November 7, 2022, and Rodriguez has also failed to respond to the Third Set of Interrogatories and Second Set of Requests for Production of Documents to Diego Rodriguez when responses were due no later than May 22, 2023. Further, rather than meet and confer in good faith, Rodriguez took steps to further delay these proceedings and to disrupt proceedings on the Motions for Contempt and Motions for Sanctions filed against him.

Further, Section D of the Stipulation for Scheduling and Planning required Rodriguez must serve any supplemental response to discovery required by Idaho Rule of Civil Procedure 26(e) by 42 days before trial or seek leave from the Court and show good cause for a late disclosure. Any supplemental discovery was due no later than May 26, 2023 under the Stipulation for Scheduling and Planning and no later than May 31, 2023 under this Court's Order for Extension of Time to Supplement Discovery Through May 31, 2023, filed June 7, 2023. It was not Rodriguez that moved for leave to extend the supplemental discovery deadline and with Rodriguez's bad faith efforts to remove this case to Federal court twice to avoid sanctions and contempt, along with his derogatory, disparaging and insulting communications to Plaintiffs' counsel in response to efforts to meet and confer to encourage production of discovery and documents without court intervention, this Court finds that it would not have found good cause for Rodriguez to extend the supplemental discovery deadline.

Since Rodriguez has failed to comply with this Court's Notice of Trial Setting and Order Governing Proceedings, filed October 12, 2022, that ordered adherence to all dates and deadlines in the Stipulation for Scheduling and Planning, filed October 11, 2022, for Rodriguez and the Plaintiffs, this Court finds that sanctions pursuant to Rule 16 are also warranted. Idaho Rule of Civil Procedure 16(e)(1) states a court may sanction any part if a party (A) fails to obey a scheduling order or (C) fails to participate in pretrial proceedings in good faith. For failing to abide by the Stipulation for Scheduling and Planning and Notice of Trial Setting and Order Governing Proceedings, Idaho Rule of Civil Procedure 16(e)(2) provides,

The court may make such orders as are just, and may, along with any other sanction, make any of the orders allowed under Rule 37(b)(2)(A). Also, in



addition to or in the place of any other sanction, the court must require the party or the party's attorney, or both, pay any expenses incurred because of noncompliance with this rule, including attorney's fees, unless the court finds noncompliance was substantially justified or that circumstances are such that such an award of expenses would be unjust.

The Court finds that sanctions for failing to comply with discovery as required by Idaho Rules of Civil Procedure 26, 33 and 24, and also for his failure to comply with Rule 16, are warranted against Diego Rodriguez given his course of conduct in this case.

All of those rules reference Idaho Rule of Civil Procedure 37(b)(2)(A) as sanctions for non-compliance and that list of permissible sanctions for the court which includes, but is not limited to:

- (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.

The Court finds that Rodriguez has been provided with ample opportunities to comply with discovery requests, or even meet and confer about non-compliance in a civil manner. He has also received previous notice from this Court of the available sanctions if he fails to comply with Court orders.

Rodriguez previously failed to respond to expedited discovery requests permitted by this Court's Order Granting Motion for Expedited Discovery entered on June 3, 2022, and then the Amended Order Granting Motion for Expedited Discovery entered on July 12, 2022 before that deadline of August 4, 2022. So, in this Court's Order on Motions for Sanctions entered September 8, 2022, this Court ordered Diego Rodriguez to sit for a deposition to answer the questions posed in Interrogatories 1 through 5 and the costs of deposition were ordered at Rodriguez's expense since it was his failure to answer written interrogatories that caused that



expense.<sup>31</sup> During that limited deposition, Rodriguez attempted to encourage his supporters to attend the videoconferenced deposition<sup>32</sup> which then required this Court to enter its Order for Protection re: Depositions.<sup>33</sup> Rodriguez's limited deposition was conducted by videoconference on October 5, 2022 where Rodriguez testified he was a Florida resident but would not specifically identify his address.<sup>34</sup> He agreed to finish that deposition at a later time but never did. A Motion for Sanctions was noticed for hearing on November 22, 2022 but Rodriguez failed to file a response to the motion and failed to appear at that hearing. Rodriguez was ordered to appear for an in-person deposition noticed by Plaintiffs in December 2022. Despite that order, Rodriguez would only provide a deposition location in Brazil. Since Rodriguez is a party, Plaintiffs' counsel noticed a December 2022 deposition in Orlando, Florida, where Rodriguez testified he resided but Rodriguez did not contact Plaintiffs' counsel to reschedule, did not seek any protective order from the Court, or attend that deposition.<sup>35</sup> The Court ultimately ordered Rodriguez to pay Plaintiffs \$5,408.10 in deposition costs,<sup>36</sup> ultimately sanctioned Rodriguez for failing to pay those deposition costs,<sup>37</sup> and those deposition costs still remain unpaid by Rodriguez. Further, on February 8, 2023, this Court entered its Order Compelling Defendant Rodriguez to Respond to Discovery ordering him to supplement his deposition responses to Interrogatories 1-5 with full responses, fully respond to Interrogatories 6, 8, 11, 14, 15, 28, and 29-32, and Requests for Production 16, 19, 22, 23, 37 and 41.<sup>38</sup> Rodriguez did not comply with that Order. Next, this Court entered an Order for Sanctions again compelling Rodriguez to respond to those discovery requests and requiring Rodriguez to sit for a deposition in Boise,

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<sup>31</sup> Order on Motions for Sanctions, Sept. 8, 2022.

<sup>32</sup> Declaration of Erik K. Stidham in Support of Motion for Sanctions and Protective Order Relating to limited Deposition of Diego Rodriguez Set for October 5, 2022, filed Oct. 4, 2022.

<sup>33</sup> Memorandum Decision and Order Granting Protective Order re: Depositions but Denying Sanctions, filed Nov. 29, 2022; Order for Protection re: Depositions, filed Nov. 29, 2022.

<sup>34</sup> Declaration of Erik Stidham in Support of Motion to Compel, filed Dec. 6, 2022, ¶¶8 and Ex. D, pp. 10-15.

<sup>35</sup> Order Granting Plaintiffs' Motion for Sanctions against Rodriguez for Failure to Comply with Court Orders, filed Apr. 25, 2022, p. 3.

<sup>36</sup> Order Awarding Fees, filed Dec. 13, 2022.

<sup>37</sup> Order Granting Plaintiffs' Motion for Sanctions against Rodriguez for Failure to Comply with Court Orders, filed Apr. 25, 2022, pp. 10-11.

<sup>38</sup> Order Granting Plaintiffs' Motion for Sanctions against Rodriguez for Failure to Comply with Court Orders, filed Apr. 25, 2022, p. 4.



Idaho, to be noticed by Plaintiffs no later than May 24, 2023.<sup>39</sup> The Court also appointed a Discovery Referee to assist Rodriguez and Plaintiffs' counsel in resolving discovery disputes. Rodriguez has not noticed any motions for the Discovery Referee's consideration. The Plaintiffs noticed a deposition in Boise, Idaho, for Rodriguez on May 12 and 15, 2023, which Rodriguez did not appear for, did not contact Plaintiffs counsel to reschedule, and did not move the Court or the Discovery Referee for an order of protection.

The Plaintiffs filed a Motion for Contempt<sup>40</sup> but since they are seeking a criminal sanction in that proceeding, personal jurisdiction is necessary, and Rodriguez did not appear on May 23, 2023 as required by the properly-served Notice of Hearing, but rather redoubled his frivolous efforts to again remove this case to Federal court to avoid accountability.

Because of Rodriguez's attempts to remove this case to Federal court, in an abundance of caution, Plaintiffs then noticed another deposition for Rodriguez in Boise, Idaho, on June 9, 2023 but Rodriguez failed to confirm his attendance and this Court has not received any notice that he attended it.

Diego Rodriguez's sanctions for failing to attend the court-ordered depositions are included in this Court's Memorandum Decision and Order on Motions for Sanctions re: Depositions issued contemporaneously with this decision. The Court cites to the number of missed depositions here just to reiterate that lesser sanctions have been ordered and ordered in this case to no avail. Lesser sanctions have been ineffective.

Rodriguez, as a party that has filed an Answer, is held to the same standards and rules as those represented by an attorney and is not entitled to any special consideration for his failure to attend hearings, failures to timely file responses to motions, and even failing to timely request leave from the court to attend hearings by videoconference. It was clearly explained to Rodriguez at the hearings that he attended<sup>41</sup> that all hearings in this litigation are set in person unless the Court grants leave for videoconference. Yet, none of the Court's efforts or orders have changed Rodriguez's behavior or resulted in him complying fully with Plaintiffs' properly-served discovery requests.

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<sup>39</sup> Order Granting Plaintiffs' Motion for Sanctions against Rodriguez for Failure to Comply with Court Orders, filed Apr. 25, 2022, pp. 9-11.

<sup>40</sup> Motion for Contempt against Diego Rodriguez, filed May 2, 2023.

<sup>41</sup> He only attended the hearings on October 11, 2022 and December 20, 2022.





If Rodriguez was in good faith trying to respond to discovery, he had the opportunity to seek assistance from the Discovery Referee appointed by this Court to assist in resolving discovery disputes<sup>42</sup> and he has had ample opportunities to respond. Instead, he has continued to disparage and insult opposing counsel rather than engage in this process in good faith and he has continued to avoid hearings. Given Diego Rodriguez's escalating behavior and his continued behavior that is the subject of the Motion for Contempt as outlined in the Declarations filed in Support of that Motion, this Court finds that continuing to resolve discovery disputes with the Discovery Referee would be futile at this point and only provide additional delay in resolution of this case since Rodriguez seems to actually seek delay by failing to attend hearings, failing to timely respond to motions, and failing to correct his behavior or pay the awards of fees that now top \$30,000 awarded as sanctions.<sup>43</sup>

Sanctions for discovery violations and violations of this Court's Notice of Trial Setting and Order Governing Proceedings are warranted. There is a clear record of delay by Rodriguez in responding to discovery and failing to comply with the Notice of Trial Setting, any lesser sanctions previously ordered have not been effective, Rodriguez is now files frivolous motions and disparages and insults opposing counsel to create delay in the orderly procession of this case. This delay has caused prejudice to the Plaintiffs through escalated costs but also because Rodriguez's delay has permitted time for additional violations of this Court's Preliminary Injunction and Protective Orders, permitted time for additional adverse online postings about the Plaintiffs in this case as discussed in the Declarations from Dr. Rachel Thomas,<sup>44</sup> and Dr. Michael Wheaton,<sup>45</sup> all filed May 10, 2023.

The Court finds that vacating and resetting the July 10, 2023 trial date that Rodriguez agreed to would not make Rodriguez more cooperative with his discovery obligations or this Court's orders. It would actually reward Rodriguez's efforts to delay this case without any meaningful participation in the litigation, allow him to continue to violate this Court's Preliminary Injunction, and continue to expose opposing counsel and witnesses to Rodriguez's

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<sup>42</sup> Order Appointing Discovery Master or Referee, filed Apr. 25, 2023.

<sup>43</sup> See Order Awarding Fees against Rodriguez, filed June 12, 2023.

<sup>44</sup> Declaration of Rachel Thomas, filed May 10, 2023.

<sup>45</sup> Declaration of Michael Wheaton, M.D. in Support of Plaintiffs Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations, filed May 10, 2023.



contemptuous communications. Delaying the trial would not have any greater effect than this Court's orders continually extending his deadlines to respond. Lesser sanctions have been ineffective. So, although it is a severe sanction, this Court now finds that striking Rodriguez's Answer and Answer to Fourth Amended Complaint is warranted.

The Court GRANTS AS TO DIEGO RODRIGUEZ the Motion and Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations.

For Diego Rodriguez's noncompliance with the Notice of Trial Setting and Order Governing Further Proceedings, filed October 17, 2022, the Stipulation for Scheduling and Planning, filed October 11, 2022, and his responsibilities to timely respond to Plaintiffs' discovery requests, this Court enters the following ORDERS:

- 1) Diego Rodriguez's Answer, filed September 6, 2022, and his Answer to the Fourth Amended Complaint and Demand for Jury Trial, filed March 15, 2023, will be stricken from the record.
- 2) An Order of Default against Diego Rodriguez is entered.
- 3) This Court will deem admitted any factual allegations pled by Plaintiffs in the Fourth Amended Complaint against Diego Rodriguez.
- 4) This Court will make a determination of damages based on supporting evidence submitted by the Plaintiffs at the default damages hearing since the claims are not for a sum certain.
- 5) This court will not consider opposing argument or evidence from Diego Rodriguez during a default damages hearing.

No requests for admissions were part of any of the discovery requests in this case so the court cannot deem those requests as admitted.

The Plaintiffs stated in their memorandum, that "[p]rior to the Pretrial Conference, St. Luke's Parties will provide the Court with proposed adverse inferences based on the discovery sought against Defendants." That list was not actually provided to the Court their Pretrial Conferences filings. The court finds it is not appropriate to make a decision on any proposed inferences without an opportunity to review the specific requests. So, the Court will not enter any adverse inferences at this time, recognizing Plaintiffs are entitled to a default judgment. Still,



the Court will prohibit Diego Rodriguez from producing any undisclosed evidence at the default damages hearing of this matter.

The Court will not *sua sponte* swear an Affidavit of Contempt pursuant to Idaho Rule of Civil Procedure 75 because the sanctions above are an adequate remedy for violations, Diego Rodriguez does not appear to be in Idaho so incarceration until he complies with this Court's orders and the discovery requests is not feasible, and fines would be no more effective than this Court's previous orders awarding fees against Rodriguez which have gone unpaid. Since Rodriguez has not actually attended a hearing or deposition in Idaho, the Court finds Rodriguez is no more likely to attend a contempt proceeding in Idaho. So, another contempt proceeding will be ineffective, and the Plaintiffs will be able to more effectively enforce a default judgment entered pursuant to this Order in a foreign jurisdiction or in Idaho. While the court has inherent powers to enforce its orders through contempt proceedings, it also has inherent powers to enforce its judgments through contempt proceedings. Still, Plaintiffs can initiate a new contempt proceeding by Affidavit pursuant to Idaho Rule of Civil Procedure 75 if they desire.

The Court orders costs and reasonable attorney fees related to Plaintiffs' Motion and Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations that are related to Diego Rodriguez's failure to comply with discovery, which can include the time that Plaintiffs' counsel spent attending the 2:30 hearing on May 23, 2023 when Rodriguez failed to appear and frivolously attempted to again remove this matter to Federal court to avoid responsibility for his failure to comply with discovery and other orders of this Court. The Plaintiffs must file a memorandum of costs and fees within fourteen days to claim any costs related to their Motion and Amended Motion for Sanctions against Rodriguez.

### **C. Ammon Bundy for Governor and People's Rights Network**

Ammon Bundy for Governor and People's Rights Network have never filed responsive pleadings or any response to any motion in this litigation.

Orders of Default have been entered against Ammon Bundy for Governor and People's Rights Network.<sup>46</sup>

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<sup>46</sup> An Order of Default was originally ordered against Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network on September 2, 2022. An Order of Default was originally ordered against Freedom Man Press LLC and Freedom Man PAC on September 13, 2022. The following are the Orders



No one has ever appeared in court or in this proceeding for Ammon Bundy for Governor. At the February 21, 2023 hearing for the arraignment of Ammon Bundy and People's Rights Network on their Motion for Contempt, the courtroom was full of about thirty people. When the Court asked if any representative for People's Rights Network was present, several people stood and said they were the People's Rights Network. Since Ammon Bundy was the person served with the Motion for Contempt and Notice of Hearing, the Court clarified that Ammon Bundy was not in the courtroom. That was the only time that anyone responded on behalf of People's Rights Network when the Court did the call of the case at the beginning of each hearing in this case.

The Court previously issued its Order Compelling Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network to Respond to Discovery and Notices of Deposition on April 24, 2023 that ordered the following related to Ammon Bundy for Governor and the People's Rights Network:

IT IS HEREBY ORDERED that Ammon Bundy for Governor must:

- 1) Make a designation under Rule 30(b)(6) of its designated representative to be deposed no later than May 1, 2023;
- 2) Answer Plaintiff St. Luke's Health System, Ltd's, First Interrogatories and Requests for Production to Defendant Ammon Bundy for Governor served on October 24, 2022 no later than May 8, 2023; and
- 3) Its designated representative that was designated under Rule 30(b)(6) must sit for a deposition at the time and place noticed by Plaintiffs and such deposition must be completed no later than May 24, 2023.

IT IS HEREBY ORDERED that People's Rights Network must:

- 1) Make a designation under Rule 30(b)(6) of its designated representative to be deposed no later than May 1, 2023;
- 2) Answer Plaintiff[] St. Luke's Health System, Ltd's, First Interrogatories and Requests for Production to Defendant People's Rights Network served on December 9, 2022 no later than May 8, 2023; and
- 3) Its designated representative that was designated under Rule 30(b)(6) must sit for a deposition at the time and place noticed by Plaintiffs and such deposition must be completed no later than May 24, 2023.

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of Default related to the Fourth Amended Complaint filed March 3, 2023: Order of Default on Fourth Amended Complaint Against Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network, filed Apr. 24, 2023; and Order of Default by Freedom Man Press LLC and Freedom Man PAC, filed June 1, 2023.



Failure to comply with this Order by Ammon Bundy, Ammon Bundy for Governor, and/or People's Rights Network will result in sanctions listed in Idaho Civil Rule of Procedure 37(b) which 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 opposing designated claims, including the claim for punitive damages, or from introducing designated matters in evidence;
- (iii) staying further proceedings until the order is obeyed;
- (iv) rendering a default judgment against the disobedient party; or
- (v) treating as contempt of court the failure to obey any order and initiating contempt proceedings; and
- (vi) an award of fees and costs against the disobedient party for failing to comply with the Order to Compel.

Ammon Bundy for Governor did not answer Plaintiff St. Luke's Health System, Ltd's, First Interrogatories and Requests for Production to Defendant Ammon Bundy for Governor, served on October 24, 2022 on or before May 8, 2023 as ordered. The People's Rights Network did not answer Plaintiff St. Luke's Health System, Ltd's, First Interrogatories and Requests for Production to Defendant People's Rights Network, served on December 9, 2022, on or before May 8, 2023 as ordered.

Ammon Bundy for Governor's and People's Rights Network's failure to designate a witness to appear for depositions are addressed in this Court's Memorandum Decision and Orders for Sanctions on Motions for Sanctions Re: Depositions issued contemporaneously with this decision.

On the date of the deadline to designate a witness to appear for depositions, Ammon Bundy (in his personal capacity) filed the Memorandum in Support of Petition to Transfer Case from State Court to Federal Court in the United States District Court of Idaho discussed above and in the Federal Court's decision,<sup>47</sup> it notes that Ammon Bundy for Governor and People's Rights Network did not appear or join in the proceeding to remove this case to Federal court.<sup>48</sup>

The Plaintiffs have now filed this Motion for Sanctions and Amended Motion requesting sanctions for Ammon Bundy for Governor and People's Rights Network failures to respond to discovery requests.

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<sup>47</sup> Notice of Idaho USDC Decision and Order (Dkt.26), Ex. A, filed in this case May 19, 2023.

<sup>48</sup> Notice of Idaho USDC Decision and Order (Dkt.26), Ex. A, filed in this case May 19, 2023.



Plaintiffs have served the following discovery requests on Ammon Bundy for Governor.

Plaintiff St. Luke's Health System Ltd's First Interrogatories and Requests for Production to Defendant Ammon Bundy for Governor, served October 24, 2022;<sup>49</sup>

Plaintiff St. Luke's Health System, Ltd.'s Second Set of Interrogatories and Second Set of Requests for Production to Defendant Ammon Bundy for Governor, served April 21, 2023.<sup>50</sup>

Plaintiff has served the following discovery requests on People's Rights Network:

Plaintiff St. Luke's Health System Ltd's Second Set of Interrogatories and Second Set of Requests for Production to Defendant People's Rights Network, served April 21, 2023.<sup>51</sup>

Ammon Bundy for Governor and People's Rights Network did not timely responded to those discovery requests and did not seek protection from the Court to avoid answering.

Ammon Bundy for Governor and People's Rights Network had previously failed to respond to expedited discovery requests so this Court had previously awarded sanctions,<sup>52</sup> fees for those violations,<sup>53</sup> and those fees ordered as a sanction remain unpaid.<sup>54</sup> The extended deadline of May 8, 2023 for discovery responses in this Court's April 24, 2023 Order Compelling Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network to Respond to Discovery and Notices of Deposition came and went without any party moving to extend the deadline to provide discovery, filing any motion for protection order with this Court, or providing the court's ordered discovery responses.

The Plaintiffs moved for contempt<sup>55</sup> but since they are seeking a criminal sanction in that proceeding (a fine), personal jurisdiction is necessary, and Bundy, in his personal capacity or as

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<sup>49</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 6, Ex. B.

<sup>50</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 7, Ex. C.

<sup>51</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 10, Ex. F.

<sup>52</sup> See Order on Motion for Sanctions, filed Sep. 8, 2022.

<sup>53</sup> See Order Awarding Fees, filed Oct. 12, 2022.

<sup>54</sup> See Three Gem County Sheriff's Officer Personal Return of Service (Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network), each filed on October 17, 2022 and each with \$0 collected.

<sup>55</sup> The original Motion for Contempt against Ammon Bundy and People's Rights Network was filed Feb. 7, 2023. No one appeared at the time set for hearing in the Notice of Hearing. Then Court then required service by summons. A Renewed Motion for Contempt was filed March 30, 2023. Ammon Bundy still failed to appear after served with a summons requiring attendance on that arraignment. The



the representative for People's Rights Network, has not appeared under a Notice of Hearing or the later Summons issued in that proceeding so a warrant of attachment currently remains unserved. Plaintiffs also tried to obtain discovery responses through a deposition but Bundy has failed to appear for depositions and is sanctioned in this Court's contemporaneous Memorandum Decision and Orders for Sanctions on Motions for Sanctions re: Depositions.

The Court has already entered Orders of Default against Ammon Bundy for Governor and People's Rights Network. On default all well pleaded factual allegations in the complaint are already deemed admitted. *Cement Masons'-Employers' Tr. v. Davis*, 107 Idaho 1131, 1132, 695 P.2d 1270, 1271 (Ct. App. 1985). The Court has addressed the failure to designate a witness for depositions in this Court's separate order. The delay in any default damages hearing against Ammon Bundy for Governor and People's Rights Network was actually due to the Plaintiffs amending the complaint three times since they could have just scheduled a default damages hearing to prove their damages and obtain a default judgment against these defendants after the Order for Defaults were entered.

The Court enters an ORDER than Ammon Bundy for Governor and People's Rights Network cannot present any opposing evidence at the default damages hearing that was requested in any discovery request to Ammon Bundy for Governor and People's Rights Network since those discovery requests went unanswered. Then, although it is a severe sanction, this Court finds entry of a default judgment after the requisite default damages hearing is warranted against Ammon Bundy for Governor and People's Rights Network for noncompliance with the discovery requests.

The Court GRANTS IN PART AS TO AMMON BUNDY FOR GOVERNOR AND PEOPLE'S RIGHTS NETWORK the Motion and the Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations.

This Court ORDERS:

- 1) This Court will deem admitted any factual allegations pled by Plaintiffs in the Fourth Amended Complaint against Ammon Bundy.

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Court issued a Warrant of Attachment for Ammon Bundy on April 18, 2023, and that warrant still remains unserved at this time.



- 2) This Court will make a determination of damages based on supporting evidence submitted by the Plaintiffs at the default damages hearing since the claims are not for a sum certain, and after that determination will enter a default judgment.
- 3) This court will not consider any requested but undisclosed evidence from Ammon Bundy for Governor or the People's Rights Network during a default damages hearing.
- 4) This court will not consider opposing argument from Ammon Bundy for Governor or People's Rights Network during a default damages hearing since they are in default.

No requests for admissions were part of any of the discovery requests in this case so the court cannot deem those requests as admitted.<sup>56</sup>

To the extent that Plaintiffs request this Court enter adverse inferences against Ammon Bundy for Governor or People's Rights Network for their failures to comply with discovery, the Plaintiffs have not provided a list of what inferences it wants the Court to make. So, the Court will not enter any adverse inferences at this time, recognizing Plaintiffs are entitled to a default judgment. Still, the Court will prohibit Ammon Bundy for Governor or People's Rights Network from producing any undisclosed evidence at the default damages hearing of this matter.

Since the basis for this order is duplicative of the relief available to the Plaintiffs under the Order of Default and this Court's Memorandum Decision and Orders for Sanctions on Motions for Sanctions Re: Depositions issued contemporaneously with this decision, this Court finds it would be unjust to also award fees and costs to Plaintiffs on this Motion and Amended Motion for Sanctions Against Ammon Bundy for Governor and the People's Rights Network.

#### **D. Freedom Man Press LLC and Freedom Man PAC**

Freedom Man Press LLC and Freedom Man PAC have never filed any responsive pleadings or any response to any motion in this litigation. No one has ever appeared in court or in this proceeding for Freedom Man Press LLC and Freedom Man PAC. At the scheduling conference held on October 11, 2022, Diego Rodriguez made it clear in his responses to the Court that he was not appearing for or trying to represent Freedom Man Press LLC and Freedom Man PAC.

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<sup>56</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶¶ 6, 7 and Exs. B, C.





Orders of Default have been entered against Freedom Man Press LLC and Freedom Man PAC.<sup>57</sup>

Freedom Man Press LLC's and Freedom Man PAC's failures to designate a witness to appear for depositions are addressed in this Court's Memorandum Decision and Orders for Sanctions on Motions for Sanctions Re: Depositions issued contemporaneously with this decision.

The Plaintiffs have now filed this Motion for Sanctions and Amended Motion requesting sanctions for Freedom Man Press LLC's and Freedom Man PAC's failing to respond to discovery requests.

Plaintiffs served Plaintiff St. Luke's Health System Ltd's Second Set of Interrogatories and Second Set of Requests for Production of Documents to Freedom Man Press LLC, served on April 21, 2023.<sup>58</sup>

Plaintiffs also served Plaintiff St. Luke's Health System Ltd's Second Set of Interrogatories and Second Set of Requests for Production of Documents to Freedom Man PAC served on April 21, 2023.<sup>59</sup>

Neither Freedom Man Press LLC or Freedom Man PAC timely responded to those discovery requests and responses were due not later than May 22, 2023.

Diego Rodriguez (in his personal capacity) joined in that Bundy's Petition to remove this matter to Federal court<sup>60</sup> and it was only Diego Rodriguez (in his personal capacity) that filed the second Notice again attempting to remove this matter to delay the hearing on the original motion for sanctions was originally set for May 23, 2023.

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<sup>57</sup> An Order of Default was originally ordered against Freedom Man Press LLC and Freedom Man PAC on September 13, 2022, then the Court entered an Order of Default by Freedom Man Press LLC and Freedom Man PAC, filed June 1, 2023, when no responsive pleading was filed within 21 days of service of the Fourth Amended Complaint.. I.R.C.P. 12 (a)(1)(A).

<sup>58</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 9, Ex. E.

<sup>59</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶ 8, Ex. D.

<sup>60</sup> Petition to Enjoin Ammon Bundy in Transferring from State Court to Federal Court, with notice provided to this Court on May 9, 2023. As Judge Nye noted, although its title included the term "Enjoin," the Petition actually sought to join Bundy's request.



The Federal Court's decision notes that Freedom Man Press LLC and Freedom Man PAC did not appear or join in the proceeding to remove this case to Federal court.<sup>61</sup>

Freedom Man Press LLC and Freedom Man PAC are defaulted parties and orders to have these entities designate a witness representative have not been complied with and sanctions for that conduct is addressed in a separate order.<sup>62</sup>

The Court has already entered Orders of Default against Freedom Man Press LLC and Freedom Man PAC. On default all well pleaded factual allegations in the complaint are already deemed admitted. *Cement Masons'-Employers' Tr. v. Davis*, 107 Idaho 1131, 1132, 695 P.2d 1270, 1271 (Ct. App. 1985). The Court has addressed the failure to designate a witness for depositions in this Court's separate order. The delay in any default damages hearing against Freedom Man Press LLC and Freedom Man PAC was actually due to the Plaintiffs amending the complaint three times since they could have just scheduled a default damages hearing to prove their damages and obtain a default judgment against these defendants after the Orders for Default were entered.

The Court enters an ORDER that Freedom Man Press LLC and Freedom Man PAC cannot present any opposing evidence at the default damages hearing that was requested in any discovery request to Freedom Man Press LLC or Freedom Man PAC since those discovery requests went unanswered. Then, although it is a severe sanction, this Court finds entry of a default judgment after the requisite default damages hearing is warranted against Freedom Man Press LLC and Freedom Man PAC.

The Court GRANTS IN PART AS TO FREEDOM MAN PRESS LLC AND FREEDOM MAN PAC the Motion and the Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations.

This Court ORDERS:

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<sup>61</sup> Notice of Idaho USDC Decision and Order (Dkt.26), Ex. A, filed in this case May 19, 2023.

<sup>62</sup> See Memorandum Decision and Orders for Sanctions on Motions for Sanctions Re: Depositions, filed contemporaneously.



- 1) This Court will deem admitted any factual allegations pled by Plaintiffs in the Fourth Amended Complaint against Freedom Man Press LLC and Freedom Man PAC.
- 2) This Court will make a determination of damages based on supporting evidence submitted by the Plaintiffs at the default damages hearing since the claims are not for a sum certain, and after that determination will enter a default judgment.
- 3) This court will not consider any requested but undisclosed evidence from Freedom Man Press LLC or Freedom Man PAC during a default damages hearing.
- 4) This court will not consider opposing argument from Freedom Man Press LLC or Freedom Man PAC during a default damages hearing since they are in default.

No requests for admissions were part of any of the discovery requests in this case so the court cannot deem those requests as admitted.<sup>63</sup>

To the extent that Plaintiffs request this Court enter adverse inferences against Freedom Man Press LLC and Freedom Man PAC for their failures to comply with discovery, the Plaintiffs have not provided a list of what inferences it wants the Court to make. So, the Court will not enter any adverse inferences at this time, recognizing Plaintiffs are entitled to a default judgment. Still, the Court will prohibit Freedom Man Press LLC and Freedom Man PAC from producing any undisclosed evidence at the default damages hearing of this matter.

Since the basis for this order is duplicative of the relief available to the Plaintiffs under the Order of Default and this Court's Court's Memorandum Decision and Orders for Sanctions on Motions for Sanctions Re: Depositions issued contemporaneously with this decision, this Court finds it would be unjust to also award fees and costs to Plaintiffs on this Motion and Amended Motion for Sanctions Against Freedom Man Press LLC and Freedom Man PAC.

### **III. CONCLUSION**

The Court GRANTS IN ITS ENTIRETY the Plaintiffs Motion for Sanctions against Defendant Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man PAC, and the People's Rights Network for Ongoing Refusal to Comply with Court

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<sup>63</sup> Stidham Dec. ISO Am. Mtn. Sanctions, ¶¶ 8, 9 and Exs. D, E.



Orders and Discovery Obligations, filed May 10, 2023, and Amended Motion for Sanctions Against Defendants Ammon Bundy, Ammon Bundy for Governor, Diego Rodriguez, Freedom Man Press, Freedom Man Pac, and the People's Rights Network for Ongoing Refusal to Comply with Court Orders and Discovery Obligations, filed May 26, 2023.

The Court awarded fees and costs for Plaintiffs against Ammon Bundy and Diego Rodriguez so the Plaintiffs must file a separate memorandum of costs and fees related to the Ammon Bundy's and Diego Rodriguez's failures to answer interrogatories and requests for production.

Any memorandum of fees and costs for fees permitted in this decision must be filed no later than fourteen days after being served with this decision.

AND IT IS SO ORDERED

Dated 6/12/2023 10:26:32 PM

  
\_\_\_\_\_  
Lynn Norton  
District Judge



**CERTIFICATE OF SERVICE**

I certify that on this day I served a copy of the attached to:

Erik F. Stidham  
Diego Rodriguez

efstidham@hollandhart.com  
freedommanpress@protonmail.com

E-mail  
 E-mail

Ammon Bundy,  
Ammon Bundy for Governor, and  
People’s Rights Network  
c/o Ammon Bundy  
4615 Harvest Lane  
Emmett ID 83617-3601

By E-mail  By mail  
 By fax (number)  
 By overnight delivery / FedEx  
 By personal delivery

Ammon Bundy for Governor  
And People’s Rights Network  
c/o Ammon Bundy  
P.O. Box 370  
Emmett, ID 83617

By E-mail  By mail  
 By fax (number)  
 By overnight delivery / FedEx  
 By personal delivery

Freedom Man PAC and  
Freedom Man Press LLC  
c/o Diego Rodriguez  
1317 Edgewater DR #5077  
Orlando, FL 32804

By E-mail  By mail  
 By fax (number)  
 By overnight delivery / FedEx  
 By personal delivery

Trent Tripple  
Clerk of the Court

Dated: 06/13/2023

By: Janine Korsen  
Deputy Clerk

