

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 for
Sanctions on Motions for Sanctions RE:
Depositions

Plaintiffs' Motion to Compel and for Sanctions as to People's Rights Network and Ammon Bundy for Governor, with a Memorandum¹ and Declaration² in support, all filed May 2, 2023.

Plaintiffs filed three separate motions for sanctions related to failing to attend depositions:

- 1) Plaintiffs' Motion for Sanctions as to Dono Custos, Inc., filed May 23, 2023;³
- 2) Plaintiffs' Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People's Rights Network, and Abish-Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions, filed May 26, 2023;⁴ and

¹ Memorandum in Support of Motion to Compel and for Sanctions as to People's Rights Network and Ammon Bundy for Governor, filed May 2, 2023.

² Declaration of Erik F. Stidham in Support of Motion to Compel and for Sanctions as to People's Rights Network and Ammon Bundy for Governor, filed May 2, 2023.

³ Motion for Sanctions as to Dono Custos, Inc., filed May 23, 2023; Memorandum in Support of Motion for Sanctions as to Dono Custos, Inc. ("Custos Memo"), filed May 23, 2023; Declaration of Jennifer M. Jensen in Support of Motion for Sanctions as to Dono Custos, Inc. ("Jensen Dec"), filed May 23, 2023.

⁴ Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People's Rights Network, and Abish-Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions, filed May 26, 2023; Memorandum in Support of Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People's Rights Network, and Abish-Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions ("Bundy Sanctions Memo"), filed May 26, 2023; Declaration of Erik F. Stidham in Support of Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People's Rights Network, and Abish-



3) Plaintiffs' Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle, Incorporated for Failure to Appear at Properly Noticed Depositions, filed May 26, 2023.⁵

Each of these motions came before the Court for hearing on June 6, 2023.

Appearances: Erik Stidham for Plaintiffs
Diego Rodriguez, pro se, did not appear
An Order of Default⁶ is entered for all other Defendants and no defendant appeared at the hearing

No representative of Dono Custos, Inc., Abish-Husbandi, Inc., Power Marketing Consultants, LLC, Power Marketing Agency, LLC, or Freedom Tabernacle, Incorporated, appeared at the hearing

No written response to any motion was filed by any Defendant, including Defendant Diego Rodriguez.

No written response to any motion was filed by Dono Custos, Inc., Abish-Husbandi, Inc., Power Marketing Consultants, LLC, Power Marketing Agency, LLC, or Freedom Tabernacle, Incorporated.

Based on the sanctions requested by Plaintiffs and the relevant rules, the Court will address sanctions requested against the non-parties separately from sanctions requested against parties in this proceeding. So, the Court will address the Plaintiffs'

Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions ("Stidham Bundy Dec"), filed May 26, 2023.

⁵ Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle Incorporated for Failure to Appear at Properly Noticed Depositions, filed May 26, 2023; Memorandum in Support of Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle Incorporated for Failure to Appear at Properly Noticed Depositions ("Rodriguez Sanctions Memo"), filed May 26, 2023; Declaration of Erik F. Stidham in Support of Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle Incorporated for Failure to Appear at Properly Noticed Depositions ("Stidham Rodriguez Dec"), filed May 26, 2023.

⁶ 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. Orders of Default related to the Fourth Amended Complaint include the 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.



motions as follows: (1) the sanctions requested against non-parties; (2) the sanctions requested against defaulted parties Ammon Bundy, Ammon Bundy for Governor, People's Rights Network ("Bundy Defendants"), and (3) the sanctions requested against Diego Rodriguez.

I. REQUESTED SANCTIONS AGAINST NON-PARTIES

The three pending motions include requests for sanctions against five non-parties that are affiliated with the Defendants. Each of these five non-parties failed to comply with a subpoena to appear at a scheduled deposition. The Court addresses these failures separately from the discovery issues with parties and the Court will not impute personal responsibility on the affiliated Defendants or sanction any Defendant for a non-party's failure to appear for a deposition.

Subpoenas duces tecum were served on Dono Custos, Inc., Abish-Husbandi, Inc., Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle, Incorporated.

1. Dono Custos, Inc.

Plaintiffs filed a Notice of Intent to Serve Amended Foreign Subpoena on April 7, 2023 to Dono Custos, Inc. The subpoena was issued on April 7, 2023 by The Laramie County District Court in the First Judicial District of Wyoming. The Wyoming subpoena was served in Cheyenne, Wyoming, on April 14, 2023.⁷

Idaho Rule of Civil Procedure 45(i) provides: "**Failure to Obey Subpoena.** Failure by any person without adequate excuse to obey a subpoena served upon the person may be deemed a contempt of the court from which the subpoena issued, in addition to the penalties provided by law." Rule 45(j) then adopts the Uniform Interstate Depositions and Discovery Act. The Court finds that Rule 45 does not create the necessary jurisdiction for this Court to enforce or sanction a non-party for its lack of compliance with the subpoena issued in a foreign jurisdiction. This finding is further supported by the Wyoming Rule of Civil Procedure 45(e), which states, "Contempt. -- Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a *contempt of the court from which the subpoena issued*. An

⁷ Return Service of Amended Deposition Subpoena Duces Tecum to Dono Custos, Inc, filed Apr. 19, 2023.



adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by subparagraph (c)(3)(A)(ii).” (emphasis added). Therefore, this Court DENIES Plaintiffs’ Motion for Sanctions as to Dono Custos, Inc. and will not impose any sanction on Dono Custos, Inc. for its failure to comply with the foreign subpoena since jurisdiction to sanction for noncompliance lies with the Wyoming District Court. However, this Court finds it appropriate to allow Plaintiffs an opportunity to enforce its Wyoming subpoena against Dono Custos, Inc., and is willing to extend the time for a default damages hearing if necessary for that enforcement.

2. Abish-Husbandi and Power Marketing Agency

The Plaintiffs’ filed a Notice of Intent to Serve Subpoena Duces Tecum to Abish-Husbandi, Inc., on April 10, 2023. The subpoena was served on Abish-Husbandi in Emmett, Idaho, on April 27, 2023⁸ and the subpoena commanded appearance at a deposition in Emmett, Idaho, on May 24, 2023. Abish-Husbandi, Inc., or any designated representative, did not appear at the scheduled deposition.

The Plaintiffs served an Amended Subpoena Duces Tecum on April 28, 2023⁹ to Power Marketing Agency, LLC, by delivering a copy to Jamie Burkett, Office Manager for Physicaladdress.com on behalf of Power Marketing Agency LLC. The subpoena set the deposition in Boise, Idaho, on May 23, 2023. No representative from Power Marketing Agency, LLC, appeared for the deposition.

The Court’s review of these subpoenas shows compliance with the required form and content and service. See IDAHO R. CIV. PRO. 54(a)-(b). Additionally, there was no timely motion for relief from the subpoenas and no claim of privilege or protection. See IDAHO R. CIV. PRO. 54(d), (e)(2). Therefore, under Idaho Rule of Civil Procedure 45, this Court has the authority to enforce the subpoenas and issue sanctions for failure to comply. Finally, Rule 37 provides a general sanctions “catch-all”, stating: In addition to the sanctions provided for in this rule for violation of discovery procedures, any court may impose sanctions or conditions, or assess attorney fees, costs or expenses against

⁸ Personal Return of Service, filed May 4, 2023 (titled in electronic file as “Affidavit/Return of Service – Power Marketing LLC”).

⁹ Stidham Rodriguez Dec, Exhibit F.



a party or the attorney advising that party for failure to comply with an order made pursuant to these rules.” IDAHO R. CIV. PRO. 37(f). So, the Court finds this Court has the authority to sanction Abish-Husbandi, Inc., for failing to appear at its May 24, 2023 deposition and Power Market Agency, LLC, for failing to appear at its May 23, 2023 deposition.

Plaintiffs’ Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People’s Rights Network, and Abish-Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions, is GRANTED IN PART as to Abish-Husbandi, Inc. and this Court ORDERS AS A SANCTION reasonable costs and fees to be paid to Plaintiffs by Abish-Husbandi, Inc. The Plaintiffs must file a separate memorandum of costs and fees related to the requested sanction against Abish-Husbandi, Inc. within fourteen days of service of this decision.

Plaintiffs’ Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle, Incorporated for Failure to Appear at Properly Noticed Depositions, is GRANTED IN PART as to Power Marketing Agency, LLC, and this Court ORDERS AS A SANCTION reasonable costs and fees to be paid to Plaintiffs by Power Marketing Agency, LLC. The Plaintiffs must file a separate memorandum of costs and fees related to the requested sanction against Power Marketing Agency, LLC, within fourteen days of service of this decision.

3. Power Marketing Consultants, LLC

On January 9, 2013, Diego Rodriguez filed with the Secretary of State for the State of Idaho the Certificate of Organization for Power Marketing Consultants LLC, that lists Diego Rodriguez as the registered agent and as a “member or manager.”¹⁰

On December 27, 2022, Plaintiffs filed Notices of Intent to Serve Subpoena Duces Tecum to Power Marketing Consultants, LLC and Freedom Tabernacle, Inc. That notice commanded Power Marketing Consultants, LLC, to appear at the deposition set in Boise, Idaho, on February 3, 2023. The Plaintiffs served this subpoena to Diego Rodriguez at the address listed for him as registered agent in Boise, Idaho. No

¹⁰ Stidham Rodriguez Dec, Exhibit A.



representative of Power Marketing, LLC, appeared at the scheduled deposition.¹¹ The Plaintiffs are not seeking sanctions related to the failure to appear at the February 3, 2023, deposition.

On May 8, 2023, Plaintiffs filed a Return of Service for Power Marketing Consultants, LLC¹², showing the LLC was served with a subpoena in Orlando, Florida from the Circuit Court of the Ninth Judicial Circuit in Orange County, Florida on May 5, 2023. The subpoena commanded appearance at the deposition set for May 23, 2023 in Boise, Idaho. Diego Rodriguez received a copy of the Amended Subpoena from the clerk of this Court through the electronic file.¹³ No representative from Power Marketing Consultants, LLC, appeared at the May 23, 2023 deposition.

Power Marketing Consultant, LLC is an Idaho limited liability company. The purpose of the Uniform Interstate Depositions and Discovery Act is that each state “has a significant interest in protecting its residents who become non-party witnesses in an action pending in a foreign jurisdiction from any unreasonable or unduly burdensome discovery requests.” See Comment to IDAHO R. CIV. PRO. 45(6). Therefore, although Power Marketing was served with a foreign subpoena in Florida, this was simply to effectuate service on a registered agent who has represented to this Court that he had moved to another jurisdiction. The location of the registered agent does not affect this Court’s jurisdiction over a limited liability corporation registered in Idaho. There is no evidence that Power Marketing Consultants, LLC, is a resident of Florida. So, because there is evidence that Power Marketing Consultants, LLC, is a resident of Idaho, the Court finds it has jurisdiction to enter sanctions against Power Marketing Consultants, LLC, for failing to appear at the scheduled and properly-noticed deposition on May 23, 2023.

The Court finds that based on Diego Rodriguez’s failure to appear at all court hearings set in this case during 2023, his failure to comply with the Order Granting Plaintiffs’ Motion for Sanctions against Rodriguez for Failure to Comply with Court Orders, entered April 25, 2023, and his failure to pay orders for fees awarded, it would

¹¹ This was after Diego Rodriguez had failed to appear at his scheduled deposition in January.

¹² Stidham Rodriguez Dec, Exhibit H.

¹³ Stidham Rodriguez Dec, Exhibit E.



be ineffective to order another deposition for Power Marketing Consultants, LLC, and would further waste Plaintiffs resources without garnering any greater participation in discovery of this case by Diego Rodriguez.

Plaintiffs' Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle, Incorporated for Failure to Appear at Properly Noticed Depositions, is GRANTED IN PART as to Power Marketing Consultants, LLC, and this Court ORDERS AS A SANCTION reasonable costs and fees to be paid to Plaintiffs by Power Marketing Consultants, LLC. The Plaintiffs must file a separate memorandum of costs and fees related to the requested sanction against Power Marketing Consultants, LLC, within fourteen days of service of this decision.

4. Freedom Tabernacle, Inc.

On February 4, 2011, Diego Rodriguez filed with the Idaho Secretary of State Articles of Incorporation for a Non-Profit, Freedom Tabernacle, Incorporated, that lists an address in Meridian, Idaho, and lists its registered agent as Diego Rodriguez.¹⁴

On December 27, 2022, Plaintiffs filed a Notice of Intent to Serve Subpoena Duces Tecum to Freedom Tabernacle, Inc. that set the deposition in Boise, Idaho, on February 6, 2023. The Plaintiffs served this subpoena to the last known address of Diego Rodriguez in Idaho. No representative of Freedom Tabernacle, Inc., appeared at the scheduled deposition. The Plaintiffs are not seeking sanctions related to the failure to appear at the February 6, 2023, deposition.

The Plaintiffs filed a return of service showing Freedom Tabernacle, Inc., was served in Orlando, Florida, with a subpoena issued by the Circuit Court of the Ninth Judicial Circuit in Orange County, Florida, on May 5, 2023.¹⁵ This subpoena commanded its appearance at the deposition in Boise, Idaho, on May 22, 2023. Diego Rodriguez received a copy of the Amended Subpoena from the clerk of this Court through the electronic file.¹⁶ No representative of Freedom Tabernacle, Inc., appeared at the scheduled deposition.

¹⁴ Stidham Rodriguez Dec, Exhibit C.

¹⁵ Return of Service – Freedom Tabernacle, Incorporated, filed May 8, 2023.

¹⁶ Stidham Rodriguez Dec, Exhibit J.



Freedom Tabernacle, Inc., is an Idaho corporation and there is no evidence that Freedom Tabernacle, Inc., is a resident of the State of Florida. So, for the reasons identified in the proceeding section, the Court finds it has jurisdiction to enter sanctions against Freedom Tabernacle, Inc., for its failure to appear at the scheduled and properly noticed deposition on May 23, 2023.

The Court finds that based on Diego Rodriguez's failure to appear at all court hearings set in this case during 2023, it would be ineffective to order another deposition for Freedom Tabernacle, Inc., and would further waste Plaintiffs resources without garnering any greater participation in discovery of this case by Diego Rodriguez.

Plaintiffs' Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle, Incorporated for Failure to Appear at Properly Noticed Depositions, is GRANTED IN PART as to Freedom Tabernacle, Inc., and this Court ORDERS AS A SANCTION reasonable costs and fees to be paid to Plaintiffs by Freedom Tabernacle, Inc. The Plaintiffs must file a separate memorandum of costs and fees related to the requested sanction against Freedom Tabernacle, Inc, within fourteen days of service of this decision.

II. REQUESTED SANCTIONS AGAINST DEFAULTED BUNDY DEFENDANTS

Following the failure of Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network to appear for noticed depositions in January and February of 2023,¹⁷ the Court 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:

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.

IT IS HEREBY ORDERED that Ammon Bundy for Governor must:

¹⁷ Plaintiffs' Motion for Sanctions for Failure to Appear and Motion to Compel against Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network, filed March 7, 2023



- 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.

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.



On May 10, 2023, Plaintiffs filed a Notice¹⁸ with the Court stating that Ammon Bundy violated the April 24, 2023 Order because “he failed to provide a designated representative for Ammon Bundy for Governor and People’s Rights Network by May 1, 2023 [and] the Bundy Defendants failed to answer discovery requests by May 8, 2023. Mr. Bundy did not show for his May 10, 2023 deposition.”

In the May 2, 2023 Motion to Compel and for Sanctions as to People’s Rights Network and Ammon Bundy for Governor, Plaintiffs seek sanctions against People’s Rights Network and Ammon Bundy for Governor for their failure to designate a witness under Idaho Rules of Civil Procedure 30(b)(6) or 31(a)(4) as was required by this Court’s discovery order. Then, in Plaintiffs’ May 26, 2023 Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People’s Rights Network, and Abish-Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions, the Plaintiffs now seek sanctions against Ammon Bundy, Ammon Bundy for Governor, and People’s Rights Network for failing to comply with this Court’s April 24, 2023 Order. As a result, the Plaintiffs seek sanction(s) under Idaho Rule of Civil Procedure 37(b)(2) which permits sanctions which may include an order for any or any combination of the following:

- (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.

¹⁸ Notice of Ammon Bundy’s Failure to Comply with This Court’s Order Compelling Ammon Bundy, Ammon Bundy for Governor, And People’s Rights Network to Respond to Discovery and Notices of Depositions Entered April 24, 2023, filed May 10, 2023.



The Court finds that People's Rights Network and Ammon Bundy for Governor failed to designate a representative or witness for a deposition as was required by Idaho Rules of Civil Procedure 30(b)(6) and this Court's discovery orders. The Court GRANTS the Motion to Compel and for Sanctions as to People's Rights Network and Ammon Bundy for Governor and ORDERS THAT THE COURT will prohibit People's Rights Network and Ammon Bundy for Governor from opposing designated claims in the Fourth Amended Complaint during a default damages hearing and then the Court will render a default judgment against People's Rights Network and Ammon Bundy for Governor following the presentation of evidence related to default damages to the Court. Further, this Court will award fees and costs to Plaintiffs associated with the Motion to Compel and for Sanctions as to People's Rights Network and Ammon Bundy for Governor and the Plaintiffs must file any memorandum of fees and costs associated with filing the Motion to Compel and for Sanctions as to People's Rights Network and Ammon Bundy for Governor within fourteen days of service of this decision.

However, an Order of Default was originally ordered against Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network on September 2, 2022, and another Order of Default was entered against Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network on April 24, 2023 when each failed to file any responsive pleading to the Fourth Amended Complaint.

The Court notes that the defaulted defendants including Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network are not entitled to appear, present evidence, or make any arguments at any default damages hearing since they have not appeared or filed any responsive pleading in this case and an Order for Default has been entered against each of them. Rather, any default damages 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). Therefore,

- 1) This Court will deem admitted any factual allegations pled by Plaintiffs in the Fourth Amended Complaint against Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network.
- 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.
- 3) This court will not consider opposing argument or evidence from Ammon Bundy, Ammon Bundy for Governor, and People's Rights Network during a default damages hearing.

Finally, the Court does not find any additional contempt proceeding against the defaulted defendants for failure to comply with discovery would be effective in encouraging compliance with production of additional discovery in this case. The Court finds that Plaintiffs can be adequately compensated for the non-compliance with discovery as part of the default damages and default judgment process and additional attempts to hold Ammon Bundy in contempt¹⁹ or additional orders²⁰ to pay fees and costs for discovery violations will remain unpaid based upon the past violations or noncompliance with this Court's previous orders.

Below, this Court will also address whether additional sanctions of orders for payment of fees and costs are appropriate as to each of the Bundy Defendants.

A. Ammon Bundy

The Plaintiffs properly noticed a deposition for Ammon Bundy on May 10 and 11, 2023. Bundy did not appear.

¹⁹ 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.

²⁰ See Order on Motion for Sanctions, filed Sep. 8, 2022; Order Awarding Fees, filed Oct. 12, 2022; 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.



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. Again, 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.
- 3) This court will not consider opposing argument or evidence from Ammon Bundy during a default damages hearing.

The Court finds that the Plaintiffs' continued attempts to compel attendance at such deposition against a defaulted defendant has been categorically fruitless and makes each subsequent action less reasonable given the lack of any forward movement in this case. While this Court will treat Bundy's failure to obey orders as contempt of court, the rule only permits an initiation of contempt proceedings, this Court anticipates Bundy will be equally unresponsive to a new Affidavit of Contempt by the Court as he has been to Plaintiffs' pending Motion for Contempt and Renewed Motion for Contempt.

Still, the Court finds it is appropriate to sanction Ammon Bundy to pay any costs incurred by the Plaintiffs for the properly noticed and scheduled deposition on May 10, 2023 only. The Court does not find costs for the second day, May 11, 2023, to be reasonable or appropriate. However, the Court declines to award attorney fees since the Court has previously awarded attorney fees for Plaintiffs' expenses for preparing for such deposition. Plaintiffs' Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People's Rights Network, and Abish-Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions, is GRANTED IN PART as to Ammon Bundy and this Court ORDERS AS A SANCTION reasonable costs and fees to be paid to Plaintiffs by Ammon Bundy for costs incurred in filing and pursuing this motion. The Plaintiffs must file a separate memorandum of costs and fees related to the Ammon Bundy's failure to attend the noticed May 10, 2023 deposition within fourteen days of service of this decision.



B. Ammon Bundy For Governor and People’s Rights Network

The Plaintiff noticed a deposition for Ammon Bundy for Governor on May 19, 2023 and a deposition for the People’s Rights Network on May 16 and 17, 2023. The Court finds that the depositions were properly noticed and served on the Defendants.

First, the Court notes an Order of Default has been entered against both Ammon Bundy for Governor and the People’s Rights Network, which is an extreme sanction.

The Court Order required both Ammon Bundy for Governor and People’s Rights Network to make a designation under Rule 30(b)(6) of its designated representative to be deposed no later than May 1, 2023. The Plaintiffs acknowledged that the Defendants did not designate a representative as required on this date. Further, the Plaintiffs state that Bundy for Governor is “a corporate entity formed and controlled by Ammon Bundy” and that People’s Rights Network is “an organization run and organized by Bundy.”²¹ Plaintiffs filed a Notice with this court prior to these scheduled depositions indicating Ammon Bundy had failed to appear for his scheduled deposition. The Court finds that the Order clearly states: “Its designated representative that was designated under Rule 30(b)(6) must sit for a deposition.” So, the failure to designate a representative for these two defendants put the Plaintiffs on notice as of May 1, 2023 that these parties would not be appearing for their depositions. The Court has entered a default and the sanctions for failing to designate a representative are the same. Again, as a sanction, this Court ORDERS:

- 1) This Court will deem admitted any factual allegations pled by Plaintiffs in the Fourth Amended Complaint against Ammon Bundy for Governor and People’s Rights Network.
- 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.
- 3) This court will not consider opposing argument or evidence from Ammon Bundy for Governor and People’s Rights Network during a default damages hearing.

²¹ Bundy Sanctions Memo, pp. 2-3.



The Court finds any continued motions to compel discovery related to Ammon Bundy for Governor or People's Rights Network would be unreasonable given this Court's previous orders and would just further delay the resolution of the claims against these parties given the procedural posture of this case and an impending default judgment after the Plaintiffs present any evidence of damages at a default damages hearing.

The Court does not find it appropriate to award additional costs and fees related to the depositions that Plaintiffs set for Ammon Bundy for Governor or People's Rights Network since the Plaintiffs knew that these organizations had not designated a witness to sit for such depositions.

Plaintiffs' Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People's Rights Network, and Abish-Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions, is GRANTED IN PART as to Ammon Bundy for Governor and People's Rights Network and this Court ORDERS AS A SANCTION reasonable costs and fees to be paid to Plaintiffs by Ammon Bundy for Governor and People's Rights Network for costs incurred in filing and pursuing this motion. The Plaintiffs must file a separate memorandum of costs and fees related to the Ammon Bundy for Governor and People's Right's Network within fourteen days of service of this decision.

III. REQUESTED SANCTIONS AGAINST DIEGO RODRIGUEZ

Diego Rodriguez has previously failed to complete his deposition in this case. On November 29, 2022, this Court entered an Order awarding deposition fees and costs against Diego Rodriguez²² for his failure to appear at the deposition caused because he had failed to respond to expedited interrogatories. The Court also entered an Order for Protection re: Depositions on November 29, 2022 because Rodriguez attempted to invite his supporters to attend that video deposition. On April 25, 2023, the Court entered another Order Granting Plaintiffs' Motion for Sanctions against Rodriguez for Failure to Comply with Court Orders. That Order appointed a discovery referee, ordered Diego Rodriguez to respond to the written discovery as previously ordered, ordered Rodriguez to attend a deposition in person in Boise, Idaho, by May 24, 2023,

²² Memorandum Decision and Order Denying Reconsideration and Granting/Awarding Deposition Fees and Costs Against Diego Rodriguez, filed Nov. 29, 2022.



and denied the Plaintiffs' request for the Court to enter default against Rodriguez based on the proceedings at that time. The Court also found the Plaintiffs were entitled to costs for filing the March 7, 2023 motion.

The Plaintiffs properly noticed another deposition for Diego Rodriguez on May 12 and 15, 2023. Rodriguez did not appear for that properly-noticed deposition and Diego Rodriguez is a party to this proceeding.

Diego Rodriguez filed an Answer to the Fourth Amended Complaint and was not a defaulted party at the time the deposition was noticed, set to occur, or at the time Plaintiffs filed this motion for sanctions.

The hearing on this motion for sanctions was originally set for May 23, 2023, when Rodriguez filed a "moot" Notice of Removal to Federal Court after jurisdiction in this case had already been returned to the Fourth Judicial District in order to delay proceedings before the Fourth District Court in this matter although Judge Nye's decision that there was no jurisdiction for the Federal court during Ammon Bundy's and Diego Rodriguez's previous attempt to remove this case to Federal court. Rodriguez has repeatedly taken action to delay and frustrate progress in this litigation and failed to appear at hearings.²³

Diego Rodriguez did not file any response to this motion. Since no opposition was filed and Rodriguez did not appear, the Court then considered the motion on its merits and now considers whether striking Rodriguez's Answer and entering an Order of Default against Rodriguez is warranted as an appropriate sanction for his repeated and continued failure to sit for properly-noticed depositions. The Court does find sanctions are appropriate against Diego Rodriguez.

This Court also finds it has previously imposed lesser sanctions including costs and fees, orders to compel attendance, and repeated opportunities for Diego Rodriguez

²³ Rodriguez originally filed his Answer on September 6, 2022, attended the scheduling conference in this case on October 11, 2022 by videoconference, filed a Stipulation for Scheduling and Planning and then requested in writing service in this case by e-mail on October 14, 2022. Rodriguez also appeared at a hearing on December 20, 2022 by videoconference. However, Rodriguez did not appear for properly-noticed hearings on November 22, 2022, January 24, 2023, February 21, 2023, February 28, 2023, March 21, 2023, April 18, 2023, or May 23, 2023. Rodriguez also did not attend the formal pretrial conference on June 6, 2023 and did not have the Court's permission to attend the June 6, 2023 hearing by videoconference.



to sit for re-noticed depositions. Yet none of these efforts by the Court have yielded his compliance with this Court's orders or Rodriguez's obligations to engage in discovery in good faith as required by the Stipulation for Scheduling and Planning, Notice of Trial Setting, or this Court's Order Compelling Discovery.

The Plaintiffs' Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle, Incorporated for Failure to Appear at Properly Noticed Depositions is GRANTED IN PART as to Diego Rodriguez. This Court ORDERS as sanctions for Diego Rodriguez's non-compliance:

- 1) This Court will strike Diego Rodriguez's Answer to the Fourth Amended Complaint;
- 2) This Court will enter an Order of Default against Diego Rodriguez;
- 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; and
- 5) This court will not consider opposing argument or evidence from Diego Rodriguez during a default damages hearing.

The Court finds that the Plaintiffs' continued attempts to compel attendance at such deposition by Rodriguez has been categorically fruitless and makes each subsequent action less reasonable given the lack of any forward movement in this case. While this Court will treat Rodriguez's failure to obey orders as contempt of court, the rule only permits an initiation of contempt proceedings, this Court anticipates Rodriguez will be equally unresponsive to a new Affidavit of Contempt by the Court as he has been to Plaintiffs' pending Motion for Contempt.

Still, sanctions are warranted for Rodriguez's continued failure to be deposed. The Court orders costs and reasonable attorney fees be paid by Diego Rodriguez for his failure to attend the scheduled May 12 and 15, 2023 deposition and also incurred by Plaintiffs for filing Plaintiffs' Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle,



Incorporated for Failure to Appear at Properly Noticed Depositions because of Diego Rodriguez. The Plaintiffs must file a memorandum of costs and fees and proposed order for Rodriguez related to Diego Rodriguez's failure to attend the noticed deposition on May 12 and 15, 2023, and incurred for filing Plaintiffs' Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle, Inc. within fourteen days of this decision.

IV. CONCLUSIONS

Plaintiffs' Motion to Compel and for Sanctions as to People's Rights Network and Ammon Bundy for Governor, filed May 2, 2023, is GRANTED.

Plaintiffs' Motion for Sanctions as to Dono Custos, Inc., filed May 23, 2023, is DENIED in Idaho but the subpoena may be enforced in Wyoming since jurisdiction to sanction for noncompliance lies with the Wyoming District Court.

Plaintiffs' Motion for Sanctions as to Ammon Bundy, Ammon Bundy for Governor, People's Rights Network, and Abish-Husbandi, Inc. for Failure to Appear at Properly Noticed Depositions, filed May 26, 2023, is GRANTED IN ITS ENTIRETY.

Plaintiffs' Motion for Sanctions as to Diego Rodriguez, Power Marketing Consultants, LLC, Power Marketing Agency, LLC, and Freedom Tabernacle, Incorporated for Failure to Appear at Properly Noticed Depositions, filed May 26, 2023, is GRANTED IN ITS ENTIRETY.

IT IS ORDERED. 6/12/2023 10:27:41 PM



Lynn Norton
District Judge



CERTIFICATE OF SERVICE

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

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Trent Tripple
Clerk of the Court

Dated: 06/13/2023

By: Janine Korsen
Deputy Clerk

