

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

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

Plaintiffs,

vs.

AMMON BUNDY, an individual; AMMON
BUNDY FOR GOVERNOR, a political
organization; DIEGO RODRIGUEZ, an
individual; FREEDOM MAN PRESS LLC, a
limited liability company; FREEDOM MAN
PAC, a registered political action committee;
and PEOPLE'S RIGHTS NETWORK, a
political organization and an unincorporated
association,

Defendants.

Case No. CV01-22-06789

**ORDER GRANTING PLAINTIFFS'
MOTIONS FOR RECONSIDERATION
OF THE JUNE 13, 2023 ORDERS
(GRANTING A JURY TRIAL ON
DEFAULT DAMAGES AND
GRANTING THE AMENDED
MOTION FOR SANCTIONS
AGAINST ALL DEFAULTED
DEFENDANTS TO ALLOW
PARTICIPATION IN THE DEFAULT
DAMAGES JURY TRIAL) AND
GRANTING PLAINTIFFS' MOTION
IN LIMINE**

Plaintiffs moved for reconsideration of part of the Court's June 13, 2023 Order Granting the Amended Motion for Sanctions Against All Defendants on the issues of: (1) the Court's ruling that it would not consider opposing argument from Defendants at the default damages hearing/trial;¹ and (2) the Court's statement that no requests for admission had been served in this case. Plaintiffs also moved for reconsideration to allow a jury trial instead of a Court evidentiary

¹ To the extent the ruling that the Court will not consider any argument from Defendants at trial is found in any other prior order of this Court (6-13-23 Order Striking Answers and Order for Default of Diego Rodriguez at 1; 6-13-23 Order for Sanctions on Motions for Sanctions RE: Depositions at 12-14, 17), the ruling that the Court will not consider any argument from Defendants at trial is superseded by this Order.

hearing on the issue of default judgment damages. Plaintiffs previously filed a Motion in Limine which was set for hearing at the Status Conference.

The Court held a hearing on the motions at the Status Conference on June 29, 2023. No Defendant appeared at the Status Conference. At that hearing, the Court orally ruled that it found good cause to grant the motions for reconsideration as well as Plaintiffs' related Motion in Limine. First, the Court specifically changed the nature of the default judgment evidentiary court hearing to a jury trial on damages and because of that ruling exercised its discretion to amend certain sanctions against defaulted Defendants to allow for due process rights of the Defendants to challenge a damages determination by the jury. The Court reserved the right to put its analysis of these motions in writing for any appellate review and will do so by a separate Memorandum Decision and Order, but the Court wanted to issue an Order forthwith to inform the Defendants of its ruling prior to the start of the jury trial on July 10, 2023. Second, the Court grants in part Plaintiffs' Motion for Reconsideration of the June 13, 2023 Order Granting the Amended Motion for Sanctions Against All Defendants.

The Court hereby orders:

- Default has been ordered in favor of Plaintiffs against all Defendants.
- All Defendants may participate in the jury trial if they appear in person. A Defendant that represents an entity must be represented by an attorney licensed to practice law in Idaho. A pro se litigant who is not an Idaho licensed attorney may not represent a Defendant that is an entity. Counsel are required to file a notice of appearance prior to July 10, 2023 if appearing in this action on behalf of a

Defendant. The appearance of a counsel will not be a basis to continue the jury trial which has been set for July 10, 2023 by prior Orders.

- A Defendant who appears in person at trial must attend *all* trial days, beginning on the first day. If a Defendant does not appear on the first trial day, that Defendant will be deemed by the Court to have waived his/its right to participate in the trial and will not be permitted to appear on later trial days. If a Defendant appears on the first day but fails to appear on any of the following trial days, that Defendant will be deemed by the Court to have waived his/its right to participate in the trial and will not be permitted to appear on later trial days;
- All Defendants will be permitted to participate in jury selection, subject to the limitations and restrictions:²
- All Defendants will be permitted to present an opening statement and closing argument, subject to the limitations and restrictions;
- All Defendants will be permitted to cross-examine witnesses, subject to the limitations and restrictions; and
- Plaintiffs will be permitted to file Requests for Admission, to be deemed admitted, pursuant to Idaho Rule of Civil Procedure 36(d).

² “Limitations and restrictions” refers in part to the scope of the jury trial being limited to default damages. Additionally, defaulted Defendants will not be allowed to present any evidence related to damages that has not previously been timely disclosed to Plaintiffs and other parties prior to the discovery cutoff. The Court has also granted the Plaintiffs’ Motion in Limine regarding the limited scope of evidence to be considered at the jury trial. Voir dire will primarily be conducted by the Court, but the parties will have up to 30 minutes for follow up questions after the Court conducts its voir dire. Any further clarification of the “limitations and restrictions” can be requested by the parties or counsel during the jury trial.

The other rulings and analysis in the June 13, 2023 Order Granting Plaintiffs' Amended Motion for Sanctions Against All Defendants remain unchanged with the exception of some clarifications based on the defaulted Defendants right to participate in the jury trial. These relevant rulings on sanctions and default are set forth below:

As to all defaulted Defendants:

- 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.
- This Court will deem admitted any factual allegations pled by Plaintiffs in the Fourth Amended Complaint.
- A determination of damages will be based on supporting evidence submitted by the Plaintiffs at the default damages trial since the claims are not for a sum certain;
- This Court will not submit to the jury any requested but previously undisclosed evidence from Defendants during the default damages trial. Defendants are prohibited from producing or introducing any previously undisclosed evidence at trial besides relevant questions in the form of cross examination.
- The jury will make a determination of monetary damages, if any, to be awarded to Plaintiffs and such award will be based on supporting evidence submitted at the default damages trial. After a verdict is rendered, the Court will enter a default judgment which may also include the Court's determination of any appropriate equitable relief.

Any opening statement, closing argument, or cross-examination by Defendants must conform to the sanctions imposed. Accordingly, any opening statement, closing argument, or cross-examination by Defendants: (1) shall not reference, assume, or seek to introduce evidence that Defendants are prohibited from entering into evidence; (2) shall not assume falsity or deem false the factual allegations deemed admitted in the Fourth Amended Complaint or otherwise challenge or dispute the factual allegations of the Fourth Amended Complaint; and (3) shall not seek to support any affirmative defense.

Cross-examination by Defendants shall be limited to the scope of direct examination and must be relevant to the issue of determining appropriate damages.

Pursuant to Idaho Rule of Civil Procedure 55(b), because all Defendants are in default, the scope of the trial will be limited to the amount of unliquidated damages, including punitive damages.

Trial will proceed before a jury, beginning on July 10, 2023 at 8:30 a.m. for jury selection. All parties and counsel who choose to appear must appear *in person* at this time at the Ada County Courthouse, 200 W. Front Street, Boise, ID.

The trial days are as follows, with the potential for the trial extending into the week of July 24, 2023 if needed:


- July 10, 2023 (8:30 a.m. to approximately 12:00 p.m.) for jury selection
- July 11, 2023 (8:30 a.m. to 3:30 p.m.)
- July 13, 2023 (8:30 a.m. to 3:30 p.m.)
- July 14, 2023 (8:30 a.m. to 5:00 p.m.)

- July 17, 2023 (8:30 a.m. to 12:00 p.m.)
- July 18, 2023 (8:30 a.m. to 5:00 p.m.)
- July 20, 2023 (8:30 a.m. to 3:30 p.m.)
- July 21, 2023 (8:30 a.m. to 5:00 p.m.)

Proposed jury instructions for the damages trial shall be filed by the parties on or before July 6, 2023. A proposed description of the case for the Court's consideration shall be filed by each party on or before July 7, 2023. Potential juror lists and questionnaires will be provided to the parties on July 7, 2023. The parties are hereby ordered not to disclose potential juror lists and questionnaires to any third party not a party to this case as such juror information is confidential. Jurors will be referred to by the juror number, not their name. The parties and their counsel shall NOT have any direct or indirect contact with potential jurors before, during, or after any verdict has been rendered. Jurors selected to serve shall sign a written consent if they consent to contact after the jury trial.

IT IS SO ORDERED.

DATED: 6/30/23

By: 
Nancy A. Baskin
District Judge

CERTIFICATE OF SERVICE

I hereby certify that I caused to be filed via iCourt and served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Ammon Bundy for Governor
People’s Rights Network
c/o Ammon Bundy
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Emmett, ID 83617

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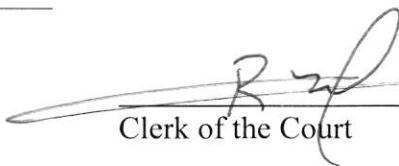
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DATED: 6/30/23


Clerk of the Court