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Counsel for Plaintiffs

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

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

Plaintiffs,

vs.

AMMON BUNDY, an individual; 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

**SUPPLEMENTAL BRIEF RE
INJUNCTIVE RELIEF**

Plaintiffs, St. Luke's Health System, Ltd., St. Luke's Regional Medical Center, Ltd., Chris Roth, Natasha D. Erickson, M.D., and Tracy W. Jungman, NP ("Plaintiffs"), by and through their attorneys of record, Holland & Hart LLP, submit this Supplemental Brief Re: Injunctive Relief.

I. INTRODUCTION

With liability established and damages found, the issue of permanent injunctive relief is now before the Court. Plaintiffs provide supplemental authorities to the Court regarding their requested injunction.

This Court has ample basis and legal authority to enter the requested injunction against Defendants, requiring they remove from websites they control defamatory statements, photos of Plaintiffs, Plaintiffs' contact information, and Plaintiffs' personal information. The permanent injunction should also prohibit the republication of such statements, photos, and information.

II. BACKGROUND

The Fourth Amended Complaint seeks (among other things) permanent injunctive relief requiring the Defendants:

- (1) to cease posting and disseminating defamatory statements against the St. Luke's Parties;
- (2) to cease making statements that the St. Luke's Parties are criminals and/or participate in the kidnapping, trafficking, sexual or any other abuse, and/or killing of children;
- (3) to remove from all online locations Defendants have authority to do so any and all statements that the St. Luke's Parties are criminals and/or participating in the kidnapping, trafficking, sexual or any other abuse, and/or killing of children;
- (4) to cease disseminating and encouraging others to disseminate the contact information, personal information, and images of Mr. Roth, Dr. Erickson, and NP Jungman; and

(5) to remove from all online locations Defendants have authority to do so the contact information, personal information, and/or images of Mr. Roth, Dr. Erickson, and NP Jungman.

03-03-23 Fourth Amended Complaint, Prayer for Relief, ¶ B.

On July 24, 2023, the jury returned its verdict on damages. The matter of permanent injunctive relief remains before the Court, for which the Court requested supplemental briefing.

Post-trial, Defendants continue to push the false conspiracy narrative found to be defamatory in this lawsuit. *See, e.g., Ammon Bundy Responds to \$50M Court Ruling: "I Owe Them Nothing,"* HEADLINE USA, available at <https://headlineusa.com/scoop-ammon-bundy-responds-to-50m-court-ruling-i-owe-them-nothing/> (last visited July 26, 2023). Of particular relevance to Plaintiffs' request for permanent injunctive relief, Rodriguez stated that he would continue to publish the statements found to be defamatory, "No matter if the final judgment is for a billion or a gazillion dollars." *Ammon Bundy Remains Defiant After Jury Hands Him \$12.35 Million Punishment in Defamation Battle,* THE WESTERN JOURNAL, available at https://www.westernjournal.com/ammon-bundy-remains-defiant-jury-hands-12-35-million-punishment-defamation-battle/?fbclid=IwAR3O62bZfeD7bDpIVXZmsBcYBVkM5_WpxaOCq7HAm0RNcK8CWYyWQbPDJ0 (last visited July 26, 2023).

III. ARGUMENT

A. INJUNCTIVE RELIEF IS APPROPRIATE WHEN DEFAMATORY AND/OR HARASSING STATEMENTS ARE POSTED ONLINE AND THUS POSE A CONTINUING THREAT OF HARM.

Permanent injunctive relief requiring the defendant to remove defamatory and harassing statements or posts from online locations under the defendant's control and prohibiting the defendant from republishing the statements or posts is appropriate, especially when the statements or posts were made as part of a sustained campaign of defamation. *See, e.g., Balboa Island Vill. Inn, Inc. v. Lemen*, 40 Cal. 4th 1141, 1155-57 (2007) (holding that the court may

issue an injunction prohibiting the defendant from repeating statements judicially determined to be defamatory and rejecting argument that damages are the only remedy for defamation because otherwise the plaintiff would be required to bring a succession of lawsuits for damages which could be insufficient to deter the continuing tortious behavior); *Advanced Training Sys. v. Caswell Equip. Co.*, 352 N.W. 2d 1, 11 (Minn. 1984) (affirming permanent injunctive relief prohibiting republication of material found libelous at trial); *Weitsman v. Levesque*, Case No. 19-CV-461 JLS (AHG), 2020 U.S. Dist. LEXIS 218173, at *31 (S.D. Cal. Nov. 20, 2020) (applying New York law and collecting New York cases); *see also St. James Healthcare v. Cole*, 178 P.3d 696, (Mont. 2008) (affirming in part preliminary injunction against harassing and threatening statements).¹

In *Weitsman*, the court ordered permanent injunctive relief when the defendant engaged in a “sustained Internet defamation campaign” falsely accusing the plaintiff of child trafficking. *Weitsman*, 2020 U.S. Dist. LEXIS 218173, at *31. The court entered default against the defendant, and the plaintiff obtained an award of compensatory and punitive damages. *Id.* at *3, *32, *38. The defendant had continued making the defamatory statements online, despite the litigation and an arrest warrant. *Id.* at *44. A permanent injunction was appropriate due to the intentional, sustained campaign of defamation aimed to injure the plaintiff’s interests, including business interests. *See id.* The injunction was tailored to (1) require the removal of statements held to be defamatory whose postings online were under the defendant’s control; and (2) prohibit the republication of statements held to be defamatory. *See id.* at *46-54.

¹ Plaintiffs searched for and did not find on-point authority in Idaho on this issue. Accordingly, this Court may look to persuasive precedent from other jurisdictions.

B. THIS COURT HAS THE AUTHORITY TO ENTER THE INJUNCTIVE RELIEF REQUESTED IN THE FOURTH AMENDED COMPLAINT.

Plaintiffs in this case requested an injunction like the one held to be appropriate in the *Balboa Island*, *Advanced Training*, and *Weitsman* cases—requiring the removal of defamatory statements and prohibiting their republication. Moreover, Plaintiffs’ requested injunctive relief relating to the removal of Plaintiffs’ photos and personal and contact information from websites that Defendants control and prohibition of republication is similar to the relief affirmed in the *St. James Healthcare* case barring statements that were threatening and intimidating.

IV. CONCLUSION

For all the foregoing reasons, Plaintiffs submit these supplemental authorities in support of their request for permanent injunctive relief, set forth in their Fourth Amended Complaint.

DATED: July 26, 2023.

HOLLAND & HART LLP

By: /s/Jennifer M. Jensen

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of July, 2023, I caused to be filed via iCourt and served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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

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