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**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,

Defendants.

Case No. CV01-22-06789

**MEMORANDUM IN SUPPORT OF
MOTION FOR CONTEMPT AGAINST
AMMON BUNDY, PEOPLE'S RIGHTS
NETWORK, AND AMMON BUNDY FOR
GOVERNOR**

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, hereby submit this Memorandum in Support of Motion for Contempt Against Ammon Bundy ("Bundy"), People's Rights Network ("PRN"), and Ammon Bundy for Governor (the "Campaign") (collectively the "Bundy Defendants").

I. INTRODUCTION

This Court entered a permanent injunction requiring Defendants to cease making defamatory statements perpetuating the false narrative that Plaintiffs participated in a conspiracy to kidnap, traffic, and harm children and to remove existing defamatory statements from online. Instead of obeying the Court's order, Bundy and PRN have doubled down on their defamatory statements (making new videos), and the Bundy Defendants have maintained existing defamatory posts online.

This is the fifth time that Plaintiffs have had to move for contempt against Bundy because of his ongoing refusal to submit to the rule of law. Concurrent with his defiance of the permanent injunction, Bundy continues to obstruct process to collect on the final judgment. All evidence indicates that only a strong civil contempt remedy will effect the change that Plaintiffs need and to which they have proven entitlement: the removal and cessation of the defamatory statements. The online defamatory statements' harm is ongoing. Bundy, PRN, and others continue to spread the false conspiracy theory, targeting Plaintiffs and other trial witnesses as enemies, and radicalizing others to violence.

With this Motion, Plaintiffs seek: (1) conditional sanctions until the Bundy Defendants have removed the specified web pages; (2) Plaintiffs' reasonable fees and costs in bringing this

Motion; and (3) potentially a warrant of attachment—if Bundy does not appear for the noticed hearing for his arraignment on these charges of contempt. If Bundy appears, as he is obligated to do, to be arraigned, obviously no warrant would be needed.

II. BACKGROUND

A. THIS COURT ENTERED A PERMANENT INJUNCTION REQUIRING DEFENDANTS TO CEASE MAKING AND DISSEMINATING THE DEFAMATORY STATEMENTS AND TO REMOVE THE EXISTING DEFAMATORY POSTS.

On July 24, 2023, a jury returned a \$52 million verdict in favor of Plaintiffs for Defendants’ ongoing campaign of defamation relating to an Infant in the Department of Health and Welfare’s protective care. Affidavit of Jennifer Jensen (“Jensen Aff.”), ¶ 18. The jury’s verdict was returned after a full presentation of causation and damages evidence during an eight-day trial, including testimony from 24 witnesses and thousands of pages of documentary evidence. *Id.*

About a month later, on August 25, 2023, this Court entered an order granting Plaintiffs permanent injunctive relief against all Defendants (“Permanent Injunction”). *Id.*, ¶ 19. Ex. J. The Permanent Injunction fully evaluated the evidence presented at trial in a 40-page opinion. *See id.* Among other things, the Court found the following, non-exclusive list of statements to be “intentionally, materially false and malicious defamat[ion]”:

- a. The Infant was perfectly healthy when taken by CPS.
- b. St. Luke’s made the Infant sick and infected the Infant with disease.
- c. The Infant was kidnapped or unlawfully taken by law enforcement or St. Luke’s.
- d. St. Luke’s, St. Luke’s management, law enforcement, DHW, the courts, and medical practitioners are all involved in a conspiracy to engage in criminal child trafficking, kidnapping children and stealing children to make money.

- e. The medical providers are pedophiles who want to abuse children and engage in child trafficking.
- f. DHW makes more money for every child it takes into CPS custody and that is why the DHW kidnaps and traffics children and only allows certain people with a specific sexual orientation to adopt children.
- g. St. Luke's and the medical practitioners intentionally or negligently harmed or injured the Infant, committed medical malpractice and/or misdiagnosed the Infant.
- h. St. Luke's reported the parents to CPS.
- i. Dr. Erickson threatened to file a report with CPS if the parents did not agree to the treatment plan between March 1-4, 2022.
- j. St. Luke's intentionally kept the Infant longer than necessary in the hospital because the parents did not want the Infant vaccinated.
- k. The family was discriminated against because the Infant was not vaccinated.
- l. The parents have thousands of dollars in medical bills they have to pay based on the care provided by St. Luke's or any medical provider.
- m. The parents did not consent to the medical treatment provided to the Infant.
- n. The Infant was released from the St. Luke's Children's Hospital and returned directly to the family due to *the protestors'* or Defendants' actions.

Id., Ex. J, ¶ 73.

The Permanent Injunction stated that Defendants must:

1. Cease posting and disseminating defamatory statements against all Plaintiffs.
2. Cease making statements that any of the Plaintiffs are criminals and/or are participating in unlawful kidnapping, trafficking, sexual or any other abuse, and/or killing of children.
3. Remove from all online locations or websites Defendants have authority to do so any and all statements that the Plaintiffs are criminals and/or participating in the kidnapping, trafficking, sexual or any other abuse, and/or killing of children.

4. Cease disseminating and encouraging others to disseminate the contact information, personal information, and images of Mr. Roth, Dr. Erickson, and NP Jungman.

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

6. Deactivate links on other websites where Defendants or their agents posted links to defamatory statements or statements that invade the privacy of the Plaintiffs by portraying them in a false light.
Service.

Id., Ex. J at 37. The Permanent Injunction also states that “[f]ailure by the Defendants to follow the Order for Permanent Injunctive Relief may lead to contempt proceedings, sanctions and other legal ramifications.” *Id.*

The Permanent Injunction was duly served on all Defendants. *See id.*, ¶ 20, Ex. J at 40 (clerk of the court’s certificate of service showing service on August 25, 2023).

The Court entered a final judgment in the case on August 29, 2023 (“Judgment”). *Id.*, ¶ 21, Ex. K. Bundy, PRN, and the Campaign did not file a notice of appeal, and the deadline to file has passed. *Id.*, ¶ 21; *see also* I.A.R. 14(a) (permitting the filing of a notice of appeal within 42 days of entry of judgment).

B. PLAINTIFFS HAVE TAKEN—AND ARE TAKING—ADDITIONAL STEPS TO ADDRESS THE BUNDY DEFENDANTS’ VIOLATIONS OF THE PERMANENT INJUNCTION.

As an extra measure of notice to Bundy Defendants, Plaintiffs served cease-and-desist letters attaching the Permanent Injunction to Bundy in his individual capacity as well as in his capacity as an agent of PRN and the Campaign. *Id.*, ¶ 22. The cease-and-desist letters were sent via email and U.S. mail. *Id.* The email address used was aebundy@bundyfarms.com. *Id.*

Plaintiffs’ counsel has used this email address to communicate back and forth with Bundy in the past and even through the week of this filing. *Id.* Bundy also confirmed at the August 29, 2023

arraignment that this is his email address. *Id.* The address used was Bundy’s home address, 4615 Harvest Lane, Emmett, Idaho 83617. *Id.* The cease-and-desist letters informed the Bundy Defendants they were in violation of the Permanent Injunction. *Id.*, ¶ 21, Exs. L, M, N. The Bundy Defendants did not remove the posts identified in the cease-and-desist letters. *Id.*

Plaintiffs are additionally taking the time-consuming steps to request from the many third-party platforms that the posts be removed based on the findings of fact and conclusions of law accompanying the Court’s Permanent Injunction. *Id.*, ¶ 23. This should not be their burden; Defendants have been ordered to remove the same posts. *Id.* But Plaintiffs nonetheless are taking all steps to ameliorate the harm Defendants have intentionally inflicted—and continue to inflict. *Id.*

C. BUNDY, PRN, AND THE CAMPAIGN HAVE CONTINUED TO PERPETUATE THE DEFAMATION.

Despite the Permanent Injunction’s clear directives and the additional notice provided through the cease-and-desist letters, the Bundy Defendants refuse to comply with the Court’s order.

1. Bundy and PRN Have Generated and Posted New Defamatory Content.

After entry and service of the Permanent Injunction, Bundy has doubled down on his defamatory statements in blatant violation of the Court’s order. For instance, Bundy posted on YouTube a video on or around September 13, 2023 in which he repeats the defamation that the Infant was healthy when taken into protective care, that St. Luke’s provided unnecessary and improper medical care, that St. Luke’s harmed the Infant, and that St. Luke’s profits from taking children through CPS. Jensen Aff., Exs. B36, B37. In another video on September 29, 2023, Bundy falsely stated that the Infant’s care was never about malnutrition. *Id.*, Ex. B38. On

October 6, 2023, Bundy stated that the Infant was taken on “false pretense” and the Infant’s health declined in St. Luke’s care. *Id.*, Exs. B41, B42.

The examples of Bundy’s post-Permanent Injunction defamatory statements continue. *See id.*, Exs. B34, B35, B39, B40, B43, D57-D67, E54-E64.

In addition to Bundy’s post-Permanent Injunction defamatory statements, at least one other agent of PRN has made new defamatory statements online after the Permanent Injunction. *See id.*, ¶ 24, Exs. G22, H8.

2. Bundy’s, PRN’s, and the Campaign’s Defamatory Posts from Before the Permanent Injunction Remain Online.

The defamatory posts remain online in violation of the Permanent Injunction. *Id.*, ¶ 25. For convenience, Plaintiffs have indexed the posts by website and particular violation in Exhibit A to the Jensen Affidavit.¹ There are dozens of posts/webpages that were required to be taken down pursuant to the Permanent Injunction, which remain online currently. *Id.*, ¶ 25, Ex. A.

These posts are not just technical violations of an order. They endanger Plaintiffs’ and other witnesses’ safety, targeting and accusing of heinous crimes the individual Plaintiffs and other witnesses on the very bases that this Court and the jury found to be unequivocally false. *See id.*, ¶ 26, Exs. B1-B33, C1-C7, D1-D56, E1-E53, F1-F56, G1-G21, H1-H7, I1-I10. The Court is familiar with many of these posts and webpages, which were introduced as evidence at trial. *Id.*, ¶ 26.

¹ Many posts violate the Permanent Injunction in multiple ways but are only charged once per post.

D. BUNDY WILL LIKELY DISREGARD A NOTICE TO APPEAR.

Bundy was duly served by the Court in his individual capacity and as an agent of PRN and the Campaign. *See id.*, Ex. J at 40, Ex. L, Ex. M, Ex. N. Bundy has not voluntarily appeared for any hearing in this case, which includes four prior motions for contempt against him. *Id.*, ¶ 27. Even when, in the fourth contempt proceeding, this Court (prior to reassignment) issued a warrant of attachment, Bundy continued to refuse to appear, although all he had to do was pay a bond to avoid arrest. *Id.* Instead, Bundy did not post bond and evaded arrest for over four months. *Id.* All prior conduct demonstrates that Bundy will not voluntarily appear to answer these charges of contempt on the Permanent Injunction. *Id.*

III. ARGUMENT

A. THIS COURT SHOULD HOLD THE BUNDY DEFENDANTS IN CONTEMPT.

Plaintiffs seek an order from this Court holding the Bundy Defendants in contempt pursuant to Idaho Code § 7-601 *et seq.* and Idaho Rule of Civil Procedure 75(c). The district court has inherent power to enforce its orders and “discretion to determine what sanctions to impose for contempt.” *Chavez v. Canyon Cnty.*, 152 Idaho 297, 304, 271 P.3d 695, 702 (2012); *see also Steiner v. Gilbert*, 144 Idaho 240, 247, 159 P.3d 877, 884 (2007) (holding that I.C. § 7-610 does not preclude alternative civil sanctions under the common law or I.C. § 1-1603).

1. Plaintiffs Have Appropriately Initiated Contempt and Will Establish Its Elements in a Contempt Trial.

In order to hold a party in contempt, the movant must establish that the alleged contemnor (1) violated a “clear and unequivocal” order of the court (2) willfully. *State v. Rice*, 145 Idaho 554, 556, 181 P.3d 480, 482 (2008). For purposes of contempt proceedings, willfulness means “an indifferent disregard of duty” or “a remissness and failure in performance of a duty[.]” *In re Weick*, 142 Idaho 275, 281, 127 P.3d 178, 184 (2005); *see also Wechsler v.*

Wechsler, 162 Idaho 900, 917, 407 P.3d 214, 231 (2017) (holding willfulness demonstrated when contemnor refused receiver entry to his home after being ordered to turn over certain documents and items to receiver).

2. Plaintiffs Seek a Civil Contempt Remedy.

While this Court has discretion to choose between civil and criminal contempt remedies, civil is more fitting in this case. A civil contempt remedy seeks to coerce compliance, while a criminal contempt remedy seeks to punish past conduct. *See In re Williams*, 120 Idaho 473, 480, 817 P.2d 139, 146 (1991) (“When sanctions are imposed to punish the contemnor for past acts, the contempt is criminal; when sanctions are imposed for compensatory or coercive reasons, the contempt is civil in nature.”). The burden of proof for proving civil contempt is preponderance of the evidence, while the burden for criminal contempt is beyond reasonable doubt. *Chavez*, 152 Idaho at 304, 271 P.3d at 702 (civil); *Rice*, 145 Idaho at 556, 181 P.3d at 482 (criminal).

Coercion through civil contempt is appropriate in this case. *See Smith v. Smith*, 136 Idaho 120, 124, 29 P.3d 956, 960 (Ct. App. 2001) (affirming civil contempt sanction of incarceration until contemnor responded to discovery because orders to pay monetary sanctions had been ineffective).

First, this case had advanced to the post-judgment stage, and the Bundy Defendants’ pattern of litigation conduct has demonstrated that they will not submit willingly to this Court’s orders. The Bundy Defendants have not complied with the Court’s orders to date. There is no reason to believe that they will do so now.

Second, the Bundy Defendants’ period to appeal has run. Thus, there is no risk that at some later time, there will be a finding that any of the challenged statements were not defamatory and actionable—and therefore no risk that a coerced take-down of the posts would be

somehow invalid. A jury and this Court found, with finality, that the Bundy Defendants harmed the Plaintiffs through the repeated defamatory statements. The defamatory statements must be removed.

Third, like the circumstances in *Smith*, it is unlikely a criminal sanction would be effective. Based on their refusals to pay orders awarding attorneys' fees and the judgment, it is reasonable to assume any fines would go unpaid. This is especially true when Bundy has threatened violence against anyone who seeks to collect on the judgment. Jensen Aff., Ex. I4 (24:16-20). And even a set number of days in jail as a criminal sanction would not be effective. Bundy could have posted bond voluntarily rather than being arrested earlier in this case in the March 30, 2023 Renewed Motion for Contempt proceedings. But he chose not to, evaded arrest for months, then stayed in jail after arrest, apparently to promote himself to his followers as a martyr. Any criminal sanction of jail time simply to punish for past conduct would likely be spun to invite more support for Bundy and PRN. And more importantly, after any jail time was served, the defamatory statements would remain online, continuing to harm Plaintiffs and other witnesses, perpetuating the false conspiracy from which Bundy and PRN profit and the threat to Plaintiffs' safety.

Plaintiffs need a civil contempt remedy coercing Bundy to remove the defamatory webpages from sites he controls (including those of PRN and the Campaign) and cease making the false statements by incarcerating him until he complies with the Permanent Injunction.

3. The Bundy Defendants Are in Violation of the Clear and Unequivocal Language of the Permanent Injunction.

The Jensen Affidavit establishes that the Bundy Defendants are in violation of the Permanent Injunction. Jensen Aff., ¶¶ 1-28, Exs. A-N. The Permanent Injunction is clear and unequivocal in its requirements to cease making and disseminating the defamatory statements

described in Part II.A. above. And the Permanent Injunction is clear and unequivocal in its mandate to remove the existing posts and webpages containing the defamatory content. *See id.*

Bundy is in violation of the Permanent Injunction through his post-Permanent Injunction defamatory statements and his refusal to remove pre-Permanent Injunction defamatory posts and webpages. *See id.*, Exs. B1-B42, D1-D67, E1-E64, F1-F56; *supra* Part II.C.

PRN is in violation of the Permanent Injunction through its agents' post-Permanent Injunction defamatory statements and its failure to remove defamatory pages. *See id.*, Exs. G1-G22, H1-H8, I1-I10; *supra* Part II.C.

And the Campaign is in violation of the Permanent Injunction due to its failure to remove defamatory posts and webpages. *See id.*, Exs. C1-C7; *supra* Part II.C.

4. Plaintiffs Have Demonstrated Probable Cause for a Warrant of Attachment, Should One Be Necessary.

A warrant of attachment may be issued by a court when: (1) there is probable cause to believe that the defendant committed the contempt; and (2) there are reasonable grounds to believe that the defendant would disregard a written notice to appear. *See* I.R.C.P. 75(e)(1); *see also Beck v. Elmore Cnty. Magistrate Ct. (In re Writ of Prohibition)*, 168 Idaho 909, 920-21, 489 P.3d 820, 831-32 (2021) (discussing requirements for warrants of attachment in contempt).

Here, Plaintiffs have established probable cause that Bundy is in contempt for violating the Permanent Injunction. *See supra*.

There is probable cause that Bundy violated the orders willfully. As explained above, Bundy has actual notice of the Permanent Injunction. He was duly served the Permanent Injunction Order by duplicative means, any of which demonstrates his knowledge of the Permanent Injunction's content. *See id.*, ¶¶ 20, 22. At the very least, his failure to obey the Permanent Injunction constitutes "an indifferent disregard of duty" or "a remissness and failure

in performance of a duty,” which constitutes willfulness for contempt purposes. *In re Weick*, 142 Idaho at 281, 127 P.3d at 184.

And it is reasonable to believe that—if Bundy fails to appear to be arraigned on these charges of contempt—that he will continue to disregard any further notices to appear. *See* I.R.C.P. 75(e)(1). He has already chosen to ignore several orders in this lawsuit. *Jensen Aff.*, ¶ 28. He has refused to appear before this Court throughout the entire lawsuit, even when four prior motions for contempt were filed against him. *Id.*, ¶¶ 12-17.

A warrant of attachment should issue if Bundy does not appear at the hearing to be arraigned on these charges of contempt.

B. PLAINTIFFS REQUEST ATTORNEYS’ FEES AND COSTS INCURRED RELATED TO THEIR MOTION FOR CONTEMPT.

Plaintiffs request their attorneys’ fees and costs incurred in prosecuting this entire contempt proceeding, including the February 7 Contempt Motion. *See* I.R.C.P. 75(m) (“In any contempt proceeding, the court may award the prevailing party costs and reasonable attorneys’ fees under Idaho Code Section 7-610, regardless of whether the court imposes a civil sanction, a criminal sanction, or no sanction.”).

IV. CONCLUSION

For the reasons stated above, Plaintiffs respectfully request that the Court grant their Motion for Contempt. Unless and until the Permanent Injunction is enforced, the Bundy Defendants will continue to act as if they are above the law, harming Plaintiffs and others with their willful misconduct.

DATED: October 20, 2023.

HOLLAND & HART LLP

By: /s/ Erik F. Stidham

Erik F. Stidham

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October, 2023, I caused to be filed and served, via iCourt, 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	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> <u>Email/iCourt/eServe:</u> aebundy@bundyfarms.com
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Ammon Bundy Ammon Bundy for Governor People's Rights Network c/o Ammon Bundy 4615 Harvest Ln. Emmett, ID 83617-3601	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Email/iCourt/eServe:
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Freedom Man PAC Freedom Man Press LLC c/o Diego Rodriguez 1317 Edgewater Dr., #5077 Orlando, FL 32804	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Email/iCourt/eServe:
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Diego Rodriguez 1317 Edgewater Dr., #5077 Orlando, FL 32804	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Email/iCourt/eServe: freedommanpress@protonmail.com
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/s/ Erik F. Stidham

Erik F. Stidham
OF HOLLAND & HART LLP

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