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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 TO CONSOLIDATE
CONTEMPT PROCEEDINGS 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" or "St. Luke's Parties"), 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

The Bundy Defendants mock the Court's permanent injunction dated August 25, 2023 ("Permanent Injunction"). They continue making false, defamatory statements and refuse to remove existing, online defamatory statements; all in clear violation of the Permanent Injunction. Seeking to mitigate the economic damage, emotional distress, and risk of violence created by the Bundy Defendants' willful violation of the Permanent Injunction, the St. Luke's Parties are forced, yet again, to file a motion for contempt ("Contempt-Permanent Injunction").¹

A contempt hearing based on Bundy's violation of the Court's Order granting a preliminary injunction and the Court's Protective Order barring witness harassment is set to begin on November 13, 2022 ("Contempt-Preliminary Injunction/Protective Order").

The St. Luke's Parties move this Court to join the contempt proceedings so both the Motion for Contempt-Permanent Injunction and the Motion for Contempt-Preliminary Injunction/Protective Order can be resolved in a single hearing. Idaho Rule of Civil Procedure, Rule 75 contemplates that multiple contempt charges may be tried together. Idaho Rule of Civil

¹ The St. Luke's Parties' Motion for Contempt-Permanent Injunction dated October 20, 2023 filed concurrently herewith.

Procedure, Rule 42 is satisfied; the acts of contempt involve common issues of law or fact. Moreover, Idaho law favors the consolidation of hearings when, as is the case here, the consolidation will expedite matters and minimize the expense upon the public and the parties. The Bundy Defendants will not be prejudiced by consolidation.

The St. Luke's Parties are prepared to proceed on both the existing Contempt-Preliminary Injunction/Protective Order and Contempt-Permanent Injunction on November 13, 2023. However, if the Bundy Defendants or the Court believe more time is needed before the Contempt Permanent Injunction is heard, the St. Luke's Parties do not object to vacating the existing hearing date and resetting the contempt proceedings for a later date.

II. BACKGROUND

A. CONTEMPT PROCEEDING RELATING TO VIOLATION OF PRELIMINARY INJUNCTION AND PROTECTIVE ORDER IS SET FOR HEARING ON NOVEMBER 13, 2023

The St. Luke's Parties Contempt-Preliminary Injunction/Protective Order is set to be heard starting on November 13, 2023. *See* Order on Pending Motions and Contempt Trial Schedule dated October 19, 2023.

The Contempt-Preliminary Injunction/Protective Order involves over twenty counts of statements and posts from Bundy which defame, harass, and incite violence in violations of Court orders. *See* St. Luke's Witness List for Contempt Trial dated September 5, 2023; St. Luke's Exhibit List for Contempt Trial dated September 5, 2023.

B. THE ST. LUKE’S PARTIES HAVE FILED A MOTION ASKING THE BUNDY DEFENDANTS BE HELD IN CONTEMPT FOR VIOLATING THE PERMANENT INJUNCTION

1. 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 the St. Luke’s Parties owing to Defendants’ ongoing campaign of defamation relating to an Infant in the Department of Health and Welfare’s protective care. Affidavit of Jennifer Jensen dated October 20, 2023 (“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 a Permanent Injunction against all Defendants. Jensen Aff., ¶ 19, Ex. J. The Permanent Injunction fully evaluated the evidence presented at trial in a 40-page opinion. *See id.*

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).

2. 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. In fact, after entry and service of the Permanent Injunction, Bundy doubled down on his defamatory statements in blatant violation of the Court’s order. *See, e.g.*, Jensen Aff., Exs. B34,

B35, B36, B37, B38, B39, B40, B41, B42, B43. 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. 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 the St. Luke's Parties' 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. For the St. Luke's Parties, the Bundy Defendants' defiance (mockery might be more precise) creates real damage, emotional distress, and danger. Declaration of Erik F. Stidham dated October 20, 2023 ("Stidham Decl.") at ¶ 3. While Bundy should be accountable for his violations of the Preliminary Injunction and the Protective Order, the most significant harm currently is being caused by Bundy's ongoing attacks in violation of the Permanent Injunction. Stidham Decl. at ¶ 3. The St. Luke's Parties need the Court's assistance now.

III. ARGUMENT

A. THIS COURT SHOULD CONSOLIDATE THE CONTEMPT PROCEEDINGS.

In general, Idaho Rule of Civil Procedure Rule 75 and all other nonconflicting rules of civil procedure govern nonsummary contempt proceedings brought in connection with a civil lawsuit. I.R.C.P. 75(n) ("Rules regarding discovery and other rules of civil procedure, to the extent that they are not in conflict with this rule, apply to nonsummary contempt proceedings.

The Idaho Criminal Rules do not apply.”). Rule 75 contemplates that multiple contempt charges may be tried together if certain conditions are met. *See* I.R.C.P. 75(i) (“The trial will be before the court without a jury, provided that if the respondent is charged with *multiple counts tried in one proceeding*, the court cannot impose consecutive criminal sanctions totaling more than 6 months in jail unless the respondent was given, or voluntarily waived, the right to a jury trial.” (emphasis added)).

1. Common Issues of Fact or Law Exist to Support Consolidation

Whether contempt charges should be tried together is governed by Idaho Rule of Civil Procedure 42, which provides, in relevant part:

(a) Consolidation. If actions before the court involve a common question of law or fact, the court may:

- (1) join for hearing or trial any or all matters at issue in the actions;
- (2) consolidate the actions; or
- (3) issue any other orders to avoid unnecessary cost or delay.

Because Idaho Rule of Civil Procedure, Rule 42 does not conflict with Rule 75’s provisions for nonsummary contempt proceedings, it follows that separate motions for contempt can likewise be tried together, so long as they involve a common question of law or fact and joining the proceedings will not prejudice the defendant. Whether there is common question of law and fact is left to the discretion of the trial court. *BrunoBuilt, Inc. v. Erstad Architects, PA*, 528 P.3d 531, 545 (Idaho 2023).

Here, the Contempt-Preliminary Injunction/Protective Order and Contempt-Permanent Injunction both involve Bundy as the central actor and turn on common issues of fact including, Bundy’s willfulness in violating Court Orders, his pattern of conduct in posting to harass and to

harm the St. Luke's Parties in violation of the Court Orders. Further, some of the posts that provide the basis for counts of contempt for violation of the Preliminary Injunction and Protective Order and violation of the Permanent Injunction are the same. Factual issues regarding Bundy's control over channels on various social media platforms is a common issue.

There will also be common issue of law as both contempt proceedings turn on Idaho Code § 7-601 *et seq.* and Idaho Rule of Civil Procedure 75(c). In turn, the disjunctive test under Idaho Code of Civil Procedure 42(a) is met.

2. Consolidation Would Expedite Matters and Minimize Expenses

Whenever the court is of the opinion that consolidation will expedite matters and will minimize expense upon the public and the parties, ***an order of consolidation should be made.*** *Branom v. Smith Frozen Foods of Idaho, Inc.*, 83 Idaho 502, 509, 365 P.2d 958, 965 (1961). ***It is the policy of the law to limit the number of trials as far as possible.*** *Nelson v. Inland Motor Freight Co.*, 60 Idaho 443, 92 P.2d 790 (1939). When claims arise out of the same accident and one trial is sufficient to determine all the facts, separate trials would be a waste of time and expense. *Id.*, 60 Idaho at 449, 92 P.2d at 796; *see also Harrison v. Taylor*, 115 Idaho 588, 597, 768 P.2d 1321, 1330 (1989) (emphasis added).

Also, because Idaho Rule 42 is nearly identical to the federal rule, cases applying the federal rule are instructive. *See, e.g., Does v. BSA*, No. 1:13-cv-00275-BLW, 2017 U.S. Dist. LEXIS 193013, at *5 (D. Idaho Nov. 20, 2017) (“When deciding whether to consolidate, a court weighs the potential for increased efficiency against any inconvenience, delay, or expense consolidation would cause.”).

Here, consolidation will with decrease costs associated with attorney time, witness travel, and the disruption of work schedules. Stidham Decl., ¶ 4. Consolidation will also minimize expenses to the public by shortening time in court and the imposition on the time of court staff.

B. THE HEARING CAN BE RESET IF NECESSARY

The St. Luke's Parties are confident that they could proceed with on hearing on both the Contempt-Preliminary Injunction/Protective Order and Contempt-Permanent Injunction on November 13, 2023.

However, if Bundy or any of the Bundy Defendants contend that they need more time to prepare, the matter can be reset for an alternative date.

IV. CONCLUSION

To date, Bundy has not complied with any Court Orders. He had to be arrested before he could be arraigned for contempt. Now, because Bundy defies the Permanent Injunction, the St. Luke's Parties must endure more harassment and expend more time and money to get justice. For the reasons stated above, Plaintiffs respectfully request that the Court consolidate the contempt proceedings. If appropriate, the Court should also reset the contempt proceedings for an alternative, appropriate date.

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
Ammon Bundy for Governor
People's Rights Network

U.S. Mail
 Hand Delivered
 Overnight Mail
 Email/iCourt/eServe: aebundy@bundyfarms.com

Diego Rodriguez
Freedom Man PAC
Freedom Man Press LLC

U.S. Mail
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 Overnight Mail
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freedommanpress@protonmail.com

I hereby certify that on the 23rd day of October I caused to be mailed a copy of the foregoing as indicated below:

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

U.S. Mail

Ammon Bundy
Ammon Bundy for Governor
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4615 Harvest Ln.
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U.S. Mail

/s/ Erik F. Stidham

Erik F. Stidham
OF HOLLAND & HART LLP