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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

**MEMORANDUM IN OPPOSITION TO  
MOTION TO DISMISS OBJECTION  
TO CLERK'S RECORD ON APPEAL**

Respondents, 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 (collectively "Plaintiffs"), by and through their attorneys of record, Holland & Hart LLP, hereby submit this Memorandum in Opposition to Diego Rodriguez's Motion to Dismiss Plaintiffs' Objection to Clerk's Record. This Opposition is supported by the Declaration of Jennifer M. Jensen submitted herewith.

## **I. INTRODUCTION**

Rodriguez asserts that Plaintiffs' objection to the clerk's record ("Plaintiffs' Objection") was untimely. He is wrong. Plaintiffs filed within 27 days of service of the clerk's record, which was served on May 7, 2024.

Plaintiffs request that this Court grant their objection, which only seeks to correct the inadvertent omission of files already approved for inclusion in the clerk's record.

## **II. BACKGROUND**

On October 4, 2023, Diego Rodriguez filed a notice of appeal, seeking review of the judgment entered in favor of Plaintiffs on August 29, 2023. Declaration of Jennifer M. Jensen ("Jensen Decl."), ¶ 2.

Pursuant to Idaho Appellate Rule 19, on October 18, 2023, Plaintiffs timely filed their request for additional transcripts and records to be included in the appellate record. *Id.*, ¶ 3. Given the nature and breadth of Rodriguez's notice of appeal, the volume of evidence presented at trial, and relevant pretrial proceedings, Plaintiffs sought inclusion of 20 transcripts and 314 filings and trial exhibits. *Id.* On November 17, 2023, the Court granted the request for additional transcripts and records. *Id.*

On Thursday, May 2, 2024, at 4:34 PM, the clerk's office (via SecureFileTransferNotification@adacounty.id.gov) emailed Plaintiffs' counsel's office with a link to download the clerk's record for the pending appeal. *Id.*, ¶ 4. Plaintiffs' counsel's office

clicked on the link and attempted to download the files but received an error message stating “needs authorization.” *Id.*

Plaintiffs’ counsel’s office, unable to download the materials, emailed the clerk’s office on Friday, May 3, 2024 at 2:22 PM, requesting assistance due to the “needs authorization” error message. *Id.*, ¶ 5. The error was not resolved that day, and Plaintiffs’ counsel’s office still could not access the files the clerk’s office had attempted to make available. *Id.*

On Monday, May 6, 2024 at 3:33 PM, Plaintiffs’ counsel’s office again emailed the clerk’s office but received no response. *Id.*, ¶ 6.

The following day at 10:50 AM, the clerk’s office responded that it would prepare a thumb drive for pick up instead of continuing to attempt to resolve the “needs authorization” access error. *Id.*, ¶ 7. Two thumb drives were ultimately required to fit all the files. *Id.* The clerk’s office prepared the two thumb drives on May 7, 2024. *Id.* Plaintiffs’ counsel’s office picked them up the same day. *Id.*

Having received the clerk’s record, Plaintiffs’ counsel reviewed and determined that 82 of the records were missing. *Id.*, ¶ 8. To be clear, the missing records had been requested and approved by the Court previously and thus had apparently been inadvertently omitted from the clerk’s record. *Id.*

Plaintiffs duly filed an objection to the clerk’s record on June 3, 2024 and set the matter for hearing pursuant to Idaho Appellate Rule 29(a). *Id.*, ¶ 9. Rodriguez filed a motion to dismiss Plaintiffs’ Objection.

### **III. ARGUMENT**

Rodriguez wrongly asserts that Plaintiffs’ Objection was untimely.

Idaho Appellate Rule 29 provides, “The parties shall have 28 days from the date of the service of the transcript and the record within which to file objections to the transcript or the record, including requests for corrections, additions or deletions.” I.A.R. 29(a).

As set forth above, the clerk’s record was not served until May 7, 2024. Jensen Decl., ¶¶ 4-7. Plaintiffs’ Objection was filed within 27 days of the date of service. *See id.*, ¶¶ 4-9.

There is no reason to reject Plaintiffs’ Objection. It was timely filed. *See id.* Moreover, it only seeks to correct the omission of records that were supposed to be included in the clerk’s record when served. *See id.*, ¶ 8.

#### IV. CONCLUSION

For the foregoing reasons, Plaintiffs request that this Court deny Rodriguez’s motion to dismiss the objection to the clerk’s record and grant Plaintiffs’ Objection.

DATED: June 13, 2024.

HOLLAND & HART LLP

By: /s/Jennifer M. Jensen

Erik F. Stidham

Robert A. Faucher

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Zachery J. McCraney

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## CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June, 2024, 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  
Ammon Bundy for Governor  
People's Rights Network  
c/o Ammon Bundy  
P.O. Box 1062  
Cedar City, Utah 84712

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Freedom Man PAC  
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/s/ Jennifer M. Jensen

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