

Diego Rodriguez
1317 Edgewater Drive #5077
Orlando, FL 32804
(208) 891-7728
freedommanpress@protonmail.com

**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

**MOTION TO DECLARE JUNE 9
ORDER AND ALL PRIOR RULINGS
VOID AB INITIO FOR LACK OF
JURISDICTION UNDER I.C.R.P. 40(D)**

COMES NOW, the Defendant, Diego Rodriguez, pro se, and respectfully moves this Court to declare Judge Nancy A. Baskin’s Order dated June 9, 2025—as well as all previous rulings issued while a prior disqualification motion was pending—*void ab initio* for lack of jurisdiction, pursuant to **Idaho Rule of Civil Procedure 40(d)** and binding interpretive precedent.

I. BACKGROUND

1. On June 14, 2024, Defendant Diego Rodriguez filed a *Motion to Disqualify Judge Nancy Baskin*, which was never ruled upon.

2. Under I.R.C.P. 40(d), “*upon the filing of a motion for disqualification, the presiding judge must not act further in the action except to grant or deny the motion for disqualification.*”
3. Despite this unambiguous mandate, Judge Baskin issued a series of rulings while the original *Motion to Disqualify* remained pending, including but not limited to:
 - An order denying Defendant’s *Motion to Expedite Ruling*,
 - An order denying Defendant’s *Motion to Appear Remotely*,
 - A May 23, 2025 order that rejected Defendant’s filings on the basis of procedural technicalities, and
 - Most recently, the June 9, 2025 Order denying both the *Renewed Motion to Disqualify* and the *Motion to Compel a ruling*.
4. **Each of these judicial acts is void for want of jurisdiction, as the judge was disqualified by operation of law upon the filing of the June 2024 disqualification motion and therefore had no authority to proceed further.**
5. The *Renewed Motion to Disqualify* was filed on May 23, 2025, out of an abundance of caution, along with an affidavit and timeline of compliance, to reinforce Defendant’s rights and ensure proper judicial reassignment.
6. Yet, in her June 9 Order, Judge Baskin engaged in **judicial evasion by technicality** by claiming the original disqualification motion was “abandoned” under Local Rule 5.3, for failure to notice a hearing.
7. This is a **manifest legal error**, as I.R.C.P. 40(d) contains its own jurisdictional rules that **supersede local rules** in matters of judicial disqualification. I.R.C.P. 40(d) explicitly forbids the judge from acting further in the case once a disqualification motion is filed. Therefore, **no hearing may be set or required**—doing so would violate the very prohibition the Rule imposes.
8. Further compounding the error, Judge Baskin mocked Defendant’s citation to “I.R.C.P. 40(d)(1),” on the basis that no such subsection exists. While technically correct, this criticism is irrelevant and distracting. The correct reference—I.R.C.P. 40(d)—was properly cited elsewhere in the same motion, and the intent was unmistakable. This rhetorical maneuver serves only to undermine a self-represented litigant by elevating form over substance.

II. LEGAL STANDARD

Under Idaho law, an order entered by a judge **without jurisdiction** is a **nullity** and is considered *void ab initio*. See *Palmer v. Dermitt*, 102 Idaho 591 (1981); *Hoffman v. Waste Connections*, 190 Idaho 512 (2021). Jurisdiction cannot be retroactively conferred by a party's silence, by local rule, or by judicial fiat.

Where a motion for disqualification is properly filed, I.R.C.P. 40(d) operates automatically to divest the presiding judge of jurisdiction to act except to grant or deny the disqualification. All other judicial acts are void, and may be attacked at any time.

Judge Baskin's suggestion that the Defendant failed to show cause under I.R.C.P. 40(b) is legally irrelevant. The motion at issue was filed pursuant to I.R.C.P. 40(d), which governs peremptory disqualification and does not require a showing of cause. The Rules treat 40(b) and 40(d) as distinct mechanisms—one for cause, the other automatic upon request. Her conflation of these provisions is either a fundamental misreading of the Rules or a willful mischaracterization designed to evade the consequences of her disqualification.

III. ARGUMENT

1. Jurisdictional Violation: Judge Baskin lacked jurisdiction to rule on any motion in this case because the Renewed Motion to Disqualify was still pending. Under I.R.C.P. 40(d), she was barred from acting further in the case.

2. Improper Invocation of Local Rule 5.3: Judge Baskin's claim that the original motion was abandoned due to lack of a hearing notice under Local Rule 5.3 is legally flawed. Rule 40(d) is a mandatory and superior rule that overrides any local procedural rule. Furthermore, Local Rule 5.3 expressly provides discretion ("the court may"), not a mandate to deny.

3. Factual Inaccuracy: Judge Baskin stated, "*Movant referenced a hearing scheduled for June 10, 2025...*" No such reference was made in any filing by Movant. This is factually incorrect, as Movant Diego did not reference this date—rather it was Ric Nelson (Judge Baskin's assistant)

who referenced this date in an email to Movant Diego. This misrepresentation in Judge Baskin's Order is more than just sloppiness—it clearly demonstrates that she is misstating facts to justify improper rulings and that her conduct is pretextual and undermines the legitimacy of the court.

4. Violation of Due Process: By denying the Motion to Disqualify and Motion to Compel while disqualification was pending, Judge Baskin has denied Movant a neutral tribunal and a fair opportunity to have his filings heard by a judge who is not the subject of the disqualification motion.

5. Judicial Evasion by Technicality: In denying the *Renewed Motion to Disqualify*, Judge Baskin cites an alleged misstatement by Defendant, referencing Idaho Rule of Civil Procedure 40(d)(1), and claims that “no such subsection exists.” While it is true that Rule 40(d) is not broken into subsections in its current form, the reference was clearly meant to cite the substantive language of Rule 40(d), which states unequivocally: “*Upon the filing of a motion for disqualification, the presiding judge must not act further in the action except to grant or deny the motion for disqualification.*”

Rather than engage with the plain text and intent of the rule, Judge Baskin deflects the core issue of judicial disqualification by weaponizing an inconsequential typographical citation. This is not only unpersuasive—it is a transparent act of judicial evasion by technicality, designed to avoid addressing her own jurisdictional violations. It reflects a deliberate strategy to undermine a pro se litigant's credibility and obscure the Court's own failure to comply with procedural obligations.

Such tactics are not harmless; they are prejudicial. They represent a pattern of judicial behavior aimed at denying Defendant a fair and impartial forum. The Court's duty is to apply the law in good faith—not to seize on a mislabeling to avoid confronting its own misconduct. Defendant respectfully requests that the Court re-evaluate this matter on the basis of substance and applicable law, not on a meaningless technicality that has no bearing on the merits or the procedural validity of the *Motion to Disqualify*.

Furthermore, as already mentioned, in her June 9th, 2025 Order, Judge Baskin asserts that the defendant erroneously referenced I.R.C.P. 40(d)(1), noting that no such subsection exists. However, the defendant himself had recognized this error, and this Court was already formally notified of this clarification via a separate, properly filed *Notice of Clarification and Correction*, also dated May 23rd, 2025. In that filing, the defendant explicitly acknowledged the outdated reference to I.R.C.P. 40(d)(1) and corrected the citation to I.R.C.P. 40(d), quoting the current language of the rule. The Judge’s failure to acknowledge this correction in her order—despite it being part of the official record—constitutes a deliberate mischaracterization, and reflects either ***gross negligence*** or intentional ***judicial bias***. Such conduct is incompatible with the duty of impartiality and further confirms the urgent need for her disqualification.

6. Judge’s Misapplication of I.R.C.P. 40(a) Demonstrates Further Evasion and Procedural Misconduct: In the June 9 Order, Judge Baskin asserts: “*The Renewed Motion to Disqualify is not a timely motion for recusal under Rule 40(a) for disqualification without cause.*” This claim is wholly irrelevant, misleading, and procedurally defective. The Defendant never invoked I.R.C.P. 40(a), nor filed a motion for disqualification without cause.

Instead, both the original and renewed disqualification filings were explicitly grounded in I.R.C.P. 40(d), which governs disqualification for cause, including judicial bias, misconduct, jurisdictional overreach, and violations of due process. Unlike 40(a), which is limited to peremptory disqualification within a strict timeframe, Rule 40(d) contains no deadline and is triggered by misconduct or impropriety that arises at any point in the case.

The Court’s invocation of 40(a) in an attempt to summarily dismiss the renewed motion is either a grave misreading of Idaho’s Rules of Civil Procedure or a deliberate misdirection designed to evade accountability—especially when viewed alongside the judge’s continued refusal to rule on the original motion, coupled with unauthorized rulings in the interim.

7. Additional False Claim: The Court’s suggestion that the undersigned requested leave to “amend” his motion to appear remotely in order to “add additional information” is unsupported

by the record and categorically false. At no point in the *Motion to Appear Remotely* did the movant request legal advice, nor seek to supplement a filing with new evidence via oral argument. The motion was filed pursuant to standard judicial access protocols for pro se litigants unable to travel interstate due to financial and logistical constraints. The Court's misrepresentation of that motion demonstrates not only a failure of procedural fairness, but a disturbing readiness to construct false pretext in order to justify the denial of basic due process.

8. Pattern of Misconduct: This conduct reflects a continued pattern of disregard for judicial neutrality and due process. This pattern of *procedural evasion*, including citing inapplicable rules, further confirms the appearance of bias and supports the conclusion that all subsequent rulings issued by the Court were entered without lawful jurisdiction and are therefore *void ab initio*. Judge Baskin's refusal to step aside or permit proper adjudication on the issue of disqualification constitutes not just error, but textbook *judicial misconduct*.

9. Continual Ignoring of the Core Issue and Claim: Finally, Judge Baskin's June 9th order concludes by "granting leave" for the Defendant to request an in-person hearing on other pending motions within 14 days, citing Local Rule 5.3. This phrasing is legally disingenuous and jurisdictionally irrelevant. The core issue is not whether the Defendant has noticed a hearing—but whether Judge Baskin had any authority to rule at all. Under Idaho Rule of Civil Procedure 40(d), once a motion to disqualify has been filed, the presiding judge is prohibited from taking any further action in the case except to grant or deny the motion to disqualify. By addressing unrelated procedural matters—such as deadlines under Local Rule 5.3—the Court is engaging in legal misdirection, deliberately distracting from her own jurisdictional disqualification. Worse, she denied the Defendant's *Motion to Appear Remotely*, while "granting leave" to request in-person hearings, fully aware that the Defendant resides across the country and is subject to outstanding contempt warrants. This creates an impossible dilemma: either the Defendant appears in person and is arrested (and subject to well-known and documented physical abuse by the Ada County Sheriff's department), or he declines to appear and is accused of abandoning his motions. This is textbook *judicial entrapment*—a calculated coercion tactic designed to suppress

the Defendant's filings and silence legitimate constitutional claims through fear, risk, and logistical obstruction.

IV. RELIEF REQUESTED

For the foregoing reasons, Defendant respectfully requests that the Court:

- Declare **void ab initio** the June 9, 2025 *Order denying the Renewed Motion to Disqualify* and the *Motion to Compel*.
- Declare **void ab initio** all other orders or rulings issued by Judge Baskin following the June 14, 2024 filing of the original Motion to Disqualify.
- Certify the disqualification issue for administrative reassignment pursuant to the second clause of I.R.C.P. 40(d), requiring that the Administrative Judge or Idaho Supreme Court assign a neutral jurist.
- Enter any further relief deemed just and proper.

V. CONCLUSION

The record now establishes that Judge Baskin knowingly proceeded in a case over which she had been stripped of jurisdiction, issued multiple rulings while disqualified, and used procedural deflections to dodge her obligation to step aside. These actions constitute not just legal error, but textbook **judicial misconduct**.

Further, her reliance on a local rule to defeat a statewide rule of judicial disqualification is a blatant legal error that compounds the constitutional harm already inflicted. Her rulings are **void ab initio** and must be struck accordingly.

Finally, her suggestion that Defendant's disqualification motion lacked a showing of "cause" under I.R.C.P. 40(b) is legally irrelevant to a peremptory disqualification under I.R.C.P. 40(d), which requires no showing of cause and is triggered automatically by a party's timely request.

DATED: June 9th, 2025

By: /s/ Diego Rodriguez
Diego Rodriguez

CERTIFICATE OF SERVICE

I certify I served true and correct copy to:

Erik F. Stidham (ISB #5483)
HOLLAND & HART LLP
800 W. Main Street, Suite 1750
Boise, ID 83702-5974

☐ By Mail
☐ By fax
☒ By Email/iCourt/eServe

DATED: June 9th, 2025

By: /s/ Diego Rodriguez
Diego Rodriguez