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**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

PASTOR STEVE SMOTHERMON,

 Plaintiff,

 v.

KEITH HODGE, an individual; KEVIN
 HODGE, an individual; HODGETWINS, LLC,
 a limited liability company,

 Defendants.

Case No. 2:25-cv-01858-APG-BNW

**DEFENDANTS' REPLY IN SUPPORT OF
 COUNTERMOTION FOR
 ATTORNEYS' FEES**

[ECF NO. 76]

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC ("Defendants") submit their reply in support of their Countermotion for Attorneys' Fees Under 28 U.S.C. § 1927 (ECF No. 76).

1.0 INTRODUCTION AND RELEVANT FACTS

On August 24, 2026, Defendants opposed Plaintiff's Motion to Modify the Scheduling Order (ECF No. 67) but neglected to attach a declaration that they cited in the Opposition (ECF No. 70). A few hours later that same day, Defendants filed a Notice of Errata (ECF No. 71) that simply attached the declaration and made no additional argument. This was the correct procedure to correct an innocent mistake. That should have been the end of it.

Plaintiff filed a Motion to Strike the Notice of Errata (ECF No. 74) and the accompanying declaration because it demonstrated Plaintiff's lack of diligence in discovery. It showed that

Plaintiff's counsel abandoned the one deposition she scheduled in this case, and she did so without explanation. The Motion to Strike contained a correct quote from *Bias v. Moynihan*, 508 F.3d 1212, 1224 (9th Cir. 2007) but misapplied it to the issue at hand, indicating that his counsel had not read the case, or any of the cases she cited, before filing the Motion. *See* ECF No. 76 at 2-3.

Plaintiff's arguments in the Motion to Strike were frivolous, misapplied the cited caselaw, and unnecessarily multiplied the proceedings in this case. Moreover, they were obviously drafted with the assistance of AI. Plaintiff's counsel either did not care that the citations were incorrect or did not bother to check the AI's work prior to filing the Motion. So, concurrently with their Opposition to the Motion to Strike, Defendants filed a Countermotion for an award of attorneys' fees pursuant to 28 U.S.C. § 1927.

Somewhat ironically, Plaintiff filed his Opposition disputing that he has unnecessarily multiplied proceedings in this case on the very day that Defendants discovered that Plaintiff has been lying to Defendants and this Court for weeks regarding his alleged incapacity from surgery. He has thus far filed at least three documents with this Court relying upon his supposed inability to participate in his case due to that surgery. *See* ECF Nos. 67, 69, 79. None of his representations regarding this surgery were true.

His filings claimed that he was "on bed rest and pain medication, cannot sit or concentrate, and cannot participate in any proceeding – in person or by video – with the soonest date for renewed activity being early November 2026." ECF No. 67 at 2-3. However, on September 2, 2026, one day before Plaintiff filed a Motion for Protective Order (ECF No. 79) while claiming to still be on bed rest, Smothermon had the capacity to prepare a 45-minute sermon, climb the steps to a stage, and deliver that sermon in front of a megachurch full of people. *See* YouTube Video "*Why Discipline Feels Impossible Until You Learn This*";¹ Legacy Church "Past Sermons" Page.²

¹ Available at <https://www.youtube.com/watch?v=v5ciBu0fek> (last accessed Sept. 9, 2026).

² Available at <https://www.legacychurch.com/sermon-archive?sapurl=LysxOWE4L2xiL2xpLyt2cjljanZkP2VtYmVkPXRydWUmcMvjZW50Um91dGU9YXBwLndiYi1hcHAubGlicmFyeS5saXN0JnJlY2VudFJvdXRlU2x1Zz0lMkZ2cjljanZk> (last accessed Sept. 9, 2026).

He published that video the same day he told the Court that he could not do so much as *speak to his counsel* about the case. In the video, Plaintiff Smothermon is standing behind the pulpit in no apparent distress for nearly an hour. *See id.* Plaintiff and his lawyers have been unnecessarily multiplying these proceedings and making knowingly false representations to this Court.

Plaintiff's Opposition to the Countermotion acknowledges that a proper errata provides corrections to the original filing without making new argument (which is what Defendants' errata did), that fees should be awarded when a party unnecessarily multiplies the proceedings (which is what Plaintiff's Motion to Strike did), and does not even address Plaintiff's use of AI and subsequent failure to verify the slop produced by that AI (which was the primary basis for the Countermotion). The Countermotion should be granted, and Plaintiff's counsel should pay the fees and costs associated with Defendants' response to the Motion to Strike and the Countermotion.

2.0 ARGUMENT

§ 1927 sanctions apply "to unnecessary filings and tactics once a lawsuit has begun." *Moore v. Keegan Mgmt. Co. (In re Keegan Mgmt. Co., Sec. Litig.)*, 78 F.3d 431, 435 (9th Cir. 1996). The imposition of sanctions pursuant to Section 1927 "require a finding of recklessness or bad faith." *See id.* at 436, citing *U.S. v. Blodgett*, 709 F.2d 608, 610 (9th Cir. 1983). "Bad faith is present when an attorney knowingly or recklessly raises a frivolous argument." *Id.*, quoting *Estate of Blas v. Winkler*, 792 F.2d 858, 860 (9th Cir. 1986).

Here, Defendants' counsel neglected to file an exhibit with their Opposition that was cited in the Opposition. A few hours later, they attached that exhibit to a Notice of Errata. As shown in the Opposition to Plaintiff's Motion to Strike, this was the proper procedure. *See* ECF No. 75 at 3-5. In fact, even Plaintiff's Motion to Strike cited caselaw that showed Defendants followed the proper procedure. Plaintiff filed the Motion to Strike anyway, unnecessarily multiplying the proceedings in contravention of § 1927.

There are two possibilities here, and neither is acceptable. Plaintiff's counsel might have known that the cases they cited disproved their Motion to Strike because they checked the work performed by AI. If so, their Motion to Strike was filed in bad faith. Or Plaintiff's counsel did not

1 bother to check the work of the AI and filed the Motion to Strike hoping that the AI's research was
2 correct. If so, the Motion to Strike was filed recklessly with bad faith.

3 Either way, Plaintiff's Motion to Strike unnecessarily multiplied the proceedings. Plaintiff
4 and his attorneys either knew they were raising frivolous arguments or recklessly did not care that
5 they were doing so.

6 Even Plaintiff's Opposition advances frivolous arguments, implying that *Keegan* stands
7 for the proposition that "[o]ne motion ... is not multiplication." Opposition to Countermotion, at
8 8. The case does not hold that. It does not even imply it. In *Keegan*, the court merely held that a
9 party could not be sanctioned under § 1927 for filing a complaint because the section "only applies
10 to unnecessary filings and tactics once a lawsuit has begun." *Keegan*, 78 F.3d at 435.

11 § 1927 sanctions can be imposed for the filing of a single motion, as they are most often
12 imposed when counsel "knowingly or recklessly raises a frivolous argument." *Id.*, quoting *Estate*
13 *of Blas*, 792 F.2d at 860. It is not the number of bad faith motions a party's counsel files; one is
14 enough. "[W]hat is clear from [Ninth Circuit] caselaw is that a finding that the attorney recklessly
15 or intentionally misled the court is sufficient to impose sanctions under § 1927." *Franco v. Dow*
16 *Chem. Co. (In re Girardi)*, 611 F.3d 1027, 1061 (9th Cir. 2010). One frivolous motion is all that it
17 takes to mislead the Court.

18 Here, Plaintiff either filed his Motion to Strike knowing that the arguments in it were
19 invalid AI slop or did not care whether the arguments in it were invalid AI slop. In either case,
20 Plaintiff's counsel should be sanctioned – either for intentionally or recklessly misleading the
21 Court.

22 Given the discovery that Plaintiff and his counsel have been lying to the Court about his
23 medical condition and whether it prevents Plaintiff from participating in his lawsuit, their conduct
24 in filing a facially invalid Motion to Strike is not surprising. They should not be excused for their
25 misrepresentations to the Court. The Countermotion should be granted. Considering the
26 misrepresentations about Smothermon's condition discovered on September 8, 2026, it should
27 include all fees incurred in responding to those issues as well. Defendants recognize that this new

issue is being raised in a Reply brief and thus do agree that the Plaintiff should get a surreply to respond to the accusations that the Plaintiff knowingly lied to the Court about his condition in an effort to further multiply these proceedings.

3.0 CONCLUSION

Defendants' Countermotion for Attorneys' Fees pursuant to § 1927 should be granted for each and every reason provided in the Countermotion and in this Reply in support of it.

Dated: September 9, 2026.

Respectfully submitted,

RANDAZZA LEGAL GROUP, PLLC

/s/ Ronald D. Green

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 9, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully submitted,

/s/ Ronald D. Green

Ronald D. Green

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