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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' OPPOSITION TO MOTION FOR PROTECTIVE ORDER STAYING PLAINTIFF'S OBLIGATION TO RESPOND TO EIGHTH, NINTH, AND TENTH REQUESTS FOR PRODUCTION, SECOND REQUESTS FOR ADMISSION, SIXTH AND SEVENTH INTERROGATORIES, AND TO SIT FOR DEPOSITION ON SEPTEMBER 15, 2026

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC ("Defendants") oppose Plaintiff's Motion for Protective Order Staying Obligation to Respond to Eighth, Ninth, and Tenth Requests for Production, Second Requests for Admission, Sixth and Seventh Interrogatories, and to Sit for Deposition on September 15, 2026 (ECF No. 79) (the "Motion").

1.0 INTRODUCTION AND RELEVANT FACTS

On September 3, 2026, Plaintiff filed the instant Motion, asking the Court to excuse him from completing his discovery obligations. *See* ECF No. 79. Specifically, he requested that the Court issue a protective order staying his obligations to respond to written discovery and sit for deposition. *See id.* The Motion was based upon one thing – Plaintiff's alleged incapacity due to a surgery on July 1, 2026. *See id.* at 2. He claimed that the July surgery still had him "limited to bed

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rest" and unable to "sit, concentrate, or remain awake." *Id.* He told the Court that the "soonest [he] may be able to resume activity is early November 2026, subject to re-evaluation." *Id.* at 3.

This was a lie, and he knew it was a lie when he filed his Motion.

One day before Plaintiff filed this Motion claiming to be confined to bed rest, on September 2, 2026, he climbed the steps and walked to the stage at Legacy Church and delivered a fiery 45-minute sermon. *See* YouTube Video, attached to the Declaration of Ronald Green ("Green Dec.") as **Exhibit 1**; Legacy Church "Past Sermons" Page, attached to the Green Dec. as **Exhibit 2**. He is clearly not confined to bed rest. He has no trouble remaining awake. He can not only sit, but also stand, for a lengthy period of time. He can not only concentrate but draft, plan, and passionately deliver a sermon that is nearly an hour long.

Plaintiff Smothermon has filed at least three documents with this Court lying about his health in an attempt to avoid participating in a case that he filed. *See* ECF Nos. 67, 69, 79. Defendants also filed a Motion to Modify the Scheduling Order for the Limited Purpose of Taking Plaintiff's Deposition (ECF No. 66) on August 13, 2026. Defendants' Motion was also based upon Plaintiff's counsel's representations about Plaintiff's alleged incapacity that Defendants believed were likely true when their Motion was filed but discovered were false when they learned that he was back on the pulpit giving lengthy sermons to his congregation.

All of the representations Plaintiff made to the Court in ECF Nos. 67, 69, and 79, including in this Motion for Protective Order, were untrue. Plaintiff knew that they were untrue when he made them. If he can write a 45-minute sermon and deliver that sermon to a large crowd in a megachurch, he can assist his counsel with discovery responses and be deposed.

On August 13, 2026, in an attempt to accommodate Plaintiff when they were unaware that his medical representations were all lies, Defendants even offered concessions regarding the deposition, telling Plaintiff and this Court that they would (1) take the deposition remotely "so that Plaintiff need not travel"; (2) take the deposition "in multiple shortened sessions … if that is necessary"; (3) take the deposition "at a location of Plaintiff's choosing"; and (4) take it on any date before the close of discovery. *See* ECF No. 66-3. One day later, Plaintiff produced a doctor's

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note that was written for this Court, not for his care. *See* ECF No. 67-2. It directly tracked each concession Defendants offered and called them insufficient, stating that Plaintiff could not sit in front of a camera, attend court proceedings whether via Zoom, video, audio, or in person, or be interviewed for any reason. *See id.* Tellingly, the doctor's note is not from the surgeon who performed his surgery in Arizona but from a pain doctor in Albuquerque. *See id.*

In any case, Plaintiff's medical excuses are all untrue. The concessions Defendants offered were unnecessary. He can participate in this case. He just does not want to. He should appear for deposition in Las Vegas on September 15, 2026, as previously noticed, and his written discovery obligations should not be stayed. If he declines to appear for deposition on September 15, 2026, he should be compelled to appear on a date certain as requested in Defendants' Motion to Modify the Scheduling Order for the Limited Purpose of Taking Plaintiff's Deposition (ECF No. 66). If he continues to play games with his discovery obligations, Defendants will seek sanctions, up to and including the dismissal of this case.

Plaintiff's Motion for Protective Order should be denied. And if candor to the Court means anything, he and his counsel should be sanctioned for lying to the Court and to Defendants to try to gain a litigation advantage. He should be compelled to appear for deposition in Las Vegas, where he chose to file this case, and to respond to written discovery given that his participation is not even necessary for most of the written discovery he does not wish to respond to.

2.0 ARGUMENT

The scope of permissible discovery is broad. "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P. 26(b)(1). Information "need not be admissible in evidence to be discoverable." *Id.* A party from whom discovery is sought may move for a protective order prohibiting certain discovery, but the party seeking a protective order "bears the burden of persuasion." *Flynn v. Love*, 3:19-cv-00239-MMD-CLB, 2022 U.S. Dist. LEXIS 156764, at *5-6 (D. Nev. Feb. 25, 2022), citing *U.S. E.E.O.C. v. Caesars Entm't, Inc.*, 237 F.R.D. 428, 432 (D. Nev. 2006).

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This burden "is carried by demonstrating a particular need for protection supported by specific facts." *Id.* Courts "'insist[ ] on a particular and specific demonstration of fact'" prior to issuing a protective order. *Id.*, quoting *Twin City Fire Ins. Co. v. Employers Ins. of Wausau*, 124 F.R.D. 652, 653 (D. Nev. 1989). Broad allegations of harm are insufficient. *See Beckman Indus., Inc. v. International Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992). Inconvenience and expense are likewise insufficient to obtain a protective order. *See Turner Broad. Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997).

2.1 Plaintiff's medical excuse is untrue.

Plaintiff has not, and cannot, meet his burden of persuasion. The primary reason that Plaintiff seeks a protective order is due to his alleged medical condition. In his Motion, he states that he is on "bed rest, cannot sit or concentrate, is on medication that might impair wakefulness, must avoid 'added stress,' and cannot participate in any proceeding or interview for any reason until early November 2026 at the earliest." ECF No. 79 at 5. However, none of this is true, negating any need that Plaintiff has for a protective order.

As of the day before he filed the Motion, he was back on the pulpit and writing and delivering a lengthy sermon to a crowd of thousands. If he can draft an hour-long sermon, he can assist with discovery responses. If he can walk to a stage and passionately deliver that sermon to thousands of people while standing, he can sit in a room and be interviewed in a case that he filed where he is requesting millions of dollars in damages. Parties can take breaks during depositions; pastors do not have that luxury while giving a sermon.

Additionally, regarding written discovery responses, his surgery was on July 1, 2026. He has responded to numerous rounds of written discovery since then, as follows:

- On July 16, 2026, he responded to Defendants' Third Set of Interrogatories and Fourth Requests for Production;
- On July 22, 2026, he responded to Defendants' Fourth Set of Interrogatories and Fifth Requests for Production;
- On July 27, 2026, he responded to Defendants' Fifth Set of Interrogatories and

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Sixth Requests for Production; and

- On August 26, 2026, he responded to Defendants' Seventh Requests for Production.

His alleged medical incapacity did not prevent him or his counsel from responding to discovery in the past. His counsel did not even bother to tell Defendants or the Court that he had an alleged medical excuse until August 13, 2026.[1] *See* ECF No. 66-3.

Even if Plaintiff were incapacitated, he admits that many of the discovery requests can be answered without his participation at all. He admits that the Ninth Requests for Production, Tenth Requests for Production, and Seventh Interrogatories concern documents and information regarding his expert witnesses. *See* ECF No. 79 at 4. His participation is not required for those.

Additionally, he filed this Motion on September 3, 2026. On September 4, he served responses to Defendants' Sixth Set of Interrogatories, Eighth Requests for Production, and Second Requests for Admission. He has already responded to all of the discovery that was not regarding his expert witnesses, leaving no need at all for a protective order regarding written discovery even if his representations regarding his medical condition were true.

Plaintiff has mooted his own Motion. He does not need a protective order due to a medical condition. That was a lie. If he can preach to his congregation, he can participate in a lawsuit that he filed. He and his counsel have already responded to any discovery that might have required his input. The Motion should be denied.

2.2 Defendants' discovery requests are not improper.

Plaintiff vaguely asserts that Defendants' discovery requests are improper, but he does not say how or why they are improper. The closest he gets is vaguely alleging that some requests are duplicative and that some of the Ninth and Tenth Requests for Production and Seventh Interrogatories may encompass some documents protected from disclosure. If that is the case, he can object and produce a privilege log. It does not provide a reason to issue a protective order

[1] Plaintiff lies when he alleges that "Defendants served six sets of discovery requests" "upon learning that Plaintiff was incapacitated." ECF No. 79 at 3-4. In any case, even if they had, there is nothing untoward or underhanded about on party serving discovery requests upon another party.

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excusing his compliance with the discovery rules, even temporarily.

3.0 CONCLUSION

Plaintiff's Motion for Protective Order must be denied. He has lied to the Court about his alleged incapacity. If he is capable of writing and delivering a sermon for nearly an hour to thousands of congregants at his megachurch, he is also capable of participating in his own lawsuit. He should not be excused from the properly noticed September 15, 2026 deposition, and he should not be excused from serving timely responses to Defendants' written discovery.

Dated: September 10, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 10, 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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