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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

REPLY IN SUPPORT OF MOTION FOR SANCTIONS FOR MISREPRESENTATIONS IN INTERROGATORY RESPONSES AND FAILURE TO VERIFY INTERROGATORY RESPONSES

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC (collectively "Defendants") hereby submit their Reply in Support of their Motion for Sanctions for Misrepresentations in Interrogatory Responses and Failure to Verify Interrogatory Responses (ECF No. 72).

MEMORANDUM OF POINTS AND AUTHORITIES

1.0 INTRODUCTION

Plaintiff's counsel has answered six sets of Interrogatories since June 12, 2026. Their client, the Plaintiff in this lawsuit, has verified none of them. Moreover, given the discrepancy in some of those responses between "Plaintiff's" answers and the testimony of one of his employees at Legacy Church, it is doubtful he participated in drafting them. Moreover, given the discrepancy in some of those responses between "Plaintiff's" answers and the testimony of one of his employees at Legacy Church, there are some serious questions regarding factual consistency and candor. His Opposition provides no justification , and sanctions are appropriate.

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2.0 ARGUMENT

2.1 Defendants Met and Conferred

Plaintiff's primary argument is that Defendants failed to meet and confer. This is untrue. Defendants' counsel spoke to Mike Jackson about this issue telephonically weeks before the Motion was filed, and Mr. Jackson assured counsel that verifications were coming "soon." *See* ECF No. 72-1 at ¶ 6. That should have resolved it. But verifications never arrived.

On August 25, 2026, Defendants' counsel asked Nicole Westbrook to meet and confer on the issue for a second time. *See* ECF No. 72-1 at ¶ 9. She refused to respond. *See id.* The next day, he called her to meet and confer. *See id.* She did not answer or return his call. *See id.* Defendants' attempts to meet and confer are laid out in both the Motion (ECF No. 72) and counsel's declaration in support of it (ECF No. 72-1).

A party is not permitted to dodge a meet and confer conference, while accusing the other party of refusing to meet and confer. *See v5 Techs. v. Switch Ltd.*, 334 F.R.D. 297, 301-02 (D. Nev. 2019). "Gamesmanship by an opposing party that thwarts the meet-and-confer process is not grounds to deny a discovery motion." *Id.* Parties are not permitted to "use the prefiling conference requirements as procedural weapons through which to avoid complying with their discovery obligations." *Id.* That is what Plaintiff is attempting to do here.

2.2 There is no "Verification Delay"; Plaintiff Refuses to Verify

Discovery opened in April 2026. It closes in one week. Plaintiff responded to Defendants' First Set of Interrogatories on June 12, 2026, and has never verified a single interrogatory response. This is not a matter of delay. This is Plaintiff refusing to comply with his discovery obligations.

Plaintiff blames it on surgery that occurred on the first day of July. In the Motion, he writes that "[h]is physician has forbidden the very act verification requires: sitting, concentrating, and participating in litigation." Motion at 6. His incapacity is a lie.

Plaintiff filed his Opposition on September 3, 2026. Yet, on September 2, he climbed the stairs at Legacy Church and delivered a sermon that he wrote to a large crowd for nearly an hour. Smothermon has no medical limitations. He just finds actually participating in the litigation he

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filed to be something he would rather not do. He expected to harass the defendants into a quick settlement. Since they decided to stand up for their rights, he and his counsel are upset. He has had over three months to verify but has declined to. All he has to do is swear that the answers he gave are true. He won't do it.

2.3 Plaintiff's Interrogatory Responses Are Untrue

As discussed in the Motion, Plaintiff's interrogatory responses are untrue. This is ground enough to sanction Plaintiff or his counsel. *See Chambers v. NASCO*, 501 U.S. 32, 42-46 (1991). It also indicates that Plaintiff may not be able to verify his interrogatory responses because he did not participate in drafting them.

As discussed in the Motion, his interrogatory responses state that he personally instructed Krisha Mason to contact Defendants and demand that their Facebook post be removed. *See* ECF No. 72 at 6. Krisha Mason testified that she **never** spoke to Plaintiff about the Facebook post. *See id.* One of them is not telling the truth. Plaintiff Smothermon is lying, Krisha Mason is lying, or his counsel answered interrogatories without his input and now she got caught because the verifications are missing. In the latter case, Smothermon cannot verify the responses without perjuring himself.

This is not a minor fact discrepancy. Mason's call to the Hodgetwins' customer service line is a linchpin of Plaintiff's case, and either Plaintiff or one of his employees is lying about it.

2.4 Defendants Served a Permissible Amount of Interrogatories

Plaintiff complains that "Defendants have served seven sets of multi-part interrogatories under a Scheduling Order that caps each party at twenty-five." ECF No. 78 at 7. Plaintiff fails to mention that Defendants served a grand total of 24 interrogatories on Plaintiff. It makes no difference how many "sets" there were or how many subparts they contained. If Plaintiff thought Defendants' interrogatories were abusive, he could have moved for a protective order. He did not. This is a non-issue.

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2.5 Fees are Warranted

Plaintiff's sole argument against an award of fees to Defendants under Fed. R. Civ. P. 37 is that Defendants failed to meet and confer. However, this is not true. Defendants fulfilled their requirements under the Rule prior to filing, and Plaintiff is *required* to pay Defendants' fees and costs pursuant to Rule 37.

3.0 CONCLUSION

For each and every reason discussed in the Motion and this Reply, Defendants respectfully request that the Court grant the Motion.

Dated: September 11, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 11, 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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