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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 Nevada
limited liability company;

Defendants.

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

**PLAINTIFF’S MOTION TO
COMPEL DISCOVERY
RESPONSES AND PRODUCTION
OF DOCUMENTS AND ESI, FOR
APPOINTMENT OF A NEUTRAL
FORENSIC EXAMINER, AND FOR
ATTORNEY’S FEES UNDER RULE
37(a)(5)**

Plaintiff Pastor Steve Smothermon moves under Federal Rules of Civil Procedure 26, 33, 34, and 37(a), and Local Rules 26-6 and IA 1-3(f), for an order:

1. Compelling Defendants to serve a compliant Rule 26(a)(1) initial disclosure and supplements that identify Defendants’ own documents and ESI — not only materials in Plaintiff’s possession — and that describe the specific

1 discoverable information each witness holds;

- 2 2. Compelling complete, verified supplemental responses to Plaintiff's Second
3 and Third Sets of written discovery, a Rule 34(b)(2)(C) statement whether any
4 responsive material is being withheld, and a privilege log in place of General
5 Objection 9;
- 6 3. Compelling production in native format, with all metadata, of (a) the original
7 photograph with EXIF, IPTC, and system metadata and its source URL, (b)
8 the complete Meta/Business Suite export and page Activity/Audit Log, (c) the
9 Google Web & App Activity / Takeout export for the account or device used
10 to source the photograph — or, in the alternative, Defendants' execution of
11 the consent directive authorizing Google to release those records, (d) the
12 native export and audit trail for Freshdesk Ticket #529834, and (e) all internal
13 and third-party communications concerning the Post;
- 14 4. Appointing a neutral third-party forensic examiner, at Defendants' expense,
15 to image and search the iPhone 16 Pro Max and any other device or account
16 used to create, source, or remove the Post, under a protocol that sends hits
17 (relevant documents and data) first to Defendants' counsel and protects
18 privileged and irrelevant material;
- 19 5. Awarding Plaintiff his reasonable expenses and attorney's fees under Rule
20 37(a)(5); and
- 21 6. Granting Rule 37(e)(1) relief only to the extent of paragraphs 3–4, reserving
22 Rule 37(e)(2), and granting such other relief as the Court deems just.

23 This Motion is supported by the law, the Declaration of Nicole A. Westbrook,
24 Defendants' April 9, 2026, Initial Disclosures and May 29, 2026 First Supplemental
25 Disclosures, Plaintiff's August 25, 2026 meet-and-confer letter and prior deficiency
26 correspondence, the July 30 and August 10, 2026 verified discovery responses, the
27 July 31, 2026 letter of Ronald D. Green, HODGE000136–000138, and the August

11, 2026, Mason and Morin deposition transcripts.

2 I. INTRODUCTION

3 This is a defamation case, and the evidence that will decide it sits almost
 4 entirely in Defendants' hands: the record of the search that produced Plaintiff's
 5 photograph, the device on which that search was run, the platform data showing how
 6 far the Post spread and what Defendants earned from it, and the communications in
 7 which Defendants learned the photograph was wrong. Defendants have withheld all
 8 of it — behind a shifting course of conduct that leaves the completeness and veracity
 9 of their discovery in serious doubt, and that no ordinary order to "supplement" can
 10 cure.

11 The pattern is stark. Defendants' Rule 26(a)(1) Initial Disclosures listed only
 12 documents already in Plaintiff's possession or in the public record — not a single
 13 document of their own. Their supplemental disclosures then identified witnesses
 14 who, by Defendants' own account, performed the Google search, ran the website,
 15 received the customer-service complaint, and deleted the photograph — yet
 16 Defendants produced only the Howerton–Mason email, and none of the search
 17 records, native ticket file, or other internal communications those witnesses
 18 necessarily created or received. In written discovery, Defendants first swore they
 19 had no responsive documents, then produced more than 100 pages, then took the
 20 position that key categories of data are "lost." Their answers changed with each
 21 round of conferral.

22 Defendants' verified responses are internally irreconcilable. They swear
 23 Kevin Hodge ran the search that selected Plaintiff's photograph "in incognito mode"
 24 on "his iPhone 16 Pro Max" — a phone he "still uses" — and that "no Google
 25 account was used." Defs.' 2d Set Interrog. Resps. Nos. 8, 11 (July 30, 2026).
 26 Separately — and only as to comparator posts — they swore that "Defendants did
 27 use Google to perform basic identity verification regarding the posts." Defs.' 3d Set

1 Interrog. Resps. No. 22 (Aug. 10, 2026). In the same August 10 verification they
2 claimed engagement and platform data “was lost as a result of Plaintiff’s own
3 actions.” *Id.* Nos. 18, 20. A party that swears a search occurred, identifies the device
4 that ran it, and then asserts that no record of it exists has not answered discovery; it
5 has raised precisely the question a neutral examiner exists to resolve. At a minimum,
6 this record warrants an independent examiner to image and search that device and
7 those accounts, under a protocol, and determine what responsive data actually exists.

8 Plaintiff has pressed these deficiencies for months. In his July 31, 2026 letter,
9 defense counsel wrote that Defendants were “engaging someone with greater
10 technical facility” and that they “attempted to extract data about the post from
11 Facebook but were unable to do so.” Plaintiff’s July 28, 2026 letter had asked
12 Defendants to confirm, by July 31, 2026, when the native files and search records
13 would be produced. None of that data has been produced. Plaintiff’s August 25, 2026
14 meet-and-confer letter then catalogued the outstanding deficiencies and asked
15 Defendants to confer, which occurred August 27. Defendants refused to produce the
16 discovery sought herein.

17 II. BACKGROUND

18 Defendants’ discovery has been deficient from the outset. Their April 9, 2026,
19 Initial Disclosures listed under Rule 26(a)(1)(A)(ii) only documents already in
20 Plaintiff’s possession or in the public record — Legacy Church materials, public
21 articles, Google search results, photographs of Plaintiff, and “[a]ll documents ...
22 produced by Plaintiff in discovery” — and disclosed none of Defendants’ own
23 documents or ESI. The same disclosures described each party witness in identical,
24 boilerplate terms, reciting only that each has knowledge “regarding the allegedly
25 defamatory Facebook post ... the circumstances surrounding the posting of and
26 removal ... affirmative defenses ... and the other facts and circumstances,” without
27 identifying what any particular witness did or knows.

1 Defendants' May 29, 2026, First Supplemental Disclosures added witness
2 detail and the August 22, 2025 Howerton–Mason email. They disclosed that Kevin
3 Hodge performed the Google image search that attached Plaintiff's photograph; that
4 Nathan Hughes runs Defendants' website and has knowledge of a customer-service
5 email reporting an incorrect picture and of the deletion of the photograph after that
6 email; that Kylie Howerton took the customer-support call; and that Krisha Mason
7 emailed Defendants' customer-service address. Yet the accompanying list of
8 documents still contained only Plaintiff-side and public materials, plus that email.
9 Defendants never produced the search records, the native customer-service file, or
10 the other internal communications those witnesses necessarily created or received.

11 In written discovery, Plaintiff served the Second Set on June 30, 2026
12 (responses July 30) and the Third Set on July 9, 2026 (responses August 10).
13 Defendants' account of their own documents did not hold together across the two
14 sets. They swore under oath that no responsive documents existed, then produced
15 more than 100 pages — including the August 22, 2025 email chain in which Krisha
16 Mason told Defendants' support channel that the photograph was "INCORRECT"
17 and depicted "PASTOR Steve Smothermon" (HODGE000136–000138, produced
18 June 11, 2026), and which identifies "ticket #529834 raised by Krisha Mason"
19 (HODGE000138). By the Third Set responses they had reversed position again, this
20 time claiming the engagement and platform data was "lost." Mason and Morin
21 confirmed the August 22, 2025, notice under oath on August 11, 2026.

22 Plaintiff raised these deficiencies through a sustained conferral process:
23 deficiency letters dated April 21, May 26, June 30, July 9, July 28, and August 25,
24 2026, and accompanying telephonic conferences. Defense counsel's July 31, 2026,
25 letter stated that Defendants were "engaging someone with greater technical facility"
26 and that they "attempted to extract data about the post from Facebook but were
27 unable to do so." Plaintiff's July 28, 2026, letter had asked Defendants to confirm

1 by July 31, 2026, when the native files and search records would be produced. No
2 additional data has been produced.

3 Despite this process, the following categories remain outstanding:

- 4 1. Rule 26(a)(1) supplementation regarding internal ESI and witness roles;
- 5 2. the Google Web & App Activity / Takeout export (or an executed consent
6 directive) for the account or device used to source the photograph;
- 7 3. the native photograph file with EXIF, IPTC, and system metadata, including
8 the source URL;
- 9 4. the Meta/Business Suite export and page activity/audit log reflecting the
10 creation, editing, and removal of the Post;
- 11 5. internal and third-party communications concerning the Post, including the
12 native customer-service (Freshdesk) file and communications with Nathan
13 Hughes, Krisha Mason, and Kylie Howerton;
- 14 6. revenue, monetization, and engagement data for the Post;
- 15 7. a substantive response describing what preservation steps were taken; and
- 16 8. a privilege log for any responsive document withheld, in place of Defendants'
17 refusal to state whether materials are withheld.

18 No native files or search records have been produced. Plaintiff's counsel
19 conferred via telephone with Defendants' counsel on August 28, 2026. Defendants'
20 counsel refused to correct the issues herein.

21 **III. ARGUMENT**

22 **A. Defendants' Rule 26(a)(1) Disclosures Are Facially Deficient**

23 Rule 26(a)(1)(A)(ii) requires a party to disclose the documents and ESI it has
24 that it may use to support its claims or defenses; Rule 26(a)(1)(A)(i) requires it to
25 identify each individual likely to have discoverable information "and the subjects of
26 that information." "A major purpose" of that exchange "is to accelerate the exchange
27 of basic information about the case and to eliminate the paper work involved in

requesting such information.” *R & R Sails, Inc. v. Ins. Co. of Pa.*, 673 F.3d 1240, 1246 (9th Cir. 2012) (quoting Fed. R. Civ. P. 26 advisory committee’s note to 1993 amendments). Defendants satisfied neither. Their April 9, 2026 Initial Disclosures listed only materials already in Plaintiff’s possession or in the public record — not one document of Defendants’ own. Disclosing “[a]ll documents ... produced by Plaintiff in discovery” is not compliance; it is an evasion of the duty to come forward with the disclosing party’s own materials. The duty continues. Fed. R. Civ. P. 26(e)(1).

Defendants plainly possess responsive documents. By their own verified answers, Kevin Hodge ran “the Google search for a photograph of ‘Steve Smotherman’” on “his iPhone 16 Pro Max,” which he “still uses,” Defs.’ 2d Set Interrog. Resps. Nos. 8, 11 (July 30, 2026); “Defendants use Meta Business Suite,” Defs.’ 3d Set Interrog. Resps. No. 19 (Aug. 10, 2026); Bigly “removed” the Post, Defs.’ 2d Set Interrog. Resps. No. 12; and Ticket #529834 sits on a page they already produced, HODGE000138. But they will not disclose those files. The witness disclosures are equally deficient: Defendants described all three party witnesses in identical boilerplate, telling Plaintiff nothing about “the subjects of th[e] information” each witness holds, as Rule 26(a)(1)(A)(i) requires. Even after the May 29, 2026 supplement revealed who ran the search, who maintained the website and has knowledge of the deletion of the photograph, and who took the complaint call, Defendants produced the Howerton–Mason email but none of the search records, native ticket file, or internal communications those roles generated. The Court should compel a compliant disclosure identifying Defendants’ own documents and ESI and describing each witness’s actual knowledge. Plaintiff does not ask the Court to exclude a defense on this motion.

B. What Plaintiff Asked For Versus What Defendants Provided

The deficiencies are not abstract. For each category of discovery, Plaintiff

sought specific, responsive material; Defendants’ verified responses supplied objection, contradiction, or a claim of loss:

<u>Plaintiff Requested</u>	<u>Defendants’ Verified Response</u>
Identification of the Google account used for the search, and its Web & App Activity / Takeout export (2d Set ROG 8)	“Kevin Hodge conducted the Google search ... in incognito mode and was not signed in to any Google account,” so “no Google account was used” — producing no search records
Every step taken to preserve ESI (2d Set ROG 10)	“Without waiving these objections, Defendants respond: none”
Identification of the device used for the search and the Post (2d Set ROG 11)	Kevin Hodge used “his iPhone 16 Pro Max,” which “Mr. Hodge still uses” — yet no image or extraction was offered
The original photograph in native format with metadata and its source URL	No native file and no metadata produced
Engagement data and its source (3d Set ROG 18)	Objection that the data “was lost as a result of Plaintiff’s own actions,” while stating responsive documents were “being produced contemporaneously”
Every step to preserve, and every edit or loss of, the Post and account activity (3d Set ROG 20)	“Defendants are not in possession of information allowing them to respond ... but will supplement ... if responsive information is located”

Management tools and administrative access (3d Set ROG 19)	“Defendants use Meta Business Suite” with post/edit/delete access — yet no Business Suite export or audit log produced
The native export and audit trail for Freshdesk Ticket #529834, and related communications	Produced a partial chain (HODGE000136–000138) referencing the ticket, but neither the native export nor the audit trail
A Rule 34(b)(2)(C) statement whether responsive material is withheld, and a privilege log	Neither provided

Rule 34(b)(2)(C) requires Defendants to state whether responsive material is being withheld; Rule 33(b) requires verified, complete answers; and Rule 26(e) requires supplementation. An evasive answer is a failure to answer. Fed. R. Civ. P. 37(a)(4). “[T]he party opposing discovery bears the burden of showing the disputed discovery is not relevant, a burden that is met by specifically detailing the reasons why each request is irrelevant.” *V5 Techs. v. Switch, Ltd.*, 334 F.R.D. 306, 310 (D. Nev. 2019). A privilege claim requires a log, not General Objection 9. *PlayUp, Inc. v. Mintas*, No. 2:21-cv-02129-GMN-NJK, 2026 WL 1079397, at *1-3 (D. Nev. Apr. 21, 2026). A party may not swear that documents “are being produced contemporaneously,” assert in the same verification that the data is “lost,” and refuse to log. The Court should compel complete, verified responses; a withholding statement; production without a preserved specific objection on RFPs 13, 20, and 26; and a log for any later privilege claim.

C. The Withheld Discovery Is Central to Plaintiff’s Claims

This is not a fishing expedition at the margins of the case. Each withheld

category maps onto an element of Claim 1, and there is no substitute source for any of it. Nevada requires a false and defamatory statement of fact concerning the plaintiff, an unprivileged publication to a third person, fault, and damages. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 718, 57 P.3d 82, 90 (2002). A public-figure plaintiff must prove actual malice. *Id.* at 90–92; *Herbert v. Lando*, 441 U.S. 153, 156-157 (1979) (subjective awareness).

Fault and actual malice. The search records, the fact that the search was run in “incognito mode,” and the internal communications bear directly on what Defendants knew about the photograph. Kevin Hodge “conducted the Google search for a photograph of ‘Steve Smotherman’ in incognito mode” on “his iPhone 16 Pro Max,” which he “still uses.” Defs.’ 2d Set Interrog. Resps. Nos. 8, 11 (July 30, 2026). Separately — and only as to comparator posts — they swore they “did use Google to perform basic identity verification regarding the posts.” Defs.’ 3d Set Interrog. Resps. No. 22 (Aug. 10, 2026). There is “no privilege under the First Amendment ... barring the plaintiff from inquiring into the **editorial processes** of those responsible for the publication where the inquiry will produce evidence material to the proof of a critical element of the plaintiff’s cause of action.” *Herbert*, 441 U.S. at 153 (emphasis added). Withholding those records would insulate the dispositive element from testing.

Identity and the of-and-concerning element. The native photograph, its EXIF/IPTC/system metadata, and its source URL establish that the image is of Plaintiff and trace it to its origin. 2d Set RFP 13. A stripped copy cannot. They answered, with no specific objection: “Defendants are in possession of no documents responsive to this Request.” Defs.’ 2d Set RFP Resps. No. 13.

Extent of publication, damages, and commercial benefit. “Defendants use Meta Business Suite.” Defs.’ 3d Set Interrog. Resps. No. 19. The engagement data for that account is the platform’s own count of how far the Post spread. 3d Set

Interrog. Nos. 17, 18. An answer that the data “was lost as a result of Plaintiff’s own actions” and, in the same verification, “are being produced contemporaneously,” is not an answer. Fed. R. Civ. P. 37(a)(4).

Notice and post-notice conduct. On August 22, 2025, Mason wrote that the Post “uses an INCORRECT photo” and “features a photo of PASTOR Steve Smothermon.” HODGE000136. Hodgetwins Support replied that afternoon: “I’ll be forwarding your message to our marketing department right away.” HODGE000137. The same thread identifies “ticket #529834 raised by Krisha Mason.” HODGE000138. Those files fix when notice arrived and what Defendants did next. They are not privileged customer-service traffic.

Without this discovery, Plaintiff would have to try a defamation claim while the only records of Defendants’ conduct, knowledge, and reach remain inside Defendants’ device and accounts. Defendants should not be permitted to convert control over that evidence into a defense on the merits.

D. The Native ESI and Account Data Are Within Defendants’ Control and Must Be Produced

Defendants’ Meta Business Suite data, the native photograph, the Freshdesk records, and the Google and device records of the search are within their possession, custody, or control. “Control is defined as the legal right to obtain documents upon demand.” *In re Citric Acid Litig.*, 191 F.3d 1090, 1107 (9th Cir. 1999) (quoting *United States v. Int’l Union of Petroleum & Indus. Workers*, 870 F.2d 1450, 1452 (9th Cir. 1989)). Kevin Hodge “still uses” the iPhone 16 Pro Max on which he ran the search and published the Post. Defs.’ 2d Set Interrog. Resps. No. 11 (July 30, 2026). Where parties “used their personal devices and accounts to conduct business,” “courts routinely require searches and production of responsive communications.” *Hous. Cas. Co. v. Findlay Mgmt. Grp.*, No. 2:24-cv-01459-ART-NJK, 2026 WL 1506856, at *2 (D. Nev. May 28, 2026). A Takeout export and a

1 Business Suite export are account-holder downloads. They are not a vendor's files
2 Defendants cannot command.

3 Defendants' two excuses do not withstand scrutiny. First, that the search was
4 run in "incognito mode" and while "not signed in" is no answer. Incognito mode
5 governs local browser artifacts. It is not a showing that no server-side record exists,
6 and it is not a showing that Defendants lack the legal right to ask Google what their
7 own tools will export. Defs.' 2d Set Interrog. Resps. No. 8. The party resisting
8 discovery must make that showing with specifics. *V5 Techs. v. Switch, Ltd.*, 334
9 F.R.D. 306, 310 (D. Nev. 2019). If they contend they cannot themselves retrieve the
10 Google records, they should be ordered to execute the consent directive already
11 tendered as Exhibit A. 2d Set RFP 23; 3d Set RFP 31. A provider may disclose
12 contents "with the lawful consent of the originator or an addressee or intended
13 recipient," and non-contents "with the lawful consent of the subscriber or customer."
14 18 U.S.C. § 2702(b)(3); *id.* § 2702(c)(2). A "Google search URL that not only shows
15 that a user is using the Google search engine, but also shows the specific search
16 terms the user had communicated to Google." *In re Zynga Privacy Litig.*, 750 F.3d
17 1098, 1108 (9th Cir. 2014). The Court would order the subscribers to consent, not
18 order Google to produce.

19 Second, that the platform data "was lost as a result of Plaintiff's own actions,"
20 Defs.' 3d Set Interrog. Resps. Nos. 18, 20 (Aug. 10, 2026), confuses front-end
21 removal of a Facebook post with deletion of the Business Suite records Defendants
22 concede they use. *Id.* No. 19. The duty to preserve was theirs. Their verified answer
23 on preservation was "none." Defs.' 2d Set Interrog. Resps. No. 10. Native
24 production, with metadata, should be compelled.

25 **E. Defendants' Shifting Positions Warrant a Neutral Third-Party** 26 **Forensic Examiner**

27 A forensic examination is an "extraordinary remedy that requires substantial

1 support.” *PlayUp, Inc. v. Mintas*, 350 F.R.D. 47, 53 (D. Nev. 2025). It is appropriate
2 when there are “serious questions” about the “candor” of the production or the
3 “reliability and completeness of the materials produced.” *Id.* at 52-53. That standard
4 is met here. Defendants answered that they were “in possession of no documents
5 responsive” to communications with Mason, Howerton, and Hughes, Defs.’ 2d Set
6 RFP Resps. No. 20 (July 30, 2026), then Bates-stamped the ticket thread as
7 HODGE000136–000138. They disclosed only Plaintiff-side documents under Rule
8 26(a)(1). They swore Kevin Hodge ran the search on “his iPhone 16 Pro Max,”
9 which he “still uses,” Defs.’ 2d Set Interrog. Resps. No. 11, while claiming no search
10 records exist, *id.* No. 8. In one August 10 verification they said documents “are being
11 produced contemporaneously,” Defs.’ 3d Set Interrog. Resps. No. 17, and that
12 engagement data “was lost as a result of Plaintiff’s own actions,” *id.* Nos. 18, 20.
13 Counsel then wrote that Defendants “attempted to extract data about the post from
14 Facebook but were unable to do so.” Letter from Ronald D. Green to Nicole A.
15 Westbrook (July 31, 2026). A party whose sworn representations keep changing
16 cannot be trusted to certify that its own device and accounts have been fully
17 searched.

18 The Court should appoint a neutral examiner, at Defendants’ expense, to
19 image and search the iPhone 16 Pro Max and any other device or account used to
20 create, source, or remove the Post, under a protocol that protects privileged and
21 irrelevant material. *PlayUp*, 350 F.R.D. at 60-61. Hits go first to Defendants’
22 counsel. Plaintiff does not receive the device or an unfiltered image. *Jones v. Riot*
23 *Hosp. Grp. LLC*, 95 F.4th 730, 737-38 (9th Cir. 2024). The parties shall confer on
24 the examiner within seven days; the Court will designate only if they deadlock.
25 *PlayUp*, 350 F.R.D. at 61. Alternatively, Defendants pay the examiner and each side
26 bears its own review time. Only an independent examination can resolve the doubt
27 Defendants’ own conduct has created.

F. Plaintiff Is Entitled to His Fees Under Rule 37(a)(5)

Defendants' evasive and incomplete responses "must be treated as a failure to disclose, answer, or respond." Fed. R. Civ. P. 37(a)(4). If the motion is granted, the Court "must, after giving an opportunity to be heard," award the movant's reasonable expenses, including attorney's fees, unless (i) the movant filed before attempting in good faith to confer, (ii) the opposing position was "substantially justified," or (iii) other circumstances make an award unjust. Fed. R. Civ. P. 37(a)(5)(A). None of those exceptions applies. Plaintiff conferred. Swearing "no documents responsive," then producing HODGE000136–000138, then swearing the rest was "lost as a result of Plaintiff's own actions" while documents "are being produced contemporaneously," all under General Objection 9, is not one substantially justified position. If the Court grants in part, it "may ... apportion the reasonable expenses." Fed. R. Civ. P. 37(a)(5)(C). Plaintiff will file a fee declaration within fourteen days of the order. This request is limited to expenses on the motion. It is not a request for case-ending sanctions.

G. Plaintiff Reserves His Rights Under Rule 37(e)

This Motion seeks to obtain the withheld discovery, not yet to sanction its loss. Defendants have alternately represented that responsive documents are being produced and that the data is "lost." Until the compelled production and the neutral forensic examination establish what exists and what, if anything, is truly unrecoverable, a spoliation finding under Rule 37(e) would be premature. Plaintiff expressly reserves the right to seek all available relief under Rule 37(e), including curative measures and an adverse-inference instruction, should the examination confirm that responsive ESI was lost because Defendants failed to take reasonable steps to preserve it.

IV. CONCLUSION

The evidence that will decide this case is in Defendants' hands, and their

1 shifting, incomplete discovery has kept it there. Plaintiff cannot prove Defendants’
 2 knowledge, the reach of the Post, or the profit Defendants earned from it without the
 3 records Defendants control. The Court should not permit Defendants’ stonewalling
 4 to defeat the claim on the merits. Plaintiff respectfully requests that the Court grant
 5 the Motion in full.

6 Respectfully submitted this 3rd day of September, 2026.

7 /s/ Nicole A. Westbrook

8 Nicole A. Westbrook

9 G. Michael Jackson Esq.

10 **JONES, DAVIS & JACKSON, P.C.**

11 *Attorneys for Pastor Steve*
 12 *Smothermon*

13 **CERTIFICATION OF CONFERRAL (LR IA 1-3(f) AND LR 26-6)**

14 Counsel for Plaintiff certify that they have in good faith conferred and
 15 attempted to confer with counsel for Defendants in an effort to obtain the discovery
 16 sought without court action. Fed. R. Civ. P. 37(a)(1); LR IA 1-3(f); LR 26-6(c). The
 17 conferral process began with Plaintiff’s April 21, 2026 deficiency letter on
 18 Defendants’ Rule 26 disclosures and continued through Plaintiff’s letters of May 26,
 19 June 30, July 9, July 28, and August 25, 2026, through a Zoom conference on May
 20 4, 2026, a conference on June 4, 2026, and a conference on July 22, 2026. Letter
 21 from Nicole A. Westbrook to Marc Randazza (May 26, 2026); Letter from Ronald
 22 D. Green to Nicole A. Westbrook (June 5, 2026); Letter from Nicole A. Westbrook
 23 to Marc J. Randazza and Ronald D. Green (Aug. 25, 2026).

24 On July 31, 2026, defense counsel wrote in response to Plaintiff’s July 28
 25 letter that Defendants were “engaging someone with greater technical facility” and
 26 that they “attempted to extract data about the post from Facebook but were unable
 27

1 to do so.” Letter from Ronald D. Green to Nicole A. Westbrook (July 31, 2026). The
2 native files and search records have not been produced.

3 Plaintiff’s August 25, 2026, letter identified the remaining deficiencies and
4 requested a telephonic conference. The conference was had on August 27 and
5 Defendants refused to produce any further discovery or cure the substantial defects
6 herein. Further informal resolution has been unsuccessful. This Motion is necessary.

7 **CERTIFICATE OF SERVICE**

8 I hereby certify that on September 3, 2026, I caused the foregoing to be
9 electronically filed with the Clerk of the Court using the CM/ECF system, which
10 served all counsel of record, including:

11
12 Marc J. Randazza, NV Bar No. 12265

13 Ronald D. Green, NV Bar No. 7360

14 Alex J. Shepard, NV Bar No. 13582

15 RANDAZZA LEGAL GROUP, PLLC

16 8991 W. Flamingo Rd., Ste. B

17 Las Vegas, NV 89147

18
19 *Attorneys for Defendants*

20 *Keith Hodge, Kevin Hodge, and Hodgetwins, LLC*

21
22 /s/ Nicole A. Westbrook
23
24
25
26
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Attorneys for Plaintiff Pastor Steve Smothermon

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**PASTOR STEVE
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Plaintiff,

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KEVIN HODGE, an individual;
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**DECLARATION OF NICOLE A.
WESTBROOK IN SUPPORT OF
PLAINTIFF'S MOTION TO
COMPEL DISCOVERY
RESPONSES AND PRODUCTION
OF DOCUMENTS AND ESI FOR
APPOINTMENT OF A NEUTRAL
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37(a)(5)**

I, Nicole A. Westbrook, declare as follows:

1. I am an attorney admitted pro hac vice in this action and counsel of record for Plaintiff Pastor Steve Smothermon. I am an attorney with Jones, Davis & Jackson, P.C. I have personal knowledge of the facts stated in this Declaration and, if called as a witness, could and would testify competently to them.

2. I submit this Declaration in support of Plaintiff's Motion to Compel Discovery Responses and Production of Documents and ESI, for Appointment of a Neutral Forensic

1 Examiner, and for Attorney's Fees Under Rule 37(a)(5). I personally participated in the meet-and-
2 confer process regarding the discovery deficiencies at issue in this Motion. Pursuant to Local Rules
3 IA 1-3(f) and 26-6, Plaintiff has actively pursued discovery and attempted in good faith to resolve
4 this dispute without Court intervention.

5 3. The conferral process began on April 21, 2026, when I sent a written deficiency
6 letter regarding Defendants' Rule 26 disclosures; continued through Zoom and telephonic
7 conferences held on May 4, June 4, July 22, August 27, and August 28, 2026; and included
8 subsequent written deficiency letters sent by my office on May 26, June 30, July 9, July 28, and
9 August 25, 2026.

10 4. During our telephonic conference on August 27, 2026, and our subsequent conferral
11 on August 28, 2026, Defendants' counsel definitively refused to produce the native ESI,
12 Meta/Business Suite exports, and search records requested herein, creating an impasse that
13 necessitates this Motion.

14 5. On April 9, 2026, Defendants served their Rule 26(a)(1) Initial Disclosures, which
15 identified only documents already in Plaintiff's possession or in the public record. A true and
16 correct copy of Defendants' April 9, 2026 Initial Disclosures is attached as **Exhibit A**.

17 6. On May 29, 2026, Defendants served their First Supplemental Disclosures,
18 identifying witness roles but again failing to disclose internal ESI or documents. A true and correct
19 copy of Defendants' May 29, 2026 First Supplemental Disclosures is attached as **Exhibit B**.

20 7. Plaintiff propounded written discovery to which Defendants provided verified
21 responses containing contradictions regarding the location and preservation of ESI. On July 30,
22 2026, Defendants served Responses to Plaintiff's Second Set of Interrogatories, asserting that
23 Kevin Hodge conducted the image search "in incognito mode" using "his iPhone 16 Pro Max,"
24 which he "still uses." A true and correct copy of Defendants' Responses to Plaintiff's Second Set
25 of Interrogatories is attached as **Exhibit C**.

26 8. On August 10, 2026, Defendants served Responses to Plaintiff's Third Set of
27 Interrogatories, swearing that engagement and platform data "was lost as a result of Plaintiff's own

1 actions,” while simultaneously swearing that responsive documents “are being produced
2 contemporaneously.” A true and correct copy of Defendants’ Responses to Plaintiff’s Third Set of
3 Interrogatories is attached as **Exhibit D**.

4 9. On July 30, 2026, Defendants served Responses to Plaintiff’s Second Set of
5 Requests for Production, asserting they were “in possession of no documents responsive” to
6 requests for the native photograph file and source URL. A true and correct copy of Defendants’
7 Responses to Plaintiff’s Second Set of Requests for Production is attached as **Exhibit E**.

8 10. Despite Defendants’ earlier written discovery responses stating under oath that no
9 responsive documents existed, on June 11, 2026, Defendants produced a three-page email chain
10 regarding a customer support complaint that the photograph was “INCORRECT” and depicted
11 “PASTOR Steve Smothermon.” A true and correct copy of this production, bearing Bates numbers
12 HODGE000136–000138, is attached as **Exhibit F**.

13 11. On July 31, 2026, I received a letter from Defendants’ counsel, Ronald D. Green,
14 in response to my July 28, 2026 deficiency letter. Mr. Green’s letter stated that Defendants were
15 “engaging someone with greater technical facility” and that they “attempted to extract data about
16 the post from Facebook but were unable to do so.” A true and correct copy of the July 31, 2026
17 letter from Mr. Green is attached as **Exhibit G**.

18 12. On August 11, 2026, non-party witnesses Krisha Mason and Mr. Michael Morin
19 were deposed in this action, wherein the deponents confirmed under oath the August 22, 2025
20 notice represented in HODGE000136–000138. True and correct copies of certified excerpts from
21 the August 11, 2026 deposition transcripts of Ms. Mason and Mr. Morin are attached collectively
22 as **Exhibit H**.

23 13. To document the extensive conferral history prior to filing this Motion, I have
24 compiled the principal deficiency correspondence sent by my office to Defendants’ counsel. True
25 and correct copies of Plaintiff’s meet-and-confer letters dated April 21, May 26, June 30, July 9,
26 July 28, and August 25, 2026, are attached collectively as **Exhibit I**.

1 14. Because Defendants assert they cannot independently retrieve their Google search
2 records, Plaintiff drafted a consent directive to permit Google LLC to release the records directly.
3 A true and correct copy of Plaintiff's proposed Consent Directive is attached as **Exhibit J**.

4 15. As of the date of this Declaration, Defendants have not produced the original
5 photograph in native format with metadata; the Google Web & App Activity / Takeout export; the
6 Meta/Business Suite export and audit log; the native export for Freshdesk Ticket #529834; nor a
7 privilege log compliant with Fed. R. Civ. P. 26(b)(5) for materials withheld under General
8 Objection 9.

9 I declare under penalty of perjury under the laws of the United States of America that the
10 foregoing is true and correct.

11 Executed on September 3, 2026.

12
13 

14 _____
15 Nicole A. Westbrook
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EXHIBIT A

DEFENDANTS' RULE 26(a)(1) INITIAL DISCLOSURES (SERVED
APRIL 9, 2026)

Marc J. Randazza, NV Bar No. 12265
 Ronald D. Green, NV Bar No. 7360
 Alex J. Shepard, NV Bar No. 13582
 RANDAZZA LEGAL GROUP, PLLC
 8991 W. Flamingo Rd., Ste. B
 Las Vegas, NV 89147
 Telephone: 702-420-2001
 ecf@randazza.com

Attorneys for Defendants,
 Keith Hodge, Kevin Hodge, and Hodgetwins, LLC

**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'
INITIAL DISCLOSURES**

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC submit the following initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1). These disclosures are based upon information presently known and reasonably available to Defendants and which Defendants reasonably believe they may use in support of their defenses. Continuing investigation and discovery may cause Defendants to amend these initial disclosures, including by identifying other potential witnesses, documents, and other pertinent information or things. Defendants reserve the right to supplement these initial disclosures.

1.0 LIST OF WITNESSES

In making these disclosures, Defendants do not purport to identify every individual, document, data compilation, or tangible thing possibly relevant to this lawsuit. Rather, Defendants' disclosures represent a good faith effort to identify discoverable information they currently and reasonably believe may be used to support their defenses as required by Fed. R. Civ.

P. 26(a)(1). Furthermore, Defendants make these disclosures without waiving their right to object to the production of any document, data compilation, or tangible thing disclosed on the basis of any privilege, work product, relevancy, undue burden, or other valid objection. These disclosures do not include information that may be used solely for impeachment purposes. While making these disclosures, Defendants reserve, among other rights: (1) their rights to object on the grounds of competency, privilege, work product, relevancy, materiality, admissibility, hearsay, or any other proper ground to the use of any disclosed information, for any purpose in whole or in part in this action or in any other action; and (2) their right to object on any and all proper grounds, at any time, to any discovery request or motion relating to the subject matter of this disclosure. In addition, these disclosures do not identify or otherwise include information regarding expert witnesses, as Fed. R. Civ. P. 26(a) does not require Defendants to provide such information at this time. The following disclosures are made subject to the above objections and qualifications.

1. Keith Hodge
c/o Randazza Legal Group, PLLC
8991 W. Flamingo Road, Suite B
Las Vegas, NV 89147

Keith Hodge is a Defendant in this matter. Mr. Hodge has knowledge regarding the allegedly defamatory Facebook post identified in Plaintiff's Complaint, the circumstances surrounding the posting of and removal of that Facebook post, the affirmative defenses asserted in Defendants' Amended Answer, and the other facts and circumstances surrounding this matter.

2. Kevin Hodge
c/o Randazza Legal Group, PLLC
8991 W. Flamingo Road, Suite B
Las Vegas, NV 89147

Kevin Hodge is a Defendant in this matter. Mr. Hodge has knowledge regarding the allegedly defamatory Facebook post identified in Plaintiff's Complaint, the circumstances surrounding the posting of and removal of that Facebook post, the affirmative defenses asserted in Defendants' Amended Answer, and the other facts and circumstances surrounding this matter.

1 3. Person Most Knowledgeable, Hodgetwins, LLC
2 c/o Randazza Legal Group, PLLC
3 8991W. Flamingo Road, Suite B
4 Las Vegas, NV 89147

5 Hodgetwins, LLC is a Defendant in this matter. Its person most knowledgeable has
6 knowledge regarding the allegedly defamatory Facebook post identified in Plaintiff's Complaint,
7 the circumstances surrounding the posting of and removal of that Facebook post, the affirmative
8 defenses asserted in Defendants' Amended Answer, and the other facts and circumstances
9 surrounding this matter.

10 4. Steve Smothermon
11 c/o Jones & Keller, P.C.
12 1675 Broadway, 28th Floor
13 Denver, CO 80202

14 Steve Smothermon is Plaintiff in this matter. He has knowledge regarding the facts and
15 circumstances described in his Complaint, including but not limited to the Facebook post in
16 question, his alleged damages resulting from the Facebook post, his status as a public figure, press
17 coverage concerning Plaintiff Smothermon and Legacy Church, his and Legacy Church's social
18 media, publicity concerning Plaintiff Smothermon and Legacy Church, books drafted by Plaintiff,
19 and other facts and circumstances relevant to the Complaint and Plaintiff's claims against
20 Defendants.

21 5. Person Most Knowledgeable, Legacy Church
22 7201 Central Ave. NW
23 Albuquerque, NM 87121

24 Plaintiff Steve Smothermon is a pastor at Legacy Church. The Church has knowledge
25 regarding the facts and circumstances described in the Complaint, the details of Plaintiff
26 Smothermon's ministry, the Facebook post identified in the Complaint and its effect on Plaintiff
27 Smothermon, Plaintiff's alleged damages, Plaintiff's status as a public figure, press coverage
 concerning Plaintiff Smothermon and Legacy Church, Plaintiff Smothermon's and Legacy
 Church's social media, publicity concerning Plaintiff Smothermon and Legacy Church, and other

1 facts and circumstances relevant to Plaintiff's Complaint and Plaintiff's claims against
2 Defendants.

3 6. All witnesses identified by Plaintiff.

4 Defendants reserve the right to examine any witness identified by any other party to this
5 action. Defendants further reserve the right to amend and/or supplement this list of witnesses as
6 discovery proceeds and additional information is obtained.

7 **2.0 LIST OF DOCUMENTS**

8 Plaintiff has the following documents, ESI, or tangible things in their possession, custody,
9 or control that they may use to support their defenses, unless the use would be solely for
10 impeachment:

- 11 1. Facebook post identified in Plaintiff's Complaint.
- 12 2. Legacy Church webpage.
- 13 3. Legacy Church 2024 Annual Report.
- 14 4. Legacy Church YouTube account homepage and videos featuring Plaintiff.
- 15 5. Steve Smothermon Instagram.
- 16 6. Legacy Church Instagram.
- 17 7. Steve Smothermon Amazon author page.
- 18 8. *Large Large Living in a Small Small World* book.
- 19 9. *Big Problems, Bigger God: Whatever You Need for Whatever You Face* book.
- 20 10. Articles and press coverage regarding Steve Smothermon.
- 21 11. Articles and press coverage regarding Legacy Church.
- 22 12. Articles and press coverage regarding Steve Smotherman and Cracker Barrel.
- 23 13. Google image search results for Steve Smotherman.
- 24 14. Past and current photographs of Plaintiff Steve Smothermon.
- 25 15. YouTube video identifying Steve Smothermon as Steve Smotherman.
- 26 16. All documents, ESI, or tangible things produced by Plaintiff in discovery.

Defendants reserve the right to submit as an exhibit any document or tangible item identified by any other party to this action or obtained by any third party. Defendants further reserve the right to amend and/or supplement this list of documents or tangible items as discovery proceeds and additional documents are produced by any party.

3.0 COMPUTATION OF DAMAGES

Defendants continue to accrue attorneys' fees to defend this action and are entitled to recovery of same. Records regarding these fees will be submitted to the Court at the conclusion of this matter or at another appropriate time.

4.0 INSURANCE

Defendants are unaware of any insurance policy relevant to this lawsuit. Defendants reserve the right to provide insurance information should it become relevant in this lawsuit at some future date.

5.0 RESERVATION OF RIGHTS

Defendants reserve the right to rely on witnesses, documents, or tangible evidence disclosed or produced by any party to this litigation, including those witnesses, documents, and tangible evidence set forth in each party's mandatory initial disclosures pursuant to the Federal Rules of Civil Procedure. Defendants reserve the right to supplement these disclosures as information, witnesses, documents, and tangible evidence become available during the course of this litigation and discovery.

Dated: April 9, 2026.

Respectfully Submitted,

/s/ Marc J. Randazza

Marc J. Randazza, NV Bar No. 12265

Ronald D. Green, NV Bar No. 7360

Alex J. Shepard, NV Bar No. 13582

RANDAZZA LEGAL GROUP, PLLC

8991 W. Flamingo Rd., Ste. B

Las Vegas, NV 89147

Attorneys for Defendants,

Keith Hodge, Kevin Hodge, and

Hodgetwins, LLC

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 9, 2026, a copy of the foregoing was served upon counsel for Plaintiff via electronic mail as follows:

Nicole A. Westbrook
JONES & KELLER, P.C.
1675 Broadway, 28th Floor
Denver, CO 80202
<nwestbrook@joneskeller.com>
Counsel for Plaintiff, Steve Smothermon

G. Michael Jackson
JONES DAVIS & JACKSON, P.C.
25350 Magic Mountain Parkway, Suite 300
Valencia, CA 91355
<mjackson@jonesdavis.com>
Counsel for Plaintiff, Steve Smothermon

/s/ Marc J. Randazza
MARC J. RANDAZZA

RANDAZZA | LEGAL GROUP

EXHIBIT B

DEFENDANTS' FIRST SUPPLEMENTAL DISCLOSURES (SERVED
MAY 29, 2026)

Marc J. Randazza, NV Bar No. 12265
 Ronald D. Green, NV Bar No. 7360
 Alex J. Shepard, NV Bar No. 13582
 RANDAZZA LEGAL GROUP, PLLC
 8991 W. Flamingo Rd., Ste. B
 Las Vegas, NV 89147
 Telephone: 702-420-2001
 ecf@randazza.com

Attorneys for Defendants,
 Keith Hodge, Kevin Hodge, and Hodgetwins, LLC

**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' FIRST
 SUPPLEMENTAL DISCLOSURES**

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC supplement their initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1). These supplemental disclosures are based upon information presently known and reasonably available to Defendants and which Defendants reasonably believe they may use in support of their defenses. *Supplemental information is included in bold and italics.*

1.0 LIST OF WITNESSES

In making these disclosures, Defendants do not purport to identify every individual, document, data compilation, or tangible thing possibly relevant to this lawsuit. Rather, Defendants' disclosures represent a good faith effort to identify discoverable information they currently and reasonably believe may be used to support their defenses as required by Fed. R. Civ. P. 26(a)(1). Furthermore, Defendants make these disclosures without waiving their right to object to the production of any document, data compilation, or tangible thing disclosed on the basis of

any privilege, work product, relevancy, undue burden, or other valid objection. These disclosures do not include information that may be used solely for impeachment purposes. While making these disclosures, Defendants reserve, among other rights: (1) their rights to object on the grounds of competency, privilege, work product, relevancy, materiality, admissibility, hearsay, or any other proper ground to the use of any disclosed information, for any purpose in whole or in part in this action or in any other action; and (2) their right to object on any and all proper grounds, at any time, to any discovery request or motion relating to the subject matter of this disclosure. In addition, these disclosures do not identify or otherwise include information regarding expert witnesses, as Fed. R. Civ. P. 26(a) does not require Defendants to provide such information at this time. The following disclosures are made subject to the above objections and qualifications.

1. Keith Hodge
c/o Randazza Legal Group, PLLC
8991 W. Flamingo Road, Suite B
Las Vegas, NV 89147

Keith Hodge is a Defendant in this matter. Mr. Hodge has knowledge regarding the allegedly defamatory Facebook post identified in Plaintiff's Complaint, ***Defendants' lack of knowledge regarding Plaintiff Smothermon's appearance, how and when Defendants became aware of Plaintiff Smothermon, how Defendants determine what to post on social media***, the circumstances surrounding the posting of and removal of that Facebook post, ***how and when Defendants found out the post and photograph had been deleted***, the affirmative defenses asserted in Defendants' Amended Answer ***and the claims asserted in Plaintiff's Complaint***, and the other facts and circumstances surrounding this matter.

2. Kevin Hodge
c/o Randazza Legal Group, PLLC
8991 W. Flamingo Road, Suite B
Las Vegas, NV 89147

Kevin Hodge is a Defendant in this matter. Mr. Hodge ***performed the Google image search that resulted in Plaintiff's photograph being attached to the Facebook post that is the subject of this lawsuit. He*** has knowledge ***about that image search, the results of that image***

1 *search, the drafting of the* allegedly defamatory Facebook post identified in Plaintiff's
 2 Complaint, *Defendants' lack of knowledge regarding Plaintiff Smothermon's appearance, how*
 3 *and when Defendants became aware of Plaintiff Smothermon, how Defendants determine what*
 4 *to post on social media,* the circumstances surrounding the posting of and removal of that
 5 Facebook post, *how and when Defendants found out the post and photograph had been deleted,*
 6 the affirmative defenses asserted in Defendants' Amended Answer *and the claims asserted in*
 7 *Plaintiff's Complaint,* and the other facts and circumstances surrounding this matter.

8 3. Person Most Knowledgeable, Hodgetwins, LLC
 9 c/o Randazza Legal Group, PLLC
 10 8991 W. Flamingo Road, Suite B
 Las Vegas, NV 89147

11 Hodgetwins, LLC is a Defendant in this matter. Its person most knowledgeable has
 12 knowledge regarding the allegedly defamatory Facebook post identified in Plaintiff's Complaint,
 13 *Defendants' lack of knowledge regarding Plaintiff Smothermon's appearance, how and when*
 14 *Defendants became aware of Plaintiff Smothermon, how Defendants determine what to post*
 15 *on social media, the operation and management of Hodgetwins, LLC,* the circumstances
 16 surrounding the posting of and removal of that Facebook post, *how and when Defendants found*
 17 *out the post and photograph had been deleted,* the affirmative defenses asserted in Defendants'
 18 Amended Answer *and the claims asserted in Plaintiff's Complaint,* and the other facts and
 19 circumstances surrounding this matter.

20 4. *Nathan Hughes*
 21 *Address to be provided*

22 *Nathan Hughes is an independent contractor who runs Defendants' website. Mr.*
 23 *Hughes has knowledge regarding an email directed to the customer service account for*
 24 *Defendants' merchandise site informing Defendants that the Facebook post that is the subject*
 25 *of this lawsuit contained an incorrect picture , as well as the deletion of the photograph after*
 26 *receipt of that email, and where, when, and how he informed Defendants about the deletion of*
 27 *the photograph.*

5. Kylie Howerton*Address to be provided*

Ms. Howerton works with Nathan Hughes and took a customer support call from Krisha Mason at Legacy Church regarding the Facebook post that erroneously contained Plaintiff Smothermon's picture. She will testify regarding her phone conversation with Ms. Mason, as well as their subsequent email communications, conversations with Mr. Hughes regarding the Facebook post, and the deletion of the Facebook post.

6. Steve Smothermon

c/o Jones & Keller, P.C.
1675 Broadway, 28th Floor
Denver, CO 80202

Steve Smothermon is Plaintiff in this matter. He has knowledge regarding the facts and circumstances described in his Complaint, including but not limited to the Facebook post in question, his alleged damages resulting from the Facebook post, his status as a public figure, press coverage concerning Plaintiff Smothermon and Legacy Church, his and Legacy Church's social media, publicity concerning Plaintiff Smothermon and Legacy Church, books drafted by Plaintiff, and other facts and circumstances relevant to the Complaint and Plaintiff's claims against Defendants.

7. Krisha Mason

7201 Central Ave. NW
Albuquerque, NM 87121

Krisha Mason is the employee at Legacy Church who emailed Defendants' customer service address regarding Plaintiff Smothermon's photograph being attached to the Facebook post. She will testify about that email and her phone call with Kylie Howerton. She will additionally testify regarding who instructed her to get the Facebook post taken down, and her conversations with Plaintiff Smothermon, others at Legacy Church, and any third parties about the Facebook post.

8. Person Most Knowledgeable, Legacy Church
7201 Central Ave. NW
Albuquerque, NM 87121

Plaintiff Steve Smothermon is a pastor at Legacy Church. The Church has knowledge regarding the facts and circumstances described in the Complaint, the details of Plaintiff Smothermon's ministry, the Facebook post identified in the Complaint and its effect on Plaintiff Smothermon, Plaintiff's alleged damages, Plaintiff's status as a public figure, press coverage concerning Plaintiff Smothermon and Legacy Church, Plaintiff Smothermon's and Legacy Church's social media, publicity concerning Plaintiff Smothermon and Legacy Church, and other facts and circumstances relevant to Plaintiff's Complaint and Plaintiff's claims against Defendants.

9. All witnesses identified by Plaintiff.

Defendants reserve the right to examine any witness identified by any other party to this action. Defendants further reserve the right to amend and/or supplement this list of witnesses as discovery proceeds and additional information is obtained.

2.0 LIST OF DOCUMENTS

Defendants have the following documents, ESI, or tangible things in their possession, custody, or control that they may use to support their defenses, unless the use would be solely for impeachment:

1. Facebook post identified in Plaintiff's Complaint.
2. Legacy Church webpage.
3. Legacy Church 2024 Annual Report.
4. Legacy Church YouTube account homepage and videos featuring Plaintiff.
5. Steve Smothermon Instagram.
6. Legacy Church Instagram.
7. Steve Smothermon Amazon author page.
8. *Large Large Living in a Small Small World* book.

9. *Big Problems, Bigger God: Whatever You Need for Whatever You Face* book.
10. Articles and press coverage regarding Steve Smothermon.
11. Articles and press coverage regarding Legacy Church.
12. Articles and press coverage regarding Steve Smotherman and Cracker Barrel.
13. Google image search results for Steve Smotherman.
14. Past and current photographs of Plaintiff Steve Smothermon.
15. YouTube video identifying Steve Smothermon as Steve Smotherman.
16. All documents, ESI, or tangible things produced by Plaintiff in discovery.
17. ***Email exchange between Kylie Howerton and Krisha Mason dated August 22, 2025.***

Defendants reserve the right to submit as an exhibit any document or tangible item identified by any other party to this action or obtained by any third party. Defendants further reserve the right to amend and/or supplement this list of documents or tangible items as discovery proceeds and additional documents are produced by any party.

3.0 COMPUTATION OF DAMAGES

Defendants continue to accrue attorneys' fees to defend this action and are entitled to recovery of same. Records regarding these fees will be submitted to the Court at the conclusion of this matter or at another appropriate time.

4.0 INSURANCE

Following a reasonable inquiry and a diligent search for applicable insurance policies, Defendants ***confirm their previous assertion that they*** are unaware of any insurance policy relevant to this lawsuit. Defendants reserve the right to provide insurance information should it become relevant in this lawsuit at some future date.

5.0 RESERVATION OF RIGHTS

Defendants reserve the right to rely on witnesses, documents, or tangible evidence disclosed or produced by any party to this litigation, including those witnesses, documents, and tangible evidence set forth in each party's mandatory initial disclosures pursuant to the Federal

Rules of Civil Procedure. Defendants reserve the right to supplement these disclosures as information, witnesses, documents, and tangible evidence become available during the course of this litigation and discovery.

Dated: May 29, 2026.

Respectfully Submitted,

/s/ Ronald D. Green

Marc J. Randazza, NV Bar No. 12265

Ronald D. Green, NV Bar No. 7360

Alex J. Shepard, NV Bar No. 13582

RANDAZZA LEGAL GROUP, PLLC

8991 W. Flamingo Rd., Ste. B

Las Vegas, NV 89147

Attorneys for Defendants,

Keith Hodge, Kevin Hodge, and

Hodgetwins, LLC

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 29, 2026, a copy of the foregoing was served upon counsel for Plaintiff via electronic mail as follows:

Nicole A. Westbrook
JONES & KELLER, P.C.
1675 Broadway, 28th Floor
Denver, CO 80202
<nwestbrook@joneskeller.com>
Counsel for Plaintiff, Steve Smothermon

G. Michael Jackson
JONES DAVIS & JACKSON, P.C.
25350 Magic Mountain Parkway, Suite 300
Valencia, CA 91355
<mjackson@jonesdavis.com>
Counsel for Plaintiff, Steve Smothermon

/s/ Ronald D. Green
RONALD D. GREEN

RANDAZZA | LEGAL GROUP

EXHIBIT C

DEFENDANTS' RESPONSES TO PLAINTIFF'S SECOND SET OF
INTERROGATORIES (NOS. 8, 10, 11, 12) (SERVED JULY 30, 2026)

Marc J. Randazza, NV Bar No. 12265
Ronald D. Green, NV Bar No. 7360
Alex J. Shepard, NV Bar No. 13582
RANDAZZA LEGAL GROUP, PLLC
8991 W. Flamingo Rd., Ste. B
Las Vegas, NV 89147
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ecf@randazza.com

Attorneys for Defendants,
Keith Hodge, Kevin Hodge, and Hodgetwins, LLC

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PASTOR STEVE SMOTHERMON,

Plaintiff,

vs.

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

Defendant(s).

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

**DEFENDANTS' RESPONSES TO
PLAINTIFF'S SECOND SET OF
INTERROGATORIES**

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC ("Defendants"), hereby
submit their responses to Plaintiff's Second Set of Interrogatories served June 30th, 2026.

GENERAL OBJECTIONS

1. Defendants object to the subject interrogatories to the extent that they request the
disclosure of information protected by the attorney-client privilege, the work-product doctrine, or
any other recognized privilege or immunity.

2. Defendants object to the subject interrogatories to the extent that they do not seek
relevant information or are not proportional to the needs of the case. The providing of answers in
response to any interrogatory is not to be deemed or construed as an admission by Defendants that
the information is in fact relevant to this action.

3. Defendants object to the subject interrogatories to the extent that they call for information not in the possession, custody, or control of Defendants.

4. To the extent words or phrases used in the requests are vague, ambiguous, or otherwise overbroad, Defendants shall respond in a manner in which they believe, in good faith, to be requested thereby.

5. Defendants state that discovery in this matter is continuing and ongoing and that it is possible that additional information responsive to the interrogatories will be identified subsequent to the date of this response.

6. All responses made herein are based upon the knowledge, information, and belief held by Defendants at the time of the response.

7. Defendants object to the Definitions to the extent they conflict with the definitions applicable in the Federal Rules of Civil Procedure and/or the Local Rules of this Court.

8. Defendants object to the Instructions to the extent they impose any obligation beyond that required by the Federal Rules of Civil Procedure or the Local Rules of this Court.

9. Defendants incorporate these General Objections into each and every specific response as if fully set forth therein.

Subject to and without waiving the foregoing General Objections, Defendants specifically respond to each numbered Interrogatory as follows:

RESPONSE TO INTERROGATORIES

INTERROGATORY NO. 8:

Identify each Google account (and associated email address) used to research, select, or verify the photograph, or to create the Post; and for each, state (a) whether the user was signed in to that account during The Search and (b) whether Web & App Activity (or equivalent activity logging) was enabled on August 22, 2025.

RESPONSE TO INTERROGATORY NO. 8:

Objection. The information requested in this interrogatory is not relevant to this case or reasonably calculated to the discovery of admissible evidence. It is additionally disproportionate

to the needs of the case given that this case concerns a Facebook post that was live on the internet for only a few hours, and Defendants have already explained their process for making that post and selecting the photograph that was published along with it.

Without waiving those objections, Defendants respond that Kevin Hodge conducted the Google search for a photograph of “Steve Smotherman” in incognito mode and was not signed in to any Google account when he conducted the search. Therefore, no Google account was used to research, select, or verify the photograph.

INTERROGATORY NO. 9:

For each account identified in the preceding interrogatory, state the Auto-Delete retention setting in effect on August 22, 2025, and describe every change to that setting made since August 22, 2025, stating the date of each change and the person who made it.

RESPONSE TO INTERROGATORY NO. 9:

Objection. The information requested in this interrogatory is not relevant to this case or reasonably calculated to the discovery of admissible evidence. It is additionally disproportionate to the needs of the case given that this case concerns a Facebook post that was live on the internet for only a few hours, and Defendants have already explained their process for making that post and selecting the photograph that was published along with it.

Without waiving those objections, Defendants respond that Kevin Hodge was not signed into a Google account when he performed the search for the photograph.

INTERROGATORY NO. 10:

Describe in detail every step taken — by whom, and on what date — to preserve electronically stored information, or to suspend its automatic deletion, after the Carroll Notice.

RESPONSE TO INTERROGATORY NO. 10:

Objection. The “Carroll Notice” did not include any preservation language or instruction, as admitted by Thomas Carroll during his deposition on July 21, 2026. It did not threaten a lawsuit against Defendants. Defendants never saw or read the “Carroll Notice” until well after this lawsuit was filed. The “Carroll Notice” did not trigger any preservation responsibilities.

Without waiving these objections, Defendants respond: none

INTERROGATORY NO. 11:

Identify each device (mobile phone, tablet, or computer) used to conduct The Search or to create, edit, publish, or remove the Post, and state its current location, custodian, and status (including whether it has been reset, wiped, replaced, or disposed of).

RESPONSE TO INTERROGATORY NO. 11:

Objection. The information requested in this interrogatory is not relevant to this case or reasonably calculated to the discovery of admissible evidence. It is additionally disproportionate to the needs of the case given that this case concerns a Facebook post that was live on the internet for only a few hours, and Defendants have already explained their process for making that post and selecting the photograph that was published along with it.

Without waiving these objections, Defendants respond: Kevin Hodge conducted the “Search,” created the “Post,” and published the “Post” using his iPhone 16 Pro Max. Mr. Hodge still uses this iPhone 16 Pro Max. With regard to the removal of the “Post,” Defendants are unaware of the device(s) used by their customer support team to remove it from Facebook.

INTERROGATORY NO. 12:

Identify each person who participated in researching, selecting, verifying, creating, approving, publishing, or removing the Post, and state each person's specific role.

RESPONSE TO INTERROGATORY NO. 12:

Objection. Interrogatory No. 1, propounded by Plaintiff, already demanded information regarding “every person who was involved in researching, drafting, reviewing, editing, and publishing the August 22, 2025, Facebook Post,” making this interrogatory duplicative and harassing.

Without waiving these objections, Defendants respond that Kevin Hodge researched, selected, verified, created, approved, and published the Post and completed each and every task associated with researching, selecting, verifying, creating, approving, and publishing the Post. With regard to removal of the Post, the Post was removed by Bigly, the company Defendants

contracted with to perform customer service tasks. Questions regarding removal of the Post should be directed to Bigly.

INTERROGATORY NO. 13:

State the ownership, membership, and management structure of Hodgetwins, LLC, and identify each person with authority over content posted to the Hodgetwins Facebook page.

RESPONSE TO INTERROGATORY NO. 13:

Objection. This interrogatory is compound, comprising two separate and distinct interrogatories.

Without waiving these objections, the members of Hodgetwins, LLC are Keith Hodge and Kevin Hodge. They are additionally the owners and managers of the LLC. Kevin Hodge and Keith Hodge have final say regarding content posted on the Hodgetwins Facebook page.

INTERROGATORY NO. 14:

Describe the monetization of the Hodgetwins Facebook page and any associated merchandise operation during August 1, 2025 through September 30, 2025, including revenue sources, the relationship between the page and the merchandise store, and the role of Nathan Hughes and any personnel operating the merchandise “customer service” account.

RESPONSE TO INTERROGATORY NO. 14

Objection. This interrogatory is compound, comprising at least three separate and distinct interrogatories. The interrogatory is vague and ambiguous regarding the meaning of the term “revenue sources.”

Without waiving these objections, the Hodgetwins Facebook page is monetized through Facebook’s content monetization program, which pays the Hodgetwins based upon the performance of original content posted to the page, ad revenue shares, and direct audience support.

The Hodgetwins sell merchandise on their website, which is located at <officialhodgetwins.com>. Customers purchase and pay for this merchandise on the website, and the Hodgetwins make a profit when the merchandise is purchased.

1 The relationship between the Hodgetwins Facebook page and the Hodgetwins merchandise
2 store is that both are operated by Hodgetwins.

3 Nathan Hughes and the personnel operating the Hodgetwins' customer service are not
4 involved with the monetization of the Hodgetwins Facebook page, and they do not profit from the
5 sale of Hodgetwins merchandise.

6 **INTERROGATORY NO. 15:**

7 Identify and describe any policy of insurance that does or may provide coverage for the
8 claims in this action, and describe the inquiry undertaken to locate any such policy.

9 **RESPONSE TO INTERROGATORY NO. 15:**

10 Defendants do not possess any insurance policy that does or may provide coverage for the
11 claims in this action. Regarding the "inquiry undertaken to locate any such policy," the
12 Hodgetwins searched their insurance policies and did not locate any that provided coverage for
13 Plaintiff's claims in this action.

14 **INTERROGATORY NO. 16:**

15 Identify the exact date, time, and method by which Kylie Howerton, Nathan Hughes, Kevin
16 Hodge, or Keith Hodge first viewed the screenshot of the Facebook Post that was attached to the
17 email sent by Krisha Mason on August 22, 2025, and describe in detail any discussions or actions
18 taken by You immediately after viewing said screenshot

19 **RESPONSE TO INTERROGATORY NO. 16:**

20 Objection. The interrogatory demands that Defendants provide information regarding the
21 actions of Nathan Hughes and Kylie Howerton who are not employed by Defendants and who are
22 represented by independent counsel. Any information regarding actions taken by Mr. Hughes or
23 Ms. Howerton should be addressed to them.

24 Without waiving these objections, Defendants Keith Hodge and Kevin Hodge did not see
25 Ms. Mason's email until after this litigation was filed. They did not have any discussions about it
26 or take any action regarding it until after Plaintiff had initiated this lawsuit.

27 //

Dated: July 30, 2026.

Respectfully submitted,

/s/ Ronald D. Green
Marc J. Randazza, NV Bar No. 12265
Ronald D. Green, NV Bar No. 7360
Alex J. Shepard, NV Bar No. 13582
RANDAZZA LEGAL GROUP, PLLC
8991 W. Flamingo Rd., Ste. B
Las Vegas, NV 89147
Attorneys for Defendants
Keith Hodge, Kevin Hodge, and
Hodgetwins, LLC

RANDAZZA | LEGAL GROUP

VERIFICATION

We, Keith and Kevin Hodge, declare as follows:

We are the Defendants in the above-entitled action. We have read the foregoing Defendants' Responses to Plaintiff's Second Set of Interrogatories and know the contents thereof. The responses are true of our own knowledge, except as to those matters which are therein stated upon information and belief, and as to those matters, we believe them to be true.

We declare under penalty of perjury that the foregoing is true and correct.

Dated: July 30, 2026.

Keith Hodge

Keith Hodge

KEVIN HODGE

Kevin Hodge

Keith Hodge

Hodgetwins, LLC

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 30, 2026, I served this document to counsel for Plaintiff
via electronic mail to:

G. Michael Jackson
mjackson@jonesdavis.com

Nicole A. Westbrook
nwestbrook@jonesdavis.com

Respectfully submitted,

/s/ Ron D. Green
Ron D. Green

RANDAZZA | LEGAL GROUP

EXHIBIT D

DEFENDANTS' RESPONSES TO PLAINTIFF'S THIRD SET OF
INTERROGATORIES (NOS. 17, 18, 19, 20, 22) (SERVED AUGUST
10, 2026)

Marc J. Randazza, NV Bar No. 12265
Ronald D. Green, NV Bar No. 7360
Alex J. Shepard, NV Bar No. 13582
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8991 W. Flamingo Rd., Ste. B
Las Vegas, NV 89147
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ecf@randazza.com

Attorneys for Defendants,
Keith Hodge, Kevin Hodge, and Hodgetwins, LLC

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PASTOR STEVE SMOTHERMON,

Plaintiff,

vs.

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

Defendants.

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

**DEFENDANTS' RESPONSES TO
PLAINTIFF'S THIRD SET OF
REQUESTS FOR INTERROGATORIES**

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC ("Defendants"), hereby submit their responses to Plaintiff's Third Set of Interrogatories served on July 9, 2026.

GENERAL OBJECTIONS

1. Defendants object to the subject interrogatories to the extent that they request the disclosure of information protected by the attorney-client privilege, the work-product doctrine, or any other recognized privilege or immunity.

2. Defendants object to the subject interrogatories to the extent that they do not seek relevant information or are not proportional to the needs of the case. The providing of answers in response to any interrogatory is not to be deemed or construed as an admission by Defendants that the information is in fact relevant to this action.

3. Defendants object to the subject interrogatories to the extent that they call for information not in the possession, custody, or control of Defendants.

4. To the extent words or phrases used in the requests are vague, ambiguous, or otherwise overbroad, Defendants shall respond in a manner in which they believe, in good faith, to be requested thereby.

5. Defendants state that discovery in this matter is continuing and ongoing and that it is possible that additional information responsive to the interrogatories will be identified subsequent to the date of this response.

6. All responses made herein are based upon the knowledge, information, and belief held by Defendants at the time of the response.

7. Defendants object to the Definitions to the extent they conflict with the definitions applicable in the Federal Rules of Civil Procedure and/or the Local Rules of this Court.

8. Defendants object to the Instructions to the extent they impose any obligation beyond that required by the Federal Rules of Civil Procedure or the Local Rules of this Court.

9. Defendants incorporate these General Objections into each and every specific response as if fully set forth therein.

Subject to and without waiving the foregoing General Objections, Defendants specifically respond to each numbered Interrogatory as follows:

RESPONSES TO REQUESTS FOR INTERROGATORIES

INTERROGATORY NO. 17:

Identify every Platform and account on which the Post — or any Publication referencing “Smotherman,” “Smothermon,” the Photograph, Pastor Steve Smothermon, or the Cracker Barrel matter — was published, and for each state the account/handle, the date and time of publication, and (if applicable) the date and time of removal.

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RESPONSE TO INTERROGATORY NO. 17:

Objection. This Interrogatory is compound, containing at least five separate and distinct interrogatories. The Interrogatory is vague and ambiguous with regard to the meaning of the term “the Cracker Barrel matter,” which is undefined and renders the interrogatory unintelligible.

Without waiving these objections, the “Post” was published on the Hodgetwins Facebook page. The Post was published at approximately 1:00 p.m. PDT and was removed three to four hours later. Around this same approximate time period, Defendants made additional Facebook posts regarding Cracker Barrel, but the “Post” was the only one focusing on Steve Smotherman. Documents responsive to this Interrogatory are being produced contemporaneously with these interrogatory responses.

INTERROGATORY NO. 18:

For each Publication identified above, state the Engagement Data and identify the source of those figures (e.g., Business Suite, Creator Studio, platform analytics).

RESPONSE TO INTERROGATORY NO. 18:

Objection. Because Plaintiff’s counsel and Plaintiff’s employee instructed Defendants to remove the Post from their Facebook page and did not demand that Defendants preserve the Facebook Post or its corresponding data, this information was lost as a result of Plaintiff’s own actions, the actions of his counsel, and the actions of his employee. Plaintiff has demanded, and continues to demand, information that Plaintiff caused Defendants to lose access to and to wrongly impute wrongdoing onto Defendants for complying with the demands of Plaintiff’s counsel and Plaintiff’s employee. The engagement data for any post not erroneously containing the photo of Plaintiff, this information is irrelevant to Plaintiff’s claims, and this interrogatory has been propounded for the sake of harassment.

Without waiving these objections, documents responsive to this Interrogatory are being produced contemporaneously with these interrogatory responses.

///

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INTERROGATORY NO. 19:

Identify every Management Tool used to operate, schedule, analyze, or moderate any Platform account during the Relevant Period, and identify each person with administrative access (ability to post, edit, or delete) to each account.

RESPONSE TO INTERROGATORY NO. 19:

Objection. This Interrogatory is compound, comprising at least two separate and distinct interrogatories.

Defendants use Meta Business Suite. Kevin Hodge, Keith Hodge, and the Hodgetwins customer service team have the ability to post, edit, and delete on its accounts.

INTERROGATORY NO. 20:

Describe every step taken to preserve, and every edit, deletion, or loss of, the Post, its comment thread, and the related account activity, stating for each the date, the person who acted, and the reason.

RESPONSE TO INTERROGATORY NO. 20:

Objection. Because Plaintiff's counsel and Plaintiff's employee instructed Defendants to remove the Post from their Facebook page and did not demand that Defendants preserve the Facebook Post or its corresponding data, this information was lost as a result of Plaintiff's own actions, the actions of his counsel, and the actions of his employee. Plaintiff has, and continues, to demand information that Plaintiff caused Defendants to lose access to and to wrongly impute wrongdoing onto Defendants for complying with the demands of Plaintiff's counsel and Plaintiff's employee.

Without waiving these objections, Defendants are not in possession of information allowing them to respond to this interrogatory but will supplement this response in the future if responsive information is located.

INTERROGATORY NO. 21:

Identify each person who saw, reviewed, or was informed of any comment on the Post stating or suggesting that the person in the Photograph was not the individual the Post described,

and for each such person state the date and approximate time the comment was seen or reported, and describe any resulting action or discussion, including whether and when it factored into the decision to remove the Post.

RESPONSE TO INTERROGATORY NO. 21:

Defendants never saw, reviewed, or were informed of any comments on the Post stating or suggesting that the person in the Photograph was not the individual that the Post described. To the best of their knowledge, the Post was removed from Facebook because Krisha Mason contacted Defendants' customer support team, who are not Defendants' employees, and told the team that the Post contained a Photograph of Plaintiff and not Cracker Barrel's Steve Smothermon.

INTERROGATORY NO. 22:

For each Comparator Post, identify the person(s) who researched, drafted, reviewed, approved, and published it, and state whether any Reverse Image Search or other identity-verification step was performed before publication.

RESPONSE TO INTERROGATORY NO. 22:

Objection. This Interrogatory is compound, comprising at least two separate and distinct interrogatories. This Interrogatory is vague and ambiguous with regard to the term "identity-verification step" and also assumes that Defendants are required to perform an "identity-verification step" prior to making a social media post.

Any "Comparator Posts", as defined by Plaintiff, were researched, drafted, reviewed, approved, and published by Kevin Hodge or Keith Hodge. None of the posts used Reverse Image Search. Defendants did use Google to perform basic identity verification regarding the posts.

Dated: August 10, 2026.

Respectfully submitted,

/s/ Ronald D. Green

Marc J. Randazza, NV Bar No. 12265

Ronald D. Green, NV Bar No. 7360

Alex J. Shepard, NV Bar No. 13582

RANDAZZA LEGAL GROUP, PLLC

8991 W. Flamingo Rd., Ste. B

Las Vegas, NV 89147

Attorneys for Defendants

VERIFICATION

We, Keith and Kevin Hodge, declare as follows:

We are the Defendants in the above-entitled action. We have read the foregoing Defendants' Responses to Plaintiff's Third Set of Interrogatories and know the contents thereof. The responses are true of our own knowledge, except as to those matters which are therein stated upon information and belief, and as to those matters, we believe them to be true.

We declare under penalty of perjury that the foregoing is true and correct.

Dated: August 10, 2026

Keith Hodge

Keith Hodge

KEVIN HODGE

Kevin Hodge

Keith Hodge

Hodgetwins, LLC

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 10, 2026, I served this document to counsel for Plaintiff via electronic mail to:

Nicole A. Westbrook
JONES DAVIS & JACKSON, P.C.
15110 Dallas Parkway, Suite 300
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<nwestbrook@jonesdavis.com>
Counsel for Plaintiff, Steve Smothermon

G. Michael Jackson
JONES DAVIS & JACKSON, P.C.
25350 Magic Mountain Parkway, Suite 300
Valencia, CA 91355
<mjackson@jonesdavis.com>
Counsel for Plaintiff, Steve Smothermon

/s/Ronald D. Green

Ronald D. Green

RANDAZZA | LEGAL GROUP

EXHIBIT E

DEFENDANTS' RESPONSES TO PLAINTIFF'S SECOND SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS (SERVED JULY
30, 2026)

Marc J. Randazza, NV Bar No. 12265
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Attorneys for Defendants,
Keith Hodge, Kevin Hodge, and Hodgetwins, LLC

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PASTOR STEVE SMOTHERMON,

Plaintiff,

vs.

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

Defendant(s).

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

**DEFENDANTS' RESPONSES TO
PLAINTIFF'S THIRD SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS**

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC ("Defendants"), hereby submit their responses to Plaintiff's Second Set of Requests for Production of Documents served on June 30th, 2026.

GENERAL OBJECTIONS

1. Defendants object to the subject requests to the extent that they request the disclosure of information protected by the attorney-client privilege, the work-product doctrine, or any other recognized privilege or immunity.

2. Defendants object to the subject requests to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence. The providing of documents in response

1 to any request is not to be deemed or construed as an admission by Defendants that the information
2 is in fact relevant to this action.

3 3. Defendants object to the subject requests to the extent that they call for the
4 production of documents not in the possession, custody, or control of Defendants.

5 4. To the extent words or phrases used in the requests are vague, ambiguous, or
6 otherwise overbroad, Defendants shall respond in a manner in which they believe, in good faith,
7 to be requested thereby.

8 5. Defendants state that discovery in this matter is continuing and ongoing and that it
9 is possible that additional information responsive to the requests will be identified subsequent to
10 the date of this response.

11 6. All responses made herein are based upon the best knowledge, information, and
12 belief held by Defendants at the time of the response.

13 7. Defendants object to the Definitions to the extent they conflict with the definitions
14 applicable in the Federal Rules of Civil Procedure and/or the Local Rules of this Court.

15 8. Defendants object to the Instructions to the extent they impose any obligation
16 beyond that required by the Federal Rules of Civil Procedure or the Local Rules of this Court.

17 9. Defendants object to the requests to the extent they encompass documents subject
18 to attorney-client privilege created subsequent to the initiation of this litigation and will neither
19 produce nor create a privilege log as to same.

20 10. Defendants incorporate these General Objects into each and every specific response
21 as if fully set forth therein.

22 Subject to and without waiving the foregoing General Objections, Defendants specifically
23 respond to each numbered Request as follows:

24 **RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS**

25 **REQUEST FOR PRODUCTION NO. 10:**

26 [each individual Defendant] A complete Google Takeout export of the My Activity record
27 — including, separately, the Search, Image Search, Google Lens, and Web & App Activity

products — for each Google account that was signed in on any device You used to research, select, verify, create, or publish the Post, for the period August 1, 2025 through the date of production. Produce in JSON format where the Takeout tool permits, otherwise in HTML.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The Request seeks Defendants' online history for nearly an entire year when the incident at issue in this case occurred in under an hour, if not in a span of minutes. The information requested in this Request is largely irrelevant to Plaintiff's claims, and this Request is not tailored to lead to the discovery of relevant evidence. This Request was propounded for the sole purpose of harassment and increasing Defendants' attorneys' fees and costs. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive and proprietary to Defendants and will not be produced, if at all, absent a protective order protecting the information responsive to this Request from disclosure.

Without waiving these objections, Defendants are in possession of no documents responsive to this Request and will supplement this Response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 11:

[each individual Defendant] All Documents reflecting, for each account responsive to RFP No. 10, whether Web & App Activity was enabled and the Auto-Delete retention setting in effect as of August 22, 2025, and the dated history of any change to either setting — including any Google notification email reflecting a change to those settings.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The Request seeks Defendants' online history for nearly an entire year when the incident at issue in this case occurred in under an hour, if not in

a span of minutes. The information requested in this Request is largely irrelevant to Plaintiff's claims, and this Request is not tailored to lead to the discovery of relevant evidence. This Request was propounded for the sole purpose of harassment and increasing Defendants' attorneys' fees and costs. Defendants are unable to produce documents that show what the settings of their internet browsers were nearly one year ago. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive and proprietary to Defendants and will not be produced, if at all, absent a protective order protecting the information responsive to this Request from disclosure.

Without waiving these objections, Defendants are in possession of no documents responsive to this Request and will supplement this Response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 12:

[each individual Defendant] A forensic image of, or production for inspection under a mutually acceptable protocol and protective order of, each device used to conduct The Search or to create, edit, publish, or remove the Post.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The Request seeks Defendants' a forensic image of all of Defendants' electronic devices when the incident at issue in this case occurred in under an hour, if not in a span of minutes. The information requested in this Request is largely irrelevant to Plaintiff's claims, and this Request is not tailored to lead to the discovery of relevant evidence. This Request was propounded for the sole purpose of harassment and increasing Defendants' attorneys' fees and costs. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive, confidential, and proprietary to Defendants.

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REQUEST FOR PRODUCTION NO. 13:

[each individual Defendant] The original photograph file used in the Post, in its Native Format with all Metadata (EXIF and system, including Source URL) intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Defendants are in possession of no documents responsive to this Request and will supplement this Response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 14:

[Hodgetwins, LLC] A complete Meta/Facebook “Download Your Information” and/or Business Suite export for the Hodgetwins Facebook page, including the page’s activity/audit log reflecting the creation, any edits, and the removal of the Post, with timestamps and the acting administrator.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The Request seeks a complete export of Defendants’ entire Facebook page when the incident at issue in this case occurred in under an hour, if not in a span of minutes. The information requested in this Request is largely irrelevant to Plaintiff’s claims, and this Request is not tailored to lead to the discovery of relevant evidence. This Request was propounded for the sole purpose of harassment and increasing Defendants’ attorneys’ fees and costs. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive, confidential, and proprietary to Defendants and will not be produced, if at all, absent a protective order protecting the information responsive to this Request from disclosure.

REQUEST FOR PRODUCTION NO. 15:

[each individual Defendant] Chrome sync data and any signed-in browser-profile activity associated with the account(s) or device(s) responsive to RFP Nos. 10 and 12.

//

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The Request seeks Defendants' online history for an unspecified period of time (presumably in perpetuity) when the incident at issue in this case occurred in under an hour, if not in a span of minutes. The information requested in this Request is largely irrelevant to Plaintiff's claims, and this Request is not tailored to lead to the discovery of relevant evidence. This Request was propounded for the sole purpose of harassment and increasing Defendants' attorneys' fees and costs. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive and proprietary to Defendants and will not be produced, if at all, absent a protective order protecting the information responsive to this Request from disclosure.

REQUEST FOR PRODUCTION NO. 16:

[each individual Defendant] Router, modem, or internet-service-provider records reflecting internet activity on August 22, 2025.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The information requested in this Request is largely irrelevant to Plaintiff's claims, and this Request is not tailored to lead to the discovery of relevant evidence. This Request was propounded for the sole purpose of harassment and increasing Defendants' attorneys' fees and costs. Defendants are unsure what Plaintiff is seeking through production of their "Router, modem, or internet-service-provider records" or how those records are relevant to this case. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive and proprietary to Defendants and will not be produced, if at all, absent a protective order protecting the information responsive to this Request from disclosure.

Without waiving these objections, Defendants are in possession of no documents responsive to this Request and will supplement this Response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 17:

[all Defendants] All Documents reflecting any litigation-hold instruction, or any step taken to preserve or to suspend the automatic deletion of, any electronically stored information after the Carroll Notice.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Defendants are in possession of no documents responsive to this Request and will supplement this Response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 18:

[Hodgetwins, LLC] Documents sufficient to show the ownership, membership, and management of Hodgetwins, LLC, and who controls content posted to the Hodgetwins Facebook page.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Please see attached documents Bates numbered HODGE000139-HODGE000142.

REQUEST FOR PRODUCTION NO. 19:

[Hodgetwins, LLC] Documents sufficient to show revenue, sales, and monetization of the Hodgetwins Facebook page and any associated merchandise operation for August 1, 2025 through September 30, 2025.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The Request seeks Defendants' entire financial history for a two-month period when the incident at issue in this case occurred in under an hour, if not in a span of minutes. The information requested in this Request is largely irrelevant to Plaintiff's claims, and this Request is not tailored to lead to the discovery of relevant evidence.

This Request was propounded for the sole purpose of harassment and increasing Defendants' attorneys' fees and costs. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive and proprietary to Defendants and will not be produced, if at all, absent a protective order protecting the information responsive to this Request from disclosure.

Without waiving these objections, please see attached documents Bates numbered HODGE000143-HODGE000147.

REQUEST FOR PRODUCTION NO. 20:

[all Defendants] All communications with Krisha Mason, Kylie Howerton, Nathan Hughes, Blake Rynders, Michael Morin, or any person at Legacy Church regarding the Post, and all internal communications regarding the creation, review, or removal of the Post, in Native Format with Metadata intact.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

Defendants are in possession of no documents responsive to this Request and will supplement this Response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 21:

Produce a complete and unaltered copy of each and every insurance agreement, policy, declaration page, and rider under which an insurance business may be liable to satisfy all or part of a possible judgment in this Action or to indemnify or reimburse for payments made to satisfy the judgment, including but not limited to commercial general liability (CGL), media liability, errors and omissions (E&O), or umbrella policies in effect during August 2025.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Defendants are in possession of no documents responsive to this Request and will supplement this Response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 22:

Produce a complete, native-format mailbox export (including all metadata and headers, e.g., in .PST or .MBOX format) of the customer service email account for Defendants' merchandise

website for the period of August 20, 2025, through August 27, 2025, including all inbound, outbound, deleted, and forwarded emails concerning the Facebook Post, the photograph of Plaintiff, or Legacy Church.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The Request seeks Defendants' entire customer service mailbox when the incident at issue in this case occurred in under an hour, if not in a span of minutes. Moreover, Plaintiff is already in possession of each and every email relevant to this litigation. The information requested in this Request is largely irrelevant to Plaintiff's claims, and this Request is not tailored to lead to the discovery of relevant evidence. This Request was propounded for the sole purpose of harassment and increasing Defendants' attorneys' fees and costs. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive and proprietary to Defendants and will not be produced, if at all, absent a protective order protecting the information responsive to this Request from disclosure.

Without waiving these objections, please see previously produced documents Bates numbered HODGE000136 to HODGE000138.

REQUEST FOR PRODUCTION NO. 23:

For each individual Defendant (Keith Hodge and Kevin Hodge), please execute and return the formal Google Account Disclosure Authorization and Consent Directive attached hereto as Exhibit A, providing your express written consent pursuant to the Stored Communications Act (SCA), 18 U.S.C. § 2702(b)(3) and § 2702(c)(2), and authorizing Google LLC to disclose and release to Plaintiff's counsel all server-side Google search history, image search history, and associated Web & App Activity ("My Activity") data for any Google account signed in on any device used by You to research, select, verify, create, or publish the Facebook Post on August 22, 2025, for the period of August 1, 2025, through September 30, 2025.

//

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Objection. This Request is overly burdensome, unnecessarily harassing, and not likely to lead to the discovery of relevant evidence. The burden of complying with the Request is disproportionate to the utility of responding to it. The Request seeks Defendants' online history for a two month period when the incident at issue in this case occurred in under an hour, if not in a span of minutes. The information requested in this Request is largely irrelevant to Plaintiff's claims, and this Request is not tailored to lead to the discovery of relevant evidence. This Request was propounded for the sole purpose of harassment and increasing Defendants' attorneys' fees and costs. In addition to the other objections made pursuant to this Request, this Request seeks information that is sensitive and proprietary to Defendants and will not be produced, if at all, absent a protective order protecting the information responsive to this Request from disclosure.

Dated: July 30, 2026.

Respectfully submitted,

/s/ Ronald D. Green

Marc J. Randazza, NV Bar No. 12265
 Ronald D. Green, NV Bar No. 7360
 Alex J. Shepard, NV Bar No. 13582
 RANDAZZA LEGAL GROUP, PLLC
 8991 W. Flamingo Rd., Ste. B
 Las Vegas, NV 89147

*Attorneys for Defendants
 Keith Hodge, Kevin Hodge, and
 Hodgetwins, LLC*

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 30, 2026, I served this document to counsel for Plaintiff
via electronic mail to:

G. Michael Jackson
mjackson@jonesdavis.com

Nicole A. Westbrook
nwestbrook@joneskeller.com

Respectfully submitted,

/s/Ronald D. Green
Ronald D. Green

RANDAZZA | LEGAL GROUP

Entity Information**Entity Information****Entity Name:** HODGETWINS LLC**Entity Number:** E45241312024-0**Entity Type:** Non-Filing Domestic Entities**Entity Status:** Active**Formation Date:** 12/10/2024**NV Business ID:****Compliance
Hold:****Registered AGENT INFORMATION****Name of
Individual or
Legal Entity:** Keith Hodge**Status:** Active**CRA Agent Entity
Type:****Registered Agent Type:** Non-Commercial Registered
Agent

HODGE000139

NV Business ID:**Office or Position:****Jurisdiction:****Street Address:** 9708 giles pie , 110A, Las
Vegas, NV, 89183, USA**Mailing Address:****OFFICER INFORMATION**☐ **View Historical Data**

Title	Name	Address	Last Updated	Status
No records to view.				
		Filing History	Name History	Mergers/Conversions

[Return to Search](#)[Return to Results](#)

Entity Information**Entity Information****Entity Name:** HODGETWINS LLC**Entity Number:** E26113492022-5**Entity Type:** Domestic Limited-Liability
Company (86)**Entity Status:** Default**Formation Date:** 09/13/2022**NV Business ID:** NV20222566799**Termination
Date:****Annual Report Due Date:** 9/30/2025**Compliance
Hold:****Series LLC:** ☐ **Restricted LLC:** ☐**Registered AGENT INFORMATION****Name of
Individual or
Legal Entity:** Keith Hodge**Status:** Active

HODGE000141

**CRA Agent Entity
Type:**

Registered Agent Type: Non-Commercial Registered
Agent

NV Business ID:

Office or Position:

Jurisdiction:

Street Address: 9708 gilespie , 110A, Las
Vegas, NV, 89183, USA

Mailing Address:

OFFICER INFORMATION

☐ **View Historical Data**

Title	Name	Address	Last Updated	Status
Managing Member	Keith Hodge	9708 Gilespie Street , 110A, Las Vegas, NV, 89183, USA	12/10/2024	Active
Managing Member	Kevin Hodge	9708 Gilespie Street , 110A, Las Vegas, NV, 89183, USA	12/10/2024	Active

Page 1 of 1, records 1 to 2 of 2

[Filing History](#)

[Name History](#)

[Mergers/Conversions](#)

[Return to Search](#)

[Return to Results](#)

7/28/26, 5:31 PM

Learn what categories of information are available to export from your Facebook profile | Facebook Help Center


Help Center

 Search help articles...


English (US)

 Using Facebook
  Login, Recovery and Security
  Managing Your Account
  Account Settings
  Names on Facebook
  Notifications
  Ad Preferences
  **Access and download your information**
 Deactivating or Deleting Your Account
  Managing a Deceased Person's Account
  Privacy and Safety
  Policies
  Reporting

Managing Your Account > Access and download your information

Learn what categories of information are available to export from your Facebook profile

[Copy link](#)

[Export my Facebook data](#)
[What data can I export?](#)
[Export data to a device](#)
[Export](#) to

We're gradually updating people to [Meta Accounts](#). You may see either Accounts Center or Meta Account settings as the place to manage your account settings.

If you have [additional Facebook profiles](#), you can [export a copy of your Facebook information](#) for each of your profiles using the [Export your information tool](#).

Please note, some information collected from your additional profiles, including ads information, can only be accessed by exporting your Facebook information for your main profile, which is the first profile you create when you sign up for Facebook.

We store different categories of information for different time periods, so you may not find all information from the time you joined Facebook. You won't find information or content that you deleted because we delete that content from our servers.

Remember, you can access most of the content you post to a certain profile on Facebook by logging into your account and switching to that profile.

Keep in mind: The categories of information we receive, collect, and save may change over time. Learn more about your Facebook information in our [Privacy Policy](#).

Depending on the information category you are interested in, we offer you a variety of tools to view, manage, and export your information.

Within the [Your information and permissions](#) section of your Accounts Center, you can export a copy of your Facebook information to a device or to an external service.

There are different types of information you can export to a device versus an external service.

Types of information you can export to a device

- Your Facebook activity:** Information and activity from different areas of Facebook, such as posts you've created, photos you're tagged in, groups you belong to and more.
- Personal Information:** Information that you've provided when you set up your Facebook accounts and profiles.
- Connections:** Who and how you've connected with people on Facebook, including things like your friends and followers.
- Logged Information:** Information that Facebook logs about your activity, including things like your search history.
- Security and Login Information:** Technical information and logged activity related to your account.
- Apps and Websites off of Facebook:** Apps you own and activity we receive from apps and websites off of Facebook.
- Preferences:** Actions you've taken to customize your experience on Facebook.
- Ad information:** Your interactions with ads and advertisers on Facebook.
- Data logs:** Data logs are additional details we collect and store that can be associated with you. Learn more about exporting data logs.

When you export your information to an external service, you can export a copy of the original media you shared on Facebook like photos and videos.

Note: Your export won't include information that someone else shared, like another person's photos that you're tagged in.

[Learn more about managing your information and permissions in Accounts Center.](#)

Additional Resources

These tools and resources are available in the **Your activity** section in your Facebook settings or in **Your information and permissions** in Accounts Center to help you view, manage and export your information.

- [Export your information:](#) Export a copy of your Facebook information to a device or to an external service.
- [Activity Log:](#) Within your profile, your activity log is a history of that profile's activity on Facebook. Review and manage things you share, from posts you've commented on or liked to apps you have used or anything you've searched for. Learn more about your [Activity Log](#).
- [External accounts:](#) Manage your activity information sent from specific ad partners. When you connect external accounts from certain businesses to Meta technologies, we use your activity information sent from these businesses to show you ads.

Note: The categories of information we receive, collect, and save may change over time. Learn more about your Facebook information in our [Privacy Policy](#).

7/28/26, 5:31 PM

Learn what categories of information are available to export from your Facebook profile | Facebook Help Center

Learn more about your Facebook information in our [privacy policy](#).

Was this helpful?

☐ Yes

☐ No

Related Articles

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[Public information on Facebook](#)
[Export data logs on Facebook](#)
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Related Articles

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Other ways to get help


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Resolve issues, make changes and get support in real time



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[Create Page](#)
[Terms and Policies](#)
[Cookies](#)

from Meta


Meta AI support assistant

Ask a question...



Marc J. Randazza, NV Bar No. 12265
Ronald D. Green, NV Bar No. 7360
Alex J. Shepard, NV Bar No. 13582
Randazza Legal Group, PLLC
8991 W. Flamingo Rd., Ste. B
Las Vegas, NV 89147
Telephone: 702-420-2001
ecf@randazza.com

Attorneys for Defendants
Keith Hodge, Kevin Hodge, and Hodgetwins, LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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

PASTOR STEVE SMOTHERMON,

Plaintiff,

v.

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

Defendants.

**DECLARATION OF
KEITH HODGE**

I, Keith Hodge, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I have knowledge of the facts set forth herein, and if called as a witness, could and would testify competently thereto.

2. I am submitting this declaration in response to Plaintiff's Request for Production No. 19, which requests "Documents sufficient to show revenue, sales, and monetization of the Hodgetwins Facebook page and any associated merchandise operation for August 1, 2025, through September 30, 2025."

3. It is my understanding that my attorneys are objecting to this request as overbroad and not proportional to the needs of this case. Even I, as a non-lawyer, can tell that it is improper to ask for two months' worth of information for a post that was up for just a few hours.

- 1 -

Declaration of Keith Hodge
2:25-cv-01858-APG-BNW

HODGE000145

Doc ID: 664082f06e0d4ff040670a5e0000d9244040062a

1 4. Despite the fact that my lawyers are objecting, I still am willing to provide as much
2 information as I can regarding any money generated by that particular post, over the no more than
3 the few hours that it was online.

4 5. At the time of the August 22, 2025, Facebook post about Cracker Barrel's Steve
5 Smotherman, the Hodgetwins Facebook account was making approximately \$3,500 per day.

6 6. At the time of the August 22, 2025, Facebook post about Cracker Barrel's Steve
7 Smotherman, the Hodgetwins made approximately 40 Facebook posts per day.

8 7. At the time of the August 22, 2025, Facebook post about Cracker Barrel's Steve
9 Smotherman, each Facebook post on the Hodgetwins Facebook account typically made between
10 \$75 and \$120 each.

11 8. Given the amount of time that the post was live on Facebook, it probably earned
12 around \$20 to \$40.

13 9. I do not know for certain how much the post about Cracker Barrel's Steve
14 Smotherman made. While we can access that information about individual posts normally, we
15 cannot do so for deleted posts.

16 10. When a post is deleted, that information becomes unrecoverable after 30 days.
17 Therefore, the information about how much we made from the Smotherman post was likely
18 unrecoverable on or about September 21, 2025.

19 11. Our contractor deleted the post immediately upon being told that the post had the
20 wrong photo.

21 12. It is our understanding that Smothermon's lawyer demanded that the post be
22 deleted, without any information suggesting that we should preserve any information.

23 13. In fact, there was no indication from anyone that there was going to be a lawsuit or
24 any other reason to preserve that information.

25 14. Nevertheless, my best estimate is that this post's maximum revenue for the time it
26 existed was \$20 and \$40.

27 //

1 Dated: July 29, 2026.

2 /s/ Keith Hodge
3 KEITH HODGE
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EXHIBIT F

CUSTOMER SERVICE NOTICE EMAIL THREAD (BATES NOS.
HODGE000136 – HODGE000138) (PRODUCED JUNE 11, 2026)

Marc J. Randazza, NV Bar No. 12265
Ronald D. Green, NV Bar No. 7360
Alex J. Shepard, NV Bar No. 13582
RANDAZZA LEGAL GROUP, PLLC
8991 W. Flamingo Rd., Ste. B
Las Vegas, NV 89147
Telephone: 702-420-2001
ecf@randazza.com
Attorneys for Defendants
Keith Hodge, Kevin Hodge, and Hodgetwins, LLC

**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' AMENDED
RESPONSES TO PLAINTIFF'S FIRST
SET OF REQUESTS FOR PRODUCTION
OF DOCUMENTS**

Defendants Keith Hodge, Kevin Hodge, and Hodgetwins, LLC ("Defendants"), hereby submit their amended responses to Plaintiff's First Set of Requests for Production of Documents served on April 22, 2026. Defendants have amended their response to Request No. 4.

GENERAL OBJECTIONS

1. Defendants object to the subject requests to the extent that they request the disclosure of information protected by the attorney-client privilege, the work-product doctrine, or any other recognized privilege or immunity.

2. Defendants object to the subject requests to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence. The providing of documents in

1 response to any request is not to be deemed or construed as an admission by Defendants that the
2 information is in fact relevant to this action.

3 3. Defendants object to the subject requests to the extent that they call for the
4 production of documents not in the possession, custody, or control of Defendants.

5 4. To the extent words or phrases used in the requests are vague, ambiguous, or
6 otherwise overbroad, Defendants shall respond in a manner in which they believe, in good faith,
7 to be requested thereby.

8 5. Defendants state that discovery in this matter is continuing and ongoing and that
9 it is possible that additional information responsive to the requests will be identified subsequent
10 to the date of this response.

11 6. All responses made herein are based upon the best knowledge, information, and
12 belief held by Defendants at the time of the response.

13 7. Defendants object to the Definitions to the extent they conflict with the definitions
14 applicable in the Federal Rules of Civil Procedure and/or the Local Rules of this Court.

15 8. Defendants object to the Instructions to the extent they impose any obligation
16 beyond that required by the Federal Rules of Civil Procedure or the Local Rules of this Court.

17 9. Defendants object to the requests to the extent they encompass documents subject
18 to attorney-client privilege created subsequent to the initiation of this litigation and will neither
19 produce nor create a privilege log as to same.

20 10. Defendants incorporate these General Objections into each and every specific
21 response as if fully set forth therein.

22 Subject to and without waiving the foregoing General Objections, Defendants specifically
23 respond to each numbered Request as follows:

24 **RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS**

25 **REQUEST FOR PRODUCTION NO. 1:** Produce the original image file used in the August 22,
26 2025, Facebook Post in its Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Defendant Kevin Hodge copied the photograph from the Google search results and pasted it into the Facebook Post. Defendants are in possession of no documents responsive to this request and will supplement this response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 2: Produce all internal communications (including but not limited to emails, text messages, Slack messages, and direct messages) between or among Keith Hodge, Kevin Hodge, and any employees or agents of Hodgetwins, LLC regarding the creation, drafting, and publication of the August 22, 2025, Facebook Post in their Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Defendants are in possession of no documents responsive to this request and will supplement this response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 3: Produce all internal communications regarding the discovery of the misidentification in the Facebook Post, the decision to remove the post, and the actual removal of the post from the Hodgetwins Facebook page in their Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Defendants are in possession of no documents responsive to this request and will supplement this response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 4: Produce all communications with any third parties—including followers, commenters, or media entities—regarding the Facebook Post in their Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Please see the email exchange located at HODGE000136-000138. If Defendants find additional documents responsive to this request in the future, they will supplement this response.

REQUEST FOR PRODUCTION NO. 5: Produce all written editorial guidelines, manuals, or policies in effect during August 2025 concerning fact-checking, image verification, and

publication standards for Hodgetwins, LLC in their Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Defendants are in possession of no documents responsive to this request and will supplement this response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 6: Produce all documents and communications regarding the criteria or internal definitions used by YOU to determine if an individual or entity should be labeled as “woke” for purposes of a social media post or other communication in their Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Defendants are in possession of no documents responsive to this request and will supplement this response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 7: Produce all documents or communications regarding any “red flags” or doubts expressed by any person prior to publication regarding the accuracy of the photograph or the identity of the person depicted in the Facebook Post in their Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Defendants are in possession of no documents responsive to this request and will supplement this response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 8: Produce all analytics reports, revenue statements, or “insights” data from Meta/Facebook for the period of August 22, 2025, through August 30, 2025, specifically filtered for the Facebook Post in their Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Defendants are in possession of no documents responsive to this request and will supplement this response if responsive documents are located in the future.

REQUEST FOR PRODUCTION NO. 9: Produce the most recent audited financial statements for Hodgetwins, LLC, including balance sheets and income statements in their Native Format with all Metadata intact and unaltered.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Objection. Plaintiff's Complaint does not request an award of punitive damages against Defendants. To the extent that Plaintiff wishes to take discovery regarding Defendants' financials, Plaintiff does not have permission of the Court to do so. This request seeks information that is sensitive and proprietary to Defendant Hodgetwins, LLC and will not be produced absent a protective order protecting the information responsive to this request from disclosure.

Dated: June 11, 2026.

Respectfully Submitted,

/s/ Ronald D. Green

Marc J. Randazza, NV Bar No. 12265

Ronald D. Green, NV Bar No. 7360

Alex J. Shepard, NV Bar No. 13582

RANDAZZA LEGAL GROUP, PLLC

8991 W. Flamingo Rd., Ste. B

Las Vegas, NV 89147

Attorneys for Defendants

Keith Hodge, Kevin Hodge, and Hodgetwins,
LLC

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 11, 2026, I served this document to counsel for Plaintiff via electronic mail to:

G. Michael Jackson
mjackson@jonesdavis.com

Nicole A. Westbrook
nwestbrook@jonesdavis.com

/s/ Danielle Darkenwald

Danielle Darkenwald

RANDAZZA | LEGAL GROUP

The recent post about Steve Smotherman of Cracker Barrel uses an INCORRECT photo. The post features a photo of PASTOR Steve Smothermon of Legacy Church in New Mexico, a major CONSERVATIVE voice in New Mexico. This post needs to be taken down immediately because it's causing much confusion and damage. Many of our church members have commented and the official Legacy Church page has responded, requesting it be taken down.

2:04



< The Hodgetwins >

Posts About Photos More ▾



The Hodgetwins

2h · 🌐

🇺🇸 Cracker Barrel's WOKE Past Comes Back to Light 🇺🇸 ... See more



👎👍😂 4.8K

1.9K comments 1K share 📄

Krisha Mason
Legacy Church NM
kmason@legacychurchnm.com

HODGE000136

Sent: Friday, August 22, 2025 2:31:22 PM

To: Krisha Mason

Subject: Re: URGENT: Major ERROR on Social post of Steve Smotherman

Hi Krisha,

Thank you so much for bringing this to our attention. I'll be forwarding your message to our marketing department right away so they can reach out to the website and Facebook/marketing team for the Twins. Please know this is not being taken lightly, and we'll work to get this resolved as quickly as possible.

YEAAAAHHH!!!!!!!

Support Specialist

OfficialHodgeTwins.com

🦅 *America's most jacked customer service squad.*

📦 *Shipping freedom one box at a time.*

✉️ info@officialhodgetwins.com

☎️ 877-462-4459

HODGE000137

From: **Hodgetwins Support** <info@officialhodgetwins.com>

Date: Fri, May 29, 2026 at 12:37 PM

Subject: Fwd: URGENT: Major ERROR on Social post of Steve Smotherman

To: <matt@gobigly.com>

Please take a look at ticket [#529834](#) raised by Krisha Mason (kmason@legacychurchnm.com).

HODGETWINS

CUSTOMER SUPPORT TEAM

Phone: (877) 462-4459

Email: info@officialhodgetwins.com

Web: officialhodgetwins.com

SHOP HODGETWINS

Real support. Straight answers. We've got you covered.

On Fri, 22 Aug, 2025 at 3:35 PM , Krisha Mason <kmason@legacychurchnm.com> wrote:

Thank you Kylie!

HODGE000138

EXHIBIT G

DEFENSE MEET-AND-CONFER LETTER FROM RONALD D.
GREEN TO NICOLE A. WESTBROOK (DATED JULY 31, 2026)

RANDAZZA

LEGAL GROUP

Ronald D. Green
Partner
Licensed in NV

31 July 2026

Via Email Only

Nicole Westbrook

JONES DAVIS & JACKSON, PC

<nwestbrook@jonesdavis.com>

Re: Hodgetwins, LLC, et al. adv. Smothermon

Dear Nicole:

I write in response to your letter dated July 28, 2026.

In your letter, you demand that we provide "the supplementation agreed on May 4." I need to ask you to specify what you are contending we need to supplement because your letter provides no indication. Additionally, while your letter contends that the "overdue supplementation" was the subject of our recent meet and confer, the supplements that you demanded during the meet and confer conference did not fit within the parameters of your discovery requests, which we already addressed during the conference and in our July 24 letter.

Your letter still fails to explain what you hope to obtain through the metadata. No one is claiming that the Ms. Mason's email or Mr. Carroll's Facebook message are inauthentic or that Defendants' customer support team did not receive Ms. Mason's email. We are not trying to be difficult. We truly do not understand what you are looking for.

You do state in your letter that you are willing to consider our request to stipulate on the metadata issues if it will "narrow the native and metadata production," but you do not explain what you would like us to stipulate to. Marc already addressed this in an email sent the same day as your letter. Thus far, you have not been able to articulate what you want and why you want it. But if you tell us what facts you want us to stipulate to or what you want out of the metadata, we will consider your request.

As you note in your letter, we did tell you that we are "engaging someone with greater technical facility" to see if the information you seek exists. Marc additionally addressed this in an email sent right after you sent your letter. We attempted to extract data about the post from Facebook but were unable to do so. The post was deleted, as Mr. Smothermon requested in both Ms. Mason's email and Mr. Carroll's message, and cannot be recovered. Given that neither message demanded preservation, Defendants certainly could not have predicted that they would need to preserve it.

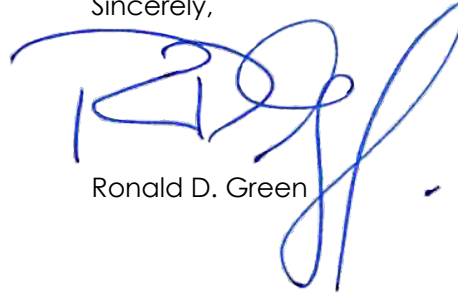
Finally, we have provided you with dates Mr. Shupe is available for deposition. He is not available in September. If you wish to depose him, please let us know as soon as possible. We will not agree to extend discovery if you later decide that you would like to depose him.

Hodgetwins adv. Smothermon
Page 2 of 2

RANDAZZA
LEGAL GROUP

Please let us know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'RDG', with a long, sweeping flourish extending to the right.

Ronald D. Green

cc: Marc Randazza

EXHIBIT H

CERTIFIED TRANSCRIPT EXCERPTS FROM THE AUGUST 11,
2026 DEPOSITIONS OF KRISHA MASON AND MICHAEL MORIN
(TRANSCRIPTS REPORTED BY BELEN A. SOTO, CSR, RMR)

EXHIBIT H.1

CERTIFIED TRANSCRIPT EXCERPTS FROM THE AUGUST 11,
2026 DEPOSITION OF KRISHA MASON (TRANSCRIPT
REPORTED BY BELEN A. SOTO, CSR, RMR)

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

1

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PASTOR STEVE SMOTHERMON, §
§ CASE NO.:
PLAINTIFF, § 2:25-CV-01858-APG-BNW
§
v. §
§
KEITH HODGE, an individual, §
KEVIN HODGE, an individual, §
HODGETWINS, LLC, a limited §
liability company, §
§
DEFENDANTS. §

ORAL AND VIDEO ZOOM DEPOSITION OF

The Oral Deposition of KRISHA MASON, taken at the
request of the DEFENDANTS KEITH HODGE, KEVIN HODGE, and
HODGETWINS, LLC, on AUGUST 11, 2026, from 10:01 a.m. to
2:02 p.m., at VIA ZOOM.

Reported by: Belen A. Soto, CSR, RMR

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

2

A P P E A R A N C E S

FOR PLAINTIFF PASTOR STEVE SMOTHERMON AND KRISHA MASON:

Mr. Paul Bishop, Esq.
JONES, DAVIS & JACKSON, PC
1511 Dallas Parkway, Suite 300
Dallas, TX 75248
(702) 420-2001
pbishop@jonesdavis.com

FOR DEFENDANT(S):

and Mr. Ronald D. Green, Esq.
Mr. Marc J. Randazza, Esq.
RANDAZZA LEGAL GROUP, PLLC
8991 W. Flamingo Rd., Ste. B
Las Vegas, NV 89147
(702) 420-2001
rdg@randazza.com

ALSO PRESENT:

Danielle Darkenwald, Randazza Office Assistant
Richard McLaron, Clerk Jones Davis & Jackson

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

3

I N D E X

KRISHA MASON	PAGE
Examination by Mr. Green	4
Reporter's Certification	110
Correction's and Signature	112

E X H I B I T S

NO.	DESCRIPTION	PAGE
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Exhibit 2	Hodgetwins Website	43
Exhibit 3	Mason/Howerton Email Thread	86
(**Exhibit 4 not marked.)		
Exhibit 5	Krishna Mason Deposition Subpoena	10
Exhibit 6	Plaintiff's Response to First Set of Interrogatory, Request for Production, Requests for Admissions	97

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

49

1 A. Um, I mean, I can see that it looks like a
2 screenshot of the -- what looks like the bottom of their
3 website.

4 Q. There's a phone number on the website that says
5 call or text us, 877-462-4459.

6 Do you see that?

7 A. I see that, yes.

8 Q. Is that the phone number that you called?

9 A. I can't --

10 Q. Do you recall?

11 A. I can't definitively recall.

12 Q. Okay. When you contacted the Hodgetwins, walk
13 me through exactly what you did and the sequence of
14 events.

15 A. Okay. Um, so after asking that question in the
16 group chat I went to their website in search of a way to
17 contact them, because I knew that on social media there
18 are thousands and thousands of comments and they may not
19 see something. So, I found a phone number on the bottom
20 of their website, and I called that phone number.

21 And I let her know -- uh, Kylie know that
22 I wasn't calling about merchandise, that I was calling
23 to let them know about an inaccurate and an error on
24 their social media post that was causing a lot of damage
25 and it was causing a lot of confusion, and that it

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

50

1 needed to be removed and taken down immediately.

2 Q. Did someone tell you to go on the Hodgetwins
3 website?

4 A. No.

5 Q. Okay. You did that on your own?

6 A. I did.

7 Q. Okay. And --

8 (Court reporter caution.)

9 THE WITNESS: I apologize. The door is
10 closed, but there is a playground outside of this room
11 and there's day care. If anyone knows a way to -- like
12 a setting I could try. They're not usually in here very
13 long. I could step away and ask them to try to --

14 COURT REPORTER: That's okay. Go ahead.

15 THE WITNESS: Yeah. We are a church, and
16 we have a day care and we have a school here, so
17 there's . . .

18 MR. GREEN: It's absolutely fine.

19 MR. RANDAZZA: Let the record reflect that
20 Ron hates the sound of playing children.

21 MR. GREEN: That is defamation, Mark.

22 (Off-the-record discussion.)

23 Q. (By Mr. Green) So, is Kylie the person that
24 answered the phone when you called?

25 A. Yes.

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

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1 Q. And what did Kylie say to you?

2 A. She listened to what I was telling her, and she
3 apologized, and then indicated to me -- she gave me an
4 email address, info@ -- it was like the Hodgetwins
5 website, I don't know, it was their info email --

6 Q. Okay.

7 A. -- which she gave me. And she indicated to me
8 that the more people who sent an email -- an email
9 notifying them of the mistake, the more attention you
10 might receive.

11 So, I thanked her for the information, and
12 let her know -- oh, she also requested that I send her
13 screenshots of the post, so I did that. I screenshotted
14 the post and attached it to the email, and sent it to
15 her with a recap of the information that I had given
16 her. The subject line said urgent -- something like
17 urgent: Mistake on social media post of
18 Steve Smothermon, with the screenshots attached and a
19 recap of the mistake that was made urging them to
20 urgently take it down.

21 Q. You had previously testified that you told
22 Kylie that the post was causing damage and confusion; is
23 that correct?

24 A. Yeah.

25 Q. What type of damage was the post causing?

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

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1 executive at Cracker Barrel and they had no idea?

2 A. I've already answered that question. No.

3 Q. So, after you called the customer service line
4 and spoke to Kylie, she asked you to send an email; is
5 that correct?

6 A. Yes. She gave me the info email for the
7 Hodgetwins company, and advised me that I should send
8 her the screenshots of the post so they knew what I was
9 referring to, and describe the mistake that had been
10 made.

11 Q. And you did that?

12 A. Yes.

13 Q. Let's go to Exhibit 3, it's titled Krisha Mason
14 and Kyle Howerton's Email Exchange.

15 (Exhibit 3 marked for identification.)

16 Q (By Mr. Green) Go ahead and take a --

17 (Court reporter clarification.)

18 MR. GREEN: Krisha Mason and Kylie
19 Howerton's Email Exchange.

20 Q (By Mr. Green) Let me know when you're ready.

21 A. I'm -- I have it in front of me.

22 Q. Are you ready?

23 A. Yes.

24 Q. Okay. Do you recognize this document?

25 A. Yes.

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

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1 Q. What is it?

2 A. It's the email, the initial email, that I sent
3 at the request of Kylie, as per our conversation over
4 the phone.

5 Q. Okay. Are you aware if the post was ever taken
6 down?

7 A. I am aware the post was taken down.

8 Q. Okay. Do you -- when was it taken down?

9 A. From what I recall, I believe it was the same
10 day.

11 Q. Was it still up when you sent this email?

12 A. Yes. I would not have sent the email if it was
13 taken down already.

14 Q. Okay. Do you know how long it was taken down
15 after you sent the email?

16 A. Not exactly. I'm sure there are time stamps
17 for that.

18 Q. Did anyone else at the church contact the
19 Hodgetwins?

20 A. Not that I'm aware of, other the official
21 Legacy Church response in the post itself.

22 Q. So, to the best of your knowledge, you're the
23 only person who contacted the Hodgetwins regarding the
24 post?

25 A. To the best of my knowledge I'm the only person

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SMOTHERMON vs HODGE ET AL

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1 Q. (By Mr. Green) What did you direct Kylie to do
2 with the post over the phone?

3 A. I advised her --

4 (Technical issue.)

5 Q (By Mr. Green) What did you direct Kylie to do
6 with the post over the phone?

7 A. I let her know of the error, and advised her
8 that it needed to be taken down because it was
9 incorrect.

10 Q. Okay. But did you tell her anything else?

11 A. No.

12 Q. So, the only thing you told her was to take the
13 post down?

14 A. Yeah. Or, I mean, they could revise it. I
15 don't know if there's a way to edit the post, but -- I'm
16 not sure how that works on Facebook.

17 Q. When did you find out that Pastor Smothermon
18 filed a lawsuit against the Hodgetwins?

19 A. When I was asked to do this, to I guess be
20 part -- is asked -- is the term called ask to be -- to
21 give your deposition? Is that what the term is? So
22 when I was asked to give my deposition is when I found
23 out.

24 Q. Do you remember how long ago that was?

25 A. Sometime in May, I'm not sure exactly when. I

KRISHA MASON
SMOTHERMON vs HODGE ET AL

August 11, 2026

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PASTOR STEVE SMOTHERMON, §
§ CASE NO.:
PLAINTIFF, § 2:25-CV-01858-APG-BNW
§
v. §
§
KEITH HODGE, an individual, §
KEVIN HODGE, an individual, §
HODGETWINS, LLC, a limited §
liability company, §
§
DEFENDANTS. §

REPORTER'S CERTIFICATION

KRISHA MASON

AUGUST 11, 2026

I, Belen A. Soto, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, KRISHA MASON, was duly sworn by
the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That the deposition transcript was submitted on
_____ to the witness or to the attorney
for the witness for examination, signature and return
to me by _____;

That the amount of time used by each party at the
deposition is as follows:

EXHIBIT H.2

CERTIFIED TRANSCRIPT EXCERPTS FROM THE AUGUST 11,
2026 DEPOSITION OF MICHAEL MORIN (TRANSCRIPT
REPORTED BY BELEN A. SOTO, CSR, RMR)

MICHAEL MORIN
SMOTHERMON vs HODGE ET AL

August 11, 2026

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PASTOR STEVE SMOTHERMON, §
§ CASE NO.:
PLAINTIFF, § 2:25-CV-01858-APG-BNW
§
v. §
§
KEITH HODGE, an individual, §
KEVIN HODGE, an individual, §
HODGETWINS, LLC, a limited §
liability company, §
§
DEFENDANTS. §

ORAL AND VIDEO ZOOM DEPOSITION OF

The Oral Deposition of MICHAEL MORIN, taken at the
request of the DEFENDANTS KEITH HODGE, KEVIN HODGE, and
HODGETWINS, LLC, on AUGUST 11, 2026, from 2:14 p.m. to
3:56 p.m., at VIA ZOOM.

Reported by: Belen A. Soto, CSR, RMR

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

August 11, 2026

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A P P E A R A N C E S

FOR PLAINTIFF PASTOR STEVE SMOTHERMON AND MICHAEL MORIN:

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1511 Dallas Parkway, Suite 300
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(702) 420-2001
pbishop@jonesdavis.com

FOR DEFENDANT(S) :

and Mr. Ronald D. Green, Esq.
Mr. Marc J. Randazza, Esq.
RANDAZZA LEGAL GROUP, PLLC
8991 W. Flamingo Rd., Ste. B
Las Vegas, NV 89147
(702) 420-2001
rdg@randazza.com

ALSO PRESENT:

Danielle Darkenwald, Randazza Office Assistant
Richard McLaron, Clerk Jones Davis & Jackson

MI HAEL MORIN
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August 11, 2026

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I N D E X

MICHAEL MORIN	PAGE
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E X H I B I T S

NO.	DESCRIPTION	PAGE
Exhibit 1	FaceBook Post	19
Exhibit 2	Plaintiff's First Discovery Requests	25

MI HAEL MORIN
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August 11, 2026

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1 THE COURT REPORTER: The time is 2:14 p.m.

2 My name is Belen Soto, Court Reporter, and
3 this is the deposition of Michael Morin.

4 Will the attorneys please state your
5 appearances, your location and who you represent, for
6 the record, after which I will swear in the witness.

7 MR. GREEN: This is Ron Green. I
8 represent the defendants in this case, that being Keith
9 Hodge, Kevin Hodge and Hodgetwins, LLC. Also on this
10 Zoom with me are Mark Randazza, my law partner, and
11 Danielle Darkenwald who's a paralegal at our firm. We
12 are in Las Vegas, Nevada.

13 MR. BISHOP: I'm Paul Bishop. I represent
14 Mr. Morin, Michael Morin, and I'm in Dallas, Texas.

15 MR. GREEN: And you also represent the
16 Plaintiff, Steve Smothermon.

17 That's correct, right, Mr. Bishop?

18 MR. BISHOP: Yeah. Well, we represent the
19 deponents for sure. I was assigned this, like, Friday,
20 but I'm -- we represent the deponents.

21 MR. GREEN: And your firm represents the
22 Plaintiff in the litigation?

23 MR. BISHOP: I guess so. Let's see.
24 Sorry. Let's see.

25 Yep. Yes, we do. Yeah.

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

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1 litigation against the Hodgetwins?

2 A. Correct.

3 Q. Okay. The next page, that's with the
4 Valentin -- what's Valentin's last -- is that how you
5 say his last name?

6 A. Valenteen (phonetic).

7 Q. Valentin.

8 And this -- what is Valentin's last name?

9 A. Molina, M-O-L-I-N-A.

10 Q. And he is also on the executive team?

11 A. No.

12 Q. Okay.

13 A. He is not.

14 Q. What is his position with Legacy Church?

15 A. He's the systems manager and he oversees
16 digital.

17 Q. What are his job responsibilities, to the best
18 of your knowledge?

19 A. He manages a team for photography, social
20 website and the database system for our members.

21 Q. And so that -- we have a text exchange with the
22 two of you --

23 A. Yes.

24 Q. -- from August 22nd, 2025. I'm assuming that
25 this stuff above this, the software on my number website

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

August 11, 2026

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1 that has nothing to do with this case?

2 A. That's correct.

3 Q. Okay. And so the next day August 22nd, 2025,
4 at 1:11 p.m. Valentin texts: (Reading)

5 On phone PSS.

6 Does that mean he was on the phone with
7 Pastor Steve Smothermon?

8 A. That's what that abbreviation means.

9 Q. Okay. And your response: (Reading)
10 Hodgetwins, let me guess.

11 Explain what that means.

12 A. Assuming it's within one hour of the post, the
13 Hodgetwins post --

14 Q. Yes.

15 A. -- so that's why I'm saying let me guess he's
16 talking to you about.

17 Q. Okay. Do you recall, did you have any
18 conversations with Valentin regarding this conversation
19 that he had with Steve Smothermon?

20 A. I'm sure I had multiple conversations with
21 Valentin that day. I was in Seattle, um, so I'm sure
22 there were multiple conversations.

23 Q. Okay. But you didn't have any conversations
24 with Steve Smothermon that day?

25 A. I did not talk to Steve Smothermon.

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

August 11, 2026

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1 Q. Do you know what his reaction to the Facebook
2 post was?

3 A. Irate.

4 Q. Anything more specific than that? Do you --
5 what specifics?

6 A. I knew, based on -- through his son and through
7 the phone calls that day with multiple people on the
8 team, that he was incredible upset with the defamation.

9 Q. Is that how he described it? As defamation?

10 A. I would assume, yes.

11 Q. How about the text underneath that with
12 Valentin, the: (Reading)

13 Good with me extending early bird two more
14 days to cover Sunday. Push for Aspire.

15 Does that have anything to do with the
16 Facebook post?

17 A. No, sir.

18 Q. Okay. So, the only texts that have anything to
19 do with the Facebook post are the ones that say "on the
20 phone PSS, Hodgetwins, let me guess"?

21 A. Yes. The one within an hour of my screenshot.

22 Q. All right. Let's go to the next page then,
23 that says page 23.

24 A. Um-hum.

25 Q. Who are all the people on this text chain that

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

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1 Q. So, do you -- so if J means Jaime there, do you
2 think J also meant Jaime in the last -- on page 23? You
3 had said that you didn't know who J meant, do you think
4 that --

5 A. Correct.

6 Q. Is that Jaime?

7 A. I don't know.

8 Q. Okay.

9 A. I know the Legacy executive one is memorized,
10 so, yes, I know who those ones are.

11 Q. It appears you're the person who posted a link
12 to the Facebook page, correct?

13 A. Correct.

14 Q. So, are you -- you're informing everyone else
15 in the executive committee about the Facebook post here;
16 is that correct?

17 A. That's correct.

18 Q. And you stated -- after you stated Hodgetwins
19 are massive you stated: (Reading)

20 Everyone from church is commenting they
21 have wrong photo of the wrong guy.

22 Do you see that?

23 A. Correct. I do.

24 Q. All right. What did you mean by that?

25 A. That the post was a mistake. They have not

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

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1 the -- they have the photo of our pastor with the wrong
2 person, the Cracker Barrel CEO.

3 Q. Do you recall --

4 A. Wrong photo, wrong guy.

5 Q. -- who from the church --

6 (Court reporter caution.)

7 Q (By Mr. Green) Go ahead. I interrupted you.
8 I'm sorry. Go ahead and repeat.

9 A. I just said that's what wrong photo, wrong guy
10 means.

11 Q. Okay.

12 A. And I don't recall who from the church, like I
13 said, so many.

14 Q. So many what?

15 A. People reaching out about the post.

16 Q. People from the church?

17 A. Correct.

18 Q. And what were they saying about the post?

19 A. Well, how egregious it is. What a problem it
20 is. How is this up? How is this posted? How did they
21 get this wrong?

22 Q. They were making these comments on the post?

23 A. There are -- there were comments like that,
24 people were saying you have the wrong guy, this is
25 crazy. He's on your --

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

August 11, 2026

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1 Q. These are comments --

2 A. -- side actually.

3 (Court reporter caution.)

4 Q. (By Mr. Green) Go ahead.

5 A. The gist of comments I remember, yes.

6 Q. Those were comments --

7 A. That's to explain that everyone from church is
8 commenting they have the wrong photo, the wrong guy.

9 Q. But you don't recall any specific names of
10 people?

11 A. The screenshot is all I have of specific names.

12 Q. Okay.

13 A. I don't have any other screenshots of all the
14 comments.

15 Q. Do you recall any comments to the Facebook post
16 that were not from church members?

17 A. I'm sure. There were -- there were many
18 comments, it would -- I couldn't assume that they were
19 all church members.

20 Q. Do you remember any comments specifically?

21 A. Um, the one I remember is Craig's, that's the
22 one I just screenshotted before.

23 Q. Were there any comments that believed the
24 person pictured in the Facebook post worked for Cracker
25 Barrel?

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

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1 Q. And right after that Steve Smothermon, Jr. text
2 info@officialhodgetwins.com, and then says: (Reading)

3 This is where we or an attorney can send
4 an email.

5 Do you see that?

6 A. Yes.

7 Q. Did you send an email to
8 info@officialhodgetwins.com?

9 A. I did not.

10 Q. Do you know if --

11 A. I don't know if --

12 Q. -- anyone else -- go ahead.

13 A. I don't know who did.

14 Q. Do you know if anyone else on this text chain
15 sent an email to that email address?

16 A. No.

17 Q. Do you know what happened with Mr. Smothermon's
18 call with the customer service?

19 A. I do not know. I left that day for Nepal, so I
20 was very shortly involved.

21 Q. Gotcha.

22 In the very next line -- or the bottom of
23 that page 31, you texted: (Reading)

24 I think it's taken down.

25 A. Correct.

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

August 11, 2026

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1 Q. You were talking about the Facebook post there?

2 A. Talking about the Facebook post.

3 Q. All right. What made you think it was taken
4 down?

5 A. I couldn't find it again when I looked for it.

6 Q. Do you know when it was taken down?

7 A. I do not know.

8 Q. All right. Do you know why it was taken down?

9 A. I'm assuming, but I don't know why.

10 Q. What's your assumption?

11 A. Because they were told that it was the wrong
12 person.

13 Q. Do you know who Krisha Mason is?

14 A. I do know who she is.

15 Q. Who is she?

16 A. She's an employee at Legacy Church.

17 Q. Are you her supervisor?

18 A. Yes.

19 Q. All right. What is her position?

20 A. She's a video editor.

21 Q. Did you have any conversation with Ms. Mason
22 about the Facebook post --

23 A. I don't --

24 Q. -- on August 22nd, 2025?

25 A. I don't remember.

MI HAEL MORIN
SMOTHERMON vs HODGE ET AL

August 11, 2026

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PASTOR STEVE SMOTHERMON, §
§ CASE NO.:
PLAINTIFF, § 2:25-CV-01858-APG-BNW
§
v. §
§
KEITH HODGE, an individual, §
KEVIN HODGE, an individual, §
HODGETWINS, LLC, a limited §
liability company, §
§
DEFENDANTS. §

REPORTER'S CERTIFICATION

MICHAEL MORIN

AUGUST 11, 2026

I, Belen A. Soto, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, MICHAEL MORIN, was duly sworn by
the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That the deposition transcript was submitted on
_____ to the witness or to the attorney
for the witness for examination, signature and return
to me by _____;

That the amount of time used by each party at the
deposition is as follows:

EXHIBIT I

COMPOSITE MEET-AND-CONFER DEFICIENCY
CORRESPONDENCE SENT BY PLAINTIFF'S COUNSEL TO
DEFENDANTS' COUNSEL (LETTERS DATED APRIL 21, MAY 26,
JUNE 30, JULY 9, JULY 28, AND AUGUST 25, 2026)

JONES, DAVIS & JACKSON, PC

Attorneys + Counselors

15110 Dallas Parkway, Suite 300
Dallas, TX 75248
615.403.4862
Fax 972.733.3119

Nicole A. Westbrook
nwestbrook@jonesdavis.com
Licensed in Colorado

April 21, 2026

VIA EMAIL: mjr@randazza.com

Marc Randazza
Randazza Legal Group
8991 West Flamingo Road, Suite B
Las Vegas, NV 89147

***Re: Meet and Confer Regarding Defendants' Deficient Rule 26 Initial Disclosures
Smothermon v. Hodgetwins, LLC, et al., Case No. 2:25-cv-01858-APG-BNW.***

Dear Mr. Randazza,

We write to initiate the meet-and-confer process regarding Defendants' Rule 26(a)(1) Initial Disclosures, which your office served on April 9, 2026. Upon review, the disclosures are facially deficient and fail to comply with the Federal Rules of Civil Procedure. We ask that your clients promptly supplement these disclosures to cure the defects outlined below.

1. Improper and Deficient Document Disclosures (Rule 26(a)(1)(A)(ii)).

In Section 2.0 of your disclosures, you state that "Plaintiff has the following documents, ESI, or tangible things in their possession, custody, or control that they may use to support their defenses...." Federal Rule of Civil Procedure 26(a)(1)(A)(ii) requires the Defendants to disclose documents and ESI in the Defendants' possession, custody, or control that the Defendants may use to support their claims or defenses.

Furthermore, the 16 items listed are almost exclusively a collection of public internet links, Legacy Church's annual report, media articles, and Pastor Smothermon's published books. Conspicuously absent from your disclosure is any mention of internal documents, ESI, or communications actually in the Defendants' possession. For example, your clients' primary defense hinges on a Google image search that allegedly caused an innocent misidentification. Yet, the disclosures fail to identify any native browser histories, search logs, internal emails, text messages, or Slack communications regarding the drafting, publication, and eventual removal of the defamatory Facebook post. Please supplement this section to identify the actual internal ESI and documents your clients possess and intend to use.

April 21, 2026

Page 2

2. Failure to Conduct a Reasonable Inquiry Regarding Insurance (Rule 26(a)(1)(A)(iv)).

In Section 4.0, your disclosures state that “Defendants are unaware of any insurance policy relevant to this lawsuit.” Hodgetwins, LLC operates a highly monetized media platform with over 6.3 million Facebook followers and nearly 3.5 million YouTube subscribers. It strains credulity that a sophisticated corporate media entity operating at this scale lacks Commercial General Liability (CGL), media liability, or errors and omissions (E&O) insurance coverage. Rule 26 requires a party to make a reasonable inquiry before making its initial disclosures. Please confirm that a diligent search for applicable insurance policies has been conducted and, if any policies exist that may satisfy part or all of a judgment, produce them immediately.

3. Vague Witness Disclosures (Rule 26(a)(1)(A)(i)).

The descriptions of the subjects of information for Keith Hodge, Kevin Hodge, and the Hodgetwins, LLC Person Most Knowledgeable are identical, boilerplate copy-paste paragraphs. Simply stating that these witnesses have knowledge regarding “the allegedly defamatory Facebook post...the affirmative defenses asserted...and the other facts and circumstances surrounding this matter” fails to provide the required specificity. Please supplement these descriptions to provide meaningful detail about the specific subjects each witness will testify to, particularly regarding their respective roles in the editorial, verification, and publication process.

Meet and Confer Request Under Local Rule IA 1-3(f) of the District of Nevada, the meet-and-confer requirement “may only be satisfied through direct dialogue and discussion in a face-to-face meeting, telephone conference, or video conference. The exchange of written, electronic, or voice-mail communications does not satisfy this requirement.”

Accordingly, please let me know your availability for a brief telephone or video conference this Thursday, April 23, 2026, to discuss these deficiencies. It is our hope that we can resolve this without burdening the Court with a motion to compel.

We look forward to hearing from you.

Sincerely yours,

JONES, DAVIS & JACKSON, PC



By:

Nicole A. Westbrook

CC: Pastor Steve Smothermon

JONES, DAVIS & JACKSON, PC

Attorneys + Counselors

15110 Dallas Parkway, Suite 300
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Nicole A. Westbrook
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Licensed in Colorado

May 26, 2026

VIA EMAIL: mjr@randazza.com

Marc Randazza
Randazza Legal Group
8991 West Flamingo Road, Suite B
Las Vegas, NV 89147

***Re: Meet and Confer Regarding Outstanding Rule 26 Disclosures and Deficient
Discovery Responses Smothermon v. Hodgetwins, LLC, et al., Case No. 2:25-cv-
01858-APG-BNW.***

Dear Mr. Randazza,

I write to meet and confer regarding several deficiencies in your clients' discovery responses and outstanding disclosure obligations. We ask that your clients cure each of the items below.

1. **Failure to Supplement Initial Disclosures.** We sent you a letter on April 21, 2026, detailing the deficiencies in your Rule 26 disclosures. You refused to engage in a conferral conference until April 28, 2026. On that day, I called your office and was told you were not available. We rescheduled for May 4. On May 4, we held a Zoom conference meet-and-confer regarding the facial deficiencies in Defendants' Rule 26 Initial Disclosures. During that meeting, Mr. Green expressly agreed to supplement the disclosures within one week. More than two weeks have passed since that conferral; more than five weeks since our letter; and more than six weeks have passed since your initial disclosures were due, and we have yet to receive any supplementation.

These documents and any applicable insurance policies are squarely within your clients' disclosure obligations. We ask that you provide the promised supplemental disclosures by no later than Friday, May 29, 2026. If we do not receive them, we will move to compel and seek the fees incurred in doing so.

2. **Inconsistent and Contradictory Discovery Responses.** Several of your clients' responses are internally inconsistent and bear on their duty to preserve evidence.

May 26, 2026

Page 2

The Google Search and Metadata (RFAs 1, 2, 9 vs. RFP 1): In response to Requests for Admission Nos. 1 and 2, your clients state that they “located the image after searching for an image of Steve Smotherman” and “simply performed a Google image search.” In response to Request for Production No. 1, which seeks the native image file, search logs, and browser history, your clients state that they “are in possession of no documents responsive to this request.” A Google image search of the kind your clients describe generates records. We cannot reconcile the admission that the search occurred with the position that no record of it exists. Please confirm what was searched for and produced, and if responsive records no longer exist, please explain what became of them.

In response to Request for Admission No. 9, regarding the photograph’s metadata, your clients state that they “have not reviewed the metadata for the photograph.” That a party has not reviewed metadata suggests the underlying file remains in its possession. If so, it is responsive to Request for Production No. 1 and should have been produced. Please produce the native file and its metadata or confirm in writing that the file no longer exists.

Concealment of Internal Communications (ROG 3 vs. RFPs 2-4): In their verified Amended Response to Interrogatory No. 3, your clients state that Nathan Hughes “learned of the post through an email sent to the customer service account,” and that “Defendants had informed Mr. Hughes that they had been sued over a post that had an incorrect picture.” That sworn answer describes at least one email and one or more communications between Defendants and Mr. Hughes. In response to Requests for Production Nos. 2, 3, and 4, however, your clients produced nothing and state that they possess no internal or third-party communications. The sworn interrogatory answer and the production responses cannot both be complete. Please produce the customer-service email and the Hughes communications, or confirm in writing what became of them.

3. **Evasive and Non-Responsive Interrogatory Answers.** Three interrogatory responses are non-responsive and require supplementation:

Interrogatory No. 4 asked your clients to describe the editorial standards, verification processes, and fact-checking policies used before publishing to their audience. The response—that they “post material to Facebook that they believe their subscribers will find interesting”—does not address verification or fact-checking and is non-responsive. Please supplement.

Interrogatory No. 5 asked your clients to identify any other “Steve Smotherman” or “Steve Smothermon” in the search results and to explain why those individuals were ruled out. The response—that “most, if not all” images appeared to be the same person and that Defendants “did not ‘rule out’ any individuals”—again relies on the results of a search that has not been produced. Please supplement, and produce the search results on which the answer relies.

Interrogatory No. 7 asked your clients to describe the decision-making process used to verify the identity of the person in the photograph, including any alternative visual verification steps taken. The response restates that Kevin Hodge searched Google and decided to post the image, but does not address what verification steps, if any, were taken beyond the text search. Please supplement.

May 26, 2026

Page 3

4. **Refusal to Produce Financial Statements.** (RFP 9) Your clients objected to producing financial statements on the grounds that Plaintiff has not pleaded punitive damages and that the information is proprietary. We disagree that the objection forecloses production. Defendants' revenue from the Hodgetwins platform is relevant to motive—the monetization of content—and to Plaintiff's damages. To the extent confidentiality is a genuine concern, the parties can address it through a stipulated protective order, and we are willing to negotiate one. Please confirm whether your clients will produce these documents subject to such an order.

Pursuant to District of Nevada Local Rules IA 1-3(f) and 26-6(c), please let me know your availability for a telephone or video conference next week to discuss these issues. We would prefer to resolve them by agreement.

If we are unable to resolve these matters through conferral, we will move to compel and, where the record warrants, will seek relief under Federal Rule of Civil Procedure 37(e).

I look forward to hearing from you.

Sincerely yours,

JONES, DAVIS & JACKSON, PC



By:

Nicole A. Westbrook

CC: Pastor Steve Smothermon

JONES, DAVIS & JACKSON, PC

Attorneys + Counselors

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Nicole A. Westbrook
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Licensed in Colorado

June 30, 2026

VIA EMAIL: mjr@randazza.com

Marc Randazza
Ron Green
Randazza Legal Group
8991 West Flamingo Road, Suite B
Las Vegas, NV 89147

Re: Meet-and-confer regarding deficient responses to Plaintiff's First Set of Requests for Production and Interrogatories, demand for production of Google account activity data and forensic preservation.

Dear Counsel,

I write pursuant to Fed. R. Civ. P. 37(a) and Local Rule IA 1-3(f) / LR 26-6 to confer (again) regarding deficiencies in Defendants' responses to Plaintiff's First Set of Requests for Production (served April 22, 2026) and to demand specific electronically stored information and preservation steps. This letter also gives notice that Plaintiff will serve a Second Set of Requests for Production and Interrogatories directed to the items below.

1. The admitted facts. Defendants have admitted, under oath, that Kevin Hodge performed a Google image search using the text query "Steve Smotherman" that he "copied the photograph from the Google search results and pasted it" into the August 22, 2025 Facebook Post, and that no reverse-image search was performed before publication (Resp. to RFA No. 7; Resps. to Interrogatory Nos. 2 and 5; Resp. to RFP No. 1). In their June 10, 2026, Second Amended Response to Interrogatory No. 5, Defendants asserted for the first time that the search was conducted "in incognito mode" and that, "[b]ecause the search was performed in incognito mode, Defendants have no record of the search."

2. The "incognito" response does not answer the request, because it addresses only local browser history. Private/Incognito mode governs only what the browser writes to the local device; it does not suppress server-side logging by the user's account. When a user is signed in to a Google account, Google's Web & App Activity records the user's searches to the account's "My Activity" regardless of Incognito mode, and that record is exportable by the account holder through Google Takeout. Defendants' representation that they have no record of the search

June 30, 2026

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speaks only to local browser artifacts; it does not address the account-side activity data, which is within Defendants' possession, custody, and control under Rule 34 because Defendants can retrieve it from their own Google account. Defendants' "no documents" responses to Requests for Production Nos. 1, 2, and 7 are, accordingly, incomplete, and Plaintiff requests that they be supplemented.

3. Demand. To resolve this dispute without motion practice, Plaintiff demands that Defendants, within seven (7) days, produce or provide the following, and supplement their First Set responses accordingly:

a. Google Takeout export for each Google account that was signed in on the device used to conduct the August 22, 2025 search, covering the period August 1, 2025 through September 30, 2025, and including, at minimum, Search history, Image Search activity, Web & App Activity ("My Activity"), and YouTube history.

b. Identification of (i) each Google account and associated email address used to perform or in connection with the search; (ii) the device(s) used; and (iii) whether Web & App Activity (or equivalent activity logging) was enabled on each such account on August 22, 2025. (This supplements Interrogatory No. 2.)

c. The original photograph file depicting Plaintiff as used in the Post, in its Native Format with all EXIF and system Metadata intact (including the Source URL), consistent with RFP No. 1.

d. Preservation of, and an agreed protocol for forensic imaging of, each device (mobile phone and/or computer) used to conduct the search, draft, or publish the Post — including memory/pagefile and hibernation files, browser cache, DNS cache, and file-system artifacts — by a mutually acceptable neutral examiner under an appropriate protective order.

e. Chrome sync data and any signed-in browser-profile activity associated with the device or account used.

f. Meta/Facebook account data for the Hodgetwins page, exported by Defendants from their own account, including the native Post data and the page activity/audit log reflecting the creation, any edits, and the removal of the Post (with timestamps and the acting administrator).

g. Router, modem, or internet-service-provider records reflecting the August 22, 2025 activity.

4. Consent to release if Defendants maintain they cannot produce. If Defendants contend they cannot themselves produce the Google account data described in Paragraph 3(a), Plaintiff demands that each individual Defendant execute a written consent directive authorizing Google LLC to release the records to the parties. A subscriber's consent removes any Stored Communications Act bar to the provider's disclosure, and a party's ability to authorize that release is itself a "legal right to obtain" the records within the meaning of Rule 34. Plaintiff will, if necessary, move for an order compelling Defendants to execute such a directive.

June 30, 2026

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5. Preservation notice (Fed. R. Civ. P. 37(e)). Defendants remain under a duty to preserve all of the foregoing, which arose no later than August 22, 2025, when Plaintiff's counsel demanded immediate removal of the photograph and a retraction. Defendants are instructed not to delete, disable, or allow the auto-deletion of any Google account activity, device data, browser data, or Meta account data, and to suspend any auto-delete settings on the relevant Google account(s). Plaintiff reserves the right to seek relief under Rule 37(e), including curative measures and an adverse-inference instruction, and to move to compel under Rule 37(a) with an award of fees, should Defendants fail to cure these deficiencies.

6. Conferral. Please advise by July 1, 2026, of your availability for a telephonic conference under LR 26-6, and whether Defendants will produce the items in Paragraph 3 and execute the consents in Paragraph 4.

Nothing in this letter waives, and Plaintiff expressly reserves, all rights and objections.

Sincerely yours,

JONES, DAVIS & JACKSON, PC



By:

Nicole A. Westbrook

CC: Pastor Steve Smothermon

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July 9, 2026

VIA EMAIL: mjr@randazza.com

Ron Green
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8991 West Flamingo Road, Suite B
Las Vegas, NV 89147

***Re: Smothermon v. Hodgetwins, LLC, et al., No. 2:25-cv-01858-APG-BNW (D. Nev.)
— Response to Your July 1, 2026 Letter; First-Set Discovery Deficiencies and
Notice of Intent to Move for a Protective Order***

Dear Mr. Green,

We write in response to your letter of July 1, 2026. The letter mischaracterizes our June 30 correspondence and declines to cure discovery deficiencies that your clients' own sworn responses place squarely at issue. Plaintiff remains willing to confer under Local Rule 26-6 and provides availability below. But if your clients stand on the positions in your letter, Plaintiff will move to compel under Rule 37(a) and will oppose any motion for a protective order.

1. **Our June 30 letter requested a conferral, not a 24-hour response.** Your letter states that we “demand[ed] that we agree to respond to discovery within 24 hours.” We did not. The June 30 letter (a) requested a Local Rule 26-6 conferral by July 1, (b) asked your clients to produce voluntarily within seven days to avoid motion practice, and (c) gave notice of a forthcoming Second Set. The 30-day response periods of Rules 33, 34, and 36 are not in dispute, and we have not asked you to shorten them. We ask that you engage with what the letter actually requested.
2. **Your clients' “no documents exist” position cannot be reconciled with their own sworn interrogatory answer or with their own production.** Your clients' verified Amended Response to Interrogatory No. 3 states that Nathan Hughes “learned of the post through an email sent to the customer service account,” and that “Defendants had informed Mr. Hughes that they had been sued over a post that had an incorrect picture.” That sworn answer describes at least one email and one or more communications with Mr. Hughes. Your clients nonetheless responded to Requests for Production Nos. 1, 2, and 7 that no responsive documents exist — and then produced more than 100 pages after representing they had

July 9, 2026

Page 2

none. These positions are irreconcilable. We ask that your clients either (a) supplement their responses to RFP Nos. 1, 2, and 7 and produce the customer-service email and the Hughes communications their interrogatory answer describes, or (b) state under oath what became of those materials. A publisher's editorial and verification process and state of mind are proper subjects of discovery in a public-figure defamation case. *Herbert v. Lando*, 441 U.S. 153, 158, 170 (1979).

3. **Preservation.** Your letter addresses only Mr. Carroll's Facebook message and omits the notice that matters: the August 22, 2025 email from Krisha Mason to your clients' representative, Kylie Howerton — sent to your clients' own merchandise customer-service channel — stating that the post used an "INCORRECT photo" of "Pastor Steve Smothermon" (HODGE000136-000138). Your letter itself acknowledges that your clients "took it down immediately after getting word that they got the wrong 'Smotherman,'" which confirms your clients received that word. The duty to preserve attaches upon the objective reasonable anticipation of litigation; it does not depend on whether a particular message was opened. On this record, that duty attached no later than August 22, 2025. Plaintiff reiterates the preservation demands in the June 30 letter — including the immediate suspension of any auto-deletion setting on the relevant Google account(s) — and expressly reserves all rights and remedies under Rule 37(e).
4. **The account data is within your clients' control, and Plaintiff seeks it from your clients — not by subpoena to the provider.** In the Ninth Circuit, "control" under Rule 34 is the legal right to obtain the documents on demand. *In re Citric Acid Litig.*, 191 F.3d 1090, 1107-08 (9th Cir. 1999); *United States v. Int'l Union of Petroleum & Indus. Workers*, 870 F.2d 1450, 1452 (9th Cir. 1989). Your clients have that right as to their own Google and Meta account data, which they can export or authorize for release. *See Flagg v. City of Detroit*, 252 F.R.D. 346 (E.D. Mich. 2008); *Matthew Enter., Inc. v. Chrysler Grp. LLC*, 2015 WL 8482256 (N.D. Cal. Dec. 10, 2015). Plaintiff therefore seeks this material from your clients under Rule 34, not by subpoena to Google or Meta, which the Stored Communications Act would bar. If your clients contend they cannot produce it, Plaintiff will ask the Court to direct each Defendant to execute a consent directive under 18 U.S.C. § 2702(b)(3); court-ordered consent is "lawful consent." *Negro v. Superior Court*, 230 Cal. App. 4th 879 (2014).
5. **Proportionality — and a good-faith narrowing offer.** Plaintiff does not agree that the requests are disproportionate. The party seeking a protective order bears the burden of showing specific prejudice or harm; broad, generalized assertions do not satisfy Rule 26(c), and boilerplate objections are inadequate. *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36-37 (1984); *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992); *Burlington N. & Santa Fe Ry. v. U.S. Dist. Court*, 408 F.3d 1142, 1149 (9th Cir. 2005); *FTC v. AMG Servs., Inc.*, No. 2:12-cv-536-GMN-VCF (D. Nev.). Nonetheless, in the spirit of conferral, Plaintiff offers to narrow:
 - a. The native photograph file with all metadata, the account-side "My Activity"/Takeout data for the relevant dates, the Meta page activity/audit log, and the internal communications are targeted and low-burden, and should be produced.

July 9, 2026

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b. As to device examination, Plaintiff will agree to a **neutral, court-appointed forensic examiner** operating under a mutually acceptable protocol and a stipulated protective order — the approach this Court approved in *United Factory Furniture Corp. v. Alterwitz*, No. 2:12-cv-00059-KJD-VCF (D. Nev. Apr. 6, 2012). Where a party's discovery responses contain discrepancies or inconsistencies, forensic imaging is warranted. *Ameriwood Indus. v. Liberman*, 2006 WL 3825291 (E.D. Mo. Dec. 27, 2006).

c. Plaintiff will withdraw or defer the router/modem/ISP request and will narrow any browsing-activity request to search-related activity.

Plaintiff also renews its offer to enter a **stipulated protective order** to address any genuine confidentiality concern, including as to the financial records.

6. **“New requests” versus supplementation — both apply.** Your clients' First-Set responses to RFP Nos. 1, 2, and 7 and to Interrogatory Nos. 4, 5, and 7 are deficient and must be supplemented now, independent of the Second Set. That the Second Set separately requests related material does not relieve your clients of their obligation to correct incomplete First-Set responses. Your clients may, of course, respond to the Second Set within the ordinary Rule 34 period.
7. **Conferral and next steps.** Plaintiff is available to confer under Local Rule 26-6 on Monday, June 13 and Wednesday June 15, 2026. If your clients maintain their refusal, Plaintiff will (a) move to compel under Rule 37(a) and seek the fees incurred, and (b) oppose any motion for a protective order and, as appropriate, cross-move to compel so the Court may consider both sets of issues together.

Nothing in this letter waives, and Plaintiff expressly reserves, all rights and objections.

Sincerely yours,

JONES, DAVIS & JACKSON, PC



By:

Nicole A. Westbrook

CC: Pastor Steve Smothermon

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July 28, 2026

VIA EMAIL: mjr@randazza.com

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Las Vegas, NV 89147

***Re: Response re Meet and Confer — Discovery Responses and Metadata;
Smothermon v. Hodgetwins, LLC, et al., No. 2:25-cv-01858-APG-BNW***

Dear Mr. Green,

Thank you for your July 24, 2026, letter. I write to correct the record on several points and to keep our conferral on what is actually at issue.

The conferral is not premature. The deficiencies we raised concern Defendants' responses to Plaintiff's First Set of written discovery, served April 22, 2026. Defendants served those responses on May 22, 2026, and amended them on June 10 and 11, 2026. They are served, and they are deficient. They also still omit the supplementation you agreed at our May 4 conference to provide "within one week," which I noted was overdue in my May 26 letter and which remains outstanding. Those served responses and that overdue supplementation are the subject of our conferral, not Defendants' responses to Plaintiff's later sets, which are not yet due. The "premature" characterization does not fit the sequence.

Metadata. Your letter devotes several paragraphs to explaining that email headers record transmission and delivery rather than the moment a message is opened. We have not contended otherwise, and we have not asked for a field showing when a message was "read." Plaintiff seeks the native files and their metadata to establish the source of the photograph, the authenticity of the documents, and the completeness of the notice chain, including the field your own definition calls the image file's "Source URL."

I say "your own definition" deliberately. Defendants' Sixth Set of Requests for Production (June 25, 2026) and Seventh Set (served July 27, 2026) each adopt, verbatim, Plaintiff's definition of "Metadata" from Plaintiff's First Set, including its "IPTC Metadata" and "System Metadata" categories and the image file's "Source URL," and each demands that

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Plaintiff produce documents with that metadata. The importance of metadata is therefore common ground: Defendants define it exactly as Plaintiff does and seek it from Plaintiff. That leaves the one question your letter does not reach, which is why Defendants decline to produce, in native form with that metadata, the same category they define and demand. Defendants cannot maintain both that metadata is not probative and that Plaintiff must produce it under Defendants' own definition.

The technical review you describe. I welcome your statement that Defendants are engaging someone with greater technical facility to locate further responsive data. That review should reach the native file and metadata of the August 22, 2025, notice email, produced to date only as a flattened image, and the records of the image search that sourced the photograph. The offer also acknowledges that further data may exist and be recoverable, which is difficult to reconcile with the position that the search left "no record."

Your stipulation proposal. A stipulation that the notice email was delivered does not substitute for the native file and its metadata, which go to source, authenticity, and completeness rather than delivery alone. If Defendants will stipulate to specific facts that would narrow the native and metadata production, I am glad to consider them; a stipulation limited to "delivery" does not.

The July 22 conference. I did not raise my voice during our July 22 conference, and I do not accept your characterization of it. I will not litigate tone by letter, and I would rather keep our attention on the substance above.

Please confirm by Friday, July 31, 2026, whether Defendants will (1) produce the native files and metadata for the August 22, 2025 notice email and the responsive image and search materials, and (2) provide the supplementation agreed on May 4. I remain available to confer.

Sincerely yours,

JONES, DAVIS & JACKSON, PC



By:

Nicole A. Westbrook

CC: Pastor Steve Smothermon

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August 25, 2026

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Las Vegas, NV 89147

***Re: Meet and Confer Regarding Defendants' Continuing Discovery Deficiencies and
Notice of Intent to Move to Compel Smothermon v. Hodgetwins, LLC, et al., Case
No. 2:25-cv-01858-APG-BNW***

Dear Counsel,

I write pursuant to Federal Rule of Civil Procedure 37(a) and District of Nevada Local Rules IA 1-3(f) and 26-6 to confer regarding deficiencies that remain in Defendants' discovery responses and disclosures. This continues the conferral process we began on April 21, 2026 and pursued in my letters of May 26, June 30, July 9, and July 28, and in our May 4 and July 22 conferences. Defendants' responses to Plaintiff's Second and Third Sets, served July 30 and August 10, 2026, repeat the same objections rather than curing the underlying defects. With the September 18, 2026, discovery cut-off approaching, we ask that Defendants supplement as set forth below. If they do not, Plaintiff will move to compel and will seek the fees incurred under Rule 37(a)(5).

At the outset, one pattern frames the rest. Defendants have repeatedly answered "no documents exist," only to produce responsive material later — including more than 100 pages after representing they had none, and including the August 22, 2025, customer-service email from Krisha Mason to Kylie Howerton reporting an "INCORRECT photo" of "Pastor Steve Smothermon" (HODGE000136–000138).) That history undermines the "no documents" and burden objections repeated below and confirms that a diligent search has not been conducted.

August 25, 2026

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1. Rule 26(a)(1) Initial Disclosures Remain Unsupplemented.

At our May 4 conference, Mr. Green agreed to supplement the initial disclosures within one week. That supplementation, noted as overdue in my May 26 and July 28 letters, still has not addressed the core defects:

- Insurance (Rule 26(a)(1)(A)(iv)). Defendants continue to state they possess no responsive insurance documents (Resp. to RFP No. 21). Given the scale of the Hodgetwins operation, please confirm in writing that a reasonable inquiry was conducted for CGL, media-liability, E&O, and umbrella coverage in effect in August 2025, describe that inquiry, and produce any responsive policies.
- Internal ESI (Rule 26(a)(1)(A)(ii)). The disclosures still identify only public links, articles, and Plaintiff's own materials, and omit the internal ESI Defendants' own defense depends on — search records, communications, and account and device data concerning the creation, publication, and removal of the August 22, 2025 post.
- Witness specificity (Rule 26(a)(1)(A)(i)). The witness descriptions remain boilerplate and do not identify each witness's role in the editorial, verification, and publication process.

2. Google Account Activity and the “No Records” / “Incognito” Position.

Defendants have admitted, under oath, that Kevin Hodge performed a Google image search for “Steve Smotherman,” copied the resulting photograph, and pasted it into the post, and that no reverse-image search was performed. Defendants nonetheless maintain they possess no record of the search (Resps. to RFP Nos. 1, 10) — first because “no documents” exist, and later because the search was run “in incognito mode.”

As explained in my June 30 letter, incognito mode governs only local browser artifacts; it does not suppress server-side logging. When a user is signed in to a Google account, Web & App Activity records searches to that account's “My Activity” regardless of incognito mode, and the account holder can export those records through Google Takeout. That account-side data is within Defendants' possession, custody, or control under Rule 34, because control in the Ninth Circuit means the legal right to obtain documents on demand — a right Defendants plainly have as to their own Google and Meta account data. *See In re Citric Acid Litig.*, 191 F.3d 1090 (9th Cir. 1999); *United States v. Int'l Union of Petroleum & Indus. Workers*, 870 F.2d 1450 (9th Cir. 1989); *Flagg v. City of Detroit*, 252 F.R.D. 346 (E.D. Mich. 2008). Accordingly, please:

- Produce the Google Takeout export (Search, Image Search, Web & App Activity, and YouTube history) for each account signed in on the device used, for August 1 through September 30, 2025; and
- If Defendants contend they cannot themselves produce this data, have each individual Defendant execute the Consent Directive authorizing Google to release the records (RFP No. 23; RFP No. 31 / Attachment A). A subscriber's consent removes any Stored

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Communications Act bar under 18 U.S.C. § 2702(b)(3), and court-ordered consent is “lawful consent.” *Negro v. Superior Court*, 230 Cal. App. 4th 879 (2014). Plaintiff will, if necessary, move to compel execution of the directive.

3. Native Photograph File and Metadata.

Defendants respond “no documents” to requests for the original photograph in native format with EXIF and system metadata intact, including the source URL (RFP Nos. 13, 26), while also stating they “have not reviewed the metadata” for the photograph. Those positions are inconsistent: a party cannot decline to review metadata for a file it does not possess. The importance of this material is now common ground — Defendants’ own Sixth and Seventh Sets of Requests for Production adopt Plaintiff’s definition of “Metadata” verbatim, including its IPTC and system-metadata categories and the image file’s “Source URL,” and demand that Plaintiff produce documents bearing that metadata. Defendants cannot maintain both that metadata is not probative and that Plaintiff must produce it under Defendants’ own definition. Please produce the native photograph file, and the native file and metadata of the August 22, 2025, notice email (produced to date only as a flattened image), or confirm in writing — with specifics — when and how the native files ceased to exist.

4. Meta/Facebook Page Export and Audit Log.

Defendants object to producing the Meta/Business Suite export and the page activity/audit log reflecting the creation, edits, and removal of the post, with timestamps and the acting administrator (RFP Nos. 14, 24). This material goes to the heart of the case — who published the post, when, and when and by whom it was removed — and is not rendered irrelevant by the post’s short lifespan. To the extent confidentiality is a genuine concern, we remain willing to negotiate a stipulated protective order. Please confirm whether Defendants will produce this export subject to such an order.

5. Internal and Third-Party Communications.

Defendants’ verified Amended Response to Interrogatory No. 3 describes a customer-service email through which Nathan Hughes learned of the post and communications between Defendants and Mr. Hughes; Interrogatory No. 21 identifies that Krisha Mason contacted Defendants’ customer-support team, leading to the post’s removal; and Defendants have themselves produced the Mason-to-Howerton notice email. Despite these sworn answers and their own production, Defendants respond “no documents” to, and object to producing, the broader communications (RFP Nos. 20, 22, 29). A publisher’s editorial and verification process and state of mind are proper subjects of discovery in this defamation case. *Herbert v. Lando*, 441 U.S. 153 (1979). Please produce the customer-service email in native format, the Hughes communications, and communications with Ms. Mason, Ms. Howerton, and Mr. Rynders concerning the post, with metadata intact — or confirm in writing what became of them. A blanket privilege objection does not substitute for production of plainly non-privileged party and third-party communications, and does not excuse the absence of a privilege log (see Item 8).

August 25, 2026

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6. Financial, Monetization, and Engagement Data.

Defendants declined to produce revenue and monetization documents (RFP Nos. 19, 28) and instead offered Keith Hodge's declaration estimating that the page earned roughly \$3,500 per day across approximately 40 posts, that each post earned \$75–\$120, and that the post at issue “probably earned around \$20 to \$40.” An estimate in a declaration is not a substitute for the responsive documents. Revenue and engagement data are relevant to motive — the monetization of Defendants' content — and to Plaintiff's damages. Mr. Hodge's declaration also confirms the data existed and was recoverable for roughly 30 days after deletion, which bears directly on preservation (Item 7). Please produce documents sufficient to show the views, reach, and revenue associated with the post, and supplement Interrogatory No. 18 (engagement data) with a substantive answer rather than an objection premised on Plaintiff's supposed fault.

7. Preservation, Litigation Hold, and Spoliation.

Defendants respond “no documents” or “not in possession” to requests concerning any litigation hold or steps taken to preserve or suspend auto-deletion of account, device, and platform data (RFP Nos. 17, 30; Interrogatory No. 20). Defendants' own declaration states that post-level data becomes “unrecoverable after 30 days,” meaning it remained recoverable well after Plaintiff's August 22, 2025, demand for removal and retraction. The duty to preserve attaches upon the reasonable anticipation of litigation and, on this record, arose no later than that date. Please state, in a substantive supplemental response, what preservation steps were taken, when, and by whom. Plaintiff expressly reserves all rights under Rule 37(e), including curative measures and an adverse-inference instruction. We again instruct Defendants to preserve all Google account activity, device data, browser data, and Meta account data, and to suspend any auto-delete settings on the relevant accounts.

8. Improper Blanket Objections and Refusal to Provide a Privilege Log.

Defendants incorporate boilerplate General Objections into every answer, including General Objection No. 9, by which Defendants state they “will neither produce nor create a privilege log” for documents they contend are privileged. A party withholding responsive documents on privilege grounds must describe them sufficiently to assess the claim under Rule 26(b)(5)(A), and the burden of sustaining an objection — including on a motion for a protective order — rests on the objecting party; boilerplate assertions do not suffice. *Seattle Times Co. v. Rhinehart*, 467 U.S. 20 (1984); *Burlington N. & Santa Fe Ry. v. U.S. Dist. Court*, 408 F.3d 1142 (9th Cir. 2005). Please withdraw the categorical refusal and produce a privilege log for any responsive document withheld on privilege grounds, or confirm that no responsive documents are being withheld on that basis.

Plaintiff's Narrowing Offers Remain Open.

To move this forward, Plaintiff reiterates the good-faith narrowing proposed in my July 9 letter: Plaintiff will accept a neutral, court-appointed forensic examiner operating under a mutually acceptable protocol and a stipulated protective order for any device examination (see *United Factory Furniture Corp. v. Alterwitz*, No. 2:12-cv-00059-KJD-VCF (D. Nev. 2012);

August 25, 2026

Page 5

Ameriwood Indus. v. Liberman, 2006 WL 3825291 (E.D. Mo. 2006)); will withdraw or defer the router/modem/ISP request; and will narrow any browsing-activity request to search-related activity. Plaintiff also renews its offer to enter a stipulated protective order to address any genuine confidentiality concern, including as to the financial records.

Meet-and-Confer Request.

Under Local Rule IA 1-3(f), the meet-and-confer obligation may be satisfied only through direct dialogue. Accordingly, please advise by September 2, 2026, of your availability for a telephonic conference during the week of September 7 to discuss the items above. Given the September 18, 2026, discovery cut-off, time is short, and we would prefer to resolve these matters by agreement rather than burden the Court.

If we are unable to resolve these issues through conferral, Plaintiff will move to compel under Rule 37(a) and will seek the reasonable fees and costs incurred, and will pursue relief under Rule 37(e) where the record warrants. Nothing in this letter waives, and Plaintiff expressly reserves, all rights and objections.

I look forward to hearing from you..

Sincerely yours,

JONES, DAVIS & JACKSON, PC



By:

Nicole A. Westbrook

CC: Pastor Steve Smothermon

EXHIBIT J

PLAINTIFF'S PROPOSED GOOGLE ACCOUNT DISCLOSURE
AUTHORIZATION AND CONSENT DIRECTIVE

G. Michael Jackson, State Bar No. 1894
Nicole A. Westbrook, *pro hac vice*
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Attorneys for Plaintiff Pastor Steve Smothermon

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

**PASTOR STEVE
SMOTHERMON,**

Plaintiff,

v.

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

Defendants.

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

**GOOGLE ACCOUNT
DISCLOSURE AUTHORIZATION
AND CONSENT DIRECTIVE**

*EXHIBIT A TO PLAINTIFF'S
DISCOVERY REQUESTS*

**GOOGLE ACCOUNT DISCLOSURE AUTHORIZATION
AND CONSENT DIRECTIVE**

TO GOOGLE LLC, ITS CUSTODIAN OF RECORDS, AND ITS LEGAL
DEPARTMENT:

Pursuant to the Federal Rules of Civil Procedure and the Stored
Communications Act ("SCA"), 18 U.S.C. § 2701 et seq., specifically 18 U.S.C. §§
2702(b)(3) and 2702(c)(2), the undersigned subscriber(s) hereby provide express,
unequivocal, and unconditional "lawful consent" to Google LLC to disclose, release,
and deliver the electronically stored information ("ESI"), metadata, and account
records specified herein to Nicole A. Westbrook and G. Michael Jackson of Jones,

1 Davis & Jackson, P.C., counsel for Plaintiff Pastor Steve Smothermon in the above-
2 captioned civil action pending in the United States District Court for the District of
3 Nevada.

4 **1. SPECIFIED GOOGLE ACCOUNTS**

5 This Consent Directive applies to any and all Google accounts, Gmail
6 addresses, and associated digital services owned, registered, accessed, or utilized by
7 the undersigned on August 22, 2025, including but not limited to any account used
8 to perform the internet or Google Image search that located the photograph of
9 Plaintiff Pastor Steve Smothermon, or used to draft, select, verify, or publish the
10 Facebook Post titled “Cracker Barrel’s WOKE Past Comes Back to Light.” The
11 specific email addresses and Google account identifiers include:

12 Account 1 Email Address:

13 _____

14 Account 1 Associated Username/ID:

15 _____

16 Account 2 Email Address:

17 _____

18 Account 2 Associated Username/ID:

19 _____

20 Account 3 Email Address:

21 _____

22 Account 3 Associated Username/ID:

23 _____

24 **2. SCOPE OF AUTHORIZED DISCLOSURE**

25 Google LLC is authorized and directed to produce a complete and unaltered
26 export of the following data, ESI, and metadata for the period spanning August 1,
27 2025, through September 30, 2025:

- 1 • Google Takeout / ‘My Activity’ Export: A complete export of Google account
2 activity records, specifically including: (a) Google Search history, (b) Google Image
3 Search logs, (c) Google Lens and visual search histories, and (d) Web & App
4 Activity (including native activity tracking logs) for the specified date range.
- 5 • Metadata and IP Logs: All system, server, and network metadata associated
6 with the searches performed on or about August 22, 2025, including the IP addresses,
7 device identifiers, Chrome browser sync data, and signed-in browser-profile activity.
- 8 • Source URL and Image Download Logs: Unaltered system logs, Temporary
9 Internet Files, and referral history showing the specific Source URL from which the
10 photograph of Plaintiff Pastor Steve Smothermon was downloaded or copied on
11 August 22, 2025.
- 12 • Account Configuration and Settings History: Records reflecting the Google
13 account settings in effect on August 22, 2025, including the exact Auto-Delete
14 retention setting (e.g., Off, 3, 18, or 36 months) for Web & App Activity, and a
15 historical log of any modifications or deletions made to those activity log settings
16 from August 22, 2025, to the present.
- 17 • Associated Recovery and Security Data: The recovery email addresses,
18 secondary telephone numbers, and registration details of the specified accounts to
19 verify custody, control, and ownership.

20 **3. RELEASE OF LIABILITY AND COMPLIANCE DIRECTIVE**

21 The undersigned subscriber(s) hereby release, discharge, and hold harmless
22 Google LLC, its directors, officers, employees, and agents from any and all liability,
23 claims, or causes of action arising under federal or state law—specifically including
24 any claims under the Stored Communications Act, 18 U.S.C. § 2701 et seq., or any
25 applicable state privacy or consumer protection statutes—associated with Google’s
26 disclosure and production of the specified ESI, records, and metadata to the
27 authorized recipients. This Authorization and Directive is irrevocable during the

pendency of this litigation, and a copy or electronic facsimile of this executed document shall be as effective and valid as the original.

IN WITNESS WHEREOF, the undersigned individual Defendants have executed this Google Account Disclosure Authorization and Consent Directive under penalty of perjury.

Date: _____

KEITH HODGE, Defendant

Subscribed and Sworn under Penalty of Perjury

Date: _____

KEVIN HODGE, Defendant

Subscribed and Sworn under Penalty of Perjury

NOTARY PUBLIC ACKNOWLEDGMENT

STATE OF NEVADA)

) ss.

COUNTY OF CLARK)

On this _____ day of _____, 2026, before me, the undersigned Notary Public, personally appeared KEITH HODGE and KEVIN HODGE, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained, and swore under penalty of perjury that the statements therein are true and correct.

Notary Public in and for the State of Nevada

My Commission Expires: _____