

DISTRICT COURT CITY & COUNTY OF DENVER 1437 Bannock Street Denver, Colorado 80202	DATE FILED: October 11, 2021 12:42 PM CASE NUMBER: 2020CV34319
<p>Plaintiff:</p> <p>Eric Coomer,</p> <p>v.</p> <p>Defendants:</p> <p>Donald J. Trump For President, Inc., et al.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case Number: 2020CV34319</p> <p>Courtroom: 409</p>
<p>ORDER REGARDING DEFENDANTS HERRING NETWORKS, INC., D/B/A ONE AMERICA NEWS NETWORK, AND CHANEL RION'S MOTION FOR PARTIAL RECONSIDERATION OF SEPTEMBER 22, 2021 ORDER</p>	

THIS MATTER comes before the Court on Defendants *Herring Networks, Inc., D/B/A One America News Network, and Chanel Rion's Motion for Partial Reconsideration of September 22, 2021 Order* regarding OAN Defendants' *Motion to Strike and For Extension of Reply Briefing Deadline and Hearing on Their Special Motion to Dismiss Pursuant to C.R.S. § 13-20-1101* which has been joined by Defendants Oltmann, FEC United, Shuffling Madness Media, Donald J. Trump for President, Inc., Metaxas, Hoft, TGP, Giuliani, Sidney Powell and Sidney Powell, P.C.

Defendants renew their request that the Court allow Defendants to take the depositions of the nine declarants, limited to the scope of their Declarations, and extend the anti-SLAPP reply brief deadline and hearing to allow the Defendants to take this limited discovery. This request is DENIED. Defendants have not pointed to any manifest error of fact or law that clearly mandates a different result or other circumstances resulting in manifest injustice.

The Court reiterates that, other than the request to depose Plaintiff which was granted, none of the defendants made any specific requests for discovery related to their Special Motions to Dismiss prior to September 22, 2021.¹ The

¹ The July 12, 2021 request for discovery by the Oltmann Defendants was wholly inadequate to support limited discovery under C.R.S. § 13-20-1106 which requires a showing of "good cause" and "some explanation of what additional facts [the party] expects to uncover." *1-800 Contacts v. Steinberg*, 132 Cal. Rptr. 2d 789, 809 (2003).

Court disagrees with Defendants' assertion that they could not have possibly known that they needed to conduct depositions until they received Plaintiff's Omnibus Response to Special Motion to Dismiss. Three of the declarants were individuals that previously have been identified in some manner by Defendant Oltmann as having been involved in the alleged Antifa call. The identity of those individuals has been known to Defendants for months. Defendants also could have submitted a specific discovery request seeking information from Plaintiff as to the identity of other individuals from whom Plaintiff was soliciting declarations. Despite having had months to make such a discovery request, Defendants did not make this specific discovery requests in a timely manner.

Moreover, Defendants' Motion for Partial Reconsideration misapprehends the nature of the hearing that will be conducted on the Special Motions to dismiss. The Defendants' burden of proof is limited to establishing a protected act under the statute. C.R.S. §13-20-1101(2) and *Kieu Hoang v. Phong Minh Tran*, 60 Cal.App. 5th 513, 524-525 (2021). The Court will not be weighing the evidence presented by the parties or resolving conflicting factual claims. The Court's inquiry is limited to whether Plaintiff has stated a legally sufficient claim and made a *prima facie* factual showing sufficient to sustain a favorable judgment. "It accepts the plaintiff's evidence as true, and evaluates the defendant's showing only to determine if it defeats the plaintiff's claim as a matter of law." *Baral v. Schnitt*, 1 Cal. 5th 376, 384-85, 376 P.3d 604, 608 (2016).

In light of the nature and scope of the hearing on the Special Motions to Dismiss, there is no demonstrated prejudice to Defendants occasioned by their inability to conduct depositions of the Plaintiff's declarants prior to the hearing on the Special Motions to Dismiss.

For the above reasons, Defendants' *Motion for Partial Reconsideration* is DENIED.

SO ORDERED this 11th day of October, 2021.

BY THE COURT:

A handwritten signature in blue ink that reads "Marie Avery Moses". The signature is written in a cursive, flowing style.

Marie Avery Moses
District Court Judge