

District Court City and County of Denver, Colorado 1437 Bannock Street Denver, CO 80202	
Plaintiff(s): Eric Coomer,  v.  Defendant(s): Donald Trump for President, et. al	DATE FILED: October 13, 2021 3:14 PM CASE NUMBER: 2020CV34319  Case Number: 2020CV34319  Div.: 409
<b>AMENDED ORDER GRANTING IN PART EXPANDED MEDIA COVERAGE  TO COLORADO PUBLIC RADIO</b>	

**THIS MATTER** comes before the Court on Colorado Public Radio’s Request for Expanded Media Coverage, filed herein on October 12, 2021. The Court, having reviewed the Request, the record, having accepted the stipulation of all parties, and otherwise being sufficiently advised, hereby FINDS and ORDERS as follows:

**STANDARDS FOR AUTHORIZING COVERAGE**

Pursuant to Chapter 38, Rule 3(a)(2) of the Colorado Court Rules,

In determining whether expanded media coverage should be permitted, a judge shall consider the following factors:

- (A) Whether there is a reasonable likelihood that expanded media coverage would interfere with the rights of the parties to a fair trial;
- (B) Whether there is a reasonable likelihood that expanded media coverage would unduly detract from the solemnity, decorum and dignity of the court; and
- (C) Whether expanded media coverage would create adverse effects which would be greater than those caused by traditional media coverage.

## **ANALYSIS**

Colorado Public Radio requests expanded media coverage of the Special Motions to Dismiss Hearing in this case, currently scheduled for October 13, 2021, and October 14, 2021. Specifically, Colorado Public Radio has requested permission for still photography, and audio recording and Webex audio. There is no publicly available Webex audio, so that request is denied.

The Court finds expanded media coverage (limited to still photography and audio recording) is appropriate in this case, so long as Colorado Public Radio strictly adheres to all the parameters outlined in Chapter 38, Rule 3 of the Colorado Court Rules. In particular, the Court permits Colorado Public Radio to record audio and take still photography of the Motions Hearing and during the Motions Hearing on October 13 and 14, 2021. The Court emphasizes the following limitations on expanded media coverage: **“...there shall be no: ...(c) audio recording or “zoom” close-up photography of bench conferences; (d) audio recording or close-up photography of communications between counsel and client or between co-counsel...”** Chapter 38, Rule 3(a)(3). The Court expects full compliance with all applicable restrictions and notes this Order authorizes expanded media coverage **only** of the Special Motions to Dismiss Hearing in this case held on October 13 and 14, 2021.

In accordance with Chapter 38, Rule 3(a)(4),

A judge may restrict or limit expanded media coverage as may be necessary to preserve the dignity of the court or to protect the parties, witnesses, or jurors. A judge may terminate or suspend expanded media coverage at any time upon making findings of fact that: (1) rules established under this Rule or additional rules imposed by the judge have been violated; or (2) substantial rights of individual participants or rights to a fair trial will be prejudiced by such coverage if it is allowed to continue.

Therefore, the Court may further restrict and/or revoke the expanded media coverage authorized in this case.

Additionally, Chapter 38, Rule 3(a)(5) provides that expanded media coverage shall be conducted only under the following conditions:

(A) Equipment Limitations.

. . .

- (ii) Audio. The court's audio system shall be used if technically suitable and, in that event, there must be no interference with the court's use of its system. If the court's system is not technically suitable, then the person conducting expanded media coverage may install an audio recording system at his or her own expense upon first obtaining approval of the judge. All microphones and related wiring shall be unobtrusive and shall not interfere with the movement of those in the courtroom.
- (iii) Still Cameras. Only one person at a time shall be permitted to operate still cameras, which shall make as little noise as possible. The still photographer may use a tripod but, shall not change location while court is in session.
- (iv) Lighting. No movie lights, flash attachments, or sudden lighting changes shall be permitted during a proceeding. No modification or addition of lighting equipment shall be permitted without the permission of the judge.
- (v) Operating Signals. No visible or audible light or signal (tally light) shall be used on any equipment.

These limitations apply within Courtroom 409, the Jury Assembly Room, Room 431, and extend to the entire 4th floor of the City and County Building. In other words, Colorado Public Radio may utilize **only** a single still camera, and/or audio recorder either inside or outside the Courtroom on the 4<sup>th</sup> floor.

The Court further orders that neither the video camera nor still camera shall capture/broadcast the Judge, staff, or any witnesses. Likewise, the video camera and still camera shall not capture/broadcast the entrance or egress of the Judge, staff, or any witnesses from the Courtroom. The Court maintains final approval of all arrangements.

With regards to pooling arrangements,

The media shall be solely responsible for designating one media representative to conduct each of the categories of expanded media

coverage listed [above], and for arranging an open and impartial distribution scheme with a distribution point located outside of the courtroom. If no agreement can be reached on either of these matters, then there shall be no expanded media coverage of the type for which no pooling agreement has been made. Neither judges nor other court personnel shall be called upon to resolve any disputes concerning such pooling arrangements.

Chapter 38, Rule 3(a)(5)(B).

Finally, as mandated by Chapter 38, Rule 3(a)(5)(C),

Persons conducting expanded media coverage shall conduct themselves in a manner consistent with the decorum and dignity of the courtroom. The following practices shall apply:

- (i) Equipment employed to provide expanded media coverage shall be positioned and operated so as to minimize any distraction;
- (ii) Identifying marks, call letters, logos, symbols, and legends shall be concealed on all equipment. Persons operating such equipment shall not wear clothing bearing any such identifying information;
- (iii) Equipment used to provide expanded media coverage shall not be placed in, or removed from, the courtroom while court is in session. No film, videotape, or lens shall be changed within a courtroom while court is in session.

Accordingly, the Court hereby **GRANTS IN PART** Colorado Public Radio's Request for Expanded Media Coverage of the October 13 and 14, 2021 Special Motions to Dismiss Hearing in this case, subject to the terms and conditions of Chapter 38, Rule 3 of the Colorado Court Rules and this Order. Service to media group made by email to address provided in request.

**SO ORDERED** this 13<sup>th</sup> day of October 2021.

BY THE COURT:



Marie Avery Moses  
District Court Judge



# Request for Expanded Media Coverage

**Name of media group (required)**

Colorado Public Radio

**Name of person making request (required)**

Bente Birkeland

**Title of person making request (required)**

Public Affairs Reporter

**Phone number (required)**

303-229-4381

**Email address (required)**

bbirkeland@cpr.org

**Name of counsel (if represented)**

**Counsel phone number (if represented)**

**Counsel email address (if represented)**

**Date of proceeding (required)**

10/13/2021

**Time of proceeding (required)**

9 : 00 AM

**Type of proceeding**

Oral Argument

**Case number (required)**

2020CV34319

**Case name (required)**

ERIC COOMER, Ph.D., Plaintiff vs. DONAL

**Court type (required)**

District

County (required)

Denver

Search

Subr

Type of Expanded Media Coverage

- Audio
- Video
- Still Photography
- Webex Audio
- Webex Video
- Webex Still Photography

Court Use Only

Granted

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Denied

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Description of the pooling arrangements required by Chapter 38, Rule 3, Section 5(B), including identity of the designated representatives.

We don't have any pooling arrangements at this time.

Certificates of Service: provide the names and contact information, including email address when available, used to serve this EMC request on the District Attorney, counsel for the Defendant and other media organizations involved in this request. Note: EMC requests will not be considered by the Court if service on the parties is incomplete.

bbirkeland@cpr.org

Today's Date (required)

10/12/2021

I agree with the criteria set forth in Chapter 38, Rule 3, as well as all orders, rules, restrictions, or limitations issued or imposed by the court relating to expanded media coverage, including the provision requiring EMC applications to be submitted at least 24 hours in advance of the court proceeding in question. Under certain circumstances, judges may consider requests filed less than 24 hours in advance.

[important announcement](#)