


DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	<p style="text-align: center;">DENIED BY COURT</p> <p style="text-align: center;">11/03/2021</p> <p style="text-align: center;">DATE FILED: November 3, 2021 10:26 PM CASE NUMBER: 2020CV34319</p>  <p style="text-align: center;">MARIE AVERY MOSES District Court Judge</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: ERIC COOMER, Ph.D.</p> <p>v.</p> <p>Defendants: DONALD J. TRUMP FOR PRESIDENT, INC., <i>et al.</i></p>	
<p>Barry K. Arrington, #16,486 Arrington Law Firm 3801 East Florida Avenue, Suite 830 Denver, Colorado 80210 Phone Number: (303) 205-7870 FAX Number: (303) 463-0410 E-mail: barry@arringtonpc.com</p> <p>Shaun Pearman, #16,619 The Pearman Law Firm, P.C. 4195 Wadsworth Boulevard Wheat Ridge Colorado 80033 Phone Number: (303) 991-7600 Fax Number: (303) 991-7601 E-mail: shaun@pearmanlawfirm.com</p> <p>Attorneys for Defendants Sidney Powell and Sidney Powell, P.C.</p>	<p>Case Number: 2020CV034319</p> <p>Courtroom: 409</p>
<p>MOTION TO RECONSIDER ORDER ON DEFENDANTS HERRING NETWORKS, INC., D/B/A ONE AMERICA NEWS NETWORK, AND CHANEL RION'S MOTION FOR CONSIDERATION OF A PRIVATE COURT REPORTER</p>	

SIDNEY POWELL AND SIDNEY POWELL, P.C., through their attorneys moves this court to reconsider its ORDER ON DEFENDANTS HERRING NETWORKS, INC., D/B/A ONE AMERICA NEWS NETWORK, AND CHANEL RION'S MOTION FOR CONSIDERATION OF A PRIVATE COURT REPORTER, issued on October 12, 2021:

CERTIFICATE PURSUANT TO C.R.C.P. 121: the undersigned attempted to confer with counsel for the Plaintiff by phone call and email before filing this motion. However, since both the email and the phone call were late on October 12, 2021, and because there was a need to file this

motion right away, counsel were unable to connect. However, counsel for plaintiff previously objected so it is assumed they object again.

1. Defendant's Herring Networks, Inc. and Chanel Rion requested that the court authorize the use a certified court reporter.
2. The Court granted the motion but ordered that only the FTR recording system would serve as the official record, not the court reporter's transcript.
3. The Powell Defendants request that the court reconsider its order and that it instead use the private court reporter's transcript as the official record for the reasons outline below.
4. The FTR recording system is notorious for being very inadequate:
 - a. It frequently provides an incomplete record for appeal purposes with many gaps saying "...unintelligible..."
 - b. If the person speaking has a soft voice or is not speaking directly into a microphone, the system will not pick up what is said. This leaves a gap in the record.
 - c. Courtroom 409 is a large, older courtroom which does not have enough microphones set around for all the attorneys who will be at the hearing. Therefore, if an attorney objects during the hearing, there will be no record unless the attorney is able to quickly get to a microphone, which cannot possibly happen contemporaneously with any objections.
 - d. If an attorney or a witness do not speak loudly or clearly, there will be no record.
 - e. A court reporter solves all these problems – if someone talks too quietly, or is muffled through a mask, or otherwise cannot be heard when talking on the record, a court reporter can and will shout out to the speaker to repeat what they said, thereby making a good record. No one will know until there is a transcription from the FTR recording whether it is defective.
 - f. Finally, since there will be a very large number of persons in the courtroom at the October

13 and 14, 2021 hearings with their computers plugged into the court's power, it is very possible that there will be so much draw on the electricity that it may cause problems with the FTR system. And with many people in the courtroom, there is likely to be background noise which will also interfere with the recording.

5. Further, on June 9, 2021, the Chief Justice of the Supreme Court issued Chief Justice Directive 05-03. (See attached Exhibit A). In this Directive, the Court said, in part, on page 1:

Background

An accurate record of all court proceedings is an essential requirement of due process of law and is required by Article VI and Article II, Section 25 of the Colorado Constitution.

This Chief Justice Directive (CJD) is adopted to promote the effective use of court reporters in the Colorado Judicial Department (Judicial Department) and is applicable to all court reporters employed by the Judicial Department (official court reporters), Judicial Department personnel, and contract court reporters or transcribers employed by the Judicial Department or under employment contract with the Judicial Department. **This CJD does not apply to court reporters hired by a litigant to provide services as an independent contractor in a civil case unless explicitly stated.**

The preferred method of making an accurate record of court proceedings is with the assistance of a realtime certified court reporter; therefore, all proceedings conducted before a district court judge may be reported by a court reporter in person or remotely using a stenotype machine on a "realtime" basis. In the absence of a court reporter, digital electronic sound recording equipment can record proceedings.

Pursuant to this CJD, the chief judge of each judicial district shall determine which methods of preserving court proceedings are to be used based upon current economic issues, availability of reporters, and other relevant factors.

[emphasis added]

6. The Court also said in CJD 05-02, at page 6:

C. Official File

The court may, but is not required to, order the privately hired court reporter's notes and subsequent transcript to serve as the official record of the court in place of an electronic record in which event the court reporter's notes and dictionary will become the property of the Judicial Department.

7. The trial Court does have the authority to decide on which transcript will serve as the official

record. The Powell defendants assert that they and possibly all other parties will be prejudiced by not using a court reporter to make the official record of the proceeding. They request that the Court exercise its discretion to order that the Court reporter's transcript serve as the official record and that the FTR recording system be the backup.

Respectfully Submitted,
PEARMAN LAW FIRM, P.C.

/s/ Shaun Pearman

By: _____
Shaun Pearman

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all parties receiving notice through ICCES on this 12th day of October 2021.

/s/ Shaun Pearman

Shaun Pearman