

DISTRICT COURT, CITY & COUNTY OF DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202	DATE FILED: March 22, 2022 10:11 PM CASE NUMBER: 2020CV34319
ERIC COOMER, Ph.D., Plaintiff vs. DONALD J. TRUMP FOR PRESIDENT, INC., et al., Defendants	▲ COURT USE ONLY ▲
	Case No: 2020cv034319 Courtroom: 409
<p style="text-align: center;">SANCTIONS ORDER AGAINST OAN DEFENDANTS</p>	

On November 21, 2021, this Court entered a sanction order against the OAN Defendants, awarding Plaintiff his reasonable and necessary attorney’s fees and costs incurred as a result of the OAN Defendants having filed frivolous, vexatious and groundless objections to Plaintiff’s evidence. Plaintiff submitted an affidavit to the Court on November 23, 2021 outlining his requested fees and costs. On December 7, 2021, the OAN Defendants filed a motion to set aside the November 21, 2021 Order in its entirety.

On February 14, 2022, the Court denied the OAN Defendants’ motion to set aside the November 21, 2021 Order, but granted the OAN Defendants a hearing on the reasonableness and necessity of the fees and as to the factors set forth in C.R.S. §13-17-103. Plaintiff was ordered to obtain dates for such hearing from the court clerk.

On February 23, 2022, counsel for Plaintiff filed an “Advisory to Court Regarding Pending Sanctions Orders” wherein counsel for Plaintiff indicated that counsel for the OAN Defendants had represented that they were not requesting such a hearing. More than 21 days have passed since counsel for Plaintiff made this representation to the Court

and the OAN Defendants have not filed any response or objection, thus waiving their right to a hearing as to the C.R.S. §13-17-103 factors or the reasonableness and necessity of the fees and costs requested by Plaintiff.

Therefore, the Court enters the following findings with respect to the attorneys fees and costs to be paid by the OAN Defendants as a result of their filing frivolous, vexatious and groundless evidentiary objections.

(a) The extent of any effort made to determine the validity of any action or claim before said action or claim was asserted;

The Court finds that the OAN Defendants spent considerable time asserting their evidentiary objections and that in expending such effort, counsel should have been aware that the vast majority of their objections were frivolous, vexatious and groundless.

(b) The extent of any effort made after the commencement of an action to reduce the number of claims or defenses being asserted or to dismiss claims or defenses found not to be valid within an action;

The Court finds that the OAN Defendants, rather than attempting to reduce the evidentiary objections asserted, sought to improperly maximize their evidentiary objections in an attempt to subvert the judicial process, to harass another party, to needlessly increase the cost of litigation, and to unnecessarily expand the proceedings through improper conduct.

(c) The availability of facts to assist a party in determining the validity of a claim or defense;

The Court finds that the OAN Defendants had the benefit of a well-developed factual record which revealed that the vast majority of their objections were frivolous, vexatious and groundless.

(d) The relative financial positions of the parties involved;

The Court finds that the OAN Defendants have significant financial resources

and that they asserted frivolous, vexatious and groundless evidentiary objections in an attempt to utilize those financial resources to impose an unreasonable time and financial burden Plaintiff.

(e) Whether or not the action was prosecuted or defended, in whole or in part, in bad faith;

The Court finds that the OAN Defendants asserted their evidentiary objections in bad faith.

(f) Whether or not issues of fact determinative of the validity of a party's claim or defense were reasonably in conflict;

As addressed in this Court's Order dated November 21, 2021, some of the evidentiary objections lodged by the OAN Defendants were valid objections. However, the number of legitimate objections was vastly outnumbered by the number of frivolous, vexatious and groundless objections.

(g) The extent to which the party prevailed with respect to the amount of and number of claims in controversy;

The OAN Defendants did not prevail on the vast majority of the evidentiary objections lodged by the OAN Defendants.

(h) The amount and conditions of any offer of judgment or settlement as related to the amount and conditions of the ultimate relief granted by the court.

This factor is not applicable at this stage of the proceedings.

The Court has reviewed the November 23, 2021 Affidavit of Charles J. Cain and Exhibits A & B attached thereto. Having reviewed these documents and having considered the lodestar method for determining the reasonableness and necessity of attorney fees and costs, the Court FINDS that attorneys fees in the amount of \$15,150.00 and costs of \$24.00 are reasonable and necessary for Plaintiff's review of the OAN Defendants' voluminous evidentiary objections, attempt to confer to reduce the volume

of the objections, preparation of a motion concerning said objections, and review of the Court's November 21, 2021 Order. The Court has expressly considered the level of complexity of this case, the substantial time required to review the OAN Defendants' objections and attempt to confer with counsel to reduce their excessive nature, and the time required to prepare the motion for expedited relief. The Court finds that the hourly rate of \$500.00 is reasonable and appropriate for the services performed considering the circumstances present.

Therefore, pursuant to C.R.C.P. Rule 11 and C.R.S. §13-17-102 and §13-17-103, this Court ORDERS the OAN Defendants to pay \$15,174.00 to Plaintiff within 35 days of this Order.

Dated this 22nd day of March, 2022.

A handwritten signature in cursive script that reads "Marie Avery Moses".

MARIE AVERY MOSES
District Court Judge