

DISTRICT COURT, DENVER COUNTY, COLORADO		DATE FILED: August 29, 2021 2:19 PM CASE NUMBER: 2020CV34319
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202		
Plaintiff(s) ERIC COOMER v. Defendant(s) DONALD J TRUMP FOR PRESIDENT INC et al.		<p style="text-align: center;">△ COURT USE ONLY △</p> Case Number: 2020CV34319 Division: 409 Courtroom:
Order Regarding Plaintiff's Motion for Sanctions Pursuant to CRCP 37 and CRCP 107 and Request for Order to Show Cause		

The motion/proposed order attached hereto: GRANTED IN PART.

As addressed on the record on August 27, 2021, the Court has entered the following Orders:

1. The Court has not yet issued a Contempt Citation. Therefore, the court is not proceeding under C.R.C.P. 107 at this time.
2. The Court conducted a hearing to address the following four categories of alleged discovery non-compliance:
 - a. Defendant Oltmann's failure to appear at his personal deposition on August 10, 2021;
 - b. Defendant Oltmann's stated refusal to answer questions regarding the alleged Antifa conference call;
 - c. The Oltmann Defendants' failure to provide discovery documents in a useful or legible format;
 - d. The failure of FEC United and Shuffling Madness Media to designate appropriate corporate designees for the Rule 30(b)(6) depositions.
3. Having heard arguments of counsel, the Court incorporates the findings of the August 27, 2021 hearing and ENTERS the following Rule 37 ORDERS and SANCTIONS:
4. Mr. Oltmann must sit for remote depositions in his individual capacity and he must sit for 30(b)(6) depositions for FEC United, CD Solutions and Shuffling Madness Media on September 8, 2021 and/or September 9, 2021. Mr. Oltmann shall be prepared to answer in detail and with specifics all topics that have been previously noticed. He shall also review the deposition transcripts of Mr. Butler and Mr. Papas and shall be prepared to answer the questions that they were asked. The individual deposition shall be up to 3 hours; each corporate deposition may be up to 2 hours in late.
5. The depositions will be videotaped--both from the chest up, and the room as a whole--to as closely as possible replicate an in-person deposition. Mr. Oltmann will have with him paper copies of all exhibits that are to be referenced during the depositions. Mr. Coomer's attorneys will provide all such exhibits electronically to Ms. Hall by 4:00pm the day before the depositions, and Ms. Hall shall be responsible for ensuring that Mr. Oltmann has copies of all of the exhibits, tabbed and in notebooks.
6. Mr. Oltmann shall respond to all questions regarding the alleged Antifa Conference Call, including but not limited to questions regarding:
 - a. The date and time of the call;
 - b. The platform on which the call was conducted;
 - c. The name, address and phone number of the individual that provided him access to the conference call;
 - d. The name, address and telephone number of any other individuals that can corroborate that Mr. Oltmann participated on the call; and
 - e. The name, address and telephone number of any other individual that participated in the call.

f. Additionally, Mr. Oltmann shall provide information regarding the means by which he obtained information regarding Facebook posts that he attributed to Eric Coomer.

7. Mr. Oltmann shall produce all previously disclosed discovery documents in a readable format by 4:00pm on September 3, 2021. For example, if it is an email, the entire email needs to be produced in a legible format. If it is a text message, the entire text message needs to be produced including dates. If it is a video, it must be produced in a manner that allows the person receiving the video to actually view the video--the same is true for audio recordings.

8. Because of the delay in obtaining discovery from the Oltmann Defendants, the Court extends Plaintiff's deadline for responding to the Special Motions to Dismiss to September 17, 2021 and the Replies thereto to September 27, 2021.

SANCTIONS:

1. The Court enters the sanction of attorneys fees with respect to the depositions that were to have occurred on August 10, 2021. Mr. Oltmann shall be responsible for the reasonable and necessary fees and costs incurred by counsel for Plaintiff preparing for and attending all three depositions that day (Oltmann, FEC United and CD Solutions).

2. Ms. Hall and Ms. DeFranco shall also be responsible for paying the reasonable fees and costs associated with the 30(b)(6) depositions because they knowingly produced witnesses that did not have the basic information necessary to provide meaningful testimony.

3. Plaintiff shall file an Affidavit of fees and costs, breaking down the fees and costs incurred for each of the three August 10, 2021 depositions on or before September 10, 2021; the Oltmann Defendants shall file any objections thereto by September 24, 2021.

4. If Mr. Oltmann fails to comply with the discovery Orders outlined above, the court will consider imposing testimony/evidence preclusion sanctions, upon motion of Plaintiff. Counsel for Defendants shall be prepared to provide suggestions for testimony/evidence preclusion sanctions that are appropriate to address Defendant Oltmann's discovery deficiencies (if any) while limiting the impact on other Defendants. If Mr. Oltmann persists in conduct that appears contemptuous, the Court will consider Rule 107 proceedings.

5. Finally, because of the shortness of the timeframes in which discovery matters need to be addressed in this matter, all counsel shall be prepared to file responses to discovery motions within 5 days.

Issue Date: 8/29/2021



MARIE AVERY MOSES
District Court Judge