

<p>COURT OF APPEALS STATE OF COLORADO 2 East 14th Avenue Denver, Colorado 80203</p>	<p>DATE FILED August 19, 2024 6:06 PM FILING ID: 725522DC26B53 CASE NUMBER: 2022CA843</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>APPEAL FROM: District Court, Denver County, State of Colorado Honorable Marie Avery Moses 2020CV34319</p>	
<p><b>Plaintiff-Appellee:</b> Eric Coomer, Ph.D.</p> <p>vs.</p> <p><b>Defendants-Appellants:</b> Herring News Networks, Inc. dba One America News Network; et al.</p>	
<p><b>Attorneys for Appellee</b> Charles J. Cain, No. 51020 <a href="mailto:ccain@cstrial.com">ccain@cstrial.com</a> Bradley A. Kloewer, No. 50565 <a href="mailto:bkloewer@cstrial.com">bkloewer@cstrial.com</a> Zachary H. Bowman, No. 21PHV6676 <a href="mailto:zbowman@cstrial.com">zbowman@cstrial.com</a> Cain &amp; Skarnulis PLLC P. O. Box 1064 Salida, Colorado 81201 719-530-3011/512-477-5011 (Fax)</p> <p>Thomas M. Rogers III, No. 28809 <a href="mailto:trey@rklawpc.com">trey@rklawpc.com</a> Mark Grueskin, No. 14621 <a href="mailto:mark@rklawpc.com">mark@rklawpc.com</a> Andrew E. Ho, No. 40381 <a href="mailto:andrew@rklawpc.com">andrew@rklawpc.com</a> RechtKornfeld PC 1600 Stout Street, Suite 1400 Denver, Colorado 80202303-573-1900</p>	<p style="text-align: center;"><b>Court of Appeals Case Number 2022CA843 and 2022CA879</b></p>
<p style="text-align: center;"><b>APPELLEE’S RESPONSE TO RUDOLPH GIULIANI’S REQUEST FOR ORAL ARGUMENT</b></p>	

Eric Coomer, Ph.D., through the undersigned, files this Response to Rudolph Giuliani's Request for Oral argument and states:

This matter was fully briefed as to Mr. Giuliani when he filed his Reply Brief over a year ago. Oral argument is unnecessary and will further delay these proceedings to the detriment of Appellee. Appellee requests the Court consider the following factors when determining whether to grant oral argument:

***The Prior Opinion is Dispositive.*** Issued on April 11, 2024, this Court's opinion already extensively addresses the Trump Campaign's liability based on the conduct of Mr. Giuliani as a campaign representative. *See* Opinion at pp. 17-18, 53-57, 94-98, and 109-10. This Court has already analyzed the extensive trial court record with respect to Mr. Giuliani and will not benefit from his spin on the established facts and law of the case. Mr. Giuliani is liable for his own conduct whether on behalf of the Campaign or otherwise.

***Mr. Giuliani's Bankruptcy Filing Was An Abuse of Process.*** On January 5, 2024, before this case was submitted as to Mr. Giuliani, he notified the Court that he filed bankruptcy.

On July 12, 2024, the United States Bankruptcy Court for the Southern District of New York issued a Memorandum of Decision. *See* Notice of Memorandum of Decision Dismissing Rudolph Giuliani Bankruptcy Case Subject

of Entry of Final Order filed on July 12, 2024. The Memorandum detailed the Bankruptcy Court's findings of Mr. Giuliani's: "failure to meet his reporting obligations and provide financial transparency required of a debtor in possession" (p. 11); "failure to provide even basic disclosure about [his] assets" (p. 12); failure "to fulfill his obligations to file accurate, complete monthly operating reports" (p. 13); "untimely" operating reports (p. 13); engaging in potential "self-dealing" and "conflicts of interest" (p. 14); use of "personal funds to pay expenses associated with his business without Court approval" (p. 15); failure "to manage the bankruptcy estate in the best interests of creditors" (p. 15); "inaccurate record keeping" (p. 16); "highly unusual and troubling" failure to retain a bookkeeper or accountant (p. 16); "uncooperative conduct" (p. 18); defense of "at least nine outstanding lawsuits" (p. 19); conduct that "severely threatens the recovery of any unsecured creditors" and creates "a real prospect of unsecured creditors receiving little to nothing in bankruptcy notwithstanding a lengthy delay during which they are prevented from pursuing their rights" (p. 20); and Mr. Giuliani's agreement to a year-long bankruptcy bar that "will provide time for creditors to pursue any rights" including "unresolved litigation" (p. 21).

Mr. Giuliani should not be rewarded for abusing the judicial process by allowing him to present oral argument to this Court now as a means to further delay the proceedings.

*This Case is Almost 4 Years Old.* Appellee filed this case on December 22, 2020. Another election will occur before he gets his day before a jury and Mr. Giuliani is held to account. Given the completeness of the record, the Court's prior opinion, and Mr. Giuliani's dilatory tactics, further delay is not warranted.

Eric Coomer, Ph.D. respectfully requests the Court deny Rudolph Giuliani's request for oral argument and such other and further relief to which he may be justly entitled.

Respectfully submitted this 19th day of August 2024.

/s/ Charles J. Cain  
Charles J. Cain, No. 51020

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Response has been served on all parties receiving notice through ICCES on this 19th day of August 2024.

/s/ Charles J. Cain  
Charles J. Cain, No. 51020