

DISTRICT COURT, DENVER COUNTY,
COLORADO
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Denver, CO 80202

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ERIC COOMER, Ph.D.,
Plaintiff

vs.

DONALD J. TRUMP FOR PRESIDENT,
INC., et al.,
Defendants

▲ COURT USE ONLY ▲

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PLAINTIFF'S FIRST AMENDED COMPLAINT

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff Eric Coomer, Ph.D. (Dr. Coomer), by and through undersigned counsel, brings this action against Defendants Donald J. Trump for President, Inc., Sidney Powell, Sidney Powell, P.C., Defending the Republic, Inc., Rudolph Giuliani, Joseph Oltmann, FEC United, Shuffling Madness Media, Inc. dba Conservative Daily, James Hoff, TGP Communications LLC dba The Gateway Pundit, Michelle Malkin, Eric Metaxas, Chanel Rion, Herring Networks, Inc. dba One America News Network, and Newsmax Media, Inc. (collectively, Defendants herein) in response to relentless defamation and ongoing threats.

I. INTRODUCTION

1. Spreading false conspiracy theories about the American election and its workers can have devastating consequences. This is such a case. Specifically, this case is based on Defendants' false and baseless assertions that Dr. Coomer, an employee of Dominion Voting Systems, Inc. (Dominion), sits at the center of a national conspiracy to fraudulently elect the President of the United States. Defendants, by their actions, have elevated Dr. Coomer into the national spotlight, invaded his privacy, threatened his security, and fundamentally defamed his reputation across this country.

2. On November 3, 2020, the presidential election was held across the United States. Votes were counted throughout the week, and on Saturday, November 7, 2020, the Associated Press formally called the election for former Vice President Joseph Biden. President Biden decisively won the election with a total of 306 electoral votes, winning the popular vote by more than seven million votes. State election officials have verified

and certified the election results. Electors have cast their ballots. Electoral votes have been counted. Joseph Biden is now President.

3. But as the vote count proceeded and it became apparent that President Trump was likely to lose the election, the former President, his campaign, his agents, and many of his supporters began alleging widespread voter fraud and perpetuating baseless conspiracies about why President Trump lost.

4. Defendants were integral to this effort. To support their unsubstantiated allegations, they manufactured and spread a false narrative that Dominion—a business that had partnered with more than 1,300 jurisdictions in the United States to provide various election support services—conspired to rig its equipment and the election in favor of President Biden.¹ Defendants made Dr. Coomer, the Director of Product Strategy and Security for Dominion, the face of their false claims.

5. Defendants relied heavily upon false allegations made by Joseph Oltmann, a politically-motivated individual, business owner, and podcast host, to support their conspiracy theory.

6. Oltmann has founded a nonprofit and media business for the alleged purpose of building a political movement to preserve freedoms he perceives as threatened in the United States. This allegedly included efforts to uncover and reveal Antifa activists conspiring against Oltmann. Oltmann claimed to have infiltrated a conference call with

¹ Apparently, this conspiracy only affected the presidential votes, as Democrats in the same election lost ground in down-ballot races. See Trip Gabriel, *How Democrats Suffered Crushing Down-Ballot Losses Across America*, N.Y. TIMES, Nov. 28, 2020,

<https://www.nytimes.com/2020/11/28/us/politics/democrats-republicans-state-legislatures.html> (last visited Feb. 4, 2021).

such Antifa activists. Oltmann claimed on this call he purportedly heard someone identified as “Eric from Dominion,” and that this “Eric” stated he would ensure the election went to President Biden. Oltmann provided no explanation for how he learned of this purported call or gained access to it. Oltmann acknowledged he has no recording of it and indicated he had no knowledge of the participants he referenced within it. Rather, Oltmann’s dubious claims are premised on one unverified speaker referring to another. With no legitimate attempt to confirm the identity of these alleged speakers, Oltmann attributed their alleged statements to Dr. Coomer. With no additional evidence, Oltmann then used these statements to falsely assert that Dr. Coomer subverted the results of the election. Defendants seized on and perpetuated these false allegations to further their own interests.

7. To be clear, Dr. Coomer has no knowledge of an alleged “Antifa Conference Call;” Dr. Coomer did not participate in such an alleged call; Dr. Coomer did not make the comments Defendants falsely attribute to him; and Dr. Coomer did not take actions to subvert the presidential election as Defendants falsely allege.

8. Despite the inherent unreliability of these claims, Defendants widely disseminated this false narrative. As intended, Defendants’ fabrication quickly spread throughout various media sources. Within days, the hashtags #EricCoomer, #ExposeEricCoomer, and #ArrestEricCoomer were trending on social media. President Trump began publishing numerous false statements to his millions of followers alleging Dominion interfered with the election; President Trump’s son and campaign surrogate, Eric Trump, tweeted a photo of Dr. Coomer alongside this false claim; and the Trump

Campaign lawyers identified Dr. Coomer in a nationally televised press conference where they described him as a “vicious, vicious man” who “is close to Antifa” and falsely claimed that Dr. Coomer “specifically says that they’re going to fix this election” and that he “had the election rigged for Mr. Biden.” With such attention, Defendants have escalated denigrations of Dr. Coomer, furthered dissemination of these false statements, and encouraged threats and violence against Dr. Coomer.

9. Defendants knowingly circulated and amplified a baseless conspiracy theory to challenge the integrity of the presidential election. While this theory has been thoroughly rejected, its immediate and life-threatening effects remain very real. The deluge of misinformation has caused immense injury to Dr. Coomer’s reputation, professional standing, safety, and privacy. Once an esteemed private election technology expert, Dr. Coomer has been vilified and subjected to an onslaught of offensive messages and harassment. In response to multiple credible death threats, Dr. Coomer has been forced to leave his home in fear for his safety. Without concern for the truth or the consequences of their reckless conduct, Defendants branded Dr. Coomer a traitor to the United States, a terrorist, and a criminal of the highest order.

II. PARTIES

10. Plaintiff Eric Coomer, Ph.D. is an individual and resident of Colorado who may be contacted c/o Cain & Skarnulis PLLC, P. O. Box 1064, Salida, Colorado 81201. Dr. Coomer is the Director of Product Strategy and Security for Dominion.

11. Defendant Donald J. Trump for President Inc. (the Trump Campaign)² is a corporation organized and existing under the laws of Virginia, and may be served through its registered agent for service CT Corporation System at 4701 Cox Road, Suite 284, Glen Allen, Virginia 23060-6808.

12. Defendant Sidney Powell (Powell) is an individual and resident of Texas. Powell is a practicing attorney that has brought several lawsuits seeking to overturn the results of the election. On November 14, 2020, President Trump identified Powell as part of the legal team representing his campaign and its efforts to overturn the results of the election. On November 22, 2020, the campaign subsequently removed Powell from its legal team. Powell may be served at 3831 Turtle Creek Boulevard, Unit 5B, Dallas, Texas 75219.

13. Defendant Sidney Powell, P.C. (Powell, P.C.)³ is a professional corporation organized and existing under the laws of Texas, and may be served with process through its registered agent Sidney Powell at 3831 Turtle Creek Boulevard, Unit 5B, Dallas, Texas 75219.

² As of this filing, Rudolph Giuliani is a representative of the Trump Campaign. His actions relevant to this case were as a representative of the Trump Campaign and within the scope and furtherance of his work for the Trump Campaign. He had actual or apparent authority as an agent of the Trump Campaign. The Trump Campaign is vicariously liable for Giuliani's tortious conduct described herein. Sidney Powell was a representative of the Trump Campaign. For a period of time relevant to this case, Powell's actions were as a representative of the Trump Campaign and within the scope and furtherance of her work for the Trump Campaign. She had actual or apparent authority as an agent of the Trump Campaign during that period of time. The Trump Campaign is vicariously liable for Powell's tortious conduct during the period of time described herein.

³ Powell is a representative of Powell, P.C. Her actions relevant to this case were as a representative of Powell, P.C. and within the scope and furtherance of her work for Powell, P.C. She had actual or apparent authority as an agent of Powell, P.C. Powell, P.C. is vicariously liable for Powell's tortious conduct described herein.

14. Defendant Defending the Republic, Inc.⁴ (Defending the Republic) is a nonprofit corporation organized and existing under the laws of Texas, and may be served with process through its registered agent Capitol Corporate Services, Inc. at 206 E. 9th Street, Suite 1300, Austin, Texas 78701.

15. Defendant Rudolph Giuliani (Giuliani) is an individual and resident of New York. Giuliani is a practicing attorney that serves as President Trump's personal counsel, as well as counsel for President Trump's campaign, Donald J. Trump for President Inc. Giuliani may be served with process at 445 Park Avenue, Floor 18, New York, New York 10022.

16. Defendant Joseph Oltmann (Oltmann) is an individual and resident of Colorado. Oltmann is an activist; a supporter of President Trump; an owner of Shuffling Madness Media, Inc. dba Conservative Daily; a co-host of the Conservative Daily podcast; and founder of the nonprofit FEC United. Oltmann may be served with process at 8245 Keith Court, Castle Rock, Colorado 80108.

17. Defendant FEC United⁵ is a nonprofit corporation organized and existing under the laws of Colorado with its principal place of business located in Denver, Colorado, and may be served with process through its registered agent Pacific Registered Agents, Inc. at 44 Cook Street, Suite 100, Denver, Colorado 80206.

⁴ Powell is a director and representative of Defending the Republic. Her actions relevant to this case were as a representative of Defending the Republic and within the scope and furtherance of her work for Defending the Republic. She had actual or apparent authority as an agent of Defending the Republic. Defending the Republic is vicariously liable for Powell's tortious conduct described herein.

⁵ Oltmann is a representative of FEC United. His actions relevant to this case were as a representative of FEC United and within the scope and furtherance of his work for FEC United. He had actual or apparent authority as an agent of FEC United. FEC United is vicariously liable for Oltmann's tortious conduct described herein.

18. Defendant Shuffling Madness Media, Inc. with registered trade name Conservative Daily (Conservative Daily)⁶ is a corporation organized and existing under the laws of Delaware with its principal place of business located in Colorado, and may be served with process through its registered agent Joe Oltmann at 10750 S. Pine Drive, Parker, Colorado 80138.

19. Defendant James Hoft (Hoft) is an individual and resident of Missouri. Hoft is the owner of TGP Communications LLC and author and editor of the political website and blog, The Gateway Pundit. Hoft may be served with process at 12 Godwin Lane, St. Louis, Missouri 63124.

20. Defendant TGP Communications LLC dba The Gateway Pundit (Gateway Pundit)⁷ is a limited liability company organized and existing under the laws of Missouri, and may be served with process through its registered agent Gregory J. Hickel at 12300 Old Tesson Road, Suite 400-G, St. Louis, Missouri 63128.

21. Defendant Michelle Malkin (Malkin) is an individual and resident of Colorado. Malkin is a political blogger, commentator, and author. Malkin may be served with process at 171 Larkspur Lane, Avon, Colorado 81620.

22. Defendant Eric Metaxas (Metaxas) is an individual and resident of New York. Metaxas is an author, speaker, and host of The Eric Metaxas Radio Show.

⁶ Oltmann is also a representative of Conservative Daily. His actions relevant to this case were as a representative of Conservative Daily and within the scope and furtherance of his work for Conservative Daily. He had actual or apparent authority as an agent of Conservative Daily. Conservative Daily is vicariously liable for Oltmann's tortious conduct described herein.

⁷ Hoft is a representative of Gateway Pundit. His actions relevant to this case were as a representative of Gateway Pundit and within the scope and furtherance of his work for Gateway Pundit. He had actual or apparent authority as an agent of Gateway Pundit. Gateway Pundit is vicariously liable for Hoft's tortious conduct described herein.

Metaxas may be served with process at 35 East 84th Street, Apt. 5A, New York, New York 10028.

23. Defendant Chanel Rion (Rion) is an individual and resident of New York. Rion is the Chief White House Correspondent for One America News Network (OANN). Rion may be served with process at 622 Acorn Hill Road, Olivesbridge, New York 12461.

24. Defendant Herring Networks, Inc.,⁸ is a corporation organized and existing under the laws of California, which owns and operates One America News Network (OANN). OANN may be served through its agent for service Seth B. Bobroff at 6256 Greenwich Drive, Suite 500, San Diego, California 92117.

25. Defendant Newsmax Media, Inc. (Newsmax) is a corporation organized and existing under the laws of Delaware, with its principal place of business located in Florida. Newsmax may be served through its registered agent Cogency Global Inc. at 115 North Calhoun Street, Suite 4, Tallahassee, Florida 32301.

III. JURISDICTION AND VENUE

26. This Court has subject matter jurisdiction pursuant to Article VI, section 9 of the Colorado Constitution and C.R.S. section 13-1-124.

27. This Court may exercise personal jurisdiction over the Trump Campaign as it committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. The Trump Campaign had the knowledge and intent that: the effects of its actions would be felt in the state of Colorado; the injury would occur in Colorado; and

⁸ Rion is a representative of Herring Networks, Inc. (referred to herein as OANN). Rion's actions relevant to this case were as a representative of OANN and within the scope and furtherance of her work for OANN. She had actual or apparent authority as an agent of OANN. OANN is vicariously liable for Rion's tortious conduct described herein.

that its defamatory messages would be directed at Colorado. *See Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 776-81 (1984). The Trump Campaign derived its defamatory statements from Coloradan sources.⁹ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for its defamatory statements.¹⁰ *See Calder v. Jones*, 465 U.S. 783, 788-89 (1984); *see also Keeton*, 465 U.S. at 780 (recognizing a plaintiff's residence may be relevant to the jurisdictional inquiry as it "may be the focus of the activities of the defendant out of which the suit arises."). The Trump Campaign purposefully utilized national broadcasts and media platforms with regular circulation in Colorado and to Coloradan audiences to make its statements.¹¹ *See Keeton*, 465 U.S. at 776-81 (finding "libel is generally held to occur wherever the offending material is circulated" and a defendant continuously and deliberately exploiting a market "must reasonably anticipate being haled into court there in a libel action"). Colorado has a substantial interest in this cause of action.

28. This Court may exercise personal jurisdiction over Powell as she committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. Powell had the knowledge and intent that: the effects of her actions would be felt

⁹ The Trump Campaign knowingly relied on Oltmann as its source for its false statements; specifically identified Oltmann as a Denver, Colorado businessman within its statements; and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra ¶¶ 61-68, 71.*

¹⁰ The Trump Campaign knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of its false statements. *See infra ¶¶ 52-68, 71.*

¹¹ The Trump Campaign knowingly published its statements using national platforms and broadcasts that purposefully direct their statements into the state of Colorado and to Coloradan audiences. The Trump Campaign intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradans. *See infra ¶¶ 61-68, 71.*

in the state of Colorado; the injury would occur in Colorado; and that her defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Powell derived her defamatory statements from Coloradan sources.¹² The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for her defamatory statements.¹³ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Powell purposefully utilized national broadcasts and media platforms with regular circulation in Colorado and to Coloradan audiences to make her statements.¹⁴ *See Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

29. This Court may exercise personal jurisdiction over Powell, P.C. as it committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. Powell, P.C. had the knowledge and intent that: the effects of its actions would be felt in the state of Colorado; the injury would occur in Colorado; and that its defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Powell, P.C. derived its defamatory statements from Coloradan sources.¹⁵ The subject of

¹² Powell knowingly relied on Oltmann as her source for her false statements; specifically identified Oltmann as a Denver, Colorado businessman within her statements; and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra ¶¶ 64-71.*

¹³ Powell knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of her false statements. *See infra ¶¶ 64-71.*

¹⁴ Powell knowingly published her statements using national platforms and broadcasts that purposefully direct their broadcasts into the state of Colorado and to Coloradan audiences. Powell intended to reach every citizen in the United States, purposefully sought this national audience, which included Colorado and Coloradans. *See infra ¶¶ 64-71.*

¹⁵ Powell P.C. knowingly relied on Oltmann as its source for its false statements; specifically identified Oltmann as a Denver, Colorado businessman within its statements; and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra ¶¶ 64-71.*

those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for its defamatory statements.¹⁶ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Powell, P.C. purposefully utilized national broadcasts and media platforms with regular circulation in Colorado and to Coloradan audiences to make its statements.¹⁷ *See Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

30. This Court may exercise personal jurisdiction over Defending the Republic as it committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. Defending the Republic had the knowledge and intent that: the effects of its actions would be felt in the state of Colorado; the injury would occur in Colorado; and that its defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Defending the Republic derived its defamatory statements from Coloradan sources.¹⁸ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for its defamatory statements.¹⁹ *See Calder*, 465 U.S. at 788-89;

¹⁶ Powell P.C. knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of its false statements. *See infra* ¶¶ 64-71.

¹⁷ Powell P.C. knowingly published its statements using national platforms and broadcasts that purposefully direct their broadcasts into the state of Colorado and to Coloradan audiences. Powell P.C. intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradans. *See infra* ¶¶ 64-71.

¹⁸ Defending the Republic knowingly relied on Oltmann as its source for its false statements; specifically identified Oltmann as a Denver, Colorado businessman within its statements; and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra* ¶¶ 64-71.

¹⁹ Defending the Republic knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of its false statements. *See infra* ¶¶ 64-71.

see also Keeton, 465 U.S. at 780. Defending the Republic purposefully utilized national broadcasts and media platforms with regular circulation in Colorado and to Coloradan audiences to make its statements.²⁰ *See Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

31. This Court may exercise personal jurisdiction over Giuliani as he committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. Giuliani had the knowledge and intent that: the effects of his actions would be felt in the state of Colorado; the injury would occur in Colorado; and that his defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Giuliani derived his defamatory statements from Coloradan sources.²¹ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for his defamatory statements.²² *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Giuliani purposefully utilized national broadcasts and media platforms with regular circulation in

²⁰ Defending the Republic knowingly published its statements using national platforms and broadcasts that purposefully direct their broadcasts into the state of Colorado and to Coloradan audiences. Defending the Republic intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradans. *See infra ¶¶ 64–71.*

²¹ Giuliani knowingly relied on Oltmann, a Colorado businessman, as his source for his false statements and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra ¶¶ 64–65, 71.*

²² Giuliani knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of his false statements. *See infra ¶¶ 64–65, 71.*

Colorado and to Coloradan audiences to make his statements.²³ *See Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

32. This Court may exercise personal jurisdiction over Oltmann as he is a resident and domiciliary of Colorado and he committed tortious actions giving rise to this cause of action within Colorado.

33. This Court may exercise personal jurisdiction over FEC United as it is formed within and existing under the laws of Colorado and it committed tortious actions giving rise to this cause of action within Colorado.

34. This Court may exercise personal jurisdiction over Conservative Daily as it has its principal place of business within Colorado and it committed tortious actions giving rise to this cause of action within Colorado.

35. This Court may exercise personal jurisdiction over Hoft as he committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. Hoft had the knowledge and intent that: the effects of his actions would be felt in the state of Colorado; the injury would occur in Colorado; and that his defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Hoft derived his defamatory statements from Coloradan sources.²⁴ The subject of those statements concerned a Colorado resident and that resident's work and employment within a

²³ Giuliani knowingly published his statements using national platforms and broadcasts that purposefully direct their statements into the state of Colorado and to Coloradan audiences. Giuliani intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradans. *See infra ¶¶ 64–65, 71.*

²⁴ Hoft knowingly relied on Oltmann as his source for his false statements, specifically identified Oltmann as a Denver, Colorado businessman within his statements, and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra ¶¶ 57, 60, 71.*

business based in Colorado, making Colorado an integral focal point for his defamatory statements.²⁵ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Further, Hoft has purposefully sought a national audience and regularly directs his publications to Colorado and Coloradan audiences for circulation.²⁶ *See Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

36. This Court may exercise personal jurisdiction over Gateway Pundit as it committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. Gateway Pundit had the knowledge and intent that: the effects of its actions would be felt in the state of Colorado; the injury would occur in Colorado; and that its defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Gateway Pundit derived its defamatory statements from Coloradan sources.²⁷ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for its defamatory statements.²⁸ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Further, Gateway Pundit has purposefully sought a national audience and regularly directs its publications to Colorado and Coloradan audiences for

²⁵ Hoft knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of his false statements. *See infra ¶¶ 57, 60, 71.*

²⁶ Hoft, as founder, editor, and author of Gateway Pundit, regularly directs publications to a national audience, specifically including and exploiting Colorado and Coloradan markets, with articles naming Colorado, identifying events in Colorado, and referencing Coloradans. *See infra ¶¶ 57, 60, 71, n.29.*

²⁷ Gateway Pundit knowingly relied on Oltmann as its source for false statements it published, specifically identified Oltmann as a Denver, Colorado businessman within its statements, and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra ¶¶ 57, 60, 71.*

²⁸ Gateway Pundit knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of its false statements. *See infra ¶¶ 57, 60, 71.*

circulation.²⁹ See *Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

37. This Court may exercise personal jurisdiction over Malkin as she is a resident and domiciliary of Colorado and she committed tortious actions giving rise to this cause of action within Colorado.

38. This Court may exercise personal jurisdiction over Metaxas as he committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. As the host of a nationally syndicated radio show and podcast, Metaxas had the knowledge and intent that: the effects of his actions would be felt in the state of Colorado; the injury would occur in Colorado; and that his defamatory messages would be directed at Colorado. See *Keeton*, 465 U.S. at 776-81. Metaxas also derived his defamatory statements from Coloradan sources.³⁰ The subject of those statements concerned a Colorado resident and that resident's work and employment within a business based in Colorado, making Colorado an integral focal point for his defamatory

²⁹ Gateway Pundit regularly directs publications to a national audience, specifically including and exploiting Colorado and Coloradan markets, with articles naming Colorado, identifying events in Colorado, and referencing Coloradans. See e.g., Cristina Laila, *BREAKING! SHOCK VIDEO: Colorado Democrat Executive Says “2020 is a Political Revolution”*; “*Guillotines Motherf*cker, Killing Random Nazis in the Street*”, THE GATEWAY PUNDIT, Oct. 13, 2020; Joe Hoft, *WEIRD: Early Reports Claimed Killer of Trump Supporter in Denver Is a Security Guard But He’s Not Registered In Colorado’s Security Guard Database*, THE GATEWAY PUNDIT, Oct. 11, 2020; Cristina Laila, *Democrat Colorado Secretary of State Mails Postcards to Illegals and Dead People Urging Them to Vote*, THE GATEWAY PUNDIT, Sept. 27, 2020; Jim Hoft, *Let’s Make Her Famous! Violent, Foul-Mouthed Leftist Caught on Video Ripping Down Trump Sign in Castle Rock, Colorado*, THE GATEWAY PUNDIT, Sept. 22, 2020; Cristina Laila, *Colorado Woman Repeatedly Punches 12-Year-Old Boy in the Back of the Head Over Trump Yard Sign*, THE GATEWAY PUNDIT, Sept. 2, 2020.

³⁰ Metaxas knowingly relied on Oltmann as his source for his false statements, specifically identified Oltmann as a Denver, Colorado businessman within his statements, and derived those statements from information Oltmann allegedly gained while in Colorado. See *infra* ¶¶ 59, 71.

statements.³¹ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Further, Metaxas has purposefully sought a national audience and regularly directs his publications to Colorado and Coloradan audiences for circulation.³² *See Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

39. This Court may exercise personal jurisdiction over Rion as she committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. As a correspondent for a national news network that specifically broadcasts to Colorado and Coloradan audiences, Rion had the knowledge and intent that: the effects of her actions would be felt in the state of Colorado; the injury would occur in Colorado; and that her defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Rion also derived her defamatory statements from Coloradan sources.³³ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for her defamatory statements.³⁴ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Through OANN, Rion has purposefully sought a national audience and

³¹ Metaxas knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of his false statements. *See infra* ¶¶ 59, 71.

³² Metaxas, as the host of a nationally syndicated radio show and podcast, regularly directs publications to a national audience, specifically including and exploiting Colorado and Coloradan markets. *See infra* ¶¶ 59, 71.

³³ Rion knowingly relied on Oltmann as her source for her false statements, specifically identified Oltmann as a Denver, Colorado businessman within her statements, and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra* ¶¶ 61, 71.

³⁴ Rion knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of her false statements. *See infra* ¶¶ 61, 71.

regularly directs her reporting to Colorado and Coloradan audiences for circulation.³⁵

See Keeton, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

40. This Court may exercise personal jurisdiction over OANN as it committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. As a national news network that specifically broadcasts to Colorado and Coloradan audiences, OANN had the knowledge and intent that: the effects of its actions would be felt in the state of Colorado; the injury would occur in Colorado; and that its defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. OANN also derived its defamatory statements from Coloradan sources.³⁶ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for its defamatory statements.³⁷ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. OANN has purposefully sought a national audience and regularly directs its reporting to Colorado and Coloradan audiences for circulation.³⁸ *See Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

³⁵ Rion, as a correspondent for OANN, regularly directs publications to a national audience, specifically including and exploiting Colorado and Coloradan markets. *See infra* ¶¶ 61, 71, n.38.

³⁶ OANN knowingly relied on Oltmann as its source for false statements it published, specifically identified Oltmann as a Denver, Colorado businessman within its statements, and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra* ¶¶ 61, 71.

³⁷ OANN knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of its false statements. *See infra* ¶¶ 61, 71.

³⁸ On its website, OANN identifies: (1) national cable providers, including AT&T U-verse, CenturyLink PRISM, DirecTV, GCI, and Verizon FiOS; (2) local providers in all 50 states; and (3) for Colorado, OANN specifically states "You can find OAN in Colorado on one of the many national cable providers above. Need another option? Stream OAN and many other TV channels LIVE on KlowdTV without a contract, offering flexibility and affordability. Sign up for a free-trial!" *See OANN, Where to Watch*, <https://www.oann.com/wheretowatch/> (last visited Feb. 4, 2021).

41. This Court may exercise personal jurisdiction over Newsmax as it committed tortious actions against a resident of the state of Colorado giving rise to this cause of action. As a national news network that specifically broadcasts to Colorado and Coloradan audiences, Newsmax had the knowledge and intent that: the effects of its actions would be felt in the state of Colorado; the injury would occur in Colorado; and that its defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Newsmax further derived its defamatory statements from Coloradan sources.³⁹ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for its defamatory statements.⁴⁰ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Newsmax has purposefully sought a national audience and regularly directs its reporting to Colorado and Coloradan audiences for circulation.⁴¹ *See Keeton*, 465 U.S. at 776-81. Colorado has a substantial interest in this cause of action.

42. Jurisdiction in Colorado provides for the efficient resolution of the claims herein. Venue is proper in this Court pursuant to Colorado Rule of Civil Procedure 98

³⁹ Newsmax knowingly relied on Oltmann, a Colorado based businessman, as the source of the false statements that it published and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra* ¶¶ 66, 71.

⁴⁰ Newsmax knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of its false statements. *See infra* ¶¶ 66, 71.

⁴¹ Newsmax purposefully directs its broadcasts into the state of Colorado and to Coloradan audiences. On its website, Newsmax identifies broadcast areas for Coloradan zip codes and identifies national cable providers and channels specifically for Colorado. For example, in the zip code of this Court, Newsmax identifies "Newsmax TV is available in your local area in the following services" including: CenturyLink HD Ch. 1209 (SD Ch. 209); DIRECTV HD Ch. 349; DISH Network HD Ch. 216; fuboTV; Sling TV; and Xfinity/Comcast HD Ch. 1115. *See* Newsmax TV, You Can Watch Newsmax TV!, <https://www.newsmaxtv.com/findus> (last visited Feb. 4, 2021).

because a substantial part of the events and omissions giving rise to the claims occurred in Denver County, Colorado and Defendant FEC United's principal place of business is in Denver County, Colorado.

IV. FACTS

43. Plaintiff Dr. Eric Coomer is the Director of Product Strategy and Security for Dominion.

44. Dominion is based in Denver, Colorado, and provides election support services across the United States, including from initial project implementation through election set-up, ballot layout, multiple language audio, machine set-up and system testing.

45. Dominion provided election related services to at least thirty different states during the 2020 presidential election.

A. *The 2020 presidential election was a free and fair election.*

46. The 2020 presidential election results have been verified by numerous independent entities, including government officials and agencies. State elections officials tasked with verifying the election and vote counts certified the election results across all 50 states and the District of Columbia.⁴² Electors met and formerly cast their ballots with President Joe Biden securing 306 electoral votes and winning the popular vote by more than seven million votes.⁴³ Despite incited violence, Congress formally

⁴² See Maggie Astor, et al., *Biden Secures Enough Electors to Be President*, N.Y. TIMES, Dec. 9, 2020, <https://www.nytimes.com/interactive/2020/11/20/us/politics/2020-election-certification-tracker.html> (last visited Feb. 4, 2021). ("Election results have now been certified in all 50 states and Washington, D.C.").

⁴³ See Nick Corasaniti, et. al., *Electoral College Vote Officially Affirms Biden's Victory*, N.Y. TIMES, Dec. 14, 2020, <https://www.nytimes.com/2020/12/14/us/politics/biden-electoral-college.html> (last visited Feb. 4, 2021).

counted the electoral votes, and Vice President Mike Pence declared Joe Biden the winner of the presidential election.⁴⁴

47. The Cybersecurity & Infrastructure Security Agency (CISA), a standalone United States federal agency under the Department of Homeland Security, issued a Joint Statement from the Elections Infrastructure Government Coordinating Council and the Elections Infrastructure Sector Coordinating Executive Committees stating:

The November 3rd election was the most secure in American history. Right now, across the country, election officials are reviewing and double checking the entire election process prior to finalizing the result.

When states have close elections, many will recount ballots. All of the states with close results in the 2020 presidential race have paper records of each vote, allowing the ability to go back and count each ballot if necessary. This is an added benefit for security and resilience. This process allows for the identification and correction of any mistakes or errors. **There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.**

Other security measures like pre-election testing, state certification of voting equipment, and the U.S. Election Assistance Commission's (EAC) certification of voting equipment help to build additional confidence in the voting systems used in 2020.

While we know there are many unfounded claims and opportunities for misinformation about the process of our elections, we can assure you we have the utmost confidence in the security and integrity of our elections, and you should too. When you have questions, turn to elections officials as trusted voices as they administer elections.”⁴⁵

⁴⁴ See John Wagner, et al., *Pence declares Biden winner of presidential election after Congress finally counts electoral votes*, WASH. POST, Jan. 07, 2021, <https://www.washingtonpost.com/politics/2021/01/06/congress-electoral-college-vote-live-updates/> (last visited Feb. 4, 2021).

⁴⁵ CISA, *Joint Statement from Elections Infrastructure Gov’t Coordinating Council & the Election Infrastructure Sector Coordinative Exec. Comms.*, Nov. 12, 2020, <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election> (last visited Feb. 4, 2021) (emphasis in original).

48. Former Director of CISA, Chris Krebs, after his dismissal by President Trump, acknowledged that states had transitioned to auditable voting systems with paper-based ballots that could be recounted, independent of any allegedly hacked software or hardware.⁴⁶ Krebs explained that these paper ballots, when paired with state post-election checks, ensured the accuracy of the voting counts. Such post-election checks were utilized with recounts in Georgia and Wisconsin, which affirmed the election results.⁴⁷

49. Then U.S. Attorney General William Barr confirmed “to date, we have not seen fraud on a scale that could have effected a different outcome in the election.”⁴⁸

50. Over 60 separate lawsuits brought by President Trump’s campaign and its supporters across the country attempting to challenge the legitimacy of the election results have failed.⁴⁹ With these, courts have rejected baseless allegations of widespread

⁴⁶ Chris Krebs, *Trump fired me for saying this, but I'll say it again: The Election wasn't rigged*, WASH. Post, Dec. 1, 2020, https://www.washingtonpost.com/opinions/christopher-krebs-trump-election-wasn-t-hacked/2020/12/01/88da94ao-340f-11eb-8d38-6aea1adb3839_story.html (last visited Feb. 4, 2021).

⁴⁷ Scott Bauer, *Wisconsin certifies Joe Biden as winner following recount*, AP, Nov. 30, 2020, <https://apnews.com/article/election-2020-joe-biden-donald-trump-wisconsin-lawsuits-2e9cf60550f519537d31b6b71aa32c3c> (last visited Feb. 4, 2021); Kate Brumback, *Georgia again certifies election results showing Biden won*, AP, Dec. 7, 2020, <https://apnews.com/article/election-2020-joe-biden-donald-trump-georgia-elections-4eeeaa3b24f1ode886bcdeab6c26b680a> (last visited Feb. 4, 2021).

⁴⁸ Michael Balsamo, *Disputing Trump, Barr says no widespread election fraud*, AP, Dec. 1, 2020, <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d> (last visited Feb. 4, 2021). As of this filing, U.S. Attorney General Barr has tendered his resignation.

⁴⁹ Rosalind S. Helderman, et al., *'The last wall': How dozens of judges across the political spectrum rejected Trump's efforts to overturn the election*, WASH. Post, Dec. 12, 2020, https://www.washingtonpost.com/politics/judges-trump-election-lawsuits/2020/12/12/e3a57224-3a72-11eb-98c4-25dc9f4987e8_story.html (last visited Feb. 4, 2021); William Cummings, et al., *By the numbers: President Donald Trump's failed efforts to overturn the election*, USA TODAY, Jan. 6, 2021, <https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/> (last visited Feb. 4, 2021) (“Out of the 62 lawsuits filed challenging the presidential election, 61 have failed”).

voter fraud raised to overcome the election results.⁵⁰ Notably in one case, Judge Brann in the United States District Court for the Middle District of Pennsylvania rendered an opinion stating:

One might expect that when seeking [to disenfranchise almost seven million voters], a plaintiff would come formidably armed with compelling legal arguments and factual proof of rampant corruption, such that this Court would have no option but to regrettably grant the proposed injunctive relief despite the impact it would have on such a large group of citizens.

That has not happened. Instead, this Court has been presented with strained legal arguments without merit and speculative accusations, unpled in the operative complaint and unsupported by evidence.

Donald J. Trump for President, Inc., et al. v. Boockvar, et al., No. 4:20-cv-02078-MWB, at Dkt. No. 202, p.2 (M.D. PA. Nov. 21, 2020). In review of this opinion, Judge Bibas, writing the Third Circuit's unanimous opinion on November 27, 2020, summarized the Court's ruling as follows:

Free, fair elections are the lifeblood of our democracy. Charges of unfairness are serious. But calling an election unfair does not make it so. Charges require specific allegations and then proof. We have neither here.

Donald J. Trump for President, Inc., et. al. v. Sec'y Commonwealth of Pennsylvania, et. al., No. 20-3371, * 2 (3rd Cir. Nov. 27, 2020).

⁵⁰ See e.g., *Bowyer, et al., v. Ducey, et al.*, No. 2:20-cv-02321-DJH (D. Ariz.) at Dkt. No. 84, p.28 (concluding “[n]ot only have Plaintiffs failed to provide the Court with factual support for their extraordinary claims, but they have wholly failed to establish that they have standing for the Court to consider them. Allegations that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings and procedure in federal court.”).

B. Oltmann fabricated a conspiracy.

51. Joseph Oltmann is a political activist and supporter of President Trump with ambitions of creating a political movement.⁵¹ Oltmann formed a nonprofit organization, FEC United, allegedly to restore and secure constitutional protections he perceived as under attack, which includes a paramilitary civilian defense group.⁵² FEC United has hosted rallies for armed civilians to gather, as well as political events on behalf of the Colorado Republican Party and the Trump Campaign.⁵³ By way of example, FEC United reportedly solicited its members to sign up for the “Army for Trump” poll watcher program before the election, claiming that “Democrats have been actively stacking the poll-watching positions with their own people, and this will only contribute to the fraud . . . Join Our Election Day Team!”⁵⁴ Upon information and belief, Oltmann also owns a business, Shuffling Madness Media, Inc., which registered the trade name

⁵¹ See Joseph Oltmann (@Joeoltmann), PARLER (Dec. 2, 2020) (In response to lawsuits brought by President Trump, “[w]e do this without the weak ass Republican traitors.”); (Dec. 4, 2020) (“It’s time we turn out the corrupt government and weaponized media and tech companies. This is our country . . . #reckoning #ericcoomerisatraitor #dominionvotingsystems); (Dec. 6, 2020) (“I will love my neighbors after I beat their ass and stop this evil indoctrination and cancer on our community . . . I punched one of these asshats in the face and defended our country”); (Dec. 7, 2020) (“I am angry we are where we are and we allowed the loony left to even get their claws of deceit and despair into the fiber of our country. I am disappointed we let the evil left remove God from our schools and communities without a bigger fight . . . Pray for our country. Pray for our President. Pray for our leaders that they can have courage. Pray for the warriors of our nation that will stand up for you. God bless you all. We will not surrender and we will never retreat.”); (Dec. 10, 2020) (“Pray for our country and that our Supreme Court has the courage to reject the evil we face.”); (Dec. 12, 2020) (“Now we got to war as the people . . . the deep state runs deep. Evil at work . . .”).

⁵² See FEC United, *Defend the American Way of Life*, <https://fecunited.com> (last visited Feb. 4, 2021); United American Defense Fund, *Defend and Protect What Is Ours*, <https://fecunited.com/uadf/> (last visited Feb. 4, 2021).

⁵³ See Erik Maulbetsch, *Conservative Group Behind the Deadly “Patriot Muster” Rally Working Closely With Colorado GOP*, COLO. TIMES RECORDER, Oct. 12, 2020, <https://coloradotimesrecorder.com/2020/10/conservative-group-behind-deadly-patriot-muster-rally-working-closely-with-colorado-gop/31445/> (last visited Feb. 4, 2021).

⁵⁴ See *id.*

and upon information and belief operates under the Conservative Daily. Oltmann serves as a co-host of the Conservative Daily Podcast under the name Joe Otto with videos also posted on Conservative Daily's YouTube channel.

52. After the results of the election were called for President Joe Biden, Oltmann co-hosted a Conservative Daily Podcast.⁵⁵ On that podcast, he alleged to have learned almost two months earlier of a conspiracy to elect the president of the United States. Oltmann claimed he gained this information after infiltrating Antifa. Despite his interest in the election and prolific podcasting schedule, Oltmann apparently took no action at that time to report this alleged threat to democracy.⁵⁶ Waiting until November 9, 2020, Oltmann began this podcast, saying:

Let's not sugar coat this, we're going to expose someone inside of Dominion Voting Systems specifically related to Antifa and related to someone that is so far left and is controlling the elections, and his fingerprints are in every state. So I want you guys to understand that what we're about to show you, you have to share . . . The conversation will be about a man named Eric Coomer. C-O-O-M-E-R.

Oltmann then posted a photo of Dr. Coomer's face. Oltmann explained he had allegedly "infiltrated an Antifa conference call" sometime in late September with unknown and unverified participants. Oltmann claimed while on this purported call one of these unknown participants was referred to as "Eric" and another allegedly explained "Eric is the Dominion guy." Oltmann claimed when another unknown participant asked, "What

⁵⁵ Joseph Oltmann, et al., *Ep. 196—Dominion Voting Systems*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020).

⁵⁶ The Conservative Daily Podcast posted fifty podcasts from September 1, 2020 to November 9, 2020. *See id.*; *see also* Joseph Oltmann, et al., *Ep. 146—Someone Stole My Trump Sign (And I'm Pissed)*, CONSERVATIVE DAILY PODCAST (Sept. 1, 2020).

are we gonna do if f-ing Trump wins?” the unknown “Eric” responded, which Oltmann paraphrased as, “Don’t worry about the election, Trump is not gonna win. I made f-ing sure of that. Hahahaha.” Afterwards, Oltmann’s alleged efforts to identify the unknown speakers of this purported call were limited to googling “Eric,” “Dominion,” and “Denver, Colorado.”⁵⁷ With this, Oltmann claimed he identified Dr. Coomer and Dominion Voting Systems, Inc.⁵⁸ At no point has Oltmann contacted Dr. Coomer to confirm his involvement in this purported call.

53. Only after President Trump had lost the presidential election did Oltmann allegedly remember Dr. Coomer and take steps to target him. Oltmann had conceived a storyline about the election—that its results were fraudulent—and consciously set out to establish that Dr. Coomer perpetuated this fraud.⁵⁹ This included accessing Dr. Coomer’s

⁵⁷ In a subsequent interview, Oltmann explained, “So it was really simple. This is what I did, right. I put in ‘Eric,’ into google search, ‘Eric,’ ‘Dominion,’ ‘Denver, Colorado.’ Not very clever, right?” See Michelle Malkin, #MalkinLive: U.S. Elections, YOUTUBE (Nov. 13, 2020).

⁵⁸ Oltmann provides no explanation for how he understood “Dominion” to mean “Dominion Voting Systems, Inc.” and not any of the number of other Dominion-named businesses and locations in Colorado, including, but not limited to: Old Dominion Freight Line; Dominion Life Church; Dominion Realty Group; Dominion Water & Sanitation District; either of the two Dominion Towers constituting Dominion Plaza; Dominion Mortgage; and Dominion Carpet Cleaning Inc.

⁵⁹ Oltmann has a history of advancing varying allegations of voter fraud to support his political beliefs and his preferred candidates as well as to promote himself and his businesses interests. See e.g., Erik Maulbetsch, *Conservative Group Behind the Deadly “Patriot Muster Rally Working Closely With Colorado GOP*, COLO. TIMES RECORDER, Oct. 12, 2020 (FEC United alleging election fraud); Joseph Oltmann, et al., *Ep. 151—Voter Fraud is Real*, CONSERVATIVE DAILY PODCAST (Sept. 9, 2020) (separate allegations of election fraud); *Ep. 126—GOP Caving to Pelosi’s Cheat-By-Mail Demands*, CONSERVATIVE DAILY PODCAST (Aug. 5, 2020) (separate allegations of election fraud). Shortly after the election, Oltmann’s baseless allegations of fraud continued to evolve across various theories until coalescing into his false statements against Dr. Coomer. Compare Joseph Oltmann, et al., *Ep. 193—Democrats Just Got Caught*, CONSERVATIVE DAILY PODCAST (Nov. 5, 2020) (separate allegations of election fraud), *Ep. 194—How Democrats Stole It* CONSERVATIVE DAILY PODCAST (Nov. 6, 2020) (separate allegations of election fraud), and *Ep. 194—How Democrats Stole It (Part 2)*, CONSERVATIVE DAILY PODCAST (Nov. 6, 2020) (separate allegations of election fraud), with *Ep. 196—Dominion Voting Systems*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020) (“we’re doing a deep dive on Dominion Voting Systems, all the stuff we’re seeing with Scorecard, with Hammer, big tech as a whole.”). Oltmann ultimately utilized these false allegations for personal gain. On November 5, 2020, the Conservative Daily podcast informed its viewers it was the “#119 most popular political podcast in

private Facebook profile. Finding no credible evidence of Dr. Coomer’s involvement in the purported “Antifa Conference Call,” Oltmann, instead, used posts on Dr. Coomer’s Facebook profile that were critical of President Trump to allege he was the anonymous “Eric.” Having no credible evidence of voter fraud, Oltmann used Dr. Coomer’s position and employment with Dominion to allege Dr. Coomer was a key figure in a high-level conspiracy to rig the election against President Trump.⁶⁰ These statements are baseless and unequivocally false. Dr. Coomer has no knowledge of this alleged “Antifa Conference Call;” Dr. Coomer did not participate in such an alleged call; Dr. Coomer did not make the comments Oltmann alleged were made; and Dr. Coomer did not take steps to subvert the results of the presidential election.

54. In reality, Dr. Coomer, like many, had a private Facebook page that he shared with approximately 300 friends. He shared political views and was critical of President Trump. He shared satire, that Oltmann intentionally disregarded and held out as true. None of it was public. It is unclear how Oltmann came into possession of it.

America,” on November 6, 2020 it informed them it was then the “#108 most popular political podcast,” on November 9, 2020 it was “#66,” on November 10, 2020 it was “#62,” November 14, 2020 it was “#53,” on November 19, 2020 it was “#28,” on December 2, 2020 it was “#8.”

⁶⁰ See Joseph Oltmann, et al., *Ep. 196—Dominion Voting Systems*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020) (“It’s not admitting it’s vulnerable, it’s actually creating the vulnerability so that it can actually be manipulated, and that’s what’s happened here, Max. That’s what’s happened here. You have a guy that literally is a fanatic. He’s on calls, he’s taking time in the middle of an election season to get on a call. Three weeks before an election. Three weeks before the election! He’s getting on the phone and he’s saying very clearly that ‘I have it handled.’ And he runs product strategy and security. We’re not talking about someone that is at a low level, that has an opportunity to just - He’s in everywhere you look!”); Wake Up with Randy Corporon, Nov. 14, 2020, 710 KNUS (Corporon: “Joe, what you have done and exposed may save the republic, or at least save the possibility of having an honest outcome to this election. People’s heads roll up and they say, okay, maybe there were a few machines that made a mistake or whatever. You have exposed the Antifa basis to the man who has the knowledge and the influence on this company that has these machines and this software in battleground states around the country.” Oltmann, in agreement: “Everywhere across the country, Eric Coomer is in every state. He is the one actually presenting that. He is the cog to the wheel.”); see also *infra* § IV(C).

55. More importantly, Dr. Coomer’s professional life was separate from his personal political opinion. Dr. Coomer did not participate in political groups and did not donate to campaigns. Dr. Coomer worked with elections officials—Republican, Democratic, and independent—across the country to make sure the process was safe, secure, and fair. The ability to have a political opinion in this country is a protected right. It remains a protected right, even if critical of a sitting president. That criticism does not denote conspiracy or fraud.

C. *Defendants spread the conspiracy.*

56. Oltmann began spreading his baseless allegations.⁶¹ Defendants seized on Oltmann’s statements to promote a conspiracy of election fraud. At the same time Defendants began to use Oltmann as a source for their reporting, Twitter suspended his account. This suspension was related to Oltmann’s attempts to spread false allegations and threats about Dr. Coomer.⁶²

57. On November 13, 2020, Gateway Pundit published an article by James “Jim” Hoft to its website with the headline: “Dominion Voting Systems Officer of Strategy and SECURITY Eric Coomer Admitted in 2016 Vendors and Election Officials Have Access to Manipulate the Vote.”⁶³ In this article, Hoft and Gateway Pundit developed Oltmann’s story by adding photo and video, additional context, and links to ostensibly

⁶¹ On December 6, 2020 alone, Oltmann claimed he had “been busy doing 15 interviews in the last 2 days.” See Joseph Oltmann (@Joeoltmann), PARLER (Dec. 6, 2020).

⁶² Oltmann explained after sharing an alleged photograph of Dr. Coomer’s house, “I have been kicked off of Twitter for exposing Eric Coomer.” See Joseph Oltmann (@Joeoltmann), PARLER (Dec. 6, 2020).

⁶³ Jim Hoft, THE GATEWAY PUNDIT, Nov. 13, 2020.

related content. They rely on Oltmann as a source of information to report on Dr. Coomer and Dominion, asserting:

Joe Oltmann did a deep dive on Dr. Eric Coomer who is responsible for the strategy and Security of Dominion Voting Systems. Oltmann posted a Facebook post by Coomer from June. Dr. Coomer retweeted the “Antifa” manifesto letter to President Trump. Needless to say Dr. Coomer is NOT a Trump supporter!

58. Also on November 13, 2020, Michelle Malkin⁶⁴ hosted an interview with Oltmann, who was identified as a representative of FEC United, on her personal YouTube channel, #MalkinLive, which has approximately 100,000 subscribers.⁶⁵ During the MalkinLive interview, Oltmann again falsely alleged that Dr. Coomer was an anonymous Antifa activist on a purported call Oltmann claimed to have infiltrated well before the election.⁶⁶ Yet only after the presidential election did Oltmann allegedly determine from this call that Dr. Coomer subverted the election to elect Joe Biden.⁶⁷ Malkin published these false statements despite their inherent improbability, the unreliability of her source, and the lack of credible evidence in support of these allegations. Malkin had no credible evidence that an “Antifa conference call” actually happened; that Dr. Coomer was present

⁶⁴ Notably, Malkin joined Newsmax in May 2020 as a political contributor and host of a Newsmax television show, Michelle Malkin Sovereign Nation. See Bill Hoffmann, *Acclaimed Journalist Michelle Malkin Joins Newsmax TV*, May 21, 2020; see also Newsmax TV, Hosts, <https://www.newsmaxtv.com/host-bios> (last visited Feb. 4, 2021).

⁶⁵ Michelle Malkin, #MalkinLive: U.S. Elections, YOUTUBE (Nov. 13, 2020). In this interview, Malkin identified Oltmann as Colorado businessman and founder of FEC United. Oltmann explained why he formed FEC United, spoke on behalf of FEC United during the interview, and promoted FEC United with a large banner across the screen reading, “For more info: FECUnited.com.”

⁶⁶ Oltmann admitted in this interview his efforts to infiltrate Antifa stemmed from his belief they were conspiring against him, saying “So these journalists started attacking me. . . I wanted to know why. . . So I set out to uncover Antifa within the journalist community.” *See id.*

⁶⁷ Oltmann explained to Malkin that his investigation of this purported call was premised on a Google search and premised on unknown and unverified speakers, stating “somebody named Eric came on. . . someone says who’s Eric. . . and someone answers.” *Id.*

on the call; that the comments attributed to Dr. Coomer were actually spoken; and that the alleged election fraud actually occurred. Malkin took no actions or efforts to corroborate or verify the baseless allegations before publishing them and disregarded reliable sources establishing the contrary.⁶⁸ At one point in the interview, Oltmann rhetorically directed his commentary to Dr. Coomer, and said:

You're either the one who is responsible for it, which is what it looks like, or you have other people that need to take the fall with you, and that might lessen the opportunity for you to get the death penalty, because frankly, I think the treason is punishable by death.

Following this interview, Malkin began publishing additional false statements in tweets, promoting her interview of Oltmann and the allegations of fraud to her followers⁶⁹ as well as additional broadcasts with Oltmann.⁷⁰ Like Oltmann, Malkin conceived a story that

⁶⁸ Malkin also has a history of advancing varying allegations of voter fraud to support her political beliefs and her preferred candidates as well as to promote herself and her businesses interests. See e.g., Michelle Malkin, *Who's Funding Shady Ballot Harvesting Schemes*, RASMUSSEN REPORTS, Sept. 30, 2020 (separate allegations of voter fraud); *Out of the Shadows . . . and Into the Voting Booth*, RASMUSSEN REPORTS, Dec. 18, 2019 (separate allegations of voter fraud). Malkin is also an admitted supporter of President Trump. See, e.g., Michelle Malkin, *No Time for Phony Healing*, RASMUSSEN REPORTS, Nov. 11, 2020 (“We, the 71 million Americans who voted to reelect Donald J. Trump, do not surrender.”).

⁶⁹ Michelle Malkin (@michellemalkin), TWITTER (Nov. 13, 2020, 12:43 PM) (“Joe Oltmann (now banned on Twitter) exposes pro-Antifa, cop hatred-inciting rants of #EricCoomer, VP of strategy/security of Dominion Voting Systems. ‘What if I told you he is a major shareholder’ in Dominion & ‘owns patents associated with other voting systems?’ #MalkinLive.”); (Nov. 13, 2020, 12:46 PM) (“Full interview with #joeoltmann on #ericcoomer #dominion here ==>”); (Nov. 13, 2020, 2:31 PM), (“What are they trying to hide? #DominionVotingSystems.”); (Nov. 15, 2020, 12:09 PM) (“ICYMI – Dominion, Antifa & #EricCoomer exposed by Joe Oltmann on #MalkinLive last week. Joe was suspended by Twitter but you can find him on @parler.”); (Nov. 16, 2020, 12:29 PM) (“ICYMI: #ExposeDominion #WhoIsEricCoomer #JoeOltmann Denver Business Owner: Dominion’s Eric Coomer Is an Unhinged Sociopath -- His Internet Profile is Being Deleted and Erased (AUDIO.”); (Nov. 16, 2020, 12:29 PM) (commenting with the hashtags “#ExposeDominion” and “#WhoIsEricCoomer.”); (Nov. 19, 2020, 12:19 PM) (“In case you missed it: My interview with #JoeOltmann from six days ago exposing #EricCoomer #Antifa #ExposeDominion.”).

⁷⁰ In a broadcast of Sovereign Nation on Newsmax, Malkin conducted another interview with Oltmann on November 28, 2020. Malkin’s broadcast compared allegations of voter fraud in the Philippines allegedly using Smartmatic with allegations of voter fraud in the United States allegedly with Dr. Coomer and Dominion:

the results of the election were fraudulent and consciously set out to establish that Dr. Coomer did in fact subvert the election and perpetuate this fraud.

59. Similarly, Eric Metaxas hosted an interview with Oltmann, who was again identified as a representative of FEC United, on his radio talk show and podcast on November 24, 2020.⁷¹ This interview was also published on Metaxas's YouTube channel,

Malkin: Well, evading scrutiny seems to be part of the vote hacking playbook. Last week, Dominion officials bailed out of a state legislative hearing in battleground Pennsylvania . . . Who has control over our elections? Who has *dominion* over our votes? Is it we the people, or is it the electronic voting oligarchs? Without full election transparency, there can be no election peace. Next up, Denver businessman Joe Oltmann joins me to discuss his shocking discoveries about Dominion Vice President of Strategy and Security Eric Coomer, plus much more. Stay tuned . . . I want you to tell our audience at Sovereign Nation who exactly Eric Coomer is, and why it matters in these ongoing battles against election fraud across the country . . .

Oltmann: Eric Coomer is the Director of Strategy and Security for Dominion Voting Systems. He is also affiliated with or a part of the Antifa movement. Frankly, he has the ability, he has a doctorate in nuclear physics, and has the ability to put his finger on the scale and has, I believe, put his finger on the scale of our election across the country . . .

Malkin: In the course of the work you do, political activism and research, back in October, you happened to be on a phone call of local Denver area Antifa organizers, and that's where you heard the name Eric Coomer. Tell us what you heard on that phone call.

After Oltmann alleged to have heard an unidentified third party refer to another unidentified third party only as "Eric" and from this falsely allege that Dr. Coomer was part of an Antifa conspiracy to fraudulently elect the President of the United States:

Malkin: The reason why this is so alarming, and it's obvious, but it should be spelled out, is that this is one of the highest-ranking officials at Dominion Voting Systems, which has penetrated our election system across the country and of course, around the world . . .

Oltmann: He truly is the mastermind . . .

Malkin: As a reward for the whistleblowing and the recording that you've done, you were banned on Twitter, or suspended. Tell us about that . . .

Oltmann: I decided I was going to come forward, put all of the information forward, call out Eric Coomer specifically. As soon as I did that, you caught wind of the story, you posted it, people started following me on Twitter, I started releasing even more information that I had, and Twitter came back and said that I had multiple Twitter accounts that I was using to harm others.

See Sovereign Nation with Michelle Malkin, *Hacking the Vote*, NEWSMAX, Nov. 28, 2020.

⁷¹ Eric Metaxas, *Joe Oltmann*, THE ERIC METAXAS SHOW PODCAST (Nov. 24, 2020).

The Eric Metaxas Radio Show, which has approximately 185,000 subscribers.⁷² During the Metaxas interview, Oltmann again falsely alleged that Dr. Coomer was an anonymous Antifa activist on a purported call Oltmann claimed to have infiltrated well before the election.⁷³ And again allegedly determined from this call that Dr. Coomer subverted the presidential election.⁷⁴ Metaxas also published these false statements despite their

⁷² The Eric Metaxas Radio Show, *Joe Oltmann Discusses How A Security Genius at Dominion Voting Promised Antifa Members a Trump Loss*, YOUTUBE (Nov. 24, 2020). In this interview, Oltmann was identified as a Colorado businessman and founder of FEC United. Oltmann explained why he formed FEC United and spoke on behalf of FEC United during the interview.

⁷³ Oltmann admitted in this interview his efforts to infiltrate Antifa stemmed from his belief that Antifa journalists were conspiring against both him and FEC United following his efforts to reopen small businesses in Colorado last September.

⁷⁴ Oltmann explained to Metaxas in this interview that his investigation of this purported call was premised on a google search and premised on unknown and unverified speakers in the purported call, stating “This guy named Eric started talking, and then somebody asked who Eric was. And they said, ‘Eric’s a Dominion guy.’” Despite this, Metaxas took no actions or efforts to corroborate or verify the baseless allegations before publishing them. Instead, Metaxas perpetuated these false allegations of voter fraud:

Metaxas: He’s a PhD in nuclear physics, so this is a super brilliant guy, Director of Strategy and Security. Now, when you’re talking about Dominion Voting Systems, there is no higher level of security necessary, it’s like the guy who we had on this program recently who created the anti-fraud system for eBay. I mean, this is top, top, top level coding and that stuff. So this guy, Eric Coomer, this genius, you discover was the guy who said on this Antifa call “don’t worry about Trump, there’s no way he’s going to win.”

Oltmann: Yeah. And I’ve also tied him to Our Revolution, the movement . . . We were dealing with a person that could put his finger firmly on the American voice, and tip scale of the election very easily, and frankly that he was doing it.

Metaxas: When you’re smart enough to get a Ph.D. in nuclear physics, it reminds me of the Unabomber. There are some people that uh, their learning, or rather their brains will flirt with insanity and violence. It sounds like you’re dealing with somebody who at least begins to fall into that category. We know that Antifa is evil, that they are anti-American, that they are effectively Marxist shock troops at this point. But to have a man with this kind of power, the Director of Strategy and Security at Dominion, *huge*, powerful, international company. This is big news . . . I mean, this is globalist stuff. This is everybody’s worst nightmare of deep state, George Soros. The idea that a man of this level, at a place like Dominion, which is operating all around the globe in elections, which got started in Venezuela, that somebody like that who despises America. You know, if you despise America, by definition, you become allied with these globalist forces, which are effectively fascist, Marxist, you know. That this guy has this kind of power, I mean, it’s scary, even just having this conversation with you and thinking about this . . . The idea, the *idea*, that anyone would *dare* to try to mess with our elections, many patriots have died, suffered and died, so that we can have what we have. I cannot think of anything more despicable and more worthy

inherent improbability, the unreliability of his source, and the lack of credible evidence in support of these allegations. Metaxas also had no credible evidence that an “Antifa conference call” actually happened; that Dr. Coomer was present on the call; that the comments attributed to Dr. Coomer were actually spoken; or that the alleged election fraud actually occurred. Metaxas also took no actions or efforts to corroborate or verify the baseless allegations before publishing them and disregarded reliable sources establishing the contrary. Following this interview, Metaxas, like Malkin, published additional false statements in tweets, promoting his interview of Oltmann⁷⁵ and additional interviews perpetuating these allegations of fraud to his followers.⁷⁶ Like

of our doing everything we can, including give our lives if necessary, to fight for this, and so that's why I'm so glad to be speaking with you and getting this information out. . . Eric Coomer, has he gone into hiding? What is he thinking? Does he know that he's going to go to prison for the rest of his life?

Oltmann: This isn't all made up, this isn't hyperbole that we're just throwing out there. This is absolute fact.

Metaxas responded: Well there's levels of stupidity and evil, and we know that not everybody is on the same level. There are some people that just hate Trump, but then there are other nefarious actors, like Mr. Coomer and others. It's hard to know what to say other than there's wickedness, there's evil here. Because nothing that they're doing, even if you hate Trump, I have many friends who hate Trump, but they would never do what we're talking about. What we're talking about is evil. In fact, Let's just say this, it's extremely criminal, and these folks know they're going to go to jail for the rest of their lives. It doesn't matter how rich or smart they are. They are in the process of being caught, thanks to God, because you just stumbled across this, God chose you to stumble across this to get this information out. I'm very encouraged by your mere existence, Joe Oltmann.

See The Eric Metaxas Radio Show, *Joe Oltmann Discusses How A Security Genius at Dominion Voting Promised Antifa Members a Trump Loss*, YOUTUBE (Nov. 24, 2020).

⁷⁵ Eric Metaxas (@ericmetaxas), TWITTER (Nov. 24, 2020, 5:26 PM) (“Today Joe Oltmann explained how after infiltrating Antifa he bumped into someone working w/them named Eric Koomer [sic] – who was the head of Security and Safety at #Dominion – and who PROMISED the Antifa folks that ‘effing’ Trump WOULD NOT WIN! Please RT.”).

⁷⁶ Eric Metaxas (@ericmetaxas), INSTAGRAM (Nov. 16, 2020) (“Sidney Powell talks to Lou Dobbs about the Dominion Voting Systems on Fox. Release the Kraken!”); The Eric Metaxas Radio Show, *John Zmirak Shares His Personal Knowledge of the “Authenticity” of Sidney Powell’s Investigation*, YOUTUBE (Nov. 20, 2020); The Eric Metaxas Radio Show, *Eric Examines Sidney Powell Investigation*, YOUTUBE (Nov. 23, 2020); Eric Metaxas, *Joe Oltmann*, THE ERIC METAXAS SHOW PODCAST (Nov. 24, 2020); Eric Metaxas, *Joe*

Oltmann, Metaxas conceived of a story that the results of the election were fraudulent and consciously set out to establish that Dr. Coomer perpetuated this fraud.⁷⁷

60. On November 14, 2020, Gateway Pundit began publishing successive articles written or edited by Hoft based and built upon Oltmann's false allegations. Gateway Pundit and Hoft asserted, "Oltmann said that as the conversation continued, someone asked, 'What are we gonna do if F*cking Trump wins?' Oltmann paraphrased how Eric (the Dominion guy) responded, 'Don't worry about the election, Trump's not gonna win. I made f*cking sure of that!'"⁷⁸ Gateway Pundit repeatedly identified

Oltmann, THE ERIC METAXAS SHOW PODCAST (Nov. 25, 2020); *The Eric Metaxas Radio Show, Kevin McCullough Has Late-breaking News About the Ownership Of Dominion Voting Machines (It's China)*, YOUTUBE (Dec. 3, 2020); *The Eric Metaxas Radio Show, Charlie Kirk Asks Eric Where We Stand As a Nation Right Now & Eric Shares A Christmas Miracle Story*, YOUTUBE (Dec. 9, 2020); *The Eric Metaxas Radio Show, Eric Presents Steve Bannon From Sunday Night's "Prayer Call" | Steve Shares Trump's Path to Victory*, YOUTUBE (Dec. 21, 2020); Eric Metaxas (@ericmetaxas), TWITTER (Jan. 4, 2021, 2:22 PM) ("WATCH! Here's @SidneyPowell1 talking about the election fraud from last night's prayer meeting . . ."); Eric Metaxas, *Mike Lindell, THE ERIC METAXAS SHOW PODCAST* (Jan. 18, 2021).

⁷⁷ Metaxas has advanced varying allegations of voter fraud to support specific political beliefs and specific political candidates as well as to promote his businesses interests. See e.g., *The Eric Metaxas Radio Show, Attorney Jenna Ellis—On Democrats Changing Election Laws for the 2020 Election*, YOUTUBE (May 11, 2020); Eric Metaxas (@ericmetaxas), TWITTER (Nov. 7, 2020, 4:35 PM) (in response to President Trump's allegations of voter fraud to observers and mail-in-ballots, "If an election bears signs of fraud—so that the will of the people was thwarted—it is not an official election. STAY TUNED. And pray. This is absolutely not over, despite what some seem to think. The American people will not roll over.").

⁷⁸ See Jim Hoft, *Report: Anti-Trump Dominion Voting Systems Security Chief Was Participating in Antifa Calls, Posted Antifa Manifesto Letter to Trump Online*, THE GATEWAY PUNDIT, Nov. 14, 2020; *Denver Business Owner: Dominion's Eric Coomer Is an Unhinged Sociopath – His Internet Profile Is Being Deleted and Erased (AUDIO)*, THE GATEWAY PUNDIT, Nov. 16, 2020 ("Oltmann told The Gateway Pundit he believes Eric Coomer is mentally ill and a sociopath."); Jim Hoft, *WAKE UP AMERICA! Bold Billionaire Offers \$1 Million Bounty for Dominion, Eric Coomer's Comeuppance*, THE GATEWAY PUNDIT, Dec. 28, 2020 (After referencing a reward posted on another website by Greek billionaire Alki David for proof that Dominion and Dr. Coomer produced fraudulent votes in the 2020 election, stating "We know that Dominion is one of the companies accused of massive fraud in numerous lawsuits around the country stemming from the 2020 election. But who is Eric Coomer? . . . Eric Coomer is an alleged PhD who allegedly worked for Dominion . . . As an employee of Dominion, he seemed to be fairly integral. In fact, he seems to have designed several voting machine patents beginning in 2011, at least some of which belonged to dominion but now belong to China's HSBC as of last year . . . An affidavit from Trump Lawsuit highlighting Coomer's Dominion Patent, now alleged to belong to China . . . He also can be seen in training videos explaining to users 'adjudication' functions on the vote machine that could allegedly be used to alter votes, singularly or in bulk, if a nefarious user chose to do so. It is also alleged that he or Dominion performed

Oltmann, a “Denver business owner” and “founder of FEC (Faith Education Commerce) United,” as the source of its articles about Dr. Coomer and Dominion, stating:

The Gateway Pundit’s Jim Hoft interviewed Denver business owner Joe Oltmann on Sunday. Oltmann, the founder of FEC (Faith Education Commerce) United, revealed how he infiltrated Antifa and how during a conversation with Antifa members, he discovered “Eric from Dominion” was allegedly part of a chat during the week of September 27, 2020.

After indelibly linking Dr. Coomer and Dominion to false allegations of voter fraud, Gateway Pundit and Hoft proceeded to release additional articles alleging the means with which such fraud occurred.⁷⁹ Similarly, Gateway Pundit and Hoft took no efforts to verify or corroborate these false allegations. Gateway Pundit and Hoft equally had no credible evidence of any “Antifa conference call;” that Dr. Coomer was part of this purported call; or that Dr. Coomer committed election fraud. Gateway Pundit and Hoft also took no actions or efforts to corroborate or verify the baseless allegations before publishing them

illegal un-certified updates to possibly 1000s of Georgia election machines just days before the election . . . Coomer and Dominion Voting Systems are also allegedly threatening hefty lawsuits against all websites and news agencies who dare to speak out against their alleged massive national (and possibly international) scheme to allegedly rig our alleged elections. That is why we all must be very careful about what we say about Dominion and The Great and Powerful Eric Coomer.”).

⁷⁹ See Jim Hoft, *IT WAS SYSTEMIC-PURPOSEFUL FRAUD: Clark County Nevada Dominion Machines ALSO Kicked out “About 70% of Ballots” – It Was in the Settings!*, THE GATEWAY PUNDIT, Dec. 15, 2020 (“The Dominion machines were set up to dispute 68.05 percent of all ballots. These ballots were then sent off to ‘another location’ where people in other locations could change the votes. This election is a fraud.”); Jim Hoft, *New Video Shows Dominion’s Eric Coomer Admitting Their Voting Machine Systems Are Wireless and Support All Networks*, THE GATEWAY PUNDIT, Jan. 3, 2021; Joe Hoft, *Report: Georgia Secretary of State Brad Raffensperger Neglected to Protect Georgians By Allowing Dominion Voting Machines in Elections – He Didn’t Prevent Fraud – He Provided for It*, THE GATEWAY PUNDIT, Jan. 4, 2021; Joe Hoft, *New Detailed Inventory on Election Fraud in the 2020 Election by Deroy Murdock Provides Strong Evidence on President Trump’s Performance in All the Swing States and Overall Race*, THE GATEWAY PUNDIT, Jan. 9, 2021 (“Everyone knows the results of the 2020 election are invalid. Even the corrupt politicians who ignored the fraud.”); Joe Hoft, *Accurate List of 2020 Election Fraud Cases Shows 81 Cases Total, 30 Still Active – And NOT ONE SINGLE COURT Has Allowed Evidence to be Argued*, THE GATEWAY PUNDIT, Jan. 24, 2021 (“The 2020 election will go down as arguably the greatest fraud in world history. The tremendously popular incumbent candidate, President Trump, was easily winning the race on election night in a landslide and then suddenly multiple states took a break, quit counting, and by the end of the week the election was flipped to Joe Biden.”).

and disregarded reliable sources establishing the contrary. Oltmann has admitted there is no recording of this call.⁸⁰ Gateway Pundit and Hoft knowingly and recklessly published these false statements despite their inherent improbability, the unreliability of the source, and the lack of credible evidence. Gateway Pundit and Hoft made these false statements to support their preconceived conspiracy that the election was fraudulent.⁸¹

61. On November 17, 2020, OANN Chief White House Correspondent Chanel Rion published false statements regarding Dr. Coomer, tweeting “Dominion Director of Strategy and Security, #EricCoomer: ‘Trump won’t win. I made F***ing sure of that.’”⁸² As a representative of OANN and national broadcast reporter, Rion has a Twitter following of roughly 588,000 people with followers across the United States, including those in Colorado. Rion’s November 17 tweet referencing Dr. Coomer garnered more than 40,000 likes. OANN and Rion went on to broadcast false allegations of the statements and actions Oltmann attributed to Dr. Coomer of election fraud, including a three-part report focusing on Dominion and Dr. Coomer, which President Trump

⁸⁰ See Joseph Oltmann, et al., *Ep. 196–Dominion Voting Machines*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020) (In response to the statement “but we don’t have a recording,” Oltmann stated “[i]t doesn’t matter if I don’t have it recorded.”).

⁸¹ Gateway Pundit and Hoft have a history of advancing varying allegations of voter fraud to support specific political beliefs and specific political candidates as well as to promote their businesses interests. See Joe Hoft, *ROGER STONE EXCLUSIVE: How the Democrats Plan to Steal the 2020 Election*, THE GATEWAY PUNDIT, October 31, 2020; Joe Hoft, *2020 Election Prediction: Despite Massive Headwinds and Democrat Attempts to Steal Election, President Trump Will Win in Larger Landslide than 2016*, THE GATEWAY PUNDIT, October 23, 2020; Cassandra Fairbanks, *4Chan Users Claim To Have Found Way To Easily Change People’s Voter Registration and Cancel Ballots Online in Washington and Oregon*, THE GATEWAY PUNDIT, October 18, 2020; Joe Hoft, *ELECTION FRAUD: Pennsylvania Rejects 334,000 Duplicate Ballots Already; Kentucky Reports Bins of Ballots Discarded*, THE GATEWAY PUNDIT, October 17, 2020.

⁸² Chanel Rion OAN (@ChanelRion), TWITTER (Nov. 17, 2020, 8:35 AM).

retweeted to his followers.⁸³ Given OANN and Rion’s coverage of President Trump and the Trump Campaign, the President had increasingly promoted their reporting.⁸⁴ President Trump at that time had a national audience of over 88,000,000 followers on Twitter, including upon information and belief a substantial number of Colorado residents. After linking Dr. Coomer and Dominion to false allegations of voter fraud, OANN continued to perpetuate allegations of systemic voter fraud.⁸⁵ Similarly, OANN and Rion took no efforts to verify or corroborate these false allegations before publishing them and disregarded reliable sources establishing the contrary. They had no credible evidence of any “Antifa conference call;” that Dr. Coomer was part of this purported call;

⁸³ See Chanel Rion, *Dominion-izing the Vote*, YOUTUBE (Nov. 21, 2021) (saying “In Coomer’s case, he was in a position of power to actually act on his rage against Trump and Trump voters. What does he mean when he says ‘Trump won’t win. I made f-ing sure of that.’ Nothing?”); *Top Dominion Exec: Trump Is Not Going to Win. I Made F***ing Sure of That*, Nov. 29, 2020, YOUTUBE (publishing Oltmann saying “Eric Coomer was this, you know, he’s not just Antifa, he was responsible for putting his finger on the scales of our election” and adding “If Coomer is investigated and found to have indeed tampered with a presidential election, such an action could be tried for treason. Unfortunately, the question is, will the FBI step up to investigate?”); see also Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 18, 2020, 11:41 PM), (Nov. 21, 2020, 10:30 PM), (Nov. 21, 2020, 10:31 PM), and (Nov. 21, 2020, 10:32 PM).

⁸⁴ Margaret Sullivan, *When Fox News disappoints, Trump has a backup: the conspiracy theory-peddling OANN*, WASH. POST, June 10, 2020, https://www.washingtonpost.com/lifestyle/media/when-fox-news-disappoints-trump-has-a-backup-the-conspiracy-peddling-oann/2020/06/10/c2a6ec8e-ab1f-11ea-9063-e69bd6520940_story.html (last visited Feb. 4, 2021); Jason Wilson, *OANN: what is the alternative far-right media outlet Trump is pushing?*, GUARDIAN, Nov. 16, 2020, <https://www.theguardian.com/us-news/2020/nov/16/oann-what-is-tv-network-trump-ispushing> (last visited Feb. 4, 2021).

⁸⁵ Upon information and belief, OANN published several false statements of voter fraud relating to Dominion, which OANN had directly linked to Dr. Coomer, across various segments, including but not limited to: In Focus, *Former U.S. Attorney, Joe DiGenova, On the Growing Evidence of Voter Fraud*, OANN, Nov. 20, 2020 (Identifying Joe DiGenova as counsel for the Trump Campaign, publishing false allegations of voter fraud involving Dominion, including bulletins stating “Trump Campaign Building on 9 Key Points All Pointing to Election Fraud”); OAN News 8 AM, *Voting Fraud: Trump Legal Team Presents ‘Clear and Viable’ Path to Victory*, OANN, Nov. 20, 2020 (publishing false allegations that Sidney Powell was “making the case” for voter fraud, that Dominion and Smartmatic software was linked, and that real time data showed irregularities with Dominion voting machines); *Sydney [sic] Powell Launches Election Lawsuits in Michigan, Georgia*, OANN, Nov. 28, 2020 (publishing false allegations of voter fraud using Dominion’s software programs); *President Trump’s Path to Re-Election*, OANN, Dec. 21, 2020 (publishing allegations in support of false statements regarding voter fraud); *George Soros-Linked Election Software Company Denies Ties with Dominion*, Dec. 21, 2020 (publishing allegations in support of false statements regarding voter fraud so as to link Dominion, Smartmatic, and George Soros).

or that Dr. Coomer committed election fraud. Instead, like other Defendants, OANN and Rion knowingly and recklessly published false statements about Dr. Coomer to support a preconceived conspiracy that the election was fraudulent.⁸⁶

62. Newsmax also began publishing false statements regarding Dr. Coomer. On November 17, 2020, Newsmax aired an episode of “American Agenda” that identified Dr. Coomer by name in relation to allegations of voter fraud with election equipment for Dominion and Smartmatic, a competitor of Dominion, alongside alleged conspiratorial connections with the 90-year-old Hungarian philanthropist George Soros.⁸⁷ Newsmax suggested nefarious intent when noting that Dominion had “scrubbed [Dr. Coomer] from their website.” In reality, Dr. Coomer had not been on Dominion’s website for years and Dominion employees’ identities were removed from third party marketing sites as an essential safety precaution given the numerous death threats already targeting them. On

⁸⁶ OANN has a history of advancing varying allegations of voter fraud to support specific political beliefs and specific political candidates as well as to promote their businesses interests. See OANN Newsroom, *Several States Investigating Accounts of Mail-In Voter Fraud*, OANN, Sept. 27, 2020; OANN Newsroom, *President Trump Slams Mail-In Voting As A ‘Scam,’ Says It Will Be ‘A Disaster,’* OANN, Sep. 19, 2020; OANN Newsroom, *AG Barr: Mail-In Ballots Enable Fraud, Voter Coercion*, OANN, Sept. 3, 2020.

⁸⁷ American Agenda, *Who is behind Dominion Voting System*, NEWSMAX, Nov. 17, 2020 (Childers: “... we’re talking about Dominion Voting, everyone has heard of it by now. It is one of the major systems used to case election ballots all across the nation. It is used in fact in 28 states. It has come under fire as allegations of voter fraud . . . in which votes for the President were switched to Joe Biden . . . and joining us now to talk a little more about it, what was in fact uncovered, is national security and foreign policy advisory board Trump for President 2016 Kenneth Timmerman . . . you are also the author of Election Heist.” Timmerman: “Dominion is certainly backpedaling very quickly . . . their relationship with Smartmatic . . . chairman of the board of Smartmatic until recently . . . was an investment partner of George Soros . . . Smartmatic changed their website and scrubbed him from the website and Dominion scrubbed about half of their employees . . . their profiles . . . including a gentleman named Eric Coomer, who is best known for having reposted the Antifa manifesto and sent it to President Trump.” With the bulletin “Is the President Right About Faulty Dominion Machines,” Sellers: “It seems Ken like they’ve never heard of each other . . . as you know, they have. They’ve worked together in some cases.” Timmerman stating that not all systems have paper backups, following with allegations the certification of Dominion software was faulty: “You don’t certify the software four days before the election, it could very well be hacked . . . the hacking doesn’t have to come by Dominion by the way, it can come from someone impersonating Dominion.”).

November 20, 2020, Newsmax host Howie Carr invited Powell onto “The Howie Carr Show” to elaborate on her baseless allegations of voter fraud. Carr sought confirmation from Powell regarding the false allegations she had made against Dr. Coomer, asking her if it was true that Dr. Coomer was on a conference call with Antifa and had allegedly claimed he rigged the election.⁸⁸ Carr did not ask for any proof when Powell affirmed those allegations, when she stated that she had a recording of the call (she does not), or when she went on to make further baseless allegations of connections between George Soros and Dominion. Just a week later Newsmax aired an episode of Michelle Malkin’s “Sovereign Nation” wherein she focused an entire segment on Dr. Coomer.⁸⁹ Malkin invited Oltmann on the show for a lengthy interview where Oltmann again promoted his false allegations against Dr. Coomer. Malkin falsely claimed that Oltmann “heard the name Eric Coomer” on the call (he did not), and Oltmann noted that she was an early vector for facilitating the spread of the story.⁹⁰ On December 5, 2020, Newsmax host Greg Kelly invited Ken Timmerman on his show, Greg Kelly Reports, to discuss his book “The Election Heist.”⁹¹ Timmerman concluded the segment by repeating the question that had driven Dr. Coomer into hiding and that had resulted in countless death threats:

⁸⁸ See Howie Carr, THE HOWIE CARR RADIO NETWORK PODCAST, (Nov. 20, 2020) (Carr asking, “Let me ask you about this guy Eric Coomer. He’s—I think—he works for Dominion. He’s [a] Berkley, California—University of California grad. He’s the one who was allegedly . . . on a conference call or something—a Zoom—with Antifa. And he said supposedly, ‘Don’t worry about Trump. I’ve already made sure he’s going to lose the election.’ Is that true, for starters?” Powell responded, “Yes . . . We have an affidavit to that effect and we have the—I think we have a copy of the call.” Carr continued, “Where is Eric Coomer now?” Powell responded, “He’s disappeared. And also Dominion has shuttered up both of their offices in Canada where they shared an office floor with George Soros entities and they have moved their office in Denver and of course, I’m sure there was a lot of document shredding and thing quote lost end quote in that process.”).

⁸⁹ See Sovereign Nation with Michelle Malkin, *Hacking the Vote*, NEWSMAX, Nov. 28, 2020.

⁹⁰ See *supra* at n.70.

⁹¹ Greg Kelly Reports, NEWSMAX, Dec. 5, 2020.

“Where is Eric Coomer? Where is Eric Coomer, the Dominion guy who is behind all of this?” Kelly responded, “Good question. Good question indeed. We’ll see you later, okay? Eric Coomer, yeah, that’s certainly not a household name yet. Could be soon. We’ll be right back.”⁹² After linking Dr. Coomer and Dominion to allegations of voter fraud, on December 15, 2020, Newsmax aired another episode of “American Agenda” linking Dominion with Smartmatic, alleging Smartmatic was Venezuelan-owned, and falsely alleging there was systemic fraud.⁹³ Newsmax repeatedly promoted these false allegations of voter fraud.⁹⁴ Newsmax took no efforts to verify or corroborate the false allegations against Dr. Coomer and Dominion before publishing them and disregarded reliable sources establishing the contrary.⁹⁵ It had no credible evidence of any “Antifa

⁹² Upon information and belief, a similar segment was aired by Newsmax on December 4, 2020 and December 5, 2020, on its daytime program “Spicer and Co,” which also asked “Where is Eric Coomer? . . . the guy who’s behind it all . . . that’s certainly not a household name yet but could be soon.”

⁹³ American Agenda, NEWSMAX, Dec. 15, 2020 (Morris: “Dominion software was licensed from Smartmatic, which is a Venezuelan owned and controlled company. So, we’re dealing with here the most incredible, systemic fraud. This is the exact same system they’re using in Georgia on January 5th.” Childers: “Regardless of whether it was caused by human error rate of 68 percent versus what the FEC says is acceptable of .0008 percent. Dramatically different”).

⁹⁴ Upon information and belief, Newsmax published several false statements of voter fraud relating Dominion, which Newsmax had directly linked to Dr. Coomer, across various segments, including but not limited to: Stinchfield, NEWSMAX, Nov. 17, 2020 (publishing statements that election fraud may well have originated in the Dominion software); John Bachman Now, NEWSMAX, Nov. 19, 2020 (publishing statements of a wide-ranging conspiracy involving George Soros, deceased Venezuelan president Hugo Chavez, and Dr. Coomer); American Agenda, NEWSMAX, Dec. 15, 2020 (publishing statements that Dominion software is licensed from Smartmatic); Greg Kelly Reports, NEWSMAX, Dec. 17, 2020 (publishing statements that Smartmatic election software was used by various foreign governments to destroy the election system); American Agenda, *Who is behind Dominion Voting System*, NEWSMAX, Dec. 18, 2020 (publishing statements that actual intervention in the vote count with Dominion software has been “proven”); The Chris Salcedo Show, NEWSMAX, Dec. 18, 2020 (publishing statements that Smartmatic election software only used to easily change votes).

⁹⁵ Since then, Newsmax has issued a sweeping retraction for such statements, stating:

Since election day, various guests, attorneys and elected officials have appeared on Newsmax and offered opinions and claims about Smartmatic and Dominion Systems, both companies that offer voting software in the U.S. Newsmax would like to clarify its news

conference call;” that Dr. Coomer was part of this purported call; or that Dr. Coomer committed election fraud or subverted the results of the election. Instead, like other

coverage and note that it has not reported as true certain claims made about these companies. There are several facts our viewers and readers should be aware of.

Newsmax has found no evidence that either Dominion or Smartmatic owns the other, or has any business association with each other. We have no evidence that Dominion uses Smartmatic software, or vice versa. No evidence has been offered that Dominion or Smartmatic used software or reprogrammed software that manipulated votes in the 2020 election. Smartmatic has stated that its software was only used in the 2020 election in Los Angeles. It was not used in any battleground state contested by the Trump Campaign. Newsmax has no evidence to the contrary.

Dominion has stated the company has no ownership relationship with the Pelosi family, the Feinstein family, the Clinton family, Hugo Chavez, or the government of Venezuela. Neither Dominion nor Smartmatic has any relationship with George Soros. Smartmatic is a U.S. company, and not owned by the Venezuelan government, Hugo Chavez, or any foreign official or entity. Smartmatic states that it has no operations in Venezuela. While the company did election projects in Venezuela from 2004-2017, it states that it was never founded by Hugo Chavez, nor did it have a corrupt relationship with him, or the Venezuelan government.

See Jeremy Barr, Newsmax issues sweeping ‘clarification’ debunking its own coverage of election information, WASH. POST, Dec 21, 2020, <https://www.washingtonpost.com/media/2020/12/21/newsmax-clarification-smartmatic/> (last visited Feb. 4, 2021). Other entities have similarly issued retractions, including the American Thinker Magazine:

American Thinker and contributors Andrea Widburg, R.D. Wedge, Brian Tomlinson, and Peggy Ryan have published pieces on www.AmericanThinker.com that falsely accuse US Dominion Inc., Dominion Voting Systems, Inc., and Dominion Voting Systems Corporation (collectively “Dominion”) of conspiring to steal the November 2020 election from Donald Trump. These pieces rely on discredited sources who have peddled debunked theories about Dominion’s supposed ties to Venezuela, fraud on Dominion’s machines that resulted in massive vote switching or weighted votes, and other claims falsely stating that there is credible evidence that Dominion acted fraudulently.

These statements are completely false and have no basis in fact. Industry experts and public officials alike have confirmed that Dominion conducted itself appropriately and that there is simply no evidence to support these claims.

It was wrong for us to publish these false statements. We apologize to Dominion for all of the harm this caused them and their employees. We also apologize to our readers for abandoning journalistic principles and misrepresenting Dominion’s track record and its limited role in tabulating votes for the November 2020 election. We regret this grave error.

Thomas Lifson, Statement, AM. THINKER, Jan. 15, 2021,
<https://www.americanthinker.com/blog/2021/01/statement.html> (last visited Feb. 4, 2021).

Defendants, Newsmax knowingly and recklessly published false statements about Dr. Coomer to support a preconceived conspiracy that the election was fraudulent.⁹⁶

63. The Trump Campaign fomented these conspiracies of election fraud. Beginning as early as 2016, President Trump and the Trump Campaign began to promote baseless allegations of voter fraud as a justification for then losing the popular vote.⁹⁷ In the months leading to the 2020 election, the Trump Campaign revived these allegations in the event of a loss and repeatedly refused to agree to accept the results of the election.⁹⁸ After election night, as President Trump's early lead dwindled, the Trump Campaign refused to accept the results and instead turned to allegations of fraud.⁹⁹ This included

⁹⁶ Newsmax has a history of advancing varying allegations of voter fraud to support specific political beliefs and specific political candidates as well as to promote their businesses interests. See John Gizzi, *Pennsylvania Conservatives Echo Trump on Possible Voter Fraud*, NEWSMAX, Sept. 28, 2020 (separate allegations of voter fraud); Michael Dorstewitz, *On Elections Trump Is Right: Protect Integrity, Beware of Fraud*, NEWSMAX, Sept. 30, 2020 (separate allegations of voter fraud).

⁹⁷ See Jim Rutenberg, et al., *77 Days: Trump's Campaign to Subvert the Election*, N.Y. TIMES, Jan. 31, 2021, <https://www.nytimes.com/2021/01/31/us/trump-election-lie.html> (last visited Feb. 4, 2021).

⁹⁸ As the Trial Memorandum of the U.S. House of Representatives stated:

Before a single voter cast a ballot in the 2020 presidential election President Trump made it clear that he had no intention of abiding by the verdict of the American people. In a July 2020 interview, he pointedly refused to agree that he would accept the election results. Pressed in September 2020 on whether he would "commit to making sure that there is a peaceful transferal [sic] of power after the election," he responded: "We're going to have to see what happens." Throughout this period, he insisted at rallies and through social media that if he appeared to lose the election, the only possible explanation was a conspiracy to defraud him and those who supported him. On August 17, for instance, he asserted that "the only way we're going to lose this election is if this election is rigged." One week later, he declared that "[t]he only way they can take this election away from us is if this is a rigged election." He echoed these points at every opportunity, laying the groundwork for a refusal to accept any outcome other than his own continued grip on power.

See In re Impeachment of Donald J. Trump, Tr. Memo., In the Senate of the United States Sitting as a Court of Impeachment, Feb. 2, 2021 (internal citations omitted).

⁹⁹ See Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 4, 2020, 12:49 A.M.) ("We are up BIG, but they are trying to STEAL the Election. We will never let them do it."); Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 8, 2020, 9:17 A.M.) ("this was a stolen election").

Oltmann's baseless allegations against Dr. Coomer.¹⁰⁰ On November 17, 2020, Eric Trump, a representative and surrogate of President Trump's campaign, tweeted the following:¹⁰¹



With his relationship to the President and the Trump Campaign, Eric Trump has a Twitter following of roughly 4.5 million people, including a significant number of Colorado

¹⁰⁰ See Wake Up with Randy Corporon, 710 KNUS, Nov. 14, 2020 (Corporon assisted Oltmann in preparing an affidavit for the Trump Campaign regarding Oltmann's false statements of voter fraud, stating "Joe is part of that evidence now, because yesterday we polished up an affidavit and sent it directly to Jenna Ellis, Donald Trump's, actually she sent it to me, because she put it together after conversations with him, and I reviewed it and cleaned it up . . . When I say we, I am a minor wheel in the cog of the Trump team lawyers, just doing whatever I can, whenever I am told, any time I am told it, to try to move this thing along.").

¹⁰¹ Eric Trump (@EricTrump), TWITTER (Nov. 17, 2020, 2:49 PM).

residents.¹⁰² Eric Trump's November 17 tweet falsely attributed the quote "Don't worry about the election, Trump's not gonna win. I made f*cking sure of that!" to Dr. Coomer and linked a Gateway Pundit article identifying "Denver Business Owner" Oltmann as its source for allegations against Dr. Coomer and Dominion. This false statement garnered more than 38,000 likes. While Eric Trump's published tweet was intended to reach a national audience to cast doubt on the integrity of an election for the benefit of the Trump Campaign, it directly identified and targeted Colorado and Coloradan audiences. As intended, followers in Colorado received Eric Trump's message and responded.¹⁰³ Despite the lack of evidence, unreliability of the source, and improbability of the allegations, Eric Trump, as a representative of the Trump Campaign, promoted a preconceived conspiracy of election fraud in support of the Trump campaign.¹⁰⁴

¹⁰² Eric Trump has campaigned on behalf of the Trump Campaign in Colorado and specifically in relation to FEC United. See Erik Maulbetsch, *FEC United Founder Threatens Journalists at GOP Campaign Event*, COLO. TIMES RECORDER, Oct. 16, 2020, <https://coloradotimesrecorder.com/2020/10/fec-united-founder-threatens-journalists-at-gop-candidate-event/31689/> (last visited Feb. 4, 2021) (reporting a political event held by FEC United and Oltmann in Colorado featured video message from Eric Trump before the presidential election).

¹⁰³ See e.g., Liesl Bryan (@LieslBryan), TWITTER (Nov. 17, 2020, 3:43 PM) ("We need a revote in Colorado then!"); Optimistforever – blacklisted by commies (@99Cornelia6), TWITTER (Nov. 17, 2020, 2:53 PM) ("Maybe Colorado is blue for the same reason!!"); Bink's MamaBear (@Binks_MamaBear), TWITTER (Nov. 17, 2020, 3:09 PM) ("Yet, no one is investigating Colorado's results. Why?!?! @JenaGriswold insisted our elections were perfect. I'm certain if they were audited Gardner & House would've won. There's an active campaign to recall polis. @pnjaban @SidneyPowell1 @RonColeman @LLinWood."); D W Jenkins(@DWJenkins1), TWITTER (Nov. 17, 2020, 2:51 PM) ("Denver and all the front range need to be scrutinized").

¹⁰⁴ Eric Trump and the Trump Campaign have a history of advancing varying allegations of voter fraud to support and promote their political advancement. See Donald J. Trump (@realDonaldTrump), TWITTER (Jun. 22, 2020, 6:10 AM) (separate allegations of fraud); see also Tiffany Hsu, *Conservative News Sites Fuel Voter Fraud Misinformation*, N.Y. TIMES, Oct. 25, 2020, <https://www.nytimes.com/2020/10/25/business/media/voter-fraud-misinformation.html> (last visited Feb. 4, 2021); Pat Beall et. al., *We analyzed a conservative foundation's catalog of absentee ballot fraud: It's not a 2020 election threat*, USA TODAY, Oct. 20, 2020, <https://www.usatoday.com/in-depth/news/investigations/2020/10/20/trumps-absentee-ballot-fraud-claims-not-supported-evidence/5969447002/> (last visited Feb. 4, 2021); Arielle Mitropoulos, *Trump's ballot fraud allegations*

Similarly, Eric Trump took no actions or efforts to corroborate or verify the baseless allegations before publishing them and disregarded reliable sources establishing the contrary.

64. Furthering the false allegations, on November 19, 2020, the Trump Campaign provided an update on its legal challenges to the election from the Republican National Committee in Washington D.C.¹⁰⁵ Among those who spoke at the press conference were personal attorneys for President Trump, as well as the Trump Campaign, including (at that time) Sidney Powell, Rudolph Giuliani, and Jenna Ellis.¹⁰⁶ During the press conference, Powell falsely stated:

Speaking of Smartmatic's leadership, one of the Smartmatic patent holders, Eric Coomer I believe his name is, is on the web as being recorded in a conversation with Antifa members, saying that he had the election rigged for Mr. Biden, nothing to worry about here, and he was going to, they were going to f— Trump. His social media is filled with hatred for the President, and for the United States of America as a whole, as are the social media accounts of many other Smartmatic people.

Giuliani furthered these unfounded attacks on Dr. Coomer, stating:

By the way, the Coomer character, who is close to Antifa, took off all of his social media, haha, but we kept it. We've got it. The man is a vicious, vicious man. He wrote horrible things about the president. He is completely – he is completely biased. He is completely warped. And, he specifically says, that they are going to fix this election. I don't know what you need to wake

embellished and not widespread: Experts, ABC, Oct. 20, 2020, <https://abcnews.go.com/Politics/trumps-ballot-fraud-allegations-embellished-widespread-experts/story?id=73701060> (last visited Feb. 4, 2021).

¹⁰⁵ This event was broadcast on C-SPAN. It has also been substantially reported across various media outlets, including CNN, Fox, The New York Times as well as Defendants OANN and Newsmax. President Trump also tweeted this news conference. See Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 19, 2020, 6:59 AM) (“Important News Conference today by lawyers on a very clear and viable path to victory. Pieces are very nicely falling into place. RNC at 12:00 P.M.”)

¹⁰⁶ See Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 14, 2020, 9:11 PM) (“Rudy, Giuliani, Joseph diGenova, Victoria Toensing, Sidney Powell, and Jenna Ellis, a truly great team, added to our wonderful lawyers and representatives!”).

up, to do your job, and inform the American people, whether you like it or not, of the things they need to know.

This is real. It is not made up. It is not - there is nobody here that engages in fantasies. I've tried a hundred cases. I've prosecuted some of the most dangerous criminals in the world. I know crimes. I can smell them. You don't have to smell this one. I can prove it to you eighteen different ways. I can prove to you that he won Pennsylvania by 300,000 votes. I can prove to you that he won Michigan by probably 50,000 votes.

When I went to bed on election night, he was ahead in all of those states, every single one of those states. How is it they all turned around? Every single one of them turned around. Or is it more consistent that there was a plan to turn them around? And since there are witnesses who say there was a plan to turn them around, and it kind of begs credulity to say that it all happened in every single state, my goodness this is how you win cases in a courtroom.

Giuliani's statement echoed several previous statements he made about Dr. Coomer.¹⁰⁷

These statements are false. Dr. Coomer is not part of Smartmatic. He never had a conversation with anyone claiming to be Antifa, he never uttered words suggesting he would rig the election, and he never took actions to rig the election. As noted above, Dr. Coomer's social media was private and, of course, under the First Amendment to the Constitution, he is entitled to his political opinion. Notably, Ronna McDaniel, the chairwoman of the Republic National Committee, has since expressed regret over letting

¹⁰⁷ On November 12, 2020, in a nationally televised interview on Lou Dobbs Tonight, Giuliani falsely claimed that Dominion was owned by Smartmatic and that Smartmatic was formed to "fix the elections" by Venezuelans and that Smartmatic was being run by individuals in George Soros's organization. *Lou Dobbs Tonight*, FOX BUSINESS, Nov. 12, 2020. On November 13, 2020, Giuliani again said that "Dominion software . . . really is Venezuelan . . . it's called Smartmatic." *Chat with the Mayor: Major Challenges*, 77WABC, Nov. 13, 2020. On November 14, 2020, Giuliani tweeted that Dominion "was a front for Smartmatic." Rudy W. Giuliani (@RudyGiuliani), TWITTER (Nov. 14, 2020). On November 15, 2020, during his radio show and a televised interview on Fox News, Giuliani claimed that Dominion uses Venezuelans software "that's been used to steal elections in other countries" and that Dominion "notifies" election officials as to when they can add fake ballots. *Uncovering the Truth with Rudy Giuliani & Dr. Maria Ryan: Voter Fraud*, 77WABC, Nov. 15, 2020; *Giuliani: Trump is contesting the election 'vigorously' in the courts*, FOX NEWS., Nov. 15, 2020.

Powell and Giuliani hold this press conference, stating “When I saw some of the things Sidney was saying, without proof, I certainly was concerned it was happening in my building.”¹⁰⁸

65. The Trump Campaign and its representatives knowingly and recklessly made these statements despite the lack of credible evidence, the unreliability of their sources, and the improbability of the allegations.¹⁰⁹ They similarly took no actions or efforts to corroborate or verify the baseless allegations before publishing them and disregarded reliable sources establishing the contrary.¹¹⁰ They continued to promote a

¹⁰⁸ See Annie Karni, et al., *An Emboldened Extremist Wing Flexes Its Power in a Leaderless G.O.P.*, N.Y. TIMES, Feb. 1, 2021, <https://www.nytimes.com/2021/02/01/us/politics/republicans-trump-ronna-mcdaniel.html> (last visited Feb. 4, 2021).

¹⁰⁹ Counsel for the Trump Campaign had declined to make allegations of systemic voter fraud in court under penalty of perjury. One attorney for the campaign recently filed a motion for leave to withdraw as counsel for the Trump Campaign, stating it had used his “services to perpetuate a crime” and “insist[ed] upon taking action that the lawyer considers repugnant and with which the lawyer has a fundamental disagreement.” *See Trump for President, Inc. v. Phila. Cnty. Bd. of Elections*, No. 2:20-cv-05533-PD (E.D. Pa.) at Dkt. No. 9. There are reports indicating President Trump and the Trump Campaign were advised these allegations were baseless. *See* Jonathan Swan, et al., *Bonus Episode, Inside the craziest meeting of the Trump presidency*, Axios, Feb. 2, 2021, <https://wwwaxios.com/trump-oval-office-meeting-sidney-powell-a8e1e466-2e42-42do-9cf1-26eb267f8723.html>.

¹¹⁰ Several Trump Campaign attorneys are now being investigated for failures of professional obligations for peddling such claims. Michigan’s Attorney General, Secretary of State, and Governor filed complaints with the State Bar of Texas requesting that Powell be disbarred for violating her ethical and professional obligations by “fil[ing] a complaint based on falsehoods, us[ing] her law license in an attempt to disenfranchise Michigan voters and undermine the faith of the public in the legitimacy of the recent presidential election, and len[ding] credence to untruths that led to violence and unrest.” *See* Press Release, State of Michigan, AG Nessel, Gov. Whitmer, Secretary Benson Seek Disbarment of Attorneys for Pushing Election Fraud Narrative, Feb. 1, 2021, <https://www.michigan.gov/som/0.4669.7-192-26847-551080--.oo.html> (last visited Feb. 4, 2021). The New York State Bar Association (NYSBA) received hundreds of similar complaints about Giuliani and “his baseless efforts on behalf of President Trump to cast doubt on the veracity of the 2020 presidential election and after the votes were cast, to overturn its legitimate results” and announced its formal investigation into Giuliani and his efforts, which “included the commencement and prosecution of court actions in multiple states without any evidentiary basis whatsoever.” *See* Susan DeSantis, *New York State Bar Association Launches Historic Inquiry into Removing Trump Attorney Rudy Giuliani From Its Membership*, N.Y. STATE BAR ASSOC., Jan. 11, 2021, <https://nysba.org/new-york-state-bar-association-launches-historic-inquiry-into-removing-trump-attorney-rudy-giuliani-from-its-membership/> (last visited Feb. 4, 2021).

preconceived conspiracy of election fraud in support of their political ends.¹¹¹ In response to inquiries from members of the press in attendance at the news conference, Jenna Ellis, baldly informed them, “Your question is fundamentally flawed when you’re asking, ‘Where is the evidence?’” Following the press conference, various news publications ran headlines questioning the reliability of the Trump Campaign’s allegations.¹¹² Despite concerns raised by news outlets, a significant portion of the public trusts President Trump, his campaign, and his campaign representatives and took these false allegations against Dr. Coomer seriously.¹¹³ This led to an anticipated violent conclusion.

66. In November 2020, Sidney Powell, the Trump Campaign’s then-attorney, began making appearances on nationally broadcasted platforms to further disseminate false statements about election fraud and Dr. Coomer. On November 20, 2020, Newsmax host Howie Carr interviewed Powell on “The Howie Carr Show” and asked her to confirm that there was alleged evidence of widespread voter fraud, that votes cast had been changed through voting machines, that millions of votes had been removed from

¹¹¹ Notably, the legal challenges raised by the Trump Campaign after the election failed to allege or support the false allegations raised to the public. See Alanna Durkin Richer, et. al., *EXPLAINER: A look at Trump’s long-shot legal challenges*, AP, Nov. 18, 2020, <https://apnews.com/article/donald-trump-legal-challenges-explained-075b2ef6f75e9dd3026d54fc38b81920> (last visited Feb. 4, 2021).

¹¹² See e.g., Jane C. Timm, *Rudy Giuliani baselessly alleges ‘centralized’ voter fraud at free-wheeling news conference*, NBC, Nov. 19, 2020, <https://www.nbcnews.com/politics/donald-trump/rudy-giuliani-baselessly-alleges-centralized-voter-fraud-free-wheeling-news-n1248273> (last visited Feb. 4, 2021); Tara Subramaniam, et al., *Fact checking Giuliani and the Trump legal team’s wild, fact-free press conference*, CNN, Nov. 20, 2020, <https://www.cnn.com/2020/11/19/politics/giuliani-trump-legal-team-press-briefing-fact-check/index.html> (last visited Feb. 4, 2021); Andrew Solender, *More Republicans Break with Trump On Election After Giuliani Press Conference*, FORBES, Nov. 20, 2020, <https://www.forbes.com/sites/andrewsolender/2020/11/20/more-republicans-break-with-trump-on-election-after-giuliani-press-conference/?sh=6d9007cb6013> (last visited Feb. 4, 2021).

¹¹³ See Anthony Salvanto et. al., *CBS News Poll: Most feel election is “settled” but Trump voters disagree*, CBS, Dec. 13, 2020.; see also *infra* § IV(D).

President Trump and given to President Joe Biden, and that Dr. Coomer through Dominion was part of this conspiracy to subvert the presidential election. Carr then asked Powell whether Dr. Coomer actually stated “Don’t worry about President Trump, I already made sure that he’s going to lose the election.” Powell falsely attributed these statements to Dr. Coomer, stating “Yes, it’s true. We have an affidavit to that effect and I think we have a copy of the call.”¹¹⁴ She further alleged Dr. Coomer had disappeared, and Dominion had closed its offices in Denver and Toronto. Powell had no “copy of the call” or recording.¹¹⁵ Dr. Coomer had not “disappeared.” And Dominion had not closed its offices. These allegations were capable of verification. Yet, neither Newsmax nor Powell made any legitimate effort to verify them before publishing. They had no credible evidence or reliable source. They again disregarded reliable sources establishing the contrary. Like other Defendants, Newsmax and Powell knowingly and recklessly published false statements about Dr. Coomer to support a preconceived conspiracy that the election was fraudulent.¹¹⁶

¹¹⁴ Howie Carr, *The Howie Carr Show*, NEWSMAX, Nov. 20, 2020. The affidavit Powell referenced was made by Oltmann. See e.g., *Bowyer, et al., v. Ducey, et al.*, No. 2:20-cv-02321-DJH (D. Ariz.) at Dkt. No. 1, ¶¶ 94-101. Oltmann, in an interview on the Peter Boyles Show on November 17, 2020 also confirmed he had been “in constant contact with the Trump lawyers.”

¹¹⁵ Oltmann has admitted he has no recording of the alleged “Antifa Conference Call” he infiltrated. See Joseph Oltmann, et al., *Ep. 196—Dominion Voting Machines*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020).

¹¹⁶ Powell also has a history of advancing unsupported theories and allegations of fraud to support specific political beliefs and specific political candidates as well as to promote her businesses interests. See, e.g., Lou Dobbs, *Sidney Powell: Trump has to fight for election integrity*, FOX BUSINESS, Nov. 7, 2020 (alleging that an Obama-era supercomputer known as The Hammer had flipped thousands of votes from Trump to Biden); Sidney Powell, *Licensed to Lie* (2nd ed. 2018) (alleging deep state corruption in the Justice Department); Jeremy W. Peters, et al., *What We Know About Sidney Powell, the Lawyer Behind Wild Voting Conspiracy Theories*, Dec. 8, 2020, <https://www.nytimes.com/article/who-is-sidney-powell.html> (last visited Feb. 4, 2021). For example, in her November 7, 2020 interview on The Lou Dobbs Show, Powell

67. On this same day, Powell appeared in another interview with Maria Bartiromo and again alleged she had a tape of Dr. Coomer saying he was going to rig the election for Biden.¹¹⁷ Again, she had no tape. However, Powell apparently did not have time to appear on Fox News that same day with Tucker Carlson. That evening, Carlson published an opinion piece wherein he stated, “We asked the Trump campaign attorney for proof of her bombshell claims. She gave us nothing.”¹¹⁸ Carlson went on to explain that:

[W]e invited Sidney Powell on the show. We would have given her the whole hour. We would have given her the entire week, actually, and listened quietly the whole time at rapt attention.

But she never sent us any evidence, despite a lot of polite requests. When we kept pressing, she got angry and told us to stop contacting her. When we checked with others around the Trump Campaign, people in positions of

turned to far-right conspiracy theories circulated prior to the election regarding programs called The Hammer and Scorecard stating:

I think there are a number of things [the Department of Justice] need[s] to investigate, including the likelihood that 3% of the vote total was changed in the pre-election voting ballots that were collected digitally by using the Hammer program and the software program called Scorecard. That would have amounted to a massive change in the vote that would have gone across the country and explains a lot of what we’re seeing. In addition, they ran an algorithm to calculate votes they might need to come up with for Mr. Biden in specific areas . . . I think they were very broadly used, but not by the vote counters. They were used by the forces in the Democratic operatives that had access to these programs through the government access points that they have and used it illegally to change votes in this country. It’s got to be investigated probably by the president’s most trusted military intelligence officials who can get into the system and see what was done, but we do have some evidence that was exactly what happened. And they’ve used it against other entities in other countries, it’s just been turned recently against our own citizens here to change election results.

Lou Dobbs Tonight, *Sidney Powell: Trump has to fight for election integrity*, FOX BUSINESS, Nov. 7, 2020. These conspiracies were created well before the 2020 election.

¹¹⁷ See Maria Bartiromo, *Mornings with Maria*, Fox, Nov. 20, 2020 (Powell falsely stating “We’ve got Eric Coomer admitting on tape that he rigged the election for Biden and hated Trump . . . We have pictures of him in other countries helping people rig elections. So he’s got a long history of accomplishing the result that they want accomplished, and I’m sure that it’s for money.”).

¹¹⁸ Tucker Carlson, *Tucker Carlson: Time for Sidney Powell to show us her evidence*, Fox, Nov. 19, 2020.

authority, they also told us Powell had never given them evidence to prove anything she claimed at the press conference.

68. On November 22, 2020, the Trump Campaign purportedly removed Powell from its legal team. “Sidney Powell is practicing law on her own,” Trump’s personal and campaign lawyers said in the statement.¹¹⁹ “She is not a member of the Trump Legal Team. She is also not a lawyer for the President in his personal capacity.” That did not stop Powell’s false statements against Dr. Coomer.

69. Throughout Powell’s various media appearances, she solicited millions of dollars in donations on behalf of her legal defense fund, Defending the Republic. Powell and Defending the Republic then used the donations to fund her attacks on the election and Dr. Coomer.

70. Using these donations, Powell filed highly publicized lawsuits in Arizona, Georgia, Wisconsin, and Michigan, in which Dr. Coomer is a central figure. Powell promised the press she would “release the Kraken” with extensive evidence, but the lawsuits that followed were filled with conspiracy theories, speculation, and typographical errors. Without evidence, she alleged a massive criminal conspiracy under Dr. Coomer’s direction and accused Dr. Coomer of anti-American and criminal conduct:

- In the United States District Court for the Northern District of Georgia, Powell quotes Oltmann’s interview with Michelle Malkin and recounts Oltmann’s story about “Eric from Dominion” saying he fixed the election on an Antifa call.¹²⁰ Judge Timothy Batten dismissed the suit less than two weeks after it was filed.¹²¹ After

¹¹⁹ See Kyle Cheney, *Trump Campaign cuts Sidney Powell from president’s legal team*, POLITICO, Nov. 22, 2020, <https://www.politico.com/news/2020/11/22/trump-campaign-sidney-powell-legal-439357> (last visited Feb. 4, 2021).

¹²⁰ Pearson, et al., v. Kemp, et al., No. 1:20-cv-04809-TCB (N.D. Ga.) at Dkt. No. 1, ¶ 120.

¹²¹ Id. at Dkt. No. 74.

appealing to the U.S. Supreme Court, Powell voluntarily dismissed the lawsuit on January 19, 2021.¹²²

- In the United States District Court for the Eastern District of Michigan, Powell again references the Malkin interview with Oltmann.¹²³ In a scathing order, Judge Linda V. Parker dismissed the case, noting “Plaintiffs are far from likely to succeed in this matter.”¹²⁴
- In the United States District Court of Arizona, Powell alleged Colorado resident Joe Oltmann disclosed that as a reporter he infiltrated ANTIFA, a domestic terrorist organization where he recorded Eric Coomer representing, “Don’t worry about the election. Trump is not going to win . . .”¹²⁵ Judge Diane J. Humetewa dismissed this matter, stating “Allegations that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings and procedure in federal court.”¹²⁶

In the United States District Court for the Eastern District of Wisconsin, Powell again relies on Oltmann to falsely allege that Dr. Coomer was present at an Antifa meeting, made allegations to subvert the election, and suggests he did in fact subvert the election.¹²⁷ Judge Pamela Pepper dismissed this matter, stating “Federal judges do not appoint the president in this country. One wonders why plaintiffs came to federal court and asked a federal judge to do so.”¹²⁸

71. All of the Defendants relied on false statements made by one another to advance a narrative that had no basis in fact. Together, Defendants conceived of a story

¹²² *Pearson, et al., v. Kemp, et al.*, No. 20-816 (U.S.) at Joint Stipulation to Dismiss Appeal.

¹²³ *King, et al., v. Whitmer, et al.*, No. 2:20-cv-13134-LVP-RSW (E. Mich.) at Dkt. No. 1, ¶ 153.

¹²⁴ *Id.* at Dkt. No. 62, p. 35 (the Court goes on to say, “In fact, this lawsuit seems to be less about achieving the relief Plaintiffs seek—as much of that relief is beyond the power of this Court—and more about the impact of their allegations on People’s faith in the democratic process and their trust in our government.”).

¹²⁵ *Bowyer, et al., v. Ducey, et al.*, No. 2:20-cv-02321-DJH (D. Ariz.) at Dkt. No. 1, ¶ 100.

¹²⁶ *Id.* at Dkt. No. 84, p. 28–29.

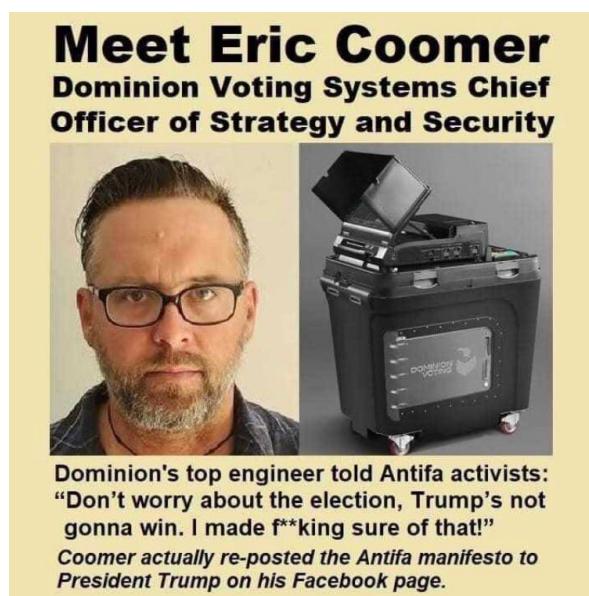
¹²⁷ *Feehan, et al., v. Wis. Elections Comm’n, et al.*, No. 2:20-cv-01771-PP (E.D. Wisc.) at Dkt. No. 1, ¶¶ 99–100.

¹²⁸ *Id.* at Dkt. No. 83, p. 2, 45.

that the results of the election were fraudulent and consciously set out to establish that Dr. Coomer perpetuated this fraud so as to further their own ends. To do this, Defendants disregarded credible evidence and relied on inherently unreliable sources all to form their inherently improbable accusations. Defendants' conduct has resulted in direct harm to Dr. Coomer through their encouragement of violence and threats. This harm is not hypothetical. A direct manifestation of the harm caused by Defendants' conduct is the armed insurrection on the U.S. Capitol on January 6, 2021. Lies about election fraud, including lies about Dr. Coomer, incited the insurrection. The open use of force by the militants further confirms the seriousness of the threats being made against Dr. Coomer.

D. The harm Defendants caused Dr. Coomer.

72. Social media exploded with threats and attacks as the lies spread. For example, on November 21, 2020, anonymous Reddit user “Phero01” posted an article to the subreddit /r/donaldtrump titled “Eric Coomer needs to be arrested before he tries to run/or fly away.” The post contained the following image:



Some of the responses among the hundreds written to this one post include:

“Fking maggot”;

“Most wanted, live, to testify. Report if you know his were abouts. Report any sight-seeing of him. But I think he is going to hide in Venezuela!”;

“If this man disenfranchised people of their votes he deserves worse than life in prison”;

“He disenfranchised millions of people’s voting rights. Wars are fought over that. He deserves everything he gets”;

“His fucken face makes me so fucken mad. FUCK HIM!! TRUMP WON!”;

“A good mug for USA’s Top 10 Terrorist list. Wanted DEAD or ALIVE”;

“This man will be dead within 2 weeks.”

73. Given the flood of negative publicity, including death threats, Dominion was forced to alter its website and attempted to correct the numerous falsehoods Defendants and others had spread about it and its employees.¹²⁹ Dominion posted on its website that “Dominion is not shuttering its offices. Employees have been encouraged to work remotely and protect their social media profiles due to persistent harassment and threats against their personal safety. Dominion employees are being forced to retreat from their lives due to personal safety concerns, not only for our employees themselves, but also for their extended families.”¹³⁰

¹²⁹ Dominion Voting Systems, *Election 2020: Disinformation is Dangerous and Threatens Democracy*, <https://www.dominionvoting.com> (“Get the Facts About Dominion and Its Voting Systems”) (last visited Feb. 4, 2021); John Poulos, *Fake Claims About Dominion Voting System Do Real Damage*, WSJ, Nov. 30, 2020, <https://www.wsj.com/articles/fake-claims-about-dominion-voting-systems-do-real-damage-11606755399> (last visited Feb. 4, 2021).

¹³⁰ See Dominion Voting Systems, *Setting the Record Straight: Facts & Rumors*, <https://www.dominionvoting.com> (previous webpage on Nov. 30, 2020).

74. Dr. Coomer is the Dominion employee who has taken the brunt of these attacks.¹³¹ He was forced to flee his home in response to the credible threats he has been receiving and continues to receive.¹³² He has had to sever ties with friends and family members in order to stay in seclusion.¹³³

75. Calls for Dr. Coomer's capture and arrest have spread rapidly across the internet and on social media. For example,

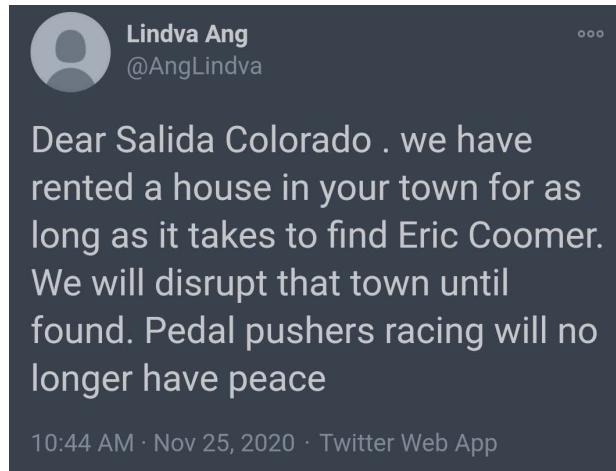


76. Threats grew more intense and specific. For example, on November 25, 2020, Twitter user @AngLindva stated the following:

¹³¹ Oltmann has published statements across media platforms referring to Dr. Coomer as mentally ill, an unhinged sociopath, a creep, a fraud, a cheat, a scumbag, a lynchman, a terrorist, a traitor, evil, and even suggesting it is unsafe to receive medical treatment for fear of Antifa activists and Dr. Coomer compromising his care.

¹³² Oltmann has threatened Dr. Coomer. See Joseph Oltmann (@Joeoltmann), PARLER (Dec. 6, 2020) ("Blow this shit up. Share, put his name everywhere. No rest for this shitbag. Eric Coomer, Eric Coomer, Eric Coomer . . . Eric we are watching you . . .").

¹³³ Oltmann has allegedly revealed personally identifying information about Dr. Coomer. See Joseph Oltmann, et al., *Ep. 217-Shameful Dems Attacking Election Witnesses*, CONSERVATIVE DAILY PODCAST (Dec. 3, 2020), (Oltmann stating "I want everybody to put out on their social media account, 'Where is Eric Coomer?' I found him. Just want you to know I found him . . . I have pictures of him coming out of hiding . . . I know he drives a truck. I know his truck is parked at his house."). These actions are especially dangerous given Oltmann's involvement with an armed paramilitary civilian group with ties to FEC United. See United American Defense Fund, *Defend and Protect What Is Ours*, <https://fecunited.com/uadf/> (last visited Feb. 4, 2021).



77. Dr. Coomer began to receive threatening text messages from unknown out-of-state numbers sent directly to his cell phone in Colorado. Some of these messages included:

"[W]e are already watching you. Come clean and you will live."

"What is the penalty for TREASON?"

"FUCK ANTIFA, FUCK ANTIFA, FUCK ANTIFA, FUCK ANTIFA, FUCK ANTIFA, FUCK ANTIFA. Does that chant sound familiar. PB have you and there is nowhere you can run."

"RUN."

78. Oltmann's efforts to incite violence against Dr. Coomer are escalating with Oltmann posting:

They certify this election and we go to war . . . Now it's time we fight. And when I mean fight I don't mean yelling it's not fair. I mean we fight these communist, marxist lying shitbags. That means Eric Coomer never has peace and we smash each and every voting machine in every state that uses them. We will not be silenced by a bunch of BLM and Antifa communist asshats. It's time we take back our America by any and all means necessary

...

... Eric Coomer, you are a traitor. We are coming for you and your shitbag company. We are coming for Antifa and we are coming for your politician

friends. Share this . . . share Eric's name . . . If they certify the electors today after this audit, we have an obligation to forcibly remove them all. This is not a drill, our country is not their evil playground. God is at the wheel, but we are the warriors that must do the work of men to repel evil. These people are evil, and they are liars, cheats and thieves out to take what they did not earn or deserve. Where will you stand?¹³⁴

79. Upon information and belief, in early January, Defendant Oltmann traveled to Washington D.C. to spread his unfounded theories about Dr. Coomer and to partake in various other efforts to undermine the legitimacy of the presidential election. On January 5, 2021, Oltmann was apparently the keynote speaker at the #StopTheSteal rally on Freedom Plaza.¹³⁵ The day before crowds would go on to breach the Capitol and assault more than 130 police officer, Oltmann was introduced as "The guy who found and fingered Eric Coomer." After the applause died down, Oltmann stated, "By the way, Eric Coomer is suing me. It's really fun. I'm going to crush him in discovery." Oltmann then went on to perpetuate his baseless theories of voter fraud, alleging Dominion machines had manipulated the vote counts to subvert results of the presidential election.

80. On January 26, 2021, Oltmann posted from his Facebook account:

... Eric Coomer. I'm never going to stop. You have no idea what information I have or how your loose lips and arrogance is your ultimate weakness. By the time I am done ... and I will never talk about the "krakken" that is stupid. What I will talk about is truth. See you later, and your unhinged lawyers . . . see those shitbags too. Good night.. God is at the wheel and blood is in the water.¹³⁶

¹³⁴ Joseph Oltmann (@Joeoltmann), PARLER (Dec. 14, 2020).

¹³⁵ See RSBN Network (@RSBNetwork) TWITTER, (Jan. 5, 2021, 1:45 p.m.), Other speakers included InfoWars host Alex Jones, Roger Stone, and rally organizer, Ali Alexander.

¹³⁶ See Joe Oltmann, FACEBOOK (Jan. 26, 2021).

81. The onslaught of threats Dr. Coomer has experienced and the necessary measures he has been forced to take to protect himself are the direct result of Defendants' defamatory conduct. Dr. Coomer has and will continue to experience serious and severe emotional and physical distress as a result. The harm Defendants have caused to Dr. Coomer's reputation,¹³⁷ privacy, safety, and earnings, and other pecuniary loss is immense.

V. CAUSES OF ACTION

A. ***Defamation Against All Defendants***

82. Plaintiff fully incorporates the foregoing paragraphs, as well as the Introduction of this Complaint.

83. Dr. Coomer is neither a public official nor a public figure. He is a private individual that Defendants, by their own conduct and for their own ends, targeted and elevated into the public sphere. Defendants intentionally caused the publication of false and unprivileged oral and written statements about Dr. Coomer. Their false statements have been seen, read, or heard by millions of individuals across the United States, across Colorado, and specifically within Denver County, Colorado.

84. The defamatory meaning of Defendants' false statements is apparent from the face of their publication, refer to Dr. Coomer, and are understood to be about him.

¹³⁷ These false statements have damaged Dr. Coomer's professional reputation, which depended on working relationships with state and county officials, and compromised his continued involvement and employment in relation to and support of elections. See Saja Hindi, *GOP demand for probe of Colorado's Dominion voting system part of "debunked conspiracy theories."* House speaker says, DENVER POST, Dec. 7, 2020, <https://www.denverpost.com/2020/12/07/colorado-republicans-dominion-investigation/> (last visited Feb. 4, 2021).

These statements are defamatory per se as they inherently injure Dr. Coomer's reputation; impute a crime; and disparage his business practices. On their face, they falsely assert Dr. Coomer has perpetrated a conspiracy that undermined the integrity of the election; disenfranchised millions of voters; and fraudulently elected the president of the United States. Defendants falsely allege Dr. Coomer accomplished this through fraudulent business practices as an employee of Dominion. Defendants falsely allege Dr. Coomer is a traitor. Defendants' false statements have subjected Dr. Coomer to scorn, outrage, and threats from his community. Their false statements have harmed Dr. Coomer's reputation by lowering him in the estimation of at least a substantial and respectable minority of the community.

85. Defendants published their false statements negligently. Defendants published these statements with actual malice. Defendants knew or had reason to know that these statements were false and published their statements with knowledge or reckless disregard of their falsity. Defendants failed to contact and question obvious available sources for corroboration; disregarded reliable sources refuting their claims; had no credible bases for the false allegations made; fabricated specific allegations; treated speculation and innuendo as evidence; and published their allegations in a manner calculated to create a false inference. Their allegations were inherently improbable, derived from unreliable sources, and unsupported by evidence. Defendants preconceived a conspiracy and then set out to establish that conspiracy to further their own ends.

86. As a direct and proximate result of Defendants' conduct, Dr. Coomer has suffered significant actual and special damages including, without limitation, harm to his reputation, emotional distress, stress, anxiety, lost earnings, and other pecuniary loss.

B. Intentional Infliction of Emotional Distress Against All Defendants

87. Plaintiff fully incorporates the foregoing paragraphs, as well as the Introduction of this Complaint.

88. Defendants engaged in extreme and outrageous conduct. Their conduct was calculated to cause Dr. Coomer severe emotional distress. Defendants falsely alleged Dr. Coomer perpetrated a criminal conspiracy against every American citizen to overturn the results of the presidential election. They branded Dr. Coomer a traitor and made him a pariah. They encouraged the dissemination of these false claims. They exploited public fear and directed vitriol and threats against Dr. Coomer. Oltmann has directly made terroristic threats against Dr. Coomer, calling on people to harm Dr. Coomer and placing Dr. Coomer in fear of imminent injury and death. Defendants have knowingly elevated Oltmann's statements and adopted his false allegations and threats. These actions have had their intended effect. Dr. Coomer has had an onslaught of harassment and credible death threats issued against him; he is at risk in his home or in going to work; his presence puts his family, friends, colleagues, and his community in danger. All aspects of his life have been altered in response to Defendants' conduct, including things as basic as where to live, how to go out in public, and when to see family and friends. The results of Defendants' ongoing conduct are foreseeable and obscene. This conduct is so outrageous

in character and extreme in degree as to go beyond all possible bounds of decency. It should be regarded as atrocious and determined intolerable in a civilized community.

89. As a direct and proximate result of Defendants' conduct, Dr. Coomer has suffered significant actual and special damages including, without limitation, emotional distress, overwhelming stress and anxiety, lost earnings, and other pecuniary loss.

C. *Civil Conspiracy Against All Defendants*

90. Plaintiff fully incorporates the foregoing paragraphs, as well as the Introduction of this Complaint.

91. Defendants engaged in a conspiracy to defame and inflict emotional distress upon Plaintiff.

92. Defendants' collective objective was to promote the reelection bid of President Trump for their own financial and political gain. To do that, Defendants agreed, both expressly and implicitly, to create a false narrative that in the event President Trump lost his reelection bid it could have only occurred because of fraudulent election activities. Defendants began spreading this false narrative before the election began.

93. After the election, Defendants fed their narrative by falsely accusing Plaintiff of both having the ability and intent to rig the presidential election and actually subverting the election results so as to disenfranchise millions of voters. Defendants fabricated their false narrative by using Plaintiff's alleged (and false) affiliation with "Antifa," speculation as to his access to election hardware and software, and his personal political beliefs. In order to further their objective, Defendants agreed, by their words and

conduct, to publish and republish defamatory statements about Plaintiff and threats towards Plaintiff.

94. As a result of Defendants' coordinated conduct, Plaintiff has become the target of death threats and harassment and suffered significant actual and special damages proximately caused by their conduct, including, without limitation, emotional distress, overwhelming stress and anxiety, lost earnings, and other pecuniary loss.

D. *Preliminary and Permanent Injunction*

95. Plaintiff fully incorporates the foregoing paragraphs, as well as the Introduction of this Complaint.

96. Defendant Oltmann's escalating violent threats directed at Dr. Coomer demonstrate the need for the Court to enjoin such conduct. The Court should order that Oltmann, FEC United, Conservative Daily, and their officers, agents, servants, employees, and attorneys be enjoined from threatening or encouraging acts of violence, intimidation, or coercion against Dr. Coomer, including but not limited to encouraging others to confront, threaten, or endanger Dr. Coomer's physical safety, and further order these Defendants to remove any publication of threats, intimidation, personal information, or coercion made against Dr. Coomer. Such an order is essential to avoid impending danger and preserve the status quo at the time the controversy arose. Plaintiff is prepared to post the necessary bond.

97. From the facts in this Complaint, Plaintiff has demonstrated the existence of a wrongful act, a clear likelihood of success on the merits, the existence of imminent, irreparable harm for which no adequate remedy at law exists, and that the damage to

Plaintiff if the injunction does not issue will exceed the damage to Defendants Oltmann, FEC United, and Conservative Daily if the injunction does issue.

98. Plaintiff further seeks permanent injunctive relief to remove all Defendants' defamatory statements upon final adjudication of the claims at issue.

VI. DEMAND FOR RETRACTION

99. Plaintiff demands Defendants immediately and publicly retract all defamatory statements regarding Plaintiff and threats Defendants made to Plaintiff.

VII. RIGHT TO AMEND

100. Plaintiff reserves the right to amend his pleadings in accordance with the Colorado Rules of Civil Procedure. Plaintiff anticipates amending his pleadings as more information becomes available, including the full scope of defamatory statements Defendants have made.

VIII. JURY DEMAND

101. Pursuant to Colorado Rule of Civil Procedure 38, Plaintiff requests a jury to decide all issues of fact.

PRAYER FOR RELIEF

For these reasons, Plaintiff respectfully requests that Defendants be cited to appear and answer, and that the Court enter judgment against Defendants, including, but not limited to:

- Preliminary and permanent injunctive relief enjoining Defendants Oltmann, FEC United, Conservative Daily, and their officers, agents, servants, employees, and attorneys from threatening or encouraging acts of violence, intimidation, or coercion against Dr. Coomer and further ordering these Defendants to remove any publication of threats, intimidation, or coercion made against Dr. Coomer;

- Permanent injunctive relief requiring Defendants and their officers, agents, servants, employees, and attorneys to remove any and all defamatory publications made about Dr. Coomer;
- Actual and special damages against Defendants in an amount to be proven at trial;
- Leave to amend this Complaint and allege exemplary damages in an amount to be proven at trial after the exchange of initial disclosures pursuant to Colorado Rules of Civil Procedure and Plaintiff establishes *prima facie* proof of triable issues pursuant to C.R.S. § 13-21-102.
- Attorney's fees and costs;
- Prejudgment and post-judgment interest; and
- Such other and further relief, both general and special, to which Plaintiff may be justly entitled to receive.

Respectfully submitted this 4th day of February 2021.¹³⁸

Respectfully submitted,

/s/ Charles J. Cain
 Charles J. Cain, No. 51020
 Steve Skarnulis, No. 21PHV6401
 Thomas J. Rogers III, No. 28809
 Mark Grueskin, No. 14621
 Andrew Ho, No. 40381

¹³⁸ Spacing pursuant to C.R.C.P. 10(d)(3)(II) due to the complexity and technical nature of this matter.

CERTIFICATE OF SERVICE

I certify that on February 4, 2021, a true and accurate copy of the foregoing Plaintiff's First Amended Complaint has been e-served via ICCES on all counsel of record.

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