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CASE NUMBER: 2020CV34319

Exhibit O

1 DISTRICT COURT, CITY AND COUNTY OF DENVER
STATE OF COLORADO
2 1437 Bannock Street
Denver, CO 80202

3 ^ COURT USE ONLY ^

4 ERIC COOMER, Ph.D.,
5 Plaintiff,

Case Number 20CV34319

Courtroom 409

6 vs.

7 DONALD J. TRUMP FOR PRESIDENT, INC.,
8 SIDNEY POWELL, SIDNEY POWELL, P.C.,
9 RUDOLPH GIULIANI, JOSEPH OLTMANN,
FEC UNITED, SHUFFLING MADNESS MEDIA, INC.,
10 dba CONSERVATIVE DAILY, JAMES HOFT,
TGP COMMUNICATIONS LLC, dba THE GATEWAY PUNDIT,
MICHELLE MALKIN, ERIC METAXAS, CHANEL RION,
11 HERRING NETWORKS, INC. dba ONE AMERICA
NEWS NETWORK, and NEWSMAX MEDIAN, INC.,
Defendants.

12
13 VIDEO-RECORDED REMOTE DEPOSITION OF
CHARLES PETER HERRING,
14 individually and as representative of
HERRING NETWORKS, INC., dba ONE AMERICA NEWS NETWORK

15 July 30, 2021

16
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Abbie Frye
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1 PURSUANT TO WRITTEN NOTICE and the appropriate rules
2 of civil procedure, the video-recorded remote deposition
3 of MICHELLE MALKIN, called for examination by Plaintiff,
4 was taken via videoconference, commencing at 9:05 a.m.,
5 Pacific Time, on July 27, 2021, before Sara A. Stueve,
6 Registered Professional Reporter and Notary Public in and
7 for the State of Colorado.
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P R O C E E D I N G S

* * * * *

THE VIDEOGRAPHER: Here begins the deposition of Charles Herring, the corporate representative of Herring Networks, Inc., d/b/a One America News Network. Today's date is July 20, 2021. The time is 9:05, Pacific Standard Time.

Counsel will be noted on the record stenographically.

Will the court reporter please swear in the witness?

THE REPORTER: Yes. I have a brief stipulation to read in the record.

The attorneys participating in this deposition acknowledge that I am not physically present in a deposition room and that I will be reporting this deposition remotely. They further acknowledge that, in lieu of an oath administered in person, the witness will verbally declare his testimony in this matter is given under penalty of perjury.

The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. If there are any objections to this manner of reporting, please state them at this time.

Hearing none, Mr. Herring, will you please raise

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your right hand?

CHARLES PETER HERRING, having been first duly sworn to state the whole truth, testified as follows:

D I R E C T E X A M I N A T I O N

BY MR. CAIN:

Q. Can you state your full name, please?

A. Charles Peter Herring.

Q. Well, good morning, Mr. Herring. Thank you for being with us this morning.

My name is Charley Cain, as I indicated off the record. I'll be taking your deposition on behalf of the plaintiff today.

If you need to take a break during the course of this proceeding, just let me know. As long as there's not a pending question on the floor, you're entitled to take a break, and I'm happy to accommodate you. Okay?

A. Understood. Thank you.

Q. Do you have any questions of me about how this is going to be conducted before we begin?

A. No, sir.

Q. All right. I will be sharing my screen from time to time, showing you some of the exhibits that have been marked, both in your deposition -- premarked -- and then also in prior depositions.

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1 I'm going to start with Plaintiffs Exhibit 31.
 2 (Plaintiff's Exhibit Number 31 was introduced.)
 3 Q. (By Mr. Cain) Are you able to view that?
 4 A. Yes, sir.
 5 Q. Okay. Plaintiff's Exhibit 31 was filed in this
 6 case in -- as part of the anti-SLAPP motion that OAN
 7 filed. And I believe it contains your signature on the
 8 declaration; is that correct?
 9 A. Yes.
 10 Q. All right. You begin your declaration by saying
 11 that you are the president of Herring Networks, Inc.,
 12 dba One American News Network. Is that still true?
 13 A. Yes, sir.
 14 Q. How long have you been president?
 15 A. Just trying to do the math in my head.
 16 Approximately 15 years.
 17 Q. And during this deposition, if I refer to OAN,
 18 can we agree that I'm referring to Defendant
 19 Herring Networks, Inc., doing business as One America News
 20 Network?
 21 A. Yes.
 22 Q. Are you also an owner of OAN?
 23 A. Yes, I am.
 24 Q. And is your father, Robert Herring Sr., an owner
 25 of OAN?

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1 A. Yes, sir.
 2 Q. And is your brother, Bobby, an owner of OAN?
 3 A. Yes.
 4 Q. Collectively, do you, your father, and your
 5 brother own a controlling interest in OAN?
 6 A. We do.
 7 Q. In your declaration -- I'm going to skip down to
 8 paragraph five. You start that paragraph by saying, "I
 9 have reviewed the report by Ms. Rion that Plaintiff
 10 Eric Coomer contends is defamatory."
 11 I'll stop right then -- there.
 12 We can agree that that report is the -- the
 13 investigative special called "Dominion-izing the Vote"?
 14 Is that what you're referring to?
 15 A. Yes.
 16 Q. Okay. You go on to say in paragraph five, "I
 17 have discussed this report with Ms. Rion as well as other
 18 persons at OAN involved with its content, including the
 19 research done prior to the broadcast and the manner in
 20 which the segment was originated and produced."
 21 A. Yes.
 22 Q. Okay. Given that statement, can you describe
 23 for us the research that OAN did, including vetting
 24 sources and corroborating facts prior to broadcasting the
 25 "Dominion-izing the Vote" piece?

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1 A. Yes, I can.
 2 Chanel Rion researched extensively, along with
 3 other staff members, liabilities in voting machines that
 4 were known as early as 2000 all the way up through the
 5 summer of 2020.
 6 There are a number of media organizations that
 7 reported issues through the years. The most recent one
 8 that comes to mind was the summer 2020 election in
 9 Georgia, where a number of things went wrong, causing
 10 names on the ballots not to show up and a number of other
 11 issues.
 12 That was one of the things that we investigated
 13 for that report.
 14 We also -- we also looked at the videos of
 15 Joe Oltmann. I personally looked at the video of
 16 Joe Oltmann. I looked at the video of Michelle Malkin. I
 17 read a number of articles, as a matter of fact, basically
 18 anything and everything I can find during the weekend
 19 of -- I think it was around the 14th and the 15th of
 20 November and following into the 16th. There are a number
 21 of articles.
 22 I believe there's a trio of articles by
 23 Gateway Pundit. There were some articles from sources
 24 that, frankly, I don't recall right now and had never
 25 heard of. And there was one by an outlet; I believe it

Page 12

1 was called the Clover Chronicle.
 2 So that was some of the initial reviews that I
 3 did.
 4 I had some existing knowledge at the time. I
 5 knew that there were issues with Antifa in general in
 6 Colorado, and there was some pushback in the community
 7 with respect to Antifa and some of the alleged violence by
 8 Antifa in the area.
 9 I was aware of some statements by a gentleman by
 10 the name of Kris Jacks that Project Veritas,
 11 James O'Keefe's organization, disclosed.
 12 I was aware of a shooting that took place in
 13 Colorado. A gentleman by the name of Dolloff, which we
 14 actually ran reports on, was accused, and on video,
 15 shooting a gentleman that was using a nonlethal spray.
 16 I'm aware of some of the reports as to whether
 17 he was a legitimate security officer or not. And I'm
 18 aware of some of his postings that were, I believe, on
 19 Facebook -- it might have been Twitter -- including
 20 comments about the police and about the president at the
 21 time, which would be President Trump.
 22 Q. I'll stop you there. I appreciate the answer.
 23 You used a pronoun, and I don't want it to be
 24 ambiguous. You said "I was aware of some of his posts."
 25 Who was the -- the "he" that you were referring to there?

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1 A. The posts were posts of Mr. Dolloff, I believe
2 his name is. He was a -- a shooter. At the time, he was
3 a security guard for a local news broadcast company. I
4 think it was 8 -- or 9News or News9 or something to that
5 effect.
6 Q. Okay. I just wanted to make sure that when you
7 said the "posts," you weren't referring to, or if you
8 were, Dr. Coomer's Facebook posts.
9 A. No, sir. I wasn't referring to Dr. Coomer's
10 Facebook posts when I made that statement.
11 But I did review a number of Facebook posts that
12 were reported by Gateway Pundit that were shown on the
13 video that Mr. Oltmann produced and that were shown by
14 Michelle Malkin.
15 In addition, we were in possession of the social
16 media posts, approximately 80 of them, that were
17 transferred over by Mr. Oltmann.
18 And I believe sometime going into -- or coming
19 out of that weekend, which I believe is Sunday, and I
20 think that's November 15th -- somewhere between that time
21 and the 16th, before Chanel Rion, I interviewed
22 Mr. Oltmann. I believe that she received approximately 80
23 Facebook posts from Mr. Oltmann.
24 We also were in possession of a email from
25 Mr. Oltmann that came in through our viewer feed- -- what
Page 14

1 I call our viewer feedback form on our website. I think
2 it's actually shown as "comments." We refer to it as our
3 viewer feedback form.
4 I recall that email coming in, and I recall
5 seeing FEC United. At the time I had -- I believe I had
6 heard of FEC United, but I wasn't sure. And I didn't have
7 time to dig into that email. I waited until the weekend
8 to actually do a deep dive and investigate further and
9 listen to the videos and such.
10 That's -- that's, maybe, a quick summary of some
11 of the things that -- that were being done.
12 We had other staff members that were also
13 digging in and doing very similar work to what Chanel Rion
14 was doing. We had one gentleman here -- he's an
15 investigative reporter. His name is Pearson Sharp -- that
16 was heavily involved. We had a senior editor that was
17 reviewing content and reviewed "Dominion-izing the Vote"
18 with me.
19 Q. And the identity of that person?
20 A. Brandon Gadow. He's a senior editor for the
21 company.
22 Q. And I -- I apologize. Brandon -- and can you
23 spell the last name for us, please?
24 A. I hope I can. I believe it's G-a-d-o-w.
25 Q. And he was at -- in San Diego?
Page 15

1 A. Yes, sir. He's in San Diego.
2 Q. He's still employed by OAN?
3 A. Yes.
4 Q. Okay. Anything else, as you sit here, that you
5 can think of that describes the research that OAN did
6 prior to --
7 A. I -- I think that's a general summary of the
8 types of research we were doing.
9 Q. Okay. In terms of the investigation, you
10 described the articles that were read, et cetera, the
11 videos, the posts. Have -- has OAN produced all of those
12 background research materials to its counsel for --
13 A. I believe we have. We made the best effort we
14 could to get those to him.
15 Q. And -- and I -- I typically will say this at the
16 beginning of a deposition. I am a slow, sometimes halting
17 and awkward speaker, which is interesting given my
18 profession.
19 But if you can let me finish my question before
20 you answer, even if you know where I'm going, that will
21 give us a cleaner record for the court reporter. Okay?
22 A. Understood.
23 MR. RHODES: Mr. Cain, let me just -- let me
24 just clarify Mr. Herring's statement.
25 The information that Mr. Herring said that he
Page 16

1 was already aware of relating to Kris Jacks and
2 Mr. Dolloff has not been produced, because that's not an
3 investigation that was done into the allegations of
4 Mr. Oltmann.
5 That was information that -- that Mr. Herring
6 and OAN already had preexisting to ever hearing from
7 Mr. Oltmann.
8 MR. CAIN: Gotcha. Thank you for that.
9 Q. (By Mr. Cain) So in connection, then, with this
10 "Dominion-izing the Vote" piece, who at
11 Dominion Voting Systems did OAN speak to prior to running
12 the piece on, I believe, November 21?
13 A. I don't believe that we spoke with anybody at
14 Dominion. The focus was to highlight voter irregularities
15 that were highlighted by other known legitimate media
16 sources, I believe, dating back as far as 2000 all the way
17 up into the summer of 2020.
18 Q. Okay. So the answer to my question is, OAN did
19 not contact Dominion Voting Systems prior to running this
20 particular report?
21 A. Not to my knowledge.
22 Q. And OAN knew when it ran the report that one of
23 the subjects of the piece was Dominion Voting Systems;
24 true?
25 A. The piece included Dominion machines. That's
Page 17

1 correct. We were highlighting voting irregularities,
 2 including with machines, and one of the machines was
 3 Dominion. That's correct.
 4 Q. And, likewise, Dr. Eric Coomer, my client, was
 5 the subject of the "Dominion-izing the Vote" report;
 6 correct?
 7 A. Yes. He was a -- a small component, but he was
 8 included in "Dominion-izing the Vote".
 9 Q. Okay. And when did OAN reach out to Dr. Coomer
 10 for his comments prior to broadcasting this report?
 11 A. I made the request of Chanel Rion to make an
 12 effort to reach out to Dr. Coomer. My understanding is
 13 she was unsuccessful in reaching out and -- and unable to
 14 speak with Dr. Coomer.
 15 Q. Can you be any more specific as to Ms. Rion's
 16 attempts to reach Dr. Coomer?
 17 A. I instructed her to reach out and try to get his
 18 side of the story. She had communicated to me that she
 19 believed he was in hiding at that time; that his Facebook
 20 had been scrubbed, social media was scrubbed; that names
 21 were being removed from the Dominion websites.
 22 And I'm not exactly sure what reach-out she
 23 made, but I encouraged her to try to get his side of the
 24 story.
 25 Q. Do you know whether she attempted to contact
 Page 18

1 Dr. Coomer through Dominion?
 2 A. I know that was discussed. I -- I don't know
 3 exactly what was done or what was not done.
 4 Q. I didn't see a -- and, you know, I haven't
 5 memorized everything. I think OAN produced 700-plus pages
 6 of documents.
 7 I didn't see any emails or contact inquiries
 8 along the lines of what you said Mr. Oltmann did with OAN.
 9 Are you aware of any written requests to either
 10 Dominion or to Dr. Coomer for comment on this piece?
 11 A. I'm aware of some discussions about trying to
 12 reach out to Dr. Coomer and potential avenues, but I'm not
 13 aware of any documents that show that a reach-out was
 14 actually done.
 15 Q. Okay. Now, obviously, Mr. Oltmann is, in this
 16 report, describing an Antifa conference call that he
 17 claims Dr. Coomer was on; correct?
 18 A. Yes.
 19 Q. Was OAN aware at the time of the publication of
 20 this report that Joe Oltmann had taken quote, "copious
 21 notes," closed quote, of this alleged Antifa conference
 22 call?
 23 A. I believe those were the words that I heard in
 24 one of those videos, yes. If it wasn't those exact words,
 25 he was basically saying he had extensive notes, something
 Page 19

1 along those lines.
 2 Q. And when, prior to the publication of the -- the
 3 report, when did OAN request copies of Mr. Oltmann's
 4 notes?
 5 A. I'm not aware of us requesting copies of the
 6 notes.
 7 Q. Have you seen -- I know you did -- you said you
 8 didn't request, or OAN didn't request, copies of those
 9 notes. Have you subsequently requested copies of the
 10 notes following the publication?
 11 A. Not to my knowledge.
 12 Q. Bear with me just one minute. I'm loading up an
 13 exhibit.
 14 This is Exhibit 29. It was marked in the prior
 15 deposition. That's why it says "Malkin."
 16 It is a four-page document. And I'll scroll
 17 through it slowly so you can familiarize yourself with it.
 18 The number of names, as you can see referenced
 19 here -- I'm not sure who Yanni is, other than the Greek
 20 new-age musician, but you can see that there's a few names
 21 that are jotted down on these notes.
 22 Are you telling us, Mr. Herring, that this is
 23 the first time that you've seen copies of the notes that
 24 Mr. Oltmann took?
 25 A. That's correct, sir.
 Page 20

1 Q. Is there a reason OAN didn't ask for further
 2 corroboration of the Antifa conference call in the form of
 3 the notes that were taken?
 4 A. I think we had sufficient information and were
 5 comfortable that it was credible to report in the manner
 6 that we did and use the segment in "Dominion-izing the
 7 Vote".
 8 There's always things in hindsight that we could
 9 go back and do if we'd had a little more time, more
 10 resources. But I think we had a pretty good idea, and we
 11 were comfortable that what was being said was credible.
 12 Q. Okay. Your -- the second part of your answer
 13 was a lot clearer than the first, I think, because of the
 14 audio issue.
 15 MR. CAIN: Sara, can you tell me what the first
 16 part of the answer was, please? I did not hear it.
 17 (The court reporter read back the requested
 18 portion of the question.)
 19 MR. CAIN: That's what I missed.
 20 Q. (By Mr. Cain) Was OAN aware that there was no
 21 recording of this alleged call, either video or
 22 audio-recording?
 23 A. Yes. We were aware that there was no video or
 24 audio. It appeared that he was only taking hand notes on
 25 paper and --
 Page 21

1 THE REPORTER: I didn't hear the last part of
2 your answer. I'm sorry. You're -- you're kind of fading
3 in and out, Mr. Herring. It's difficult to hear you.
4 THE WITNESS: Let me see if I can move a little
5 closer and see if this might help a little bit.
6 THE REPORTER: Thank you.
7 A. The summation is, we knew that there was no
8 electronic audio-recording, and we knew that he was taking
9 notes with his hand, pen and paper.
10 Q. (By Mr. Cain) But, again, you -- you have now
11 told us that you had sufficient information regarding
12 corroborating the story without actually seeing copies of
13 those notes; correct?
14 A. We were comfortable that the information that we
15 used was credible, substantial, newsworthy.
16 Q. And we'll get to the credibility of it
17 throughout this deposition.
18 Based, though, on the -- just the -- the facts
19 that had been described to OAN by Mr. Oltmann, OAN would
20 have been aware that there were other individuals
21 allegedly on this Antifa conference call; right?
22 A. Yes.
23 Q. Okay. So you knew that, obviously, Mr. Oltmann
24 claims to have been on the call, number one.
25 A. Yes.

Page 22

1 Q. You knew -- and if I say the term "you," because
2 it's a corporate deposition, I'm using that also
3 synonymously with OAN.
4 A. I understand.
5 Q. You knew that Oltmann, Mr. Oltmann, had claimed
6 that Dr. Coomer was also on the call; correct?
7 A. Yes.
8 Q. And did you know that Mr. Oltmann believed that
9 there were somewhere in the neighborhood of 15 to 19 other
10 people on the call, by his estimate?
11 A. I don't believe I knew there were 15 to 19. I
12 knew that there are -- it was an Antifa call, and there
13 were other Antifa individuals on the call. I'm not sure I
14 had knowledge of the exact number.
15 Q. Fair enough.
16 But also fair to say that OAN was aware that
17 there were other people on this call that were in a
18 position to hear the alleged statements. Is that fair?
19 A. That is fair.
20 Q. What efforts did OAN make, if any, to reach out
21 to the other individuals that were part of this Antifa
22 call?
23 A. We didn't make any efforts. The Antifa call --
24 as I understand it, was a clandestine, secretive call, and
25 to expect any of them to try to engage with us, I think

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1 that would have been futile.
2 Q. The last word you used was what?
3 A. Was an attempt at futile, would have been
4 unsuccessful.
5 Q. Well, success or not, you didn't make the
6 effort, so you're not in a position to know whether you
7 would be successful if you had made that effort; fair?
8 A. That -- that's fair. We didn't have the names,
9 so we didn't know who the individuals were.
10 Q. All right. Well, am I still sharing my screen?
11 I don't think I was.
12 You had indicated some familiarity with the --
13 the Colorado Antifa world. I don't know how you would
14 want to characterize it. But -- and you've already
15 testified to that, about the shooting and about Mr. Jacks,
16 et cetera. And then you just said that you didn't have
17 the names.
18 Just a fair reading of a page of these notes
19 indicates that -- a couple of names. Contact is Joey,
20 quote, "rat," closed quote. Tay, T-A-Y, dash, question
21 mark. "This guy is Antifa?" question mark.
22 Is it a fair characterization that there were
23 some -- or there are some indication of possible Antifa
24 members just by referencing the notes that were allegedly
25 taken?

Page 24

1 A. I haven't reviewed the notes. I -- you know, I
2 saw them as you were going through. I was attempting to
3 try to read.
4 But my understanding was it was an Antifa
5 conference call, and I would expect Antifa individuals
6 that are sympathetic to Antifa would have been on the
7 call.
8 Q. Let me ask you this. You were on record when
9 OAN was launched. I think you made some statements at
10 CPAC to the effect that journalists should confirm sources
11 multiple times and then report the facts.
12 A. Yes. We should make an effort at doing so.
13 Absolutely.
14 Q. Okay. But in terms of confirming this
15 particular story, we've been through some areas that OAN
16 did not actually try to corroborate the piece.
17 Is there some explanation that you want to give
18 the Court as to why, taking the group that I just referred
19 to, Dominion, Dr. Coomer -- you said there was an effort
20 there -- or any of the other participants on this call --
21 why you felt like OAN had sufficient information at that
22 point to run the story?
23 MR. RHODES: Objection to form.
24 Mischaracterizes the witness's prior testimony.
25 You can go ahead and answer, Mr. Herring.

Page 25

<p>1 A. Yeah. That -- the last part, why OAN had -- I 2 did not get that. Restate it, please.</p> <p>3 Q. (By Mr. Cain) You're going to have to lean 4 forward, because I did not hear, and I doubt Sara did.</p> <p>5 A. All right. I -- I didn't hear the last part of 6 the statement: Why OAN had --</p> <p>7 Q. Well, let me restate it the best I can.</p> <p>8 We talked about your statement that you agreed 9 to, that journalists and news organizations like OAN 10 should confirm multiple times their sources and report the 11 facts.</p> <p>12 My question is, on a global scale with respect 13 to the people that were not contacted, why is it that OAN 14 felt like it had sufficient information such that it did 15 not need to verify this story with those potential 16 sources?</p> <p>17 MR. RHODES: Same objection.</p> <p>18 A. So why we thought we had sufficient information 19 is Mr. Oltmann provided about a two-hour video explaining 20 the process he went through step by step and what he was 21 trying to do.</p> <p>22 It was clear to me that Mr. Oltmann was really 23 trying to investigate Antifa. He wasn't trying to 24 investigate Dr. Coomer or Dominion at that time.</p> <p>25 Based on the knowledge that I had, that made Page 26</p>	<p>1 not, impossible. It's a clandestine group. They're not 2 willing to come out and talk with the media and explain 3 that they're on the call, which is why he had to try to 4 figure out how to infiltrate Antifa. And, apparently, he 5 did by getting on this call.</p> <p>6 On the other hand, Dominion seemed to be 7 scrubbing its website. I believe that Mr. Oltmann came 8 out with his report on a Monday. I believe that's 9 November 9th.</p> <p>10 By at the time we were reporting a week later, 11 on the evening of the 16th, or at least running promos for 12 the programming -- program "Dominion-izing the Vote", 13 which was scheduled to run on Saturday evening, the 20th 14 of November, Dominion, to my knowledge, had not issued any 15 sort of statement. Mr. Coomer did not issue any sort of 16 statement.</p> <p>17 It appeared that they were on the run, did not 18 want to speak with the media, and did not come out and 19 disclaim either Michelle Malkin's hour-long video or the, 20 roughly, two-hour-long video or a number of the other 21 reports that we came across from Gateway Pundit or some of 22 these other sources that were reporting on Dr. Coomer.</p> <p>23 So it seemed to me that Mr. Oltmann was -- and 24 I've seen this before, where we could only interview one 25 side with other people that were in the news cycle. And Page 28</p>
<p>1 sense. I know that Antifa, along with BLM, was going into 2 suburban areas and causing issues, and that there was a 3 lot of tension between Antifa and people with a 4 center-to-right lean in Denver in general.</p> <p>5 The credibility of Mr. Oltmann had to be taken 6 into consideration. He made himself available to a number 7 of interviews at the time we reported. He made himself 8 [sic] to at least three interviews with no restrictions.</p> <p>9 On the other side, we had Dr. Coomer, who we 10 didn't think we were going to be able to reach. I 11 requested that Chanel make an effort and see she if she 12 can reach Dr. Coomer.</p> <p>13 The other people on the phone call, I believe, 14 Mr. Oltmann was trying to expose. And as the notes show, 15 he's trying to figure out who they are and their tie-in.</p> <p>16 I had read about how he got on that call; and 17 although there's some missing pieces, I think I have a 18 good indication from his statements that he was engaged in 19 conversation, adversarial conversation, with a person by 20 the name of Heidi or Sean (phonetic) Beedle, and that the 21 loose lips, as he referred to Heidi Beedle, led him access 22 to this Antifa call, and I believe that's how he got on 23 the call.</p> <p>24 So as far as being able to reach out to the 25 other individuals, it seemed like that would be near, if Page 27</p>	<p>1 when they're open, they're willing to speak, they appear 2 to be legitimate.</p> <p>3 In Mr. Oltmann's case, he looked like he was 4 passionate about the community. I was trying to 5 understand his motivation for FEC United and what 6 FEC United was. It looked like he was trying to restore 7 traditional values back into the community. I don't 8 believe that was an intent to make money. I came to the 9 same conclusion with his website.</p> <p>10 What drove me to that is if you look at the 11 videos on his website --</p> <p>12 Q. (By Mr. Cain) I want you to -- I don't mean to 13 interrupt you other than when it's not clear what you're 14 saying.</p> <p>15 And when you say "his website," I just need you 16 to clarify what --</p> <p>17 A. Mr. Oltmann's postings, videos on his Facebook 18 website, when I watched, was not monetized. To put a 19 pre-roll ad in is fairly simple. So I came to the 20 conclusion that he wasn't driven by money.</p> <p>21 He gave a pretty long explanation about himself, 22 how long he's been in business. He was running a 23 business. I think it's called BIN Strategy or 24 BIN Networks. I think that's where he's able to make a 25 living. Page 29</p>

1 But I think what he was doing was more of a
 2 passion and trying to give back to the community, such as
 3 FEC United and his -- his website. They didn't appear to
 4 be monetized.

5 He seemed like a credible individual. He was --
 6 according to him, he received an Entrepreneur of the Year
 7 award. He explained that his father was black; that he's
 8 mixed race; that his brother was killed by a police
 9 officer. So he had probably some reasons to, perhaps,
 10 have some concerns with police. He just seemed to really
 11 put himself out and expose himself.

12 As far as exposing himself, he was operating,
 13 according to his claims, Conservative Daily, the videos
 14 that are shown on Facebook, and streamed audio on other
 15 outlets for 11 years. He didn't seem like he was trying
 16 to get publicity.

17 He says he's an introvert. He talked about this
 18 with Michelle Malkin; that he wasn't trying to monetize or
 19 get publicity, but he was trying to expose Antifa.

20 And it seemed clear to me that Antifa led him to
 21 Dr. Eric Coomer, not that he was seeking out
 22 Dr. Eric Coomer or Dominion.

23 The credibility comes into play --
 24 Q. Let's -- let's do this. I appreciate --
 25 MR. RHODES: He's -- he's not finished with his
 Page 30

1 answer. You gave the open-ended question "Why?" He's
 2 answering that. Please do not interrupt the witness.

3 MR. CAIN: I think he's gone far afield from
 4 the -- the question.

5 MR. RHODES: I do not agree. Please give him
 6 the respect --

7 MR. ARRINGTON: I -- I join with Mr. Rhodes'
 8 objection. You may not be interested in what this witness
 9 has to say, but I am.

10 MR. CAIN: All right. So object to the sidebar.
 11 I don't -- I don't need to quibble with the lawyers in
 12 this case.

13 I disagree with you, Mr. Rhodes. I'll allow
 14 your witness to finish the question, because there's going
 15 to be a lot of follow-up.

16 MR. RHODES: Thank you.

17 MR. CAIN: But I do believe that he's now far
 18 afield.

19 Q. (By Mr. Cain) But go ahead and complete your
 20 answer.

21 A. I'll -- I'll try to be very brief with two quick
 22 points that I had.

23 The first one is trying to determine whether the
 24 emails that were exposed by Mr. Oltmann were legitimate
 25 and tied in a gentleman's name of Eric with Dominion on
 Page 31

1 the phone call to actually tie in with Dr. Coomer with
 2 Dominion Voting Systems.

3 I gave that a lot of thought. And one of the
 4 things that became very clear is the email that -- or the
 5 Facebook postings made it clear that Mr. Coomer was very
 6 sympathetic towards Antifa and were consistent with the
 7 tone, the voice, and the comments that were being shared
 8 on the phone call.

9 And I believe that that corroborates the phone
 10 call, Dominion and Dr. Coomer, with the Facebook postings.

11 I also believe that if somebody said that Eric
 12 is going to impact the election and he's the Dominion
 13 guy -- if he was a Dominion guy and it was Dominion
 14 Hamburgers, not Dominion Voting Systems, one would likely
 15 ask, Well, why can't Dominion Hamburgers -- just, kind of,
 16 using a silly example -- how could he actually have an
 17 impact on the election?

18 When the word "Dominion" was used. It appeared
 19 that that was sufficient justification that he had some
 20 sort of means to impact the election.

21 Q. (By Mr. Cain) Okay. Let's go back at the
 22 beginning part of your testimony in response to my last
 23 question.

24 You said something to the effect of that
 25 Mr. Oltmann identified a person named Heidi or Sean
 Page 32

1 Beedle, and then you mentioned something about "loose
 2 lips" and, I believe, identifying Heidi Beedle as possibly
 3 the person who was -- was the conduit for Mr. Oltmann
 4 getting on this call.

5 Can you explain to me how you -- did you have a
 6 conversation with Mr. Oltmann as to how he got on the
 7 Antifa call?

8 A. No.

9 Q. Did -- did anyone at OAN have that conversation
 10 with Mr. Oltmann?

11 A. Chanel Rion may have. I -- I don't know the
 12 specifics of her discussion with Mr. Oltmann.

13 Q. So what, then, is the basis for your sworn
 14 testimony that -- that Heidi Beedle was the person with
 15 the loose lips, as you described?

16 A. Mr. Oltmann, in one of the videos -- and I
 17 believe it's his video that ran roughly two hours --
 18 indicates the name Heidi Beedle.

19 And if you listen to the video, he's explaining
 20 the steps that he took in, roughly, chronological order,
 21 and he mentions her name, and then mentions that it's
 22 because of her loose lips that he was able to get on the
 23 phone call.

24 Q. Gotcha.

25 A. That's straight -- straight from the first video
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1 that I watched.

2 Q. That -- The Conservative Daily podcast video --

3 A. Yes, sir.

4 Q. -- of November 9th?

5 A. I believe that's correct.

6 Q. Then you also talked about something that you

7 considered, which was the fact that, after the Malkin

8 piece, around that time, that Dominion did not issue any

9 kind of disclaimers regarding -- regarding their

10 reporting.

11 I'm going to show you what I've marked

12 previously as Plaintiff's Exhibit 16, which is a

13 screenshot from November 13th from

14 Dominion Voting Systems' website.

15 Are you familiar with this document?

16 A. I've seen it before.

17 Q. Okay. And do you have any reason to believe

18 that this information was -- was not posted on the

19 Dominion website as of November 13, 2020?

20 A. I did not note it was on November 13th. And I

21 haven't seen any reference to Dr. Coomer in this.

22 Q. Okay. You were referring to Dominion in your

23 response. Isn't it true that Dominion had already been

24 posting information on its website directly about the

25 voter rigging or fraud allegations that were being made?

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1 A. I see the date, November 13th. So, yes, I would

2 agree with that.

3 Q. Okay. And I didn't see a copy of anything

4 relating to the Dominion position in the investigation

5 file that OAN had. Do you know whether or not this

6 information was considered by OAN before it issued its

7 report called "Dominion-izing the Vote"?

8 A. I don't. I don't have any information either

9 way.

10 Q. You said a number of times that you viewed --

11 stop sharing -- Mr. Oltmann as a -- as a credible source.

12 Then you gave some examples for us.

13 Now, as I understand it, the "Dominion-izing the

14 Vote" piece is still available online on YouTube. Is that

15 your understanding?

16 A. I don't believe it's on OAN. It may be reposted

17 by others. I would need to confirm that. But that's my

18 general belief.

19 Q. Okay. And I'm happy to -- to show you YouTube

20 right now. I will represent to you it's still available

21 on YouTube, indicating about 1.2 million views.

22 As it relates to Mr. Oltmann, though, you said,

23 as I mentioned, you viewed him as a credible source.

24 MR. CAIN: Rebecca, are you monitoring this

25 deposition?

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1 MS. DOMINGUEZ: Yes, sir.

2 MR. CAIN: I'm going to ask you all to

3 multitask.

4 Rebecca, go into my private folder, if you

5 would, and mark as the next exhibit the document that

6 starts 20201205 Oltmann Parler.

7 MS. DOMINGUEZ: Yes, sir.

8 MR. CAIN: While she's doing that, Sara, there

9 was an attorney that interjected when I objected to the

10 responsiveness of the question, and that attorney did not

11 state his name. Do you have that for the record?

12 THE REPORTER: Yes. I believe it was

13 Mr. Arrington.

14 MR. CAIN: Let me know when you have that,

15 Rebecca.

16 MS. DOMINGUEZ: It should be available:

17 Exhibit 46.

18 (Plaintiff's Exhibit Number 46 was introduced.)

19 Q. (By Mr. Cain) When you were giving your

20 testimony a minute ago about the credibility of

21 Mr. Oltmann, were you aware of the Parler post that he

22 made on or about November 5th -- or, excuse me --

23 December 5th of 2020, regarding Dr. Coomer, the one that

24 I'm showing you as Exhibit 46?

25 A. No. I'm not familiar with it. I've not seen

Page 36

1 this.

2 If you don't mind, could you just scroll down so

3 I could see the rest of it real quickly? Thank you.

4 Q. So this is a Parler post Mr. Oltmann made

5 shortly after the airing of "Dominion-izing the Vote"

6 piece.

7 And you can, obviously, read it. He's referring

8 to Dr. Coomer, and he says, "So it is up to you. Blow

9 this shit up. Share, put his name everywhere. No rest

10 for this shitbag. Eric Coomer, Eric Coomer, Eric Coomer.

11 "This shitbag and the corrupt asshats in

12 Dominion Voting Systems must not steal our election and

13 our country. Eric, we are watching you." And there is a

14 picture that purports to be of Eric's home.

15 And are you telling us, sir, that, you were not

16 aware of this Parler post that Mr. Oltmann posted?

17 MR. RHODES: Objection. Aware as to when? I

18 don't see that the exhibit has a date on it.

19 MR. CAIN: It doesn't. It's a screenshot. And

20 I made the representation that it was December 5th of

21 2020.

22 MR. RHODES: All right. Well, objection as

23 irrelevant. He clearly could not have been aware of it

24 when "Dominion-izing the Vote" occurred. The post hadn't

25 been made.

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<p>1 MR. CAIN: No. And the post remains up and 2 accessible to this day.</p> <p>3 Q. (By Mr. Cain) Would it surprise you to learn 4 that your credible source, Mr. Herring, posted a Parler 5 post that contained this type of content?</p> <p>6 MR. RHODES: Objection to form. He said he's 7 never seen it.</p> <p>8 A. Yeah. I -- I have not seen this. And I think 9 the language is very harsh, not something I would do. And 10 I do think that the pushback, the issues, the threats that 11 Mr. Oltmann experienced were severe and changed his 12 thinking and made him very harsh towards Mr. Coomer.</p> <p>13 But I don't -- I don't think this language is 14 appropriate and this type of posting is appropriate.</p> <p>15 Q. (By Mr. Cain) Well, you're speculating, aren't 16 you, as to why Mr. Oltmann would have made this post?</p> <p>17 A. I don't know any reason why he made the post 18 on -- what I'm commenting on is I believe that Mr. Oltmann 19 in his family experienced a lot of hardships after his 20 November 9th, two-hour video. And I think that got to him 21 emotionally. I think he's experienced a number of things. 22 I think we're seeing that here.</p> <p>23 Q. Were you -- do you know what the term "doxing" 24 is?</p> <p>25 A. In general, I do, yes.</p> <p style="text-align: right;">Page 38</p>	<p>1 was the source of the threats that he was allegedly 2 receiving as a result of his activities?</p> <p>3 A. I don't believe I am aware of Dr. Coomer being 4 the threat to him. I think I'm generally aware that 5 Mr. Oltmann, I believe, in some interviews stated that he 6 was receiving death threats.</p> <p>7 And I'm aware he had to take action to the death 8 threats, but not that Dr. Coomer specifically was the 9 source of it. I think it was the exposing of Dr. Coomer 10 in his Facebook posts that led to them.</p> <p>11 Q. In your prior testimony, you -- you mentioned -- 12 this was a little earlier on, not just recently -- that 13 there was some form of a web portal at OAN that 14 Mr. Oltmann reached out to contact your company; is that 15 correct?</p> <p>16 A. Yeah. I -- I refer to it as a viewer feedback 17 form, or it might be called a comment form. But they're 18 basically one in the same. Yes.</p> <p>19 Q. Okay. Let's divert and talk about that issue 20 briefly.</p> <p>21 I am going to bring up one of the first -- I 22 think the first document that OAN produced to us. This is 23 Plaintiff's Exhibit 34.</p> <p>24 (Plaintiff's Exhibit Number 34 was introduced.)</p> <p>25 Q. (By Mr. Cain) I'll let you familiarize yourself Page 40</p>
<p>1 Q. Would this be an example of doxing a person, 2 based on your understanding?</p> <p>3 A. Well, "doxing" usually refers to providing 4 specific address information or phone number information 5 to harass somebody, and I don't see that here.</p> <p>6 I don't see a phone number. I see what looks 7 like a house. I couldn't -- I couldn't figure out where 8 that house was. I don't see the phone number.</p> <p>9 Q. I know you -- you explained why this -- why 10 Mr. Oltmann, in your view, might have posted something 11 like this. But in light of the fact that he did so, is it 12 still your view and OAN's view that Mr. Oltmann should be 13 considered a credible and unbiased source for this story?</p> <p>14 A. Credible, yes; and unbiased, no. I think he has 15 a bias. I think most people have a bias.</p> <p>16 And I was aware of that when I was reviewing his 17 information going into the weekend and through the 18 weekend. And I'm a little shaky on the date. I think the 19 Sunday is the 15th -- the 14th, 15th, 16th time frame 20 where I was doing a deep dive.</p> <p>21 I was aware that he had a bias, and that needed 22 to be taken into consideration. And I think that's the 23 case with just about anyone.</p> <p>24 Q. Well, maybe to a certain extent.</p> <p>25 Did Mr. Oltmann indicate to OAN that Dr. Coomer Page 39</p>	<p>1 with it. As I do that, I'll just read the top.</p> <p>2 It's from Joe. It's dated November 10, 2020, at 3 11:27 a.m. Contact: One American News Contact Form. 4 There's some biographical information and then a message: 5 I have a massive -- "I have massive amounts of information 6 on Eric Coomer, VP and head of security for 7 Dominion Voting Systems. Ran the story on Conservative 8 Daily. Heard him say he would make sure Trump does not 9 win." There's, presumably, his phone number. "No bigger 10 piece to the story than this."</p> <p>11 Is this the document or the contact form that 12 you were referring to in your prior testimony?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And how -- how quickly do these contacts -- 15 viewer contacts come to your attention? And in this 16 context, I'm saying -- I'm using that in -- in -- as 17 Charles Herring.</p> <p>18 A. Understood.</p> <p>19 If you don't mind, can you scroll to the top?</p> <p>20 Q. Of course.</p> <p>21 A. The contract form, where it says, 22 "To: Contact" --</p> <p>23 Q. Yes, sir.</p> <p>24 A. -- is an alias group. That group includes me.</p> <p>25 Q. Okay. So who else would be in the group of Page 41</p>

1 aliases in this form?
 2 A. I don't know. It's a very broad group. It
 3 includes a number of staff members here in San Diego. And
 4 I believe some additional staff members at other location
 5 have requested access to it.
 6 There's a lot of information that comes -- a lot
 7 of forms that come over on a -- on a daily basis.
 8 Q. Okay. But you, your father, and your brother
 9 Bobby are in that group?
 10 A. Yes, sir.
 11 Q. All right. Exhibit 35 is a four-page document.
 12 Have you seen this document before?
 13 (Plaintiff's Exhibit Number 35 was introduced.)
 14 A. Yes.
 15 Q. (By Mr. Cain) I'm characterizing this as a
 16 follow-up from the initial contact by Mr. Oltmann where
 17 one of the employees of One America News asked for
 18 additional information; is that fair?
 19 A. Yes.
 20 Q. And would this person have been instructed --
 21 Ms. Scott, in this instance -- to do so by -- by one of
 22 the -- the ownership group? Or how -- how is that process
 23 in this instance?
 24 A. Yeah. So Miss Scott -- Miss Scott was informed
 25 to look at all the -- again, I'm going to call them viewer

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1 feedback forms, and any that involved election
 2 irregularities, to categorize those forms on an Excel
 3 spreadsheet and, where warranted, reach out for
 4 additional -- and in this case she asked, "Do you have any
 5 hard evidence to prove this?"
 6 Q. Right. And then, I want to make sure I'm
 7 interpreting this form correctly.
 8 Is it your understanding, then, that this would
 9 be Mr. Oltmann's reply in response to Ms. Scott asking for
 10 additional information?
 11 A. Yes, sir.
 12 Q. Okay. When did -- scroll down for a second.
 13 This bolded section -- so strike what I was first starting
 14 to say.
 15 This bolded section, is that from Mr. Oltmann,
 16 or is that an internal comment?
 17 A. My best understanding is that's from
 18 Mr. Oltmann.
 19 Q. Okay. Now, it's a fair reading of this section
 20 from, as you identified, Mr. Oltmann, that he
 21 identified -- excuse me, not identified. I've used that
 22 term too much.
 23 But it's fair to say that he wrote to OAN in
 24 this section, "As the call carried on," referring to the
 25 Antifa call -- "on [sic] a person who called himself Eric

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1 was on the call. Now I want to start that I cannot verify
 2 on this call that it is the same Eric but let me tell you
 3 as I jotted down notes what I discovered."
 4 So at the time that, at least, the initial
 5 contact to OAN, the -- the -- OAN was aware that
 6 Mr. Oltmann hadn't confirmed the identity of the Eric on
 7 the call as being Dr. Eric Coomer; true?
 8 A. I don't read this that way. And I'm glad to
 9 give an explanation.
 10 I believe that this email was Mr. Oltmann
 11 replying back and pieced together a bunch of
 12 already-prepared statements that were not specific or
 13 designed for OAN.
 14 As you read through it, it's very chaotic. And
 15 I think he -- like I said, I think he was piecing together
 16 information.
 17 I believe when he was on the call, the voice --
 18 he couldn't confirm that was Eric. But when he looked at
 19 all the additional evidence, you know, he came up and he
 20 saw the smoking gun and made it clear that it was Eric
 21 from Dominion.
 22 Q. As you sit here today, does OAN believe that
 23 Dr. Eric Coomer was actually on this call?
 24 A. Yes.
 25 Q. All right. We'll go chronologically for a

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1 minute. And I think what I'd like to do is get through
 2 the exhibits, and then we can take a short break.
 3 This is Plaintiff's Exhibit 36.
 4 (Plaintiff's Exhibit Number 36 was introduced.)
 5 Q. (By Mr. Cain) I'm still sharing my screen, I
 6 believe. So this is on Sunday, November 15th.
 7 Explain to me what was occurring at this time?
 8 Obviously, we can read what you're saying to Chanel Rion
 9 and Christina Bobb. But what -- what caused you to email
 10 them about Dr. Coomer at this point?
 11 A. I saw the initial FEC United reach-out via our
 12 viewer feedback form come in. I did not have time to dig
 13 in and try to understand what all the information was,
 14 watch any of the videos, or -- or do too much at that
 15 time.
 16 I went back on the weekend and really dug in,
 17 especially on Sunday, from the morning until -- I think I
 18 wrapped up at this time, at 7:04.
 19 Basically, I had reviewed quite a bit of
 20 information, and I wanted to highlight to Chanel Rion, and
 21 I copied Christina Bobb.
 22 Not a lot of relevance on why I did that, to
 23 tell you the truth. I wanted to copy our CEO, my father,
 24 Robert Herring.
 25 And, basically, my summation here, although it's

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1 not clear in the words, is I thought that there was
2 substantial credible information that needed to be
3 reported on this story, specifically Dr. Eric Coomer and
4 what he said during the phone call with -- that Oltmann
5 had back in the end of September.
6 The last --
7 Q. Sorry. I thought you were finished.
8 A. The last point is -- the last piece of
9 information that I read, or one of the last pieces of
10 information was the Clover Chronicle. And I just attached
11 the Clover Chronicle as a summation, even though I don't
12 think that was the most relevant document, to tell you the
13 truth.
14 Q. In your -- "you" personal in this instance -- in
15 your mind at this point, if these allegations were true,
16 then it was possible that Dr. Coomer was engaging in
17 criminal conduct; fair?
18 A. I don't think a statement alone would be
19 criminal conduct. But I'm not an attorney. If he
20 actually followed through with this statement, yes.
21 Q. And OAN, as -- as it sits here today, has no
22 evidence that Dr. Coomer, even if he made these
23 statements, followed through on the boast that he had
24 rigged the 2020 presidential election?
25 A. That is correct. He never stated that he

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1 actually impacted the 2020 election. And we felt he had
2 the means. He had -- he had the technical expertise. He
3 was in a position to do so.
4 But we've never made -- made that statement.
5 And we've been pretty careful with that respect, in my
6 opinion.
7 MR. CAIN: Object as nonresponsive to everything
8 after "That is correct." And not a commentary, just for
9 the record, sir. I'm not trying to harass you.
10 THE WITNESS: No worries.
11 Q. (By Mr. Cain) Ms. Rion says, "He's included in
12 my special." And then you ask, "Is the FBI
13 investigating?"
14 Now, you said earlier -- and I'll stop now with
15 these exhibits and change course a little bit.
16 You described some individuals that were
17 involved in the production of the "Dominion-izing the
18 Vote" piece. See if I can find their names.
19 You -- you -- how would you describe your
20 involvement -- your level of involvement?
21 A. I approved the general concept of doing a
22 program called "Dominion-izing the Vote." I was aware of
23 the recording, the efforts to gather information that
24 would be used in "Dominion-izing the Vote."
25 The general concept was to show that the voting

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1 machines were very vulnerable. When the final draft came
2 in, I reviewed the final drafts. I reviewed the final
3 draft. I signed off on the final draft to go to air.
4 Q. Were you -- is it fair to say, of you and your
5 father and your brother, you were the most involved in
6 this process amongst the three of you?
7 A. I think that's a fair statement.
8 Q. And the general concept that you said that you
9 approved the "Dominion-izing the Vote" -- whose concept
10 was -- to run the story -- whose concept was it
11 originally?
12 A. I -- I, frankly, don't recall.
13 Q. And then -- and pardon me if I -- my notes are a
14 little difficult to discern.
15 You said that Pearson Sharp and Brandon Gadow
16 were involved in this piece as well; is that -- is that
17 true?
18 A. No. Brandon Gadow was involved in reviewing the
19 final drafts when they were submitted from our East Coast
20 office to our West Coast facility, Washington, D.C. to
21 San Diego.
22 Pearson Sharp was involved in looking at the
23 voter irregularities. And some of what -- some of his
24 findings, some of the things he was doing at the time,
25 were being done by Chanel.

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1 So I think there -- there was some overlap
2 there. But he wasn't directly involved in "Dominion-izing
3 the Vote."
4 Q. Okay. Besides Ms. Rion, yourself, and
5 Mr. Gadow, who else was involved in producing that report?
6 A. Primarily Chanel Rion. She did the heavy
7 lifting.
8 Q. And she's -- at the time, was she located in
9 Washington, D.C.?
10 A. Yes, sir.
11 Q. Was she providing interim drafts of the report
12 to you back in San Diego?
13 A. In the form of conversations that were taking
14 place daily.
15 Q. But as you sit here today, you have a specific
16 recollection of the final piece that was run was reviewed
17 directly by you prior to its publication?
18 A. Directly by me and another individual,
19 Bradon Gadow. We were looking for different things when
20 we were reviewing the final piece.
21 Q. And was -- were there any other individuals --
22 well, strike that. Let me -- let me back up.
23 In Washington, D.C., does OAN have an office or
24 studio?
25 A. We have a studio and offices. We call it

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1 the D.C. Bureau.
 2 Q. And that's where this piece was produced;
 3 correct?
 4 A. That's correct.
 5 Q. And I assume Ms. Rion has a -- a cameraperson
 6 that worked with her?
 7 A. Yes.
 8 Q. Do you know who that person is?
 9 A. I -- I don't.
 10 Q. And did you -- do you yourself individually
 11 visit this Washington, D.C., office ever?
 12 A. Yes.
 13 Q. During the 2020 election cycle, did you visit
 14 the Washington, D.C., office?
 15 A. Yes.
 16 Q. Approximately how many times?
 17 A. I was just trying to think about that with
 18 COVID. I had been visiting on a fairly regular basis,
 19 maybe as frequently as monthly. It would be sporadic.
 20 With COVID, it slowed down, but I was still
 21 making visits into the D.C. office. So they were less
 22 frequently than before.
 23 Q. But in the -- I'm sorry. Go ahead.
 24 A. And I also engage with them daily via phone, and
 25 multiple times per day.

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1 Q. And how about your father, Robert? Did he also
 2 travel to the D.C. office during, let's just say, 2020?
 3 A. I'm not comfortable, but I believe -- there's
 4 some hesitancy. I don't believe so. I -- I can't recall
 5 if he did. But I could be wrong.
 6 Q. I did not hear you say that Lindsay Oakley was
 7 involved in the production of the "Dominion-izing the
 8 Vote" piece. Was she, or was she not?
 9 A. I don't think she played role in "Dominion-izing
 10 the Vote."
 11 Q. How about any of the copy editors in San Diego,
 12 other than Mr. Gadow?
 13 A. Nobody that I can recall was involved in it.
 14 But I just -- you know, this is -- yeah. I don't believe
 15 anybody was -- in San Diego was involved.
 16 It was a D.C. production. I don't know the
 17 other staff in D.C., who was involved and who was
 18 supporting.
 19 Q. Have you heard the term within OAN an
 20 "H story"?
 21 A. I haven't heard the term within OAN. I have
 22 read about it by press that are generally writing
 23 adversarial articles about the network.
 24 Q. Do you deny that the term "H story" is not a
 25 nomenclature that's used within OAN?

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1 A. I have never heard it used inside the OAN. I
 2 have heard it used by reporters referring to OAN.
 3 MR. CAIN: All right. We've been going a little
 4 over an hour, and my coffee is kicking in. So if you
 5 don't mind, let's take a break.
 6 THE VIDEOGRAPHER: Going off the record. Time
 7 is 10:15.
 8 (Recess from 10:15 a.m. until 10:28 a.m.)
 9 THE VIDEOGRAPHER: Back on the record. Time is
 10 10:28.
 11 Q. (By Mr. Cain) Mr. Herring, I want to tie a bow
 12 around the topic of the personnel at OAN involved in the
 13 content of this piece.
 14 I won't rehash what you've testified to, but as
 15 you sit here, were there any other personnel, other than
 16 those described previously, that were involved in the
 17 production of this report?
 18 A. I know some titles of people, but I don't know
 19 the actual individuals that filled those roles on
 20 Dominion-izing.
 21 Q. Okay. Give me your best description, both as to
 22 title and gender and location, in San Diego, D.C.,
 23 et cetera.
 24 A. In D.C., Chanel would have had a videographer,
 25 and generally multiple editors. We have a handful of

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1 editors, and they rotate, along with the videographers.
 2 So it's a matter of who's available and who she utilized.
 3 And off the top of my head, I don't recall who that was.
 4 San Diego may have been used for reference, but
 5 I'm not aware of anyone in San Diego being used for
 6 reference, except Brandon Gadow and myself reviewing
 7 drafts and reviewing the final draft that went to air.
 8 Q. Does OAN have a general counsel on staff?
 9 A. No, sir.
 10 Q. Was this particular report vetted by legal
 11 counsel prior to airing?
 12 A. No, sir.
 13 Q. All right. Let's -- let's go back and build the
 14 timeline a little bit more with some of the exhibits that
 15 OAN has produced.
 16 (Plaintiff's Exhibit Number 37 was introduced.)
 17 Q. (By Mr. Cain) All right. Exhibit 37, which
 18 begins at Bates 76 -- I'll scroll through this. You may
 19 not have been copied on it.
 20 That's one email chain. You know, start at the
 21 bottom and then go up.
 22 A. Thank you.
 23 Q. So at -- on November 15th, OAN had already been
 24 contacted by Oltmann -- by Mr. Oltmann; correct?
 25 A. Yes, sir.

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1 Q. According to this email, he had already sent a
2 package of screenshots and documents to OAN; correct?
3 A. I -- he had sent screenshots, not according to
4 this email, I don't think. Oh, yes. There it is.
5 Thank you, sir. Yes.
6 Q. Okay. And then Ms. Rion responds, "Hi. Please
7 do," I think, referencing the documents being resent. "I
8 am working on an investigation special, working with Rudy
9 and Sidney. Would like to include you in the special.
10 Would you be available to Skype tomorrow?"
11 Now, on this section there, what was OAN doing
12 with respect to working with Rudy, presumably Giuliani,
13 and Sidney Powell, in connection with this piece?
14 A. Yes. Chanel was interviewing Rudy Giuliani,
15 Sidney Powell, and she also wanted to include an interview
16 with Joe Oltmann.
17 Q. And do you know whether or not OAN had been
18 working with either Ms. Powell's team or Mr. Giuliani's
19 team in connection with the litigation that they were
20 potentially pursuing on behalf of former President Trump?
21 A. I don't believe so. I think she's -- when she's
22 using the term "working," I think she means she's
23 interviewing.
24 Q. Yeah. And I wasn't -- I wasn't attempting to
25 tie you to this email.

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1 The question was just, in general, do you know
2 whether or not OAN was working with Sidney Powell, her
3 team, and Mr. Giuliani's team with respect to their
4 efforts on behalf of President Trump?
5 MR. ARRINGTON: Object to form.
6 A. I do not.
7 THE REPORTER: I'm sorry. Was that
8 Mr. Arrington that objected?
9 MR. ARRINGTON: Yes. I'm sorry. Barry
10 Arrington. Object to form.
11 Q. (By Mr. Cain) Did you personally have contact
12 with either Mr. Giuliani or Ms. Powell regarding their
13 efforts at potentially filing litigation concerning
14 election rigging?
15 MR. RHODES: Object --
16 A. No.
17 MR. RHODES: -- to form and beyond the scope of
18 anything relating to -- to Dr. Coomer.
19 MR. CAIN: Okay. Well, I -- I think my question
20 relates to another claim. But I think the witness
21 answered "No."
22 Q. (By Mr. Cain) Was that your answer?
23 A. Yes, sir. The answer is "No."
24 Q. There's a response here from Mr. Oltmann later
25 on Sunday saying, "I already sent the package to

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1 Sidney Powell's team, Don, Lauren, and Lynda, as well as
2 to Jenna Ellis. I can certainly resend it as well."
3 Do you know who is being referred to -- I know
4 you know Sidney Powell, but Don, Lauren, and Lynda, in
5 this chain?
6 A. I do not know Don, Lauren, or Lynda. And you
7 stated I know Sidney Powell. I have no relationship with
8 Sidney Powell. I know who she is.
9 Q. Yeah. To clarify, my question wasn't about --
10 it was that you knew the name, not her personally.
11 A. Yeah. Just -- thank you. Just -- just to be
12 clear between us.
13 Q. And you know the name Jenna Ellis as well;
14 right?
15 A. Yes, sir.
16 Q. Okay. So as you sit here, are you saying that
17 OAN, during this time period, was not also sharing
18 information with these individuals that are listed here:
19 Sidney Powell's team and these other people, Don, Lauren,
20 and Lynda, and Jenna Ellis?
21 A. I apologize. During what time frame?
22 Q. During this time frame.
23 A. November 15th. Not that I'm aware of.
24 I'm not aware of OAN sharing information with
25 Sidney Powell or her team or Jenna Ellis.

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1 Q. Okay. Or the other individuals?
2 A. Correct.
3 Q. And would that be true up through the -- the
4 producing and the airing of the piece itself?
5 A. Yes.
6 Q. Okay. The rest of this seems to be attempting
7 to get together to actually film the segment, so we don't
8 need to spend time on that.
9 All right. Exhibit 38 was produced by OAN,
10 beginning at Bates 79.
11 (Plaintiff's Exhibit Number 38 was introduced.)
12 Q. (By Mr. Cain) I'm not going to scroll through,
13 except very quickly. These appear to be Facebook pages
14 that were attached to an email that reference Eric Coomer.
15 Do you see that?
16 A. I do.
17 Q. I'm showing you this because we have last names
18 here. It appears Mr. Oltmann forwarded information to
19 Jenna Ellis, Esq., on November 11th. He then forwarded
20 information to Lauren McLaughlin, Lynda McLaughlin,
21 Don Brown, on the 15th, around the time that we were
22 talking.
23 Does that -- those names -- now that we have
24 last names, does that refresh your memory as to whether or
25 not OAN was also coordinating with these individuals?

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1 A. I'm not aware of coordinating or engaging with
2 Lauren, Lynda, or Don Brown. Frankly, I don't even know
3 who those individuals are.
4 (Plaintiff's Exhibit Number 39 was introduced.)
5 Q. (By Mr. Cain) All right. Exhibit 39 is now the
6 next date, Monday, November 16th. Is this an email that
7 you authored?
8 A. Yes.
9 Q. Okay. So you start, "Who is Dr. Coomer?
10 Potentially the smoking gun at Dominion for 2020 voter
11 rigging." And it's sent to a host of people and then
12 copied to some folks.
13 On the "To" line, Kara McKinney,
14 Alexander Salvi, Dan Ball, and Stephanie Hammill -- those
15 are all newsmen at OAN; correct?
16 A. I wouldn't categorize them that way.
17 Q. Okay. Then tell me who they are.
18 A. Kara McKinney, Alex, or Alexander, Salvi,
19 Dan Ball, Stephanie Hammill -- they are the hosts and
20 producers of our political talk shows, the opinionated
21 political talk shows, not our news organization.
22 Q. And this piece, "Dominion-izing the Vote," was
23 not going to be part of a political opinion show; correct?
24 A. That's is correct.
25 Q. It was characterized by your network as a

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1 special investigative report by Chanel Rion; true?
2 A. Yes.
3 Q. And the purpose of the report was to report
4 facts, not opinion?
5 A. That is correct.
6 Q. So we don't need to go into detail. It appears
7 that you're recounting some of the story.
8 What -- what was the purpose, though, of
9 transmitting this internal email to these recipients at
10 this time?
11 A. I think I wanted to raise the flag, if you will,
12 make the talk shows aware of this story, that I thought it
13 had relevance. I thought I was credible and worth them
14 discussing on their shows, in general.
15 So I wanted to make sure that they were tracking
16 the information that was available and that they were up
17 to speed. So that's -- that was the purpose of the email.
18 Q. Do you know -- this is more of a general
19 question, but is it -- is it a fair statement that there
20 is both hard news reporting at OAN and opinion shows at
21 different time slots during the day?
22 A. That's a fair statement.
23 Q. And so in this instance, in your mind, OAN was
24 going to be doing hard news reporting by Chanel Rion,
25 which then, in turn, might be the subject of commentary

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1 during the opinion shows?
2 A. Yes.
3 Q. Let me go to the next exhibit, in theory.
4 (Plaintiff's Exhibit Number 40 was introduced.)
5 Q. (By Mr. Cain) All right. Mr. Herring, this is
6 Plaintiff's Exhibit 40. It is beginning Bates
7 Number 155. Again, an email.
8 I'll start -- scroll through it and start at the
9 bottom. It's 13 pages.
10 The bottom section -- correct me if I'm wrong --
11 appears to be some more of the Facebook posts that were
12 attached. And at the beginning, it's, again, Mr. Oltmann
13 transmitting some information to these folks. It's
14 another email capture.
15 And then we get to Ms. Rion on Sunday,
16 November 15th -- so we backed up a little timewise --
17 confirming receipt of the information and whether we can
18 talk. And then we get to this section.
19 Before I ask you about this, was there a
20 preinterview process with -- with Mr. Oltmann prior to
21 prerecording the show?
22 A. I don't know. I would expect there was one.
23 But, frankly, I don't know what was done.
24 Q. And I inserted "prerecording," and I didn't mean
25 to insert a fact. But -- so let me -- let me make clear.

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1 The "Dominion-izing the Vote" piece was -- was a
2 piece that was prerecorded, edited, and then packaged and
3 broadcast; true?
4 A. True.
5 Q. And that occurred over about how many days?
6 A. I don't recall. But I would say it would be
7 measured in a few weeks, maybe -- one, two, three weeks.
8 Q. Well, we know it was aired originally, do we
9 not, on November 21st?
10 A. It aired, I believe, on Saturday, just off the
11 top of my head. Because that's when One America News
12 Investigates generally airs. That's the basis for the --
13 the statement. And I think she had been working on it for
14 at least a couple weeks.
15 Q. Okay. Well, the Michelle Malkin piece was on
16 November the 13th, which you reference. So you think
17 Ms. Rion was working on this story prior to that?
18 A. Yes, I do.
19 Q. Later on in this chain, now Monday: "Thank you
20 for your time this morning. Very helpful." That's Chanel
21 to Mr. Oltmann.
22 "You said you guys found the record showing Eric
23 as a shareholder of Dominion. Can you share that with
24 us?"
25 Now, in the piece itself, you do recall

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1 Mr. Coomer -- Dr. Coomer, excuse me -- being identified as
2 a shareholder of Dominion Voting Systems; right?
3 A. I believe that's correct.
4 Q. And what records did OAN receive, if any, to
5 confirm that?
6 A. I don't know. I know we had the statement from
7 Oltmann. He made it in his -- either his video or the one
8 with Michelle Malkin. But I don't believe I've ever seen
9 or I know about the definitive proof of that statement.
10 Q. All right. The statement that either
11 Dr. Coomer's a shareholder, or major shareholder in some
12 instances, comes solely from Mr. Oltmann's
13 representations; correct?
14 A. I know it comes from his representations, yes.
15 Q. And as you sit here -- I've looked through what
16 has been produced -- you're not aware of anything in OAN's
17 files relating to the investigation of Dr. Coomer that
18 contains additional evidence of his alleged status as a
19 shareholder; true?
20 A. Yes, that's true.
21 Q. How did OAN come to -- let me see if I can ask
22 this in plain language.
23 How did Ron Watkins get on this piece?
24 A. I -- I don't know how he was brought in for
25 "Dominion-izing the Vote" and commenting on the hacking of
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1 the voting machines after reviewing that.
2 Q. Well, he was one of the people that was
3 interviewed for this program; correct?
4 A. Yes.
5 Q. What did OAN know about Ron Watkins'
6 biographical information that it considered relevant to
7 bringing him on as a commentator on this topic?
8 A. I don't know. I know he was presented as a
9 computer guy and a hacker, is my general recollection.
10 Q. What vetting did OAN do concerning Ron Watkins
11 qualifications to comment on these topics prior to putting
12 him on this piece?
13 A. I don't know.
14 Q. Who does?
15 A. Chanel Rion would know.
16 Q. In your company's file -- investigation file,
17 however it's maintained, is there any information that
18 you've seen to support the idea that Mr. Watkins should be
19 commenting on computer issues, I think as you called it,
20 with respect to this -- this particular program?
21 A. I haven't seen anything along those lines.
22 Q. Let me show you what I have previously marked --
23 well, to be accurate, Rebecca marked -- as Plaintiff's
24 Exhibit 33.
25 (Plaintiff's Exhibit Number 33 was introduced.)
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1 Q. (By Mr. Cain) Have you seen this Twitter
2 exchange before?
3 A. I don't recall seeing this.
4 Q. Okay. Do you have any reason, as you sit here
5 today, to -- to doubt its authenticity?
6 A. No, I don't. I just -- I just have no knowledge
7 of it. I don't recall any, at least.
8 Q. Do you know or have you heard of this particular
9 handle, @CodeMonkeyZ?
10 A. No.
11 Q. It appeared from your prior testimony and
12 your -- you can certainly correct me -- that you had a
13 significant amount of information in your mind concerning
14 Joe Oltmann as a credible source for this piece; is that
15 fair?
16 A. Yes.
17 Q. It appears now from your testimony that you did
18 not have -- OAN did not have that level of information
19 concerning Mr. Watkins before it was -- he was interviewed
20 for this piece. Is that a fair statement?
21 A. Just to clarify -- maybe I misunderstood you.
22 But I did not have that information. I don't know what
23 OAN had.
24 Q. Well, I'm going to quibble, then, a little bit.
25 Because you're here as a representative of OAN to talk
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1 about the investigation that was performed on this piece.
2 We've talked about Mr. Oltmann, and we may swing
3 back to him. But what did you do prior to your deposition
4 to learn about Mr. Watkins and why he ended up on this
5 piece?
6 MR. RHODES: Just a minute. Before you answer
7 that, Mr. Herring, Mr. Cain, can you tell me what
8 deposition topic relates to an investigation of
9 Mr. Watkins?
10 MR. CAIN: Investigation of the individuals on
11 this piece is the exact subject of this deposition. And
12 Mr. Oltmann is part of it, and Mr. Watkins is part of it.
13 I don't think there's any doubt to that.
14 MR. RHODES: I don't think that Mr. Watkins said
15 anything about Mr. Coomer -- Dr. Coomer. Excuse me.
16 MR. CAIN: Yeah. I -- I object to you
17 testifying about this.
18 MR. RHODES: I'm not -- you're the one who --
19 who -- who said my -- my witness was not prepared. And I
20 was asking you merely to identify the topic for which you
21 claim he was not prepared.
22 MR. CAIN: The investigation --
23 MR. RHODES: I don't believe Mr. Watkins said
24 anything about Dr. Coomer, which is what this lawsuit is
25 about.
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1 MR. CAIN: No. No. You'd like to confine it to
2 that. But the context of this reporting matters, and it
3 relates directly to Dr. Coomer and the implications that
4 OAN made with this report.
5 So we can debate that and disagree on it. You
6 can object to my characterization that he's not prepared
7 to talk about it. But I'm going to ask him about it,
8 because it doesn't sound like he knows.
9 Q. (By Mr. Cain) So let's just do this, since we
10 don't need to spend time with lawyer arguing: Who would
11 be more knowledgeable about how Mr. Watkins was -- ended
12 up being interviewed as part of this piece on
13 "Dominion-izing the Vote?"
14 A. Chanel Rion.
15 Q. As you sit here today, are you familiar with
16 Mr. Watkins' association with the -- the QANON group or
17 movement?
18 MR. RHODES: Object to form. Assumes facts not
19 in evidence.
20 A. No.
21 MR. RHODES: You can go ahead and answer, I'm
22 sorry.
23 MR. CAIN: He did.
24 THE WITNESS: Yeah. The response is, "No," sir.
25 MR. RHODES: Oh. I didn't -- I didn't hear

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1 that. I'm sorry.
2 Q. (By Mr. Cain) Okay. Well, it appears, at least
3 by looking at a fair reading of Exhibit 33, that there's
4 been some exchange between Mr. Watkins on November 16th,
5 on the one hand, and Ms. Rion concerning this particular
6 topic with the hashtag #EricCoomer. And then there's some
7 paragraphs that appear to be quoted here.
8 Do you know whether or not any of this
9 information that was being provided by Ron @CodeMonkeyZ
10 formed the basis of the "Dominion-izing the Vote" piece?
11 A. I know we had other evidence of the ability to
12 hack into the voting machine from other reports. So I
13 don't know if this was just additional to or she relied on
14 those other reports, plus what Ron provided. I just don't
15 have that information.
16 Q. And you didn't speak to Mr. Watkins prior to the
17 publication of this report?
18 A. I don't believe I've ever spoken to Mr. Watkins.
19 Q. At the time that the "Dominion-izing the Vote"
20 report was aired, did OAN have access to other experts it
21 thought were credible as it relates to election security
22 issues?
23 A. We were talking to a lot of experts. So, yes,
24 we had access to a number of people that were looking into
25 issues.

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1 Q. Can you give me an example of any of those
2 people that you considered, at least, authoritative on
3 election security issues?
4 A. Not by name. I know we were talking to people
5 that had oversight at this time, whether they were
6 representatives or legislators with the states and were
7 engaged with a number of people.
8 I do recall in Antrim County dealing with
9 Matt DePerno. He's an attorney. And somewhere around
10 this time -- I don't know the exact date. It might be
11 before or after -- we were engaged with some of his
12 technical experts.
13 And we actually filmed the experts explaining
14 how the machines might have thrown out the results that
15 they did in Antrim County.
16 Q. Okay. So Matt DePerno is a -- an attorney.
17 He's not an elections security expert, is he?
18 A. I don't believe he is. But I think we filmed
19 one of his experts and did a pretty thorough review of how
20 there could have been irregularities in the election.
21 Q. And the expert you're referring to, is that
22 Mr. Ramsland?
23 A. I don't recall the gentleman's name.
24 Q. And in fact, part of the
25 "Dominion-izing the Vote" segment referred to this

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1 Antrim County voting irregularities, as you've referenced;
2 correct?
3 A. Yes.
4 Q. As to that piece itself, "Dominion-izing the
5 Vote," is that -- who came up with that title at OAN?
6 A. I -- I don't recall.
7 Q. Is the term "Dominion" -- I presume that's a
8 reference to Dominion Voting Systems?
9 A. I think that's a fair statement.
10 Q. And I -- I did my drop -- "drop the G" thing
11 from my upbringing. Dominion Voting Systems -- that's a
12 reference to that entity; correct?
13 A. Yes, sir.
14 Q. And we know, of course, that
15 Dominion Voting Systems provided election service --
16 services to various states during the 2020 election; fair?
17 A. Yes.
18 Q. And "the Vote," of course, is a reference to the
19 votes that were cast during the 2020 election; true?
20 A. I -- I didn't draw that reference, and I'm not
21 sure I would.
22 I think we were trying to highlight
23 vulnerabilities in the voting machines that were shown by
24 other credible news organizations, including with an
25 emphasis on left-leaning organizations, through time. So

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1 I don't think it was focused on just 2020.
 2 Q. Okay. So it's broader than that?
 3 A. That's -- that's my understanding of what the
 4 mission was on "Dominion-izing the Vote." Yes, sir.
 5 Q. Okay. And then I'm confused, though, by the --
 6 the usage of a verb "Dominion-izing." What did OAN mean
 7 by that?
 8 A. I think that the title -- which is always
 9 challenging with titles. You try to keep it to two or
 10 three words. We were trying to show the vulnerabilities
 11 that were known on voting machines, in general, through a
 12 period of time.
 13 Dominion-izing -- Dominion Voting Systems had
 14 some significant irregularities in the summer of 2020, and
 15 that was highlighted. Those issues were well known at the
 16 time, and it was, you know, a critical time going into the
 17 presidential election.
 18 So I think, for that reason, we included that
 19 segment. And there was more of a focus on Dominion than
 20 some of the other voting equipment that also showed voting
 21 irregularities.
 22 Q. And the person associated with the voting
 23 irregularities at Dominion that was featured in this piece
 24 is Dr. Coomer; fair?
 25 A. No. I don't think that's a fair assessment. I

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1 don't believe that was the intent.
 2 Q. And I'm sorry. The -- I want to make sure I
 3 understand.
 4 The substance or the topic that, in your mind,
 5 OAN was focusing on were the irregularities that occurred
 6 in the summer during the -- during the lead-up to the
 7 election, not the actual general election, but the
 8 primaries?
 9 A. No.
 10 Q. I'm sorry. I misheard you. What did you mean,
 11 then?
 12 A. My understanding of the concept of
 13 "Dominion-izing the Vote" that we were trying to execute
 14 upon was to show the irregularities in voting machines in
 15 general over a period of time and the vulnerabilities of
 16 those voting machines.
 17 I think as the piece was coming together in
 18 concept, interviews and such, that when we learned and
 19 reviewed, researched the statement by Dr. Coomer, that
 20 that was added to the program.
 21 I think we were trying to show that there could
 22 be and there was vulnerabilities in the machines that
 23 somebody could act upon. And then we had a statement from
 24 Dr. Coomer -- allegedly from Dr. Coomer -- that made --
 25 that said that he was going to do something.

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1 So it tied in -- it's tied in to the arc of the
 2 story and was included in the story. So I think the
 3 program was much broader in concept than you may have
 4 described.
 5 Q. Okay. And you said "allegedly" by Dr. Coomer.
 6 You didn't -- OAN didn't use that term during the course
 7 of this particular broadcast, did it?
 8 A. I'd have to go back and look. I know we used
 9 the term "allegedly," and we indicated that it would need
 10 to be more investigation on if he actually impacted the
 11 election. And we were pretty clear about that.
 12 Q. Okay. So, basically, as I understand the
 13 concept for the piece, OAN was looking at and exposing
 14 vulnerabilities in election machines, specifically
 15 Dominion machines, and then, as it relates to Dr. Coomer,
 16 saying that a malicious actor such as him could
 17 potentially cause or be a threat to the actual
 18 vote-casting process; fair?
 19 A. Yes, based on the statement that we had.
 20 Q. Now, if -- if -- go back into your -- well, let
 21 me ask you, before I ask you this question: Ownership, it
 22 appears to me, has a direct role in the development of
 23 programming on -- at OAN; true?
 24 A. In some circumstances, that is true.
 25 Q. And in this instance, that is true; right?

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1 A. This program is primarily driven and produced by
 2 Chanel Rion. I was aware of it. I approved it moving
 3 forward. I don't know where the original concept came
 4 from. And I signed off on it going to air.
 5 Q. Does OAN have any policy in place with respect
 6 to separating the ownership group and their interest with
 7 the news division and, presumably, the idea that they
 8 would independently produce news?
 9 A. We're active in the business. So generally, no,
 10 we're not separate. We play daily roles. And I have
 11 oversight of the D.C. news bureau, the D.C. operations.
 12 So I'm not a passive owner, is my point.
 13 Q. Yeah. I know. I think that came through in
 14 your testimony.
 15 So you have a daily role in the protection of
 16 the news that is broadcast at OAN; fair?
 17 A. I have a daily oversight role, correct.
 18 There's a D.C. bureau chief in Washington, D.C.
 19 that has daily overview, and there's a structure in place.
 20 Q. And was that structure in place during the
 21 period of time that this was broadcast?
 22 A. Yes.
 23 Q. Who was the bureau chief then?
 24 A. Bureau chief is John Hines.
 25 Q. Does Ms. Rion report to -- well, who does she

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1 report to? Your bureau chief or you or some other
2 structure?
3 A. The organization -- or the staff in D.C., which
4 Chanel Rion's part of, reports up to John Hines.
5 I will get involved with the staff on occasion.
6 But generally, we work through John Hines. And there's a
7 morning call led by John Hines that I monitor and
8 occasionally speak on.
9 Q. I see.
10 So earlier when I asked who was involved with
11 this piece, you did not mention his name. Is it fair that
12 the D.C. bureau chief was not involved in the production
13 of the "Dominion-izing the Vote" piece?
14 A. My -- my best understanding is that Chanel was
15 producing it herself. To what level there was oversight
16 by John, I don't know.
17 But Chanel's very capable and, with support
18 staff, I think that she basically take a look the role as
19 the producer and oversaw the work until it was submitted
20 to San Diego.
21 Q. Prior to becoming -- well, when did you -- I
22 apologize. You said it earlier. I think you said 2003,
23 you -- that's when you became president of
24 Herring Networks. Was that correct?
25 A. I think it was more around 2005, somewhere

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1 around there. I think I said that I had been president
2 for, roughly, 15 years.
3 Q. Okay. But in '05, that period of time, that was
4 when Herring Networks -- actually, I think it had a
5 different corporate structure. It was a different
6 company, wasn't it?
7 A. No, sir.
8 Q. But at that point, I think -- well, you can tell
9 me. But I understand that it had a leisure -- some form
10 of wealth leisure channel during that period of time?
11 A. Yes. And it does today.
12 The first product for One America -- excuse
13 me -- for Herring Networks, Inc., was a channel which we
14 now call AWE today. And we had been producing news since
15 2004.
16 Q. And your brother Bobby is -- is more responsible
17 for that -- that particular channel; correct?
18 A. AWE?
19 Q. Yes, sir.
20 A. I'm not sure I'd agree with that statement.
21 Q. Okay. I just -- I gleaned that from the fact
22 that he had an AWE email domain in some of the emails that
23 I saw. So that was a poor assumption, obviously.
24 So when did the -- the news -- I guess, the
25 interview you gave before CPAC to The Daily Beast, I

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1 believe, was in 2017. You can correct me if I'm wrong.
2 When did the OAN newscast or news division
3 actually go online?
4 A. The brand OAN launched on July 4, 2013. Prior
5 that, we were running news on AWE.
6 Q. I see. Okay.
7 A. And we still do that today.
8 Q. Do you have any particular training as a
9 journalist, either educational experience or training?
10 A. No. Just about 17 years of producing news,
11 playing a role, to some extent, in oversight. So just job
12 experience, no educational expertise.
13 Q. All right.
14 So let's look a little bit at the -- the piece.
15 We don't have a whole lot of time, so we'll just watch a
16 few segments that I have some questions about.
17 (Plaintiff's Exhibit Number 32 was introduced.)
18 Q. (By Mr. Cain) This is Exhibit 32, Mr. Herring,
19 which cannot be loaded, either because the server or
20 network failed, or because the form is not supported.
21 Hold on.
22 I think the issue might be that it's a very
23 large file. Let's see. Got it now.
24 Okay. So this is the opening titles to the
25 piece. I'm going to play just a little bit of it.

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1 (The video segment was played.)
2 Q. (By Mr. Cain) Let me just stop there.
3 The reference to Dominion glitching these votes,
4 giving Biden a fraudulent win -- do you know what Ms. Rion
5 is referring to there?
6 A. I think she's referring to -- and I'm not
7 positive of this, but a court case that came out of
8 Antrim County and voter irregularities that were exhibited
9 in Antrim County.
10 Q. Okay. Well, the statement was Dominion had
11 glitched those votes.
12 A. Yes.
13 Q. And you stand by that statement?
14 A. Yes.
15 (The video segment was played.)
16 Q. (By Mr. Cain) So like we discussed earlier,
17 Mr. Herring, this is an investigative report. And so the
18 title that's going to be run through here, whether it's
19 probe, investigate, credible news, et cetera, that all is
20 meant to inform your audience that this is a fact-based
21 investigation; true?
22 A. Yes.
23 (The video segment was played.)
24 THE WITNESS: My screen is frozen.
25 MR. CAIN: I'm going to stop there.

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1 Did you say something, Mr. Herring? I was about
2 to stop.
3 THE WITNESS: Yes, sir. My screen went black
4 and froze on the video. I don't know if anybody else
5 experienced that.
6 MR. CAIN: Okay. Do you know where -- where
7 that occurred in the video, what Ms. Rion was saying?
8 THE WITNESS: Probably about 45 seconds before
9 where it's at now on the time.
10 MR. RHODES: This is Bernie. My screen went
11 black also.
12 MR. CAIN: All right. I'm going to back up to
13 the 1:20 mark, which is about 60 seconds back.
14 MR. RHODES: Thank you.
15 (The video segment was played.)
16 Q. (By Mr. Cain) Okay. I think that goes on to
17 what you were referring to, some of the investigative
18 reporting that had been done previously.
19 As it relates to the -- the first topic that
20 Ms. Rion was covering, the -- the Antrim County issues
21 have been the subject of much reporting since November of
22 '21 when this report was issued; correct?
23 A. This report came out, I believe, in November of
24 2020. And a lot of issues have been highlighted in
25 Antrim, including a lawsuit and a lot of technical reports
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1 on what was found in Antrim County.
2 Q. Did OAN support the ASOG report that was filed
3 in litigation relating to these issues in Antrim?
4 A. Not that I'm aware of.
5 Q. You recognize that the glitch that Ms. Rion
6 referred to has been both explained as an error by the
7 particular county clerk and not as a software issue
8 relating to Dominion Voting Systems; you know that to be
9 true now?
10 A. I believe it's disputed.
11 Q. So as you sit here July 30, 2021, you believe
12 that issue is still a live issue that hasn't been put to
13 bed?
14 A. That's the last information that I had on it.
15 It was still being disputed. I believe the lawsuit was
16 dismissed. And I don't recall if it was for standing or
17 another reason.
18 Q. Have you reviewed the Antrim County report that
19 was issued by, among others, Dr. Halderman?
20 A. I've reviewed some reports on Antrim County.
21 I've reviewed some expert reports. But I don't believe --
22 and I don't recognize his name.
23 Q. Okay. Surely, though, you've seen the report by
24 the republican senate relating to these Antrim County
25 issues that debunked both this issue and the other alleged
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1 voting irregularities? Have you seen that --
2 A. I don't -- I don't know if I've seen that
3 report.
4 Q. Let me see if I can refresh your recollection.
5 I'm not going to mark it, because I don't have it in my
6 marked file.
7 It's this report by the Michigan Senate
8 Oversight Committee on the election in Michigan. The
9 committee members include the republican chair,
10 Senator McBroom. And it's roughly 50 pages.
11 A. Yeah. I don't recall seeing this report.
12 Q. And to be clear, in terms of the
13 "Dominion-izing the Vote" piece, OAN has not either
14 clarified its reporting or retracted any of the reporting
15 that it made on November 21; fair?
16 A. Correct. Yes.
17 Q. All right. I'm going to go back to the piece
18 itself. And I don't think you were the only one,
19 Mr. Herring, that got booted off. I guess it was the
20 bandwidth associated with the piece.
21 Others that have gotten knocked off --
22 MR. CAIN: Can you tell, either Sara or anyone
23 else, whether there are folks that have been knocked off
24 the Zoom?
25 Hello?
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1 THE REPORTER: I don't have any way to tell that
2 on the spot. I would need to do an examination.
3 MR. CAIN: All right. Well, I won't put you on
4 the spot, then.
5 Let's just power through, if you're okay with
6 that, Mr. Herring.
7 THE WITNESS: Yes, sir.
8 Q. (By Mr. Cain) All right. I'm going to forward
9 to -- this is at 29-minute and 56 -- basically, a
10 30-minute piece. I'll fast-forward to about the 18:25
11 mark. We're in commercial right now.
12 Just to set the scene here, Mr. Herring, there
13 was reporting, as you saw earlier, on the Antrim County
14 issues. There were some pieces run in between, including
15 a partial interview with Mr. Watkins, an interview with
16 Mr. Giuliani, a reference to Sidney Powell.
17 And then we're getting back from commercial at
18 about 18:30. And we're going to pick up with Mr. Watkins
19 and Mr. Oltmann.
20 (The video segment was played.)
21 Q. (By Mr. Cain) Go back just a second.
22 So I think I know the answer based on your prior
23 testimony, but do you know how Ron Watkins got to be
24 labeled by OAN as a "large-systems technical analyst"?
25 A. I also heard "infiltration hacker." But I do
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1 not.

2 Q. Okay. Do you know how he got that moniker,

3 since you mentioned it as well?

4 A. I do not.

5 Q. And let me do this. Are you not seeing my

6 screen?

7 A. No, sir.

8 MR. RHODES: We did not -- we did not see the

9 last screen, either. It was just you talking.

10 MR. CAIN: That's much less entertaining.

11 Q. (By Mr. Cain) All right. So this is at the

12 19:04 mark. We were talking -- we came back from

13 commercial, as I indicated. And then Mr. Watkins is

14 identified by OAN as a "large-systems technical analyst."

15 Do you see that there?

16 A. I do.

17 Q. And you're going to defer to Ms. Rion in terms

18 of, you know, any background or investigation into his

19 credentials?

20 A. I don't have any knowledge.

21 (The video segment was played.)

22 Q. (By Mr. Cain) He said "adjudication." I cut it

23 off.

24 In follow-up -- again, I think I understand the

25 answer, but did you go just to his Wikipedia page when you

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1 were reviewing this prior to approving it for publication?

2 A. I did not.

3 (The video segment was played.)

4 Q. (By Mr. Cain) Can you explain to me what OAN's

5 knowledge of the adjudication process, in general, is?

6 A. I think a number of staff members have the

7 general understanding that adjudication is the process

8 where a vote is rejected for a possible -- possibly a

9 multitude of reasons.

10 Those votes are then -- or the images of those

11 votes or those actual votes, depending on the process

12 that's used, are looked at to determine what the intent of

13 the voter was and corrected.

14 And that correction could come in a number of

15 forms, whether the original document, whether paper or

16 image, is modified, or an amendment is attached to the

17 image, or a note or an actual piece of paper is attached

18 to the image or to the -- to the original paperwork --

19 ballot, in this case.

20 Q. Okay. So in -- in this -- in the instances

21 where there is some ambiguity concerning the ballot -- a

22 stray mark, for example -- it's your understanding that

23 that would -- that potential ambiguity would be looked

24 at -- flagged and then looked at through this adjudication

25 process; is that fair?

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1 A. Yes, that's fair.

2 Q. Okay. And do you know whether or not that

3 process is handled by people like Dr. Coomer or

4 Dominion Voting Systems, or whether it's handled by county

5 officials or, in some instances, state officials?

6 A. I think the -- the process was established by

7 the voting equipment company, probably working in

8 conjunction with the municipality or the state.

9 I don't know who actually does the review of the

10 adjudication, if that's contractors through arrangements

11 with Dominion in the municipality or the state, or if

12 that's done by trained individuals that are brought on by

13 the municipality or the state.

14 Q. Okay. Well, you recognize Mr. Watkins is

15 indicating that these two to six individuals, as he's

16 saying on your network, have the possibility to affect the

17 outcome based on, essentially, rigging the adjudication

18 system. You recognize that's the part of this piece?

19 A. Yes. I believe that's what he's stating. It's

20 a vulnerability.

21 Q. And so, you know, the issue of adjudicating

22 votes in this instance, are you -- are you saying that OAN

23 believes that process was generated from the voting

24 software companies, such as Dominion? That's -- I need

25 you to clarify that for me.

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1 A. Yes. I believe the process for adjudication,

2 the equipment for adjudication, is established by the

3 voting machine manufacturer and provided/presented to the

4 municipality as part of their equipment and their

5 procedures/processes when the equipment is sold to the

6 municipality or the state.

7 Q. Okay. But -- but the process itself of

8 adjudication has existed well -- well beyond or before

9 these voting system companies, such as Dominion, were

10 around to invent that process for their machines. You

11 understand that; right?

12 A. I understand the general concept of having an

13 issue with a vote, even if it's just paper, and having

14 somebody review the vote to determine the intent of the --

15 the voter is something that's probably been going on for

16 hundreds of years.

17 Q. Okay. So just the idea behind adjudication and

18 determining voter intent is not a new concept; true?

19 A. Agreed.

20 Q. Do you know whether members of both political

21 parties are selected by the various jurisdictions to

22 participate in the adjudication process in the 2020

23 election?

24 A. I don't know what the process is on the

25 adjudication. I know that, generally, they try to have

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1 oversight by a member of the Republican Party and the
 2 Democrat Party.

3 Q. And that's the extent of your knowledge?

4 A. That's correct.
 5 (The video segment was played.)

6 Q. (By Mr. Cain) Is OAN aware of any evidence that
 7 gamma settings were tampered with by Dr. Coomer or anybody
 8 at Dominion Voting Systems in order to increase the
 9 anomalies during the election?

10 A. No.

11 Q. Are you familiar with the 130,000-vote example
 12 that he just gave?

13 A. I have vague memory of a number around that.
 14 I believe, at one point, in one of the states,
 15 the vote count jumps dramatically at one point, and people
 16 were trying to understand how that could be possible.
 17 It's possible that votes were adjudicated en
 18 masse, which is part of the process. If there's a repeat
 19 type of defect, I understand that they can be a reviewed
 20 and adjudicated en masse.

21 So that's my -- my general recollection of what
 22 he might have been referring to.

23 Q. Well, with respect to what OAN was publishing
 24 here, it's a fair inference that Mr. Watkins was tying a
 25 change in the gamma settings to the Dominion software to

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1 allow for hand-checking or changing of votes. And then
 2 he -- and then he goes on to say, It would explain 130,000
 3 votes going for President Biden.

4 Isn't that a fair inference from his statements?

5 A. I think he's speculating on what could have
 6 happened, yes.
 7 (The video segment was played.)

8 Q. (By Mr. Cain) This is another issue about
 9 Sharpies that he's putting out.

10 I want to refer you back to a document we looked
 11 at early on. I believe it was 16 in Ms. Malkin's
 12 deposition.

13 This is that FAQ dated November 13th. So this
 14 would have been, roughly, a week before this aired
 15 temporally. Are you with me on that?

16 A. Yes.

17 Q. And you're not doubting, as you sit here today,
 18 that OAN would have been able to, in preparing to
 19 fact-check this particular piece, review, at least,
 20 Dominion's public position on some of these topics; fair?

21 A. If it was available on their website, we could
 22 have easily accessed it.

23 I noticed that the Wayback Machine was used. So
 24 I'd question that a little bit, if it was available. But
 25 I just don't know.

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1 Q. Okay. Well, if it -- if it turns out that this
 2 is -- it shows that it's updated on November 13th. I'll
 3 represent to you we pulled it from that time period. But
 4 it is what it is, I guess, at this point.

5 In the piece -- we didn't listen to it --
 6 Dominion is referred to as a Canadian company. That's not
 7 correct, is it?

8 A. I don't know. I thought it had Canadian
 9 operations. I also know it had Denver operations. I
 10 don't know where its proper incorporation is.

11 Q. Okay. But if you read this, at least you could
 12 have determined that Dominion says it's a U.S. company; is
 13 that fair?

14 A. Yes. I -- I -- I see that. And I -- I agree
 15 with you. It says it's a nonpartisan U.S. company.
 16 Whether it's a -- whether they're referring to
 17 their U.S. operations or whether they're a Canadian
 18 company, I -- I just don't know.

19 Q. Okay. Well, the -- and I think you mentioned
 20 this earlier, but I had understood your source on this
 21 information regarding Dominion, at least, to be
 22 Joe Oltmann. And maybe I -- maybe I'm making that up.

23 So can you tell me what the source was for
 24 referring to Dominion as a Canadian company for this
 25 piece?

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1 A. I don't know.

2 Q. Mr. Watkins -- we just heard him talk about
 3 Sharpie pens as being properly -- potentially problematic.
 4 And Dominion, in Number 5 here, had already addressed that
 5 issue about a week prior. Do you see that?

6 A. I see the statement, yes.

7 Q. It says, "The Maricopa County Board of
 8 Supervisors assured voters that Sharpies do not invalidate
 9 ballots. Dominion has stated that Sharpie pens are safe
 10 and reliable to use on ballots and recommended due to
 11 their quick-drying ink."

12 So in terms of Mr. Watkins' statements, do
 13 you -- can you explain for me what you understand by OA --
 14 by "you," I mean OAN -- to be the factual basis for the
 15 suggestion that the use of Sharpie pens could have caused
 16 voter irregularities?

17 A. I am aware that, in some states, there was high
 18 adjudication rates that were above what people thought
 19 were the norm.

20 Antrim County comes to mind, where there were
 21 reports that the adjudication rates were in the double
 22 digits. And I've heard and read that they should be in
 23 the sub-single digits. And with the high adjudication
 24 rates, people were trying to figure out why there was high
 25 adjudication rates.

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1 I know there that some of the paper can be
 2 thinner, and bleed-through is an issue. This was reported
 3 in the Arizona audit -- the preliminary findings that
 4 there's potential concerns with those types of issues.
 5 And they're trying -- trying to figure that out still
 6 today.
 7 Q. The Arizona audit you just referred to as an
 8 ongoing audit?
 9 A. Yes. Ongoing audit.
 10 Q. And that's being live-streamed, is it not?
 11 A. I don't believe it's being live-streamed. I
 12 think that portion of the count is over.
 13 Q. I see. It was -- it was live-streamed at some
 14 point; right?
 15 Did I cut out?
 16 A. I'm sorry, sir. I didn't recognize the
 17 question.
 18 Q. I said, it was live-streamed at some point, was
 19 it not?
 20 A. Yes. The cameras were live stream.
 21 Q. By an affiliate of OAN, if I'm not mistaken?
 22 A. The feeds of the live stream were exhibited by
 23 OAN. There's a third-party vendor that installed the
 24 cameras and had control of the cameras.
 25 And at events such as -- numerous events, we
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1 usually try to get access to the live feeds, and we were
 2 able to do that. They were made available by the auditing
 3 fund, as I understood it, to anybody and everybody, and we
 4 took them up on that.
 5 Q. I see.
 6 All right. Let's go back to --
 7 MR. CAIN: Tell you what. We've been going a
 8 little while. Are you okay, Mr. Herring, if we take a
 9 quick break? Let's figure out how much time we have left,
 10 and then I think we'll just have one more segment.
 11 MR. RHODES: Thank you.
 12 MR. CAIN: Ten minutes.
 13 THE VIDEOGRAPHER: Going off the record. The
 14 time is 11:38.
 15 (Recess from 11:38 p.m. until 11:52 p.m.)
 16 THE VIDEOGRAPHER: Back on the record. This
 17 marks the beginning of Media Unit Number 2. Time is
 18 11:52.
 19 Q. (By Mr. Cain) All right, Mr. Herring. Let's --
 20 let's finish up with the "Dominion-izing the Vote"
 21 segment.
 22 When we -- when we broke, we were talking about
 23 adjudication rates in Maricopa County. And in terms of
 24 flagging suspect votes -- excuse me -- ballots to be
 25 reviewed, you know and understand, of course, that that's
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1 not a setting that would be controlled by
 2 Dominion Voting Systems or Dr. Coomer; right?
 3 A. I don't have any evidence of that.
 4 Q. All right.
 5 Let's -- let's go back to -- I'll share my
 6 screen again. We're going to go back to Exhibit 32,
 7 "Dominion-izing the Vote." I'm at the -- now at the 21:06
 8 mark on it.
 9 It will be a little bit more, I believe, of
 10 Mr. Watkins, and then we'll turn to Mr. Oltmann.
 11 (The video segment was played.)
 12 Q. (By Mr. Cain) Do you know the source of
 13 Ms. Rion's statements that the workers that are part of
 14 the adjudication process are, quote, "unmonitored", closed
 15 quote?
 16 A. I don't.
 17 (The video segment was played.)
 18 Q. (By Mr. Cain) We'll stop.
 19 If you hear -- we talked about whether these
 20 were characterized as allegations, or if Ms. Malkin said
 21 "allegedly." If you hear that in this piece regarding
 22 Dr. Coomer, the fact of him being on this call, please
 23 interject and let me know. Okay?
 24 A. Can you repeat that, please?
 25 Q. Yes.
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1 Earlier we talked about whether the term was
 2 used, "allegedly," as it relates to Dr. Coomer being on
 3 this Antifa call.
 4 If you hear that in this piece by Malkin or
 5 Mr. Oltmann, let me know, and I'll stop it so we can note
 6 that for the record. Okay?
 7 A. Understood.
 8 (The video segment was played.)
 9 Q. (By Mr. Cain) So fair to say that Ms. Rion is
 10 tying Mr. Watkins' statements that we looked at previously
 11 to -- to Dr. Coomer directly there? True?
 12 A. I don't have that as a takeaway. I don't think
 13 that's the takeaway.
 14 (The video segment was played.)
 15 Q. (By Mr. Cain) Do you recall if Ms. Malkin ever
 16 challenged Mr. Oltmann during this interview at any point
 17 about Mr. Coomer -- Dr. Coomer being responsible for
 18 putting his finger on the elections?
 19 MR. RHODES: I -- I'm not -- I don't know that
 20 I'm objecting. You said "Ms. Malkin." Did you mean that?
 21 MR. CAIN: Oh. I'm sorry.
 22 MR. RHODES: Yeah. I don't care. That might be
 23 a perfectly legitimate question. I just didn't know what
 24 you meant.
 25 MR. CAIN: No. I'm sorry. Thank you, Barry,
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1 for pointing that out. I mean Ms. Rion.
 2 THE WITNESS: I'm sorry. Can you just restate
 3 the question?
 4 Q. (By Mr. Cain) Yes, I will, with the appropriate
 5 journalist.
 6 It's -- it's fair to say that when that part of
 7 the piece ran where Mr. Oltmann was saying that Dr. Coomer
 8 put his finger on the scale of the election, that Ms. Rion
 9 did not challenge him on that -- on that statement; right?
 10 A. Yeah. I believe she let his comment stand.
 11 Q. And that's a -- that's a factual statement by
 12 Mr. Oltmann in this context, that -- that Dr. Coomer
 13 actually -- actually acted on the motive to rig the
 14 election. Is that fair?
 15 A. I'd probably want to hear it again just to make
 16 sure that that's my interpretation.
 17 Q. Do you need me to play it again?
 18 A. Please.
 19 (The video segment was played.)
 20 Q. (By Mr. Cain) Does that change your answer?
 21 A. It looks like Mr. Oltmann has reached that
 22 conclusion.
 23 Q. And, likewise, that was published -- or
 24 republished by OAN in this particular piece -- portion of
 25 the segment; right?

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1 A. That video aired, yes.
 2 (The video segment was played.)
 3 Q. (By Mr. Cain) Do you know the basis of that;
 4 that Dr. Coomer had the ability to make sure that Dominion
 5 was in all of the battleground states?
 6 A. I -- I would phrase it differently than
 7 Mr. Oltmann did. But I believe that Mr. Coomer was in a
 8 key position, basically, as a technical salesperson
 9 advocating the use of the Dominion machines to be used in
 10 the various states.
 11 MR. CAIN: Objection. Nonresponsive.
 12 Q. (By Mr. Cain) My -- my question was a little
 13 bit different, and that is, do you know the basis, the
 14 factual basis, for -- for Mr. Oltmann's statement that
 15 Dr. Coomer made sure that Dominion was in all of the
 16 battleground states -- either how he had the ability to do
 17 so or how, in fact (audio distortion).
 18 A. Well, I can't speak to what Mr. Oltmann's --
 19 what facts he's relying upon.
 20 But I'm aware, and I believe he is also, that
 21 Mr. Coomer was part of a team that was going state by
 22 state and trying to convince the states to utilize
 23 Dominion machines.
 24 Q. Okay. But that's different, you would agree,
 25 than purposefully directing the company to battleground

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1 states; true?
 2 A. I think he was trying to get in battleground
 3 states and other states. I think that was part of his job
 4 at the time.
 5 Q. Right. To -- it's a private business selling
 6 election equipment and services; right?
 7 A. Yeah. That's my understanding.
 8 Q. So that, in and of itself, is not unique to
 9 Dr. Coomer; correct?
 10 A. I would agree.
 11 Q. But in terms of the statement that Dr. Coomer
 12 was directing this process and getting Dominion into those
 13 battleground states, you don't have any -- OAN doesn't
 14 have any independent knowledge that this was part of some
 15 scheme by Dr. Coomer to install Dominion in critical
 16 battleground states or any factual basis for that; right?
 17 A. Not for any inappropriate activity.
 18 I think Dr. Coomer -- and we have some evidence
 19 of it -- was trying to help sell Dominion systems into a
 20 number of states, including battleground states. But I
 21 don't think there's any nefarious intent, that we're aware
 22 of.
 23 Q. But that's the implication that we're supposed
 24 to draw from these statements by -- that OAN decided to
 25 air, isn't it?

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1 A. We aired the statements of Mr. Oltmann. I think
 2 it could be interpreted differently.
 3 Q. Well, it can be interpreted the way I'm
 4 suggesting as well; fair?
 5 A. I think that's fair.
 6 (The video segment was played.)
 7 Q. (By Mr. Cain) I want to know what OAN was aware
 8 of with respect to airing the Facebook pages on this
 9 segment.
 10 Was OAN aware that these Facebook posts were
 11 part of a private group, as opposed to a public group?
 12 A. That was our understanding.
 13 Q. Was OAN told by Mr. Oltmann how he was able to
 14 gain access to private Facebook posts?
 15 A. I know he made the statements -- I think he
 16 indicated this in an email. I would want to go back and
 17 check to be sure -- but that he was able to access them
 18 through legitimate means.
 19 Other than that, I -- I don't know how he was
 20 able to access the Facebook private posts.
 21 (The video segment was played.)
 22 Q. (By Mr. Cain) They go on to talk about, well,
 23 related topics. But I'm going to stop it there.
 24 As it relates to this notion that Dr. Coomer has
 25 an anti-Trump bias, is it fair to say that OAN has a

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1 pro-Trump bias?
 2 A. I think that's a fair statement.
 3 Q. And the implication, though, it seems from this
 4 is that because of that potential bias, that that would
 5 affect Dr. Coomer's ability to be a professional and to,
 6 you know, do his job because he held these views.
 7 Is there any evidence that OAN is aware of that
 8 just having a political opinion or belief could lead
 9 someone to do the things that Dr. Coomer is suggested to
 10 have done?
 11 A. Yeah. I think when your political belief gets
 12 radicalized to the point that is exhibited by Dr. Coomer's
 13 Facebook posts, that that becomes highly problematic,
 14 especially when you're working at a company such as
 15 Dominion Voting Systems, and at a such senior level.
 16 And I think the one piece of evidence that you
 17 just showed was this open-call email in 2016, where he is
 18 asking his family and friends to pledge their allegiance
 19 to voting against Trump. To me, that is a radical point
 20 of view.
 21 And the other piece of information that we have
 22 is Dr. Coomer is talking about dead presidents. He's
 23 using videos, images, to basically express his point of
 24 view.
 25 He indicates that -- there's a Facebook posting

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1 that says "ACAB," an acronym for "All cops are bastards."
 2 To put a group of people, police officers, and say that
 3 they're all bastards or bad people seems extreme to me.
 4 And so there's a difference, in my opinion, of a
 5 bias -- which, as I mentioned earlier, everyone has a
 6 bias, in my opinion -- and getting to a point where you're
 7 acting upon your bias to the point where you're literally
 8 telling friends that you will not associate with them.
 9 And I think he used the term "idiots" or
 10 "morons" to indicate anybody who was going to vote for
 11 Trump, and he wanted to disassociate with them.
 12 So I think he's at a different extreme level
 13 than just a bias.
 14 Q. And -- and is he more fervent in his hatred of
 15 Trump as you are in your love of him?
 16 A. I think he's at a totally different level -- at
 17 a different quantitative state than we are at. And I
 18 think, as you can see, his friends are even telling him
 19 that and being alienated by him.
 20 Q. To be fair, the post said "Unfriend me." That
 21 was Dr. Coomer in this post -- note to people that are on
 22 his Facebook; that if they don't believe, you know, or buy
 23 into his viewpoint, he'd rather them not be on the private
 24 Facebook page.
 25 Is that so controversial to you?

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1 A. The -- the post, the open call, June 2016, in my
 2 opinion, is him acting upon rage that he had. And when
 3 somebody acts upon rage, I think you're at an extreme
 4 level where you may do things and take action that is
 5 outside of the bounds of what is considered normal.
 6 And when he is advocating anarchist views,
 7 saying F the United States, dead presidents, all cops are
 8 bad, he's indicating to me that he's an anarchist. And an
 9 anarchist goes against our government.
 10 Q. I'm not going to get into your knowledge of
 11 hip hop. The Dead Presidents -- that reference is
 12 actually a hip hop group. Were you aware of that?
 13 A. I am. I think he's using those images to
 14 express a point of view.
 15 I don't think he put up "F the United States" or
 16 "All cops are bad" because he was talking about hip hop or
 17 trying to say that he loves the artist. I think he was
 18 expressing a point of view that is typical of anarchists
 19 and Antifa individuals.
 20 Q. And OAN, through this piece, was able to expose
 21 Dr. Coomer's private political views, was it not?
 22 A. We showed the email -- or, excuse me -- the
 23 Facebook posts. I think we showed four of them that had
 24 been exhibited previously by others.
 25 Q. Let me ask you this: When -- when -- when

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1 Ms. Rion said that Eric Coomer was in a position to -- of
 2 power to act on his rage, as you've just been
 3 discussing -- and I asked the same question to Malkin --
 4 what is OAN's working theory, as it sits here today, as to
 5 how he actually could have, in theory, rigged the 2020
 6 election?
 7 A. Well, "could have" means speculation. I'm glad
 8 to speculate all day long on how he could have done it.
 9 But I'll give you one theory.
 10 The machines could have been set up. "Could
 11 have." I'm not saying this was done. And we have no
 12 evidence that Mr. Coomer or Dominion did anything that
 13 impacted the 2020 election.
 14 But he could have increased the percentage of
 15 the votes that were sent to adjudication.
 16 He could have, as has been done in many crimes,
 17 used people on the inside, whether he paid them off,
 18 whether he put people in positions that he knew were going
 19 to go ahead and -- and follow through with that --
 20 whatever he wished to do and set up the adjudication
 21 process such that the adjudication process favored
 22 inappropriately one candidate over the other and no -- or
 23 did not reflect the will of the voter.
 24 You know, we could speculate all day. And
 25 there's a -- there's a number of areas where we

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1 highlighted vulnerabilities that, arguably, need to be
 2 addressed and could have been a way of rigging an
 3 election.
 4 One of those vulnerabilities, also, as I
 5 understand it, is the election tables could have been
 6 switched. So you could take a vote for whoever is in
 7 Column D and put them in the same column -- or in a
 8 different column, move them up or move them down.
 9 This was highlighted in Antrim County. And it's
 10 believed by some that the voting was manipulated by moving
 11 the columns around.
 12 We do know, in Georgia, in the summer of 2020,
 13 certain candidates did not show up on the -- the voting
 14 ballots themselves that were shown on (audio distortion).
 15 Q. And that was changed; right? That was
 16 corrected; right?
 17 I said, And that was corrected; right? The
 18 issue in 2020 with the -- with the individuals not showing
 19 up on the ballot, that was corrected, was it not?
 20 A. I think people showed up to vote, and it was not
 21 corrected for them. I think, after the fact, corrections
 22 were made.
 23 Q. All right. Well, let's talk about the
 24 speculation issue that you've been raising.
 25 Are you telling us that the -- that OAN was

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1 not -- the implication, I guess, of this reporting was
 2 that Eric Coomer had the ability to rig the election.
 3 That's the clear implication from this report; fair?
 4 A. If somebody was going to rig the election, it
 5 would be somebody who has extensive knowledge, is
 6 outrageously intelligent, is in a position to do it, and
 7 has what I would call the burning belly to act upon his
 8 ideology.
 9 And so somebody like a Dr. Coomer fits those
 10 characterizations. That doesn't mean he did this. But
 11 with his statement that he made during the Antifa call,
 12 that's concerning.
 13 Q. In addition to your answer that you just gave
 14 us, it's fair from this -- this piece that was done by OAN
 15 that the implication or inference to be drawn is that
 16 Mr. Coomer -- Dr. Coomer had the motive to rig the
 17 election based on, as you described it, the rage that he
 18 held?
 19 A. The -- I think the Facebook posts show that he,
 20 potentially, had the motive.
 21 Q. And not the implication but the fact of the
 22 reporting here was that Eric Coomer actually bragged that
 23 he did these things as part of the Antifa conference call;
 24 true?
 25 A. He made a statement. How to interpret that

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1 statement becomes difficult, because he made that
 2 statement before the election.
 3 Q. Right. But I'm -- I'm talking about the report
 4 itself that issued or reported as fact that Eric Coomer
 5 was the person on the call making those statements; true?
 6 A. I think we're -- I think we're trying to
 7 highlight that somebody could have done it, and here's an
 8 example of somebody who could have done it.
 9 Q. No. But my question was different.
 10 You're reporting here indicated that Eric Coomer
 11 was actually on this call making these -- these
 12 statements; true?
 13 A. True.
 14 Q. Is there -- in your opinion -- well, no. Let me
 15 go back to a different question.
 16 We talked about speculation. You speculated
 17 about what Eric Coomer, Dr. Coomer, could have done. And
 18 I understand your testimony there.
 19 But then the question is, how -- how probable or
 20 likely is it for that to occur? Are you with me in terms
 21 of that distinction?
 22 A. I am.
 23 Q. Okay. And that piece of the puzzle is
 24 determined, at least in part, by the system -- the voting
 25 security systems that are set up at the federal, state,

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1 and county levels; right?
 2 A. That's a deterrent -- could be a deterrent, or
 3 one of them, yes.
 4 Q. Yes. So speculating about the ability to do
 5 something only has -- tell me if -- if you disagree with
 6 this statement. But speculating about the ability to do
 7 something only has news value if it is potentially likely
 8 that that speculation could actually occur as a practical
 9 matter. Do you agree with that statement?
 10 A. I think so, yes.
 11 Q. I mean, he could -- he could build a rocket ship
 12 and fly to the moon, but that doesn't seem very likely, at
 13 least at this stage in Dr. Coomer's life.
 14 In this instance, I want you to tell me how,
 15 from a -- from a technical standpoint, Dr. Coomer could
 16 have done the things that you speculated about without
 17 detection by either federal, state, or county authorities?
 18 A. Again, on the adjudication process.
 19 We can get into speculation, but the problem is
 20 I don't have his expertise. Obviously, he's a very
 21 brilliant man, based on having a Ph.D. in nuclear physics.
 22 He holds a number of patents, or he's listed on
 23 the patents for Dominion over multiple years, including
 24 the adjudication process.
 25 You would be looking for somebody like him, who

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1 has his level of expertise, is in a position which he is
 2 in working for Dominion voting machines, and has the
 3 motivation.
 4 And what's clear to me is that, after looking at
 5 his Facebook posts and understanding a number of things,
 6 that it's clear to me that he has anarchist, Antifa-like
 7 sympathies and views.
 8 And so that's somebody that would have the
 9 ability to manipulate an election.
 10 Q. Well, again, the ability is different than,
 11 perhaps, the actual facts.
 12 It would be inherently improbable for Dr. Coomer
 13 to be have done any of these things, either inject himself
 14 into the adjudication process or otherwise, without
 15 detection; true?
 16 A. I wish that was the case, but I can't agree with
 17 that.
 18 If somebody was going to get away with something
 19 like this, it's going to be somebody that has expertise.
 20 And again, forgetting about Dr. Coomer for a minute, but
 21 it's going to be somebody who has the expertise and
 22 understands the process and how the voting equipment has
 23 been designed.
 24 They'll need to know it inside and out. Very
 25 similar to a bank robber; you're going to be looking for
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1 somebody who understands the security aspects of it and
 2 how the equipment -- in this case, maybe the safes -- are
 3 set up.
 4 You gotta to have the access, you have to have
 5 the knowledge, and you have to have the motivation. And
 6 those are the three boxes that get checked.
 7 Whether he actually did it or not, I -- we don't
 8 know. We don't have the evidence of that.
 9 Q. Yeah. And at least with respect to the
 10 "Dominion-izing the Vote" piece, the individual that OAN
 11 put on its -- on its investigation for how this could have
 12 happened, whether it was inherently improbable or not, was
 13 Mr. Watkins; right?
 14 A. I think he's one of the examples that we put out
 15 there.
 16 Q. Do you have a working theory as to how
 17 Dr. Coomer could have changed the actual audited
 18 paper-ballot trail in any of the swing states?
 19 A. Well, the audited paper trail would need to be
 20 audited, first of all. And to the extent that --
 21 (Simultaneous speakers.)
 22 Q. -- Georgia had three hand recounts.
 23 A. To the extent that has or has not taken place in
 24 a number of states is -- is one way. The states need to
 25 do audits.
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1 We have seen in Maricopa County in Arizona one
 2 heck of a fight, where the county doesn't want to give the
 3 state legislator, who has a responsibility
 4 constitutionally to confirm results of the -- the
 5 election -- did not want to give them access.
 6 So we'll see how some of these audits play out
 7 in the various states.
 8 Q. Let's -- let's talk, you know, actuality and
 9 what's occurred.
 10 And you know Dr. Coomer was involved through
 11 Dominion in the Georgia election. You know that; right?
 12 Or maybe you don't.
 13 A. I do know that, yes. And I do know that he
 14 provided testimony when it came to the Donna Curling
 15 lawsuit that was filed and trying to explain what happened
 16 in the summer of 2020.
 17 Q. And you know, since you're familiar with both
 18 Curling and that jurisdiction, that Georgia has had three
 19 hand recounts and has certified its results; fair?
 20 A. I know that there's a judge that has allowed an
 21 additional recount, a hand recount, of approximately
 22 147,000 ballots that has not been done yet. So I know
 23 there's still uncertainty in that Georgia election.
 24 Q. But you know that there's been three completed
 25 hand recounts, not incomplete --
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1 (Simultaneous speakers.)
 2 A. That --
 3 Q. -- that have served the basis for certifying the
 4 election. You know that, don't you?
 5 A. And excuse me for speaking over you. I don't
 6 mean to be rude.
 7 I do not know to the extent that 100 percent
 8 hand counts were actually done in Georgia.
 9 Q. Well, I asked you earlier this idea of what
 10 Dr. Coomer could have done, and I -- and I said it would
 11 be inherently improbable for that to have occurred without
 12 detection. You disagreed with me.
 13 How could Dr. Coomer -- let's just take Georgia
 14 that had hand recounts -- have acted on his rage, as
 15 Ms. Rion indicated in her report?
 16 A. Yeah. Without -- yeah. I could speculate all
 17 day long, but without the knowledge and expertise that
 18 somebody in his position would possess, knowing the actual
 19 mechanisms that that would be done, I don't know.
 20 But it's clear to me that on the adjudication
 21 equipment, on the election tables, on the turning in of
 22 the USB results -- I think we have one state where there
 23 were approximately a couple thousand, maybe 2,600 votes
 24 that weren't tabulated that were coming off USBs.
 25 There's a lot of vulnerabilities in these
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1 elections, and it's a -- it's a concern. We want to make
2 sure that equipment is as rock solid as can be.
3 But there's -- there's been a lot of concerns
4 with the equipment that have been highlighted through the
5 years by a number of media outlets.
6 Q. Is your theory that you were talking about just
7 a second ago in terms of the adjudication process being a
8 weakness -- is there any precedent for
9 Dominion Voting Systems employees to have interjected
10 themselves in the adjudication process during the
11 canvassing part of an election?
12 A. I don't know how that process takes place. I
13 just don't know the answer to that question.
14 MR. CAIN: All right.
15 Jason, where are we on time?
16 THE VIDEOGRAPHER: Six minutes.
17 Q. (By Mr. Cain) Okay. Let's, briefly, take our
18 last six minutes to look as many pieces of paper as I can
19 put up on the screen. All right, Mr. Herring?
20 A. Yes, sir.
21 Q. Go back to Exhibit Share. And didn't know if I
22 would be getting to all of these. You can help me.
23 There were some communications that were
24 produced by OAN that I'd like some color on, or at least
25 authentication, so I understand the back-and-forth.

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1 Okay. Are you seeing my screen?
2 A. Yes, I see your screen.
3 Q. Okay. You looked at this before when I was
4 asking you if you-all ever got records that he was --
5 Dr. Coomer was a shareholder. Then we went off to a
6 different topic at the time.
7 Also, there were some texts that were produced.
8 This is OAN 211. And it appears to be your text with
9 Chanel Rion; is that true?
10 A. I believe that's accurate.
11 Q. Okay. So this is December 15th, a Tuesday.
12 This is you saying, "Are you in the briefing room?"
13 A. Yes.
14 Q. And you -- and she says, "Yes. Call when you
15 get a minute. Call, please. On the way to studio."
16 You transmit Dominion Voting Systems Employee
17 Sues Trump Campaign Allies.
18 And this is Ms. Rion saying, "Can we countersue
19 Coomer and get him in discovery?" That's her; right?
20 A. I believe that's correct, yes.
21 Q. This is what I'm going to ask you about, though.
22 "There is, by the way, big updates from tonight. No
23 meeting, but it's for the better. Christina can fill in
24 too. Adjustments had to be made."
25 What is she referring to there?

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1 A. I don't recall what she's referring to.
2 Q. Do you know what the meeting is that was -- that
3 was planned for December, in this case, 22nd, that was
4 then, apparently, canceled?
5 A. I do not.
6 Q. Do you know what she means when she says
7 "Adjustments had to be made"?
8 A. I don't.
9 Q. Exhibit 42 -- it appears to be a Christina Bobb
10 email to you in February, and it relates to documents
11 provided by Phil. Who's the Phil that's providing
12 documents to OAN at this time period?
13 A. I think this is a gentleman that does forensic
14 analysis. There it is. Dr. Phil -- no. I don't think
15 he's a doctor. Phil Waldron.
16 Q. Okay. Was this in connection with a story that
17 OAN was working on, if you know?
18 A. I thought these might have had to do with
19 Antrim County, but I'm not sure.
20 Q. So you can't say --
21 A. I just don't know.
22 Q. Okay. And Christina Bobb, was she working on
23 any of the Dominion or Dr. Coomer stories?
24 A. No. She was really looking at other things;
25 although, she was copied on a few of the emails.

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1 Q. Was she assisting -- now, she is -- is she an
2 employee of OAN? I'm talking about Ms. Bobb. What's her
3 status?
4 A. She's a full-time staff member of OAN.
5 Q. Is that an employee, or are they independent
6 contractors?
7 A. That's an employee. She's not a contractor.
8 Q. Same with Ms. Rion? Is she an employee?
9 A. Yes. Ms. Rion is a full-time staff member --
10 Q. Okay.
11 A. -- and employee.
12 Q. Was Ms. Bobb -- we have a picture of her with
13 Mr. Giuliani on January 5th or 6th, I think, in the
14 Willard Hotel.
15 Was Ms. Bobb part of the Trump campaign legal
16 team, if you know?
17 A. Not to my knowledge.
18 Q. Was she assisting the Trump campaign?
19 A. If she was with Giuliani, she was probably
20 trying to get interviews.
21 Q. Do you know whether or not Ms. Bobb provided
22 documents or assistance to the Trump campaign?
23 A. Not to my knowledge.
24 Q. Same question for Ms. Rion.
25 A. Not to my knowledge.

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1 Q. I'm sorry. I talked over you -- spoke over you.
2 I think I heard your answer, though.
3 A. Yeah. Not -- not to my knowledge, sir.
4 Q. This is --
5 MR. RHODES: Jason, do we have a -- I'm sorry.
6 Jason, do we have a time?
7 MR. CAIN: He's going to tell us when I'm done.
8 THE VIDEOGRAPHER: We are at 40 minutes.
9 MR. CAIN: Oh. So he's telling me I'm done.
10 Do you mind if I finish my question on
11 Exhibit 43, given the interruptions we've had?
12 MR. RHODES: You can go ahead with 43.
13 Q. (By Mr. Cain) Let's just finish this up. This
14 is Exhibit 43.
15 (Plaintiff's Exhibit Number 43 was introduced.)
16 Q. (By Mr. Cain) Can you tell me who's exchanging
17 these texts? I assume "RG" is Giuliani?
18 A. Yes. I believe that's a text with me --
19 Rudy Giuliani and me.
20 Q. And there are no other texts between you and --
21 and Rudy Giuliani relating to Dr. Coomer or
22 Dominion Voting Systems?
23 A. Not that I recall. But we did turn over
24 everything we could find to our attorney.
25 Q. And I asked you about Ms. Bobb and Ms. Rion. Is
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1 it your testimony that you, Mr. Herring, you did not
2 provide documents that had been gathered by OAN through
3 its investigation to the Trump legal team?
4 A. I did -- I just want to make sure I'm answering
5 this correctly. Can you say the question again?
6 Q. I said, did you provide documents or information
7 to the Trump legal team?
8 A. I don't believe so.
9 MR. CAIN: Okay.
10 Mr. Herring, I appreciate your time today. I
11 think that's all the questions that I have for you for
12 now.
13 THE WITNESS: Thank you, sir.
14 MR. RHODES: I will have a few questions. Let's
15 take a short break, and we'll be back at -- well, my time
16 would be 2:45. I have no idea what time that is in
17 California.
18 THE VIDEOGRAPHER: Going off the record. Time
19 is 12:33.
20 (Recess from 12:33 p.m. until 12:47 p.m.)
21 MR. CAIN: Thank you.
22 Before counsel questions his client, I just --
23 he graciously allowed me to make a quick record.
24 We finished three hours of questioning by the
25 plaintiff of Mr. Herring. Under the Court's order, the
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1 plaintiff was granted that ability, because it would be
2 the plaintiff's burden under the statute. There is no
3 reciprocal grant to the defendants.
4 I do believe that OAN has filed a declaration
5 that we looked at earlier. But I don't want us to go
6 forward under the assumption that we agree and haven't
7 raised this objection.
8 So I do have an objection to this line of
9 questioning by defense counsel. Obviously, we'll just
10 raise that at the appropriate time. But, certainly,
11 Mr. Rhodes is going to make his record.
12 Thank you.
13 CROSS-EXAMINATION
14 BY MR. RHODES:
15 Q. Mr. Herring, I want to follow up on several
16 questions and answers that you -- that you gave during the
17 direct examination. And I want to start with Exhibit 34,
18 which I'll share on my screen.
19 Do you see Exhibit 34, sir?
20 A. I do.
21 Q. This was shown to you by Mr. Cain. And this is
22 the original contact, I believe, by Joe Oltmann to
23 One America News on November 10, 2020; is that correct?
24 A. Yes, sir.
25 Q. Okay. And you had previously testified, I
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1 believe, that Dominion-izing the News -- excuse me --
2 "Dominion-izing the Vote" -- excuse me -- aired on
3 One America News on -- I believe it's Saturday,
4 November 21st; correct?
5 A. Yes.
6 Q. So was there -- was OAN in a hurry to get this
7 on the air if it took 11 days to -- from when you first
8 heard from Mr. Oltmann to getting this on the air?
9 A. No. I believe it was already in process, the
10 concept of producing "Dominion-izing the Vote."
11 We didn't have the information on Eric Coomer,
12 but I believe that, at this time, we were already
13 beginning to produce it.
14 Q. All right. Thank you. That was another area I
15 wanted to -- to clarify.
16 You had stated that Ms. Rion had been working on
17 this for one or two or three weeks. Can you explain what
18 you mean by that, given that you didn't hear from
19 Mr. Oltmann until November 10th?
20 A. She was working on "Dominion-izing the Vote,"
21 the concept of exposing voter irregularity, concerns that
22 could happen on voting machines, not Eric Coomer.
23 And that didn't come about until -- to include a
24 short segment with Eric Coomer sometime the weekend of the
25 14th, 15th. But the concept of the program was already in
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1 process.

2 Q. Okay. Did you know of Dr. Coomer prior to

3 November 10, 2020?

4 A. No, sir.

5 Q. Did you know of Mr. Oltmann prior to

6 November 10, 2020?

7 A. No.

8 Q. Mr. Cain then showed you Exhibit 35. Let me

9 pull that up, please.

10 Can you see Exhibit 35?

11 A. Yes.

12 Q. And I believe you previously identified this

13 as -- if we start at the bottom -- Taylor Scott is

14 responding on November 10th to Mr. Oltmann's, I believe

15 you called it, viewer contact form; correct?

16 A. Yes.

17 Q. And Ms. Scott writes, quote, "Do you have any

18 hard evidence to prove this?" closed quote.

19 Do you believe that was an appropriate question

20 to ask Mr. Oltmann?

21 A. Probably the most appropriate.

22 Q. And --

23 A. We had been receiving a lot of forms, a lot

24 of -- well, a lot of feedback on these forms. And

25 frankly, most of them didn't have any substance. So we

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1 were trying to make it clear that we're looking for hard

2 evidence.

3 Q. And then you stated that Mr. Oltmann responded

4 to Ms. Scott with various information. And the last

5 paragraph on the first page before he says, "Thanks,

6 Taylor," that includes a link to the Conservative Daily

7 podcast; is that correct?

8 A. Yes.

9 Q. And you've told us that you personally watched

10 all two hours of that video podcast?

11 A. I did.

12 Q. And that was sometime over the weekend of

13 November 14th and 15th?

14 A. Yes.

15 Q. Then you've indicated that the information in

16 bold below is information that you understood Mr. Oltmann

17 to have copied and pasted from some other -- one or more

18 other documents?

19 A. That was my interpretation. Because it doesn't

20 really flow. So I think he was cutting and pasting and

21 just adding it to the back end of an email trying to give

22 us more information.

23 Q. Okay.

24 So there's the discussion on -- on the second

25 page of Exhibit 35: "I want to give you context on what

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1 we are going to discuss. About three weeks ago, I gave a

2 speech at an FEC meeting. As you may or may not know,

3 am in the data business. I've been incredibly focused on

4 Antifa and the threat of their infiltration of our

5 journalism and the Democratic [sic] party."

6 Do you see that?

7 A. I do.

8 Q. Did you do anything to attempt to verify

9 Mr. Oltmann's statement that he was attempting to focus --

10 that he was focusing on Antifa and the infiltration of

11 local journalism?

12 A. Yes. In his two-hour posting, his podcast that

13 went out on Conservative Daily -- in there, he says that

14 he spoke at a raceway and exposed 13 Antifa journalists.

15 I went back and looked at one specific web

16 posting that indicated that he was at an event in

17 mid-October; that he spoke at this event. I think he

18 actually threw the event. He was the person who hosted

19 the event.

20 And he made some claims at that event about

21 tracking down and exposing Antifa, specifically as it

22 regarded to Antifa persons being associated with the

23 media.

24 By the way, that one article linked to another

25 article. And somewhere in there, there was a video that

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1 showed him at that event. And, apparently, somebody

2 was -- a reporter, who was believed to be Antifa, showed

3 up at his event and was removed from the event.

4 Q. All right. If you'll hold on one second,

5 please. I am going to show you, sir, what I have marked

6 as OAN Exhibit A, so that the plaintiff can continue their

7 numbering sequence.

8 (OAN Exhibit A was introduced.)

9 Q. (By Mr. Rhodes) And what is OAN Exhibit A?

10 A. This was a web posting that I looked at. I just

11 want to make sure it's the right one.

12 Yeah. So a web posting that I looked at

13 indicating that he was -- that Joe Oltmann was at an event

14 at a speedway and made statements at the event.

15 You can see where you can click through to a

16 Times-Recorder article, and --

17 Q. I'm hovering over by clicking here on the first

18 page, and it gets me a hyperlink to a

19 coloradotimesrecorder.com article, with the slug

20 "FEC United Founder Threatens Journalist at GOP Candidate

21 Event." Do you see that?

22 A. I do.

23 Q. Okay. And -- and this article, Exhibit A, is

24 dated October 16, 2020?

25 A. Yes. I see that.

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1 Q. And so was this -- did you review Exhibit A in
2 an effort to corroborate Mr. Oltmann's statement that he
3 was not on the Antifa call looking for Mr. Coomer, but was
4 on the Antifa call looking for information about local
5 journalists?
6 A. I just wanted to verify that he was at this
7 event and see what knowledge I could gain by researching
8 it a little bit. And it was clear that he made the
9 statement that he was trying to expose Antifa members that
10 were associated with the press.
11 He said he disclosed 13. I think, in one of the
12 articles, it says that the names of those 13 were not
13 given out publically, but he made the claim during that.
14 And I think there were some elected officials at
15 that event, also. And I believe that he hosted that event
16 through the FEC United organization.
17 Q. All right. And then you've indicated that
18 the -- one of the articles that you read that weekend also
19 linked to a video of Mr. Oltmann from -- at the speedway?
20 A. Yes. That is correct.
21 He was in a white tent. He made a short
22 statement. And I believe there were elected officials
23 there or people running for office.
24 Q. All right. I have marked that video as
25 Exhibit B.

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1 (Exhibit Number B was introduced.)
2 Q. (By Mr. Rhodes) And I will play that and ask
3 you if that's the video you reviewed as part of your
4 investigation the week of November 14th and 15th.
5 (The video segment was played.)
6 Q. (By Mr. Rhodes) Is that the video that you
7 reviewed, Mr. Herring?
8 A. I believe so.
9 Q. And did that confirm for you Mr. Oltmann's
10 statement that he was attempting to infiltrate to expose
11 Antifa members who were posing as journalists?
12 A. Yes. It was consistent with the statements that
13 he made in his video.
14 Q. Let's go back to Exhibit 35.
15 On the second page, in the second paragraph,
16 Mr. Oltmann says, "You all have seen the video of
17 Kris Jacks, the Our Revolution leader in Northern Colorado
18 who called for the beheading of Americans.
19 "If you check out the video from
20 Project Veritas, you will see that he stated they hold a
21 majority of the seats in the Democratic [sic] party across
22 Colorado."
23 Do you see that?
24 A. I do not see it. It's not --
25 Q. You did not see that because I have not shared

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1 that. Thank you. Let's do this again.
2 Now do you see that?
3 A. Not real well. It's blurry. But --
4 Q. Okay. Well, here's Exhibit 37 -- Plaintiff's
5 Exhibit 35 -- excuse me -- the second page. Thank you.
6 "You all have seen the video of Kris Jacks,
7 Our Revolution leader in Northern Colorado, who called for
8 the beheading of Americans. If you check out the video
9 from Project Veritas, you will see that they stated they
10 hold a majority of the seats of the Democratic party
11 across Kansas [sic] -- Colorado."
12 Do you see that now?
13 A. Yes.
14 Q. Yeah. Probably helps when I share the screen.
15 At the time that you received and read this
16 email, what did you know about Kris Jacks?
17 A. I had seen the Project Veritas -- or, excuse
18 me -- the Project Veritas videos. And I know that
19 Kris Jacks was, basically, a radicalized individual that
20 was trying to justify violence and made some pretty strong
21 statements that if democrats were not in line with his
22 progressive views, that they could potentially be killed.
23 So I knew he was radicalized. I think he made
24 statements that he appreciated Antifa, and that Antifa was
25 prepared to use violence.

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1 (OAN Exhibit C was introduced.)
2 Q. (By Mr. Rhodes) I have marked as Exhibit C the
3 Project Veritas video I believe you are referring to. Let
4 me share that screen with you.
5 I'm going to play this video and ask you if you
6 had seen this video prior to your receipt on November 10th
7 and your review on November 14th and 15th about
8 Kris Jacks.
9 MR. CAIN: Is there a -- just to interject --
10 (The video was played in its entirety.)
11 Q. (By Mr. Rhodes) Mr. Herring, is that the
12 Project Veritas video regarding Kris Jacks you had seen
13 before you got Mr. Oltmann's viewer comment on
14 November 10th?
15 MR. CAIN: Counsel, can you hear me?
16 MR. RHODES: Yes.
17 MR. CAIN: Can I be heard? Okay. Thank you.
18 When that started, I tried to interject an
19 objection. And I thought I was speaking, but the video
20 continued to play. So let me just assert a couple of
21 objections.
22 First reassert what I said in terms of this is
23 not in compliance with the Court's order.
24 Secondly, as it relates to this Project Veritas
25 video, I've tried to find any production of that to me as

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1 being something that was part of OAN's investigation. I
2 have not seen that video.
3 MR. RHODES, you can correct me if I'm wrong if
4 that's been produced, but I believe it hasn't. But even
5 if it had, I don't see the line of relevance of this line
6 of inquiry, so I'd object on that basis as well.
7 Do you have a time estimate of how long you're
8 going to be questioning Mr. Herring?
9 MR. RHODES: No, I do not.
10 And the answer to your question, as I stated at
11 the beginning of the deposition, Mr. Cain, the information
12 regarding the verification of Mr. Oltmann's statements
13 unrelated to Mr. Coomer is not a topic of the four
14 document requests you made. Therefore, the
15 Project Veritas video was not produced, because it's not
16 responsive to any request.
17 However, during your examination of Mr. Herring,
18 you specifically asked him what, if anything, he did to
19 verify the voracity, to determine the voracity, of
20 Mr. Oltmann. These documents and videos go directly to
21 that issue; therefore, they are directly relevant on
22 cross-examination to your direct examination of that
23 topic.
24 MR. CAIN: And where under the Court's order are
25 you deriving your authority to continue to question the
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1 witness?
2 You've already filed your motion. You can't
3 file additional evidence in -- in a reply. So I don't
4 understand what we're doing here, and certainly don't
5 understand what Mr. Jacks has to do with Dr. Coomer.
6 MR. RHODES: Well, if you'll let me -- if you'll
7 let me continue, I was about to ask the question of the
8 relevance of Mr. Jacks.
9 MR. CAIN: All right. I'll just -- you know,
10 I'll make my objections. I just don't see -- I don't see
11 the appropriateness of this. But continue on.
12 MR. ARRINGTON: This is Barry Arrington. I
13 will -- I do think I need to interject here, lest my
14 silence be mistaken for assent to something that Mr. Cain
15 said.
16 He said we can't file any more evidence in
17 our -- in support of our replies. I don't -- I don't --
18 the Court -- the trial court has made no such order. I'm
19 not aware of any rule of law or procedure that would
20 support that suggestion that.
21 Any evidence that is designed to reply to
22 assertions made in the -- in the answer is certainly
23 legitimate for filing and attaching to our reply. So I,
24 for one, fully intend to -- to submit additional evidence
25 in my reply.
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1 Q. (By Mr. Rhodes) Mr. Herring, Mr. Cain says he
2 doesn't understand the relevance of the Project Veritas
3 video of Kris Jacks.
4 I'm showing you again Mr. Cain's exhibit -- not
5 mine -- Mr. Cain's exhibit of Plaintiff's Exhibit 35, in
6 which Mr. Oltmann describes to you about him having
7 knowledge, supposedly, of a video of Kris Jacks talking
8 about beheading of Americans and a video from
9 Project Veritas, which we now know is the same.
10 Because of your prior knowledge of the
11 Project Veritas video of Mr. Jacks, were you able to
12 corroborate, determine the voracity of Mr. Oltmann's
13 statement in his email that Mr. Cain has marked as
14 Plaintiff's Exhibit 35 regarding Mr. Jacks calling for the
15 beheading of Americans?
16 A. Yes.
17 MR. CAIN: Leading.
18 A. It further solidifies why Mr. Oltmann was
19 pursuing and trying to call out Antifa. Some of the
20 radical views that are being called out by people that
21 either are Antifa or sympathetic to their point of view,
22 literally asking for, calling for, and trying to justify
23 violence against people that have different points of view
24 is very, very extreme and, I think, of concern to
25 Mr. Oltmann, and probably why FEC United came about in the
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1 first place.
2 Q. (By Mr. Rhodes) I want to show you what I've
3 marked as Exhibit D.
4 (OAN Exhibit D was introduced.)
5 Q. (By Mr. Rhodes) Can you tell me what Exhibit D
6 is?
7 A. This is an email that I received on -- looks
8 like it's October 14, 2020 -- that talks about Kris Jacks.
9 It was sent to a wide range of media.
10 Q. I don't see your name on here. Why do you say
11 you received this?
12 A. It's in my emails. There's an email address
13 that is TDL -- I think it is TDL@oann.com -- which is an
14 email address that I have filtered into my primary email.
15 Q. And this regards the "Democratic Official: I
16 will lie; I will cheat; I will steal"; correct?
17 A. Yes.
18 Q. This is Kris Jacks, that we just talked about?
19 A. Yes. Probably missing one other thing, which is
20 "I will include violence."
21 Q. Okay. And there's a hyperlink here to the
22 video; is that correct?
23 A. I believe so.
24 Q. Actually, I believe this hyperlink -- I take
25 that back. This hyperlink, I believe, is to -- let me
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1 mark this. We have to go the long way around here.
 2 (OAN Exhibit E was introduced.)
 3 Q. (By Mr. Rhodes) I'm showing you Exhibit E,
 4 which, I will represent, the hyperlink in Exhibit D takes
 5 you to this Breitbart article from October 13, 2020.
 6 Do you see that?
 7 A. I do.
 8 Q. And then on the very beginning of the Breitbart
 9 is the link to the 12-minute, 21-second YouTube video that
 10 we just watched; is that correct?
 11 A. It appears to be, yes.
 12 Q. Okay. So almost a month before Mr. Oltmann
 13 wrote you anything about Kris Jacks and his desire, and
 14 the desire of other members of Antifa, to behead
 15 Americans, you were aware of Mr. Jacks and the
 16 Project Veritas video; correct?
 17 MR. CAIN: Leading.
 18 A. I was.
 19 Q. (By Mr. Rhodes) Prior to Mr. Oltmann emailing
 20 OAN on November 10th, were you aware of any other alleged
 21 Antifa members in Colorado?
 22 A. I was aware of Antifa going into the suburbs
 23 with BLM and intimidating residents.
 24 I was aware of a connection with a shooting that
 25 took place where a gentleman who was a security guard for
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1 a news channel pulled a gun and shot another individual.
 2 I think his name is Matthew Dolloff.
 3 I am generally aware of Antifa raising heck in
 4 multiple areas around the United States. We did a special
 5 on Antifa prior to November 9th, 2020.
 6 And we've had staff -- I don't recall the
 7 time frame, but we've had staff members, or a staff
 8 member, that was that harassed by Antifa.
 9 (OAN Exhibit F was introduced.)
 10 Q. (By Mr. Rhodes) I'm showing you Exhibit F,
 11 which is an email -- a series of emails from
 12 October 11, 2020. And I want to direct your attention to
 13 about a third of the way down, begin forward message from
 14 Dr. Reg Barrow to contact@oann.
 15 I believe you previously told us that you
 16 received copies of emails sent to this email address;
 17 correct?
 18 A. Yes, I do.
 19 Q. And on the second page of Exhibit F, Dr. Barrow
 20 messages: "Alleged Denver shooter Matthew Robert Dolloff
 21 is a proud radial leftist," with a link to a report on --
 22 to noqreport.com; is that correct?
 23 A. Yes.
 24 Q. Prior to your receipt of Mr. Oltmann's email on
 25 November 10th, had you reviewed that NOQ Report?
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1 A. I reviewed it, and OAN reported on it.
 2 Q. If you'll hold on one minute, I've got to move
 3 my exhibit sticker so it's not covering up anything.
 4 (OAN Exhibit G was introduced.)
 5 Q. (By Mr. Rhodes) I'm showing Exhibit G,
 6 Mr. Herring. Is this is NOQ Report that you reviewed?
 7 A. Yes.
 8 Q. And this is dated October 11, 2020; correct?
 9 A. Yes.
 10 Q. And this discusses the Denver -- the alleged
 11 Denver shooter, Matthew Robert Dolloff, and his reported
 12 ties to Antifa.
 13 And I'm directing your attention to page five,
 14 where there purports to be -- and I don't know if these
 15 are tweets or Facebook posts, from Mr. Dolloff.
 16 The first one appears to be Mr. Giuliani
 17 June 11, 2016: "Ran into a Trump supporter with a" -- I
 18 can't -- it's cut off. "Trump -- i like their im a racist
 19 button. They -- F Trump."
 20 Do you see that?
 21 A. I do.
 22 Q. Is -- is -- is "F Trump" something that
 23 Mr. Coomer used in his post?
 24 A. I believe it is.
 25 Q. And then I see there's one from Mr. Dolloff:
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1 "No justice, no peace. F the police."
 2 Is that a similar post that Mr. Coomer used?
 3 A. "F the police" is, yes.
 4 Q. So when you got Mr. Coomer's -- excuse me --
 5 Mr. Oltmann's email, you were familiar with Antifa --
 6 alleged Antifa members in Colorado threatening violence,
 7 threatening beheading, using such terms as "F Trump, F the
 8 police"; correct?
 9 A. Yes. That's correct.
 10 Q. So was there anything in what Mr. Oltmann told
 11 you that caused you to not believe him?
 12 A. No. After trying to dig in and understand the
 13 social media, it seemed pretty consistent that Mr. Coomer
 14 was associated or sympathetic towards Antifa.
 15 But more importantly, it was clear that
 16 Mr. Oltmann was trying to track down Antifa members,
 17 especially Antifa members in the media. And I can
 18 understand why he was doing that.
 19 Q. So when Mr. Cain says you didn't -- you
 20 didn't -- you didn't follow your own advice of
 21 confirming from multiple sources the voracity of
 22 Mr. Oltmann, is that true?
 23 MR. CAIN: Object to form.
 24 A. I don't believe so.
 25 MR. CAIN: Bernie, I may have objections. You
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1 might want to give a beat before you answer, just so we're
2 not talking over each other.
3 Q. (By Mr. Rhodes) So, Mr. Herring, I understand
4 you independently researched Mr. Oltmann's claim that he
5 was attempting to expose reporters as Antifa members;
6 correct?
7 A. Yes.
8 Q. And you already had existing knowledge of
9 Kris Jacks and his love of Antifa and his desire to behead
10 Americans in Colorado; right?
11 MR. CAIN: Form. Leading.
12 A. Yes, I did.
13 Q. (By Mr. Rhodes) And you already had existing
14 knowledge about Mr. Dolloff's Facebook post; correct?
15 MR. CAIN: Same objection.
16 A. I did.
17 Q. (By Mr. Rhodes) And -- and Mr. Oltmann provided
18 you with many of Dr. Coomer's Facebook posts?
19 A. He did.
20 Q. And what was your impression of those Facebook
21 posts?
22 A. When I went through them the first time, I was
23 disturbed. It was clear to me that he was associated with
24 Antifa, more importantly, an anarchist. They tend to run
25 together. Matter of fact, the Antifa logo -- it has an

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1 anarchist, many times, when you see them on the street.
2 But it reminded me of the Unabomber. And I
3 actually went back and read just a short segment of the
4 manifesto from the Unabomber and tried to see if -- you
5 know, how closely they compared.
6 There were some things that were close. But I
7 really thought that he was so radicalized that he may take
8 action. That action could be harming another person,
9 which is part of the reason why I was wondering if the FBI
10 was informed.
11 Q. Now, Mr. Cain asked you whether or not you
12 attempted to contact -- "you" being OAN -- contact
13 Dominion or were even aware that Dominion had issued a
14 statement. Do you recall that?
15 A. I do.
16 Q. And I believe he showed you -- let's go to what
17 he marked as Exhibit 16. And I will show you Exhibit 16.
18 You see Exhibit 16? You were previously shown
19 this, and you made your comment about the Wayback Machine.
20 Do you recall that?
21 A. I do.
22 Q. And you see these point headings: "Vote
23 Deletion/Switching Assertions Are Completely False;
24 Dominion s a Nonpartisan U.S. Company; Dominion Software
25 Accurately Tabulated Ballots, and Tabulated Results are

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1 100% Auditable; No Unauthorized or Last-Minute Software
2 Updates Occurred; There Are No Issues With User Sharpie
3 Pens; Assertions of Voter Fraud Conspiracies Are 100%
4 False."
5 Do you see that?
6 A. I do.
7 Q. I want to go back, now, to Exhibit 23, which is
8 the "Dominion-izing the Vote" video that Mr. Cain showed
9 you. And I want to, once it starts, fast forward here to
10 approximately 26:30.
11 (The video segment was played.)
12 Q. (By Mr. Rhodes) So I'm at 26:28 of
13 "Dominion-izing the Vote." Do you see what's on the
14 screen here?
15 A. I do.
16 Q. "Dominion Voting Systems categorically denies
17 false assertions about vote switching and software issues
18 with our voting systems."
19 "1) Vote deletions, switching assertions are
20 completely false."
21 So OAN, in fact, was aware and used in its
22 report Dominion Voting Systems' statement; correct?
23 A. It appears so, yes.
24 (The video segment was played.)
25 Q. (By Mr. Rhodes) And then let's fast forward --

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1 (The video segment was played.)
2 Q. (By Mr. Rhodes) So here we are at 29:35, and we
3 see, once again, Dominion's statement being used in
4 "Dominion-izing the Vote"; correct?
5 A. Yes.
6 Q. So Mr. Cain is simply wrong in saying that you
7 ignored Dominion's statements; correct?
8 MR. CAIN: Form. Leading.
9 A. That's correct.
10 Q. (By Mr. Rhodes) Now. Dominion has denied this.
11 Why -- why would you -- why would you report on something
12 that Dominion has denied?
13 I mean, once -- once the subject of an
14 investigation denies it, don't you just shut it down?
15 A. No. We've seen a lot of denials that aren't
16 correct.
17 Q. I mean, would be Dominion -- would Dominion be
18 the first subject of an investigation who falsely denied
19 being involved?
20 A. No.
21 Q. So I've marked the first point we stopped as OAN
22 Exhibit H. Let me share that with you.
23 (OAN Exhibit H was introduced.)
24 Q. (By Mr. Rhodes) You see that?
25 A. I do.

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1 Q. And that's at the 26:29 that we talked about on
2 the -- when we were playing the video; correct?
3 A. I can't see it, but I'll take your word for it.
4 Q. Okay. Yeah. I can see it on my end. I may
5 have a bigger screen than you.
6 And while we're at it, let's mark the other one.
7 (OAN Exhibit I was introduced.)
8 Q. (By Mr. Rhodes) And can you see Exhibit I?
9 A. I can.
10 Q. Again, I'll represent to you that's the
11 screenshot from 29:36.
12 A. Okay.
13 Q. So am I correct, then, that OAN obtained a copy
14 of Dominion Voting Systems' statement, and in that
15 statement, which was -- hold still. I apologize.
16 I will represent to you that that statement was
17 issued on November 17th, based upon the screenshot,
18 Exhibit H.
19 And then we will go back to Exhibit 16, that
20 Mr. Cain introduced. Do you see Exhibit 16?
21 A. I do.
22 Q. All right. This is November 13th. The
23 Joe Oltmann podcast was November 9th; correct?
24 A. Yes, it was.
25 Q. And the Michelle Malkin interview was

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1 November 10th; is that right?
2 A. I think it was the 13th. I think it was on
3 Friday, November 13th. But that's just my best
4 recollection.
5 Q. Okay. Is there any information in Dominion's
6 statement denying anything about Eric Coomer?
7 A. I don't see anything in there about Dr. Coomer.
8 Q. By the way, you understand that Mr. Coomer is no
9 longer with Dominion Voting Systems; correct?
10 A. That's my understanding.
11 Q. Do you know why?
12 A. I can only speculate.
13 Q. You were shown Exhibit 29. I'll show that to
14 you.
15 Can you see Exhibit 29?
16 A. I can.
17 Q. And you were asked if you had seen that any time
18 prior to today; correct?
19 A. That's correct.
20 Q. Well, now that you've seen it, I'm showing you,
21 on the second page -- and there's a statement just over
22 halfway down, "Trump not going to win. I made
23 F-ing [sic] sure of that."
24 If you had seen this note prior to approving the
25 publication of "Dominion-izing the Vote," would this have

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1 changed your mind?
2 MR. CAIN: Form. Leading.
3 A. Yes. It would have changed my mind, because I
4 would only have been even more confident in our decision.
5 I was already confident in our decision, but that seems
6 pretty definitive.
7 Q. (By Mr. Rhodes) You were asked if there was an
8 electronic recording of the call. You remember that?
9 A. I do.
10 Q. And you said not that you were aware of?
11 A. I believe so. I wasn't aware of one.
12 Q. Does OAN only report on events that it has an
13 electronic recording of?
14 A. No. I've seen reporters through the years that
15 are some of the best in the industry, and they have a
16 legal pad or a pad in front of them and a pen, and do one
17 heck of a job reporting on events, including at the
18 White House in the Briefing Room.
19 Q. I just -- I think I know what you meant, but I'm
20 not sure the record is clear.
21 You were asked about people referring to
22 "H stories." Do you recall that?
23 A. I do.
24 Q. And you made two statements. You said the press
25 refers to H stories. You recall that?

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1 A. I do.
2 Q. And then you said reporters refer to H stories.
3 I just want to clarify: When you say reporters,
4 do you mean OAN reporters or non-OAN reporters?
5 A. I mean non-OAN reporters. Namely, people that
6 have written articles about OAN have used that term.
7 I generally understand what they mean by that
8 term. And generally, what they're trying to say is,
9 occasionally, our senior management will make a decision
10 and tell the staff to do something. That's part of the
11 normal process in a business.
12 As an example, if a story has aired extensively
13 and we think the viewer has already seen it, we might tell
14 them to pull the story. Or if there's a story that we
15 think is of great relevance, we might ask them to air it
16 more frequently.
17 Q. You were asked about whether or not it was
18 potentially likely that Eric Coomer built a rocket to go
19 to the moon. Do you remember that?
20 A. I do.
21 Q. Does Dr. Coomer have a patent on rockets?
22 A. Not that I'm aware of.
23 Q. Does he post Facebook posts about "F the moon"?
24 A. I have not seen that.
25 Q. Does he have patents on election security?

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1 A. I know he has patents on -- a number of patents
2 on election machines, including on adjudication --
3 adjudication. Excuse me.
4 Q. And does Dr. Coomer work at a rocket company,
5 whether it's NASA or -- what is it -- Blue Origin or
6 Virgin?
7 A. Not to my knowledge.
8 Q. Did he work at Dominion Voting Systems?
9 A. That's my understanding.
10 Q. And was he the director of product strategy and
11 security at Dominion Voting Services [sic]?
12 A. I've seen that title used. And I've also seen
13 it used, instead of director, vice president. But, yes,
14 I've seen -- seen those titles used.
15 Q. So would you agree that it's not potentially
16 likely that Dr. Coomer built a rocket and actually went to
17 the moon?
18 A. I would agree with that.
19 Q. Okay. Do you believe it's potentially likely
20 that Dr. Coomer interfered with the 2020 presidential
21 election?
22 A. Yes. It could be.
23 Q. Are you aware of any information that he did not
24 interfere with the 2020 presidential election?
25 A. No, I am not.

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1 Q. And do you, in fact, believe it was Dr. Coomer
2 in the Antifa call who said that he could interfere with
3 the 2020 election?
4 A. Yes.
5 Q. And are you aware of any information to cause
6 you to believe that that was not Dr. Coomer on the Antifa
7 call?
8 A. No.
9 Q. Does your review of Dr. Coomer's Facebook post
10 lead you to believe that Dr. Coomer shared the view that
11 he should do whatever he could to keep Trump from winning?
12 A. Yes.
13 Q. Does it matter to you that these Facebook posts
14 were from Dr. Coomer's private Facebook page?
15 A. Yes, it does. I think there is a better
16 indication of his real views when they're behind a pay
17 wall -- excuse me, not pay wall, but a private group
18 setting.
19 I don't think he would be foolish enough to
20 express those views in the open; but he would when it's a
21 private Facebook group.
22 So knowing that it came from a private Facebook
23 group, I think he he's truly expressing his point of view.
24 Q. I'm going to show you what I've marked as
25 Exhibit J.

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1 (OAN Exhibit J was introduced.)
2 Q. (By Mr. Rhodes) This is the first of a series
3 of Facebook posts that Mr. Oltmann provided to you.
4 Just for the record, are you aware of, at any
5 point in this lawsuit, Mr. Coomer, or Dr. Coomer, or
6 Dr. Coomer's lawyers denying that these are, in fact,
7 Mr. Coomer's Facebook posts?
8 A. I am not.
9 Q. So the first page, which is Bates numbered 351:
10 "If you voted for a fascist - friend, family, or foe,
11 F-ing [sic] un-trump me. I've got no truck for racists."
12 Does that suggest to you this is someone who we
13 should be trusting election integrity to?
14 A. I wouldn't think so.
15 THE REPORTER: I'm sorry. Was there an
16 objection that I missed?
17 MR. CAIN: Yeah, Sara, if that's you. I'm not
18 looking up. But I objected to leading.
19 Q. (By Mr. Rhodes) All right. Well, since he
20 objected to leading, how did you interpret Dr. Coomer's
21 statement, "If you voted for a fascist - friend, family,
22 or foe, F-ing un-trump me. I've got no truck for
23 racists"?
24 How did you view that as concerns Dr. Coomer
25 having the position that he does -- did?

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1 A. I think it was beyond a normal bias or political
2 viewpoint. I believe it's extreme, especially when he's
3 talking friend, family, that this somebody who wouldn't --
4 shouldn't be at such a senior position in -- in Dominion
5 or any voting equipment company.
6 Q. And in your mind, even without the statement of
7 Dr. Coomer during the Antifa call, are his Facebook posts
8 by themselves newsworthy?
9 A. I think it's, arguably, that they're more
10 newsworthy to have such a senior person that is expressing
11 anarchist and Antifa-type views.
12 And the reason I say that is there's a
13 manifesto, Antifa manifesto, that it appears that either
14 he forwarded, or maybe he even wrote; I don't know.
15 And in that, it actually says something to the
16 effect that they don't acknowledge the popular vote,
17 people voting for the president. They're not
18 acknowledging the election.
19 And his numerous views that make him appear to
20 be sympathetic to an anarchist point of view are
21 disturbing for a person who works at
22 Dominion Voting Systems.
23 MR. CAIN: Nonresponsive.
24 Q. (By Mr. Rhodes) So I believe you're referring
25 to the statement that begins on OAN 359; is that correct?

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1 A. Yes.
2 (Simultaneous speakers.)
3 A. Generally referred to as the "Antifa Manifesto."
4 Q. And this goes on for -- well, here's 359 and
5 360.
6 Unfortunately, because of the pagination -- I'm
7 going to write this down. 359, 360. We've got to go to
8 the next group of documents.
9 (OAN Exhibit K was introduced.)
10 Q. (By Mr. Rhodes) I'm now showing you Exhibit K.
11 Do you see that?
12 A. I do.
13 Q. Which starts with OAN 361 and goes through 362.
14 So he -- he posts a four-page Antifa Manifesto; correct?
15 A. Yes.
16 Q. And then I want to start with OAN 367: "Pigs
17 for slaughter. They shot an innocent five-year-old kid."
18 Who do you understand "they" to be, and who do
19 you understand "pigs" to be?
20 MR. CAIN: Object to form.
21 A. "Pigs," I believe, is referring to the police.
22 The symbol, I believe, is an anarchist symbol.
23 Q. (By Mr. Rhodes) I see on 368, there's a post by
24 Penelope Chester. You were asked about her during -- or
25 you were played video about her during the

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1 "Dominion-izing the Vote" segment.
2 A. Yes.
3 Q. And then Ms. Chester posts on 369 an article,
4 "Don't focus on looting. Be outraged that police keep
5 killing."
6 A. I see that.
7 Q. And then she posts, "To focus on the damage and
8 looting misses the point. Were it not for the killing of
9 Floyd and the history of police behavior, there would have
10 been no protests."
11 Do you see that?
12 A. I do.
13 Q. And then on 370, you were asked about
14 "Dead Prez - Cop Shot."
15 You were aware of that when you made your
16 decision to approve "Dominion-izing the Vote"; correct?
17 A. That's correct.
18 Q. On 371, you were aware of Mr. Coomer's post,
19 "F [sic] the USA"?
20 A. Yeah. This one's somewhat shocking for a
21 gentleman working at an election company to use what
22 appears to be an album cover and indicate "F the USA."
23 Q. Well, but Mr. Cain said to you it's not possible
24 that Dr. Coomer could interfere with the election, because
25 there -- there are federal and state rules against that.

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1 What is your response to that statement?
2 A. Well, it's -- it's clear that we got somebody
3 with an anarchist point of view working at a senior
4 position at Dominion. And that is just the type of
5 individual that might take action.
6 And there's other signs of that in this email --
7 or, excuse me -- in the Facebook postings.
8 Q. F the USA. F the rules; huh?
9 And here's 372: F the police again; right?
10 A. Yes. Typical language that's used by Antifa,
11 along with the acronym ACAB, "All cops are bastards."
12 Q. And this is exactly the same F the police that
13 was in Mr. Dolloff's Facebook or Twitter post; right?
14 MR. CAIN: Leading.
15 A. That's correct.
16 Q. (By Mr. Rhodes) That you were familiar with
17 prior to receiving these Facebook posts from Mr. Oltmann?
18 A. Yes. I've been familiar with some of the
19 terminology used by Antifa online that included ACAB and
20 F the police. There you go. There it is: ACAB.
21 Q. Yeah. Here. OAN 373 is ACAB, which you've told
22 us already about.
23 And then OAN 374, "Body Count - Cop Killer";
24 right?
25 A. Yes. Again, pretty extreme.

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1 Q. Here's OAN 375: "Dead Cops"; correct?
2 A. Yes. Again, anti-cop rhetoric, antiauthority
3 rhetoric, typical of Antifa and anarchists.
4 Q. And someone -- Scott Wimberley posts, "You're on
5 a rip today." And Mr. -- Dr. Coomer responds, "I'm
6 F-ing [sic] over it."
7 A. Possibly an indication that, you know,
8 he's -- it's about time to do something; again, why I
9 found his postings so disturbing.
10 Q. Was it significant to you that it appears that
11 every other word out of Dr. Coomer's mouth is the F word?
12 A. Well, it's interesting --
13 Q. What he's alleged to have said in the Antifa
14 call was using the F word?
15 A. His -- his tone with -- on Facebook is
16 consistent with his tone that was expressed by Mr. Oltmann
17 on the Antifa call. And I think that they actually line
18 up.
19 And I think it's more than just his tone and
20 using the F word. But on the Antifa call, there's
21 indication that the Eric is a leader and giving advice on
22 what needs to be done: We need to fortify. We need to
23 recruit.
24 And you see on these Facebook postings a number
25 of things along those lines. People -- Eric will put up a

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1 posting, and people are commenting on it and how they want
 2 him to continue with this rants. He appears to be a
 3 leader on the Facebook posting. And so we see
 4 similarities between the two.
 5 Q. Here's OAN 376. F the police again.
 6 A. Yeah. Again, the frequency that he's using
 7 F the police and these antiauthority statements -- not
 8 only the police, but, you know, dead prez and F the USA,
 9 is an indication to me he's an anarchist, which is
 10 consistent with somebody who is part of Antifa.
 11 Q. On OAN 379. This is Dr. Coomer: "Just because
 12 cheeto Jesus won't sign a bill." Who did you understand
 13 Mr. Coomer to be referring to as "cheeto Jesus?"
 14 A. When he uses the term "cheeto Jesus," he's
 15 referring to the President of the United States at the
 16 time, which was Donald Trump.
 17 In that case, it actually may have been before.
 18 I can't see the date clearly.
 19 Q. This was 2019.
 20 A. Thank you. Yes.
 21 Q. All right. We're up to 380.
 22 I'm now going to show you Exhibit L, which
 23 starts with OAN 381.
 24 (OAN Exhibit L was introduced.)
 25 Q. (By Mr. Rhodes) Can you see Exhibit L?

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1 A. I do.
 2 Q. So I want you to look at OAN 383: "Matt Crane
 3 is with Eric Coomer. Had a fantastic time at the Colorado
 4 County Clerk's Association Summer Conference."
 5 There's nothing wrong with that, of course.
 6 But, I mean, you first had to satisfy yourself that this
 7 Eric Coomer is, in fact, the Eric Coomer with Dominion;
 8 right?
 9 A. Yes.
 10 MR. CAIN: Leading.
 11 Q. (By Mr. Rhodes) Okay. And were you able to do
 12 that?
 13 A. I believe so.
 14 Q. Through things such as OAN 383?
 15 A. Yes. And also that the Antifa point of view was
 16 consistent with the Eric on the call, which was on an
 17 Antifa call.
 18 Q. And he was identified as Eric from Dominion?
 19 A. That's correct. And the -- the importance, at
 20 least in my opinion, is you never question -- or you don't
 21 hear who's Dominion or, you know -- not who's Dominion,
 22 but why does Dominion have relevance? And why can a guy
 23 named Eric from Dominion make sure that Trump is not
 24 re-elected?
 25 And because that discussion never takes place,

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1 this assumption is, is that a guy from Dominion would have
 2 the ability to impact the election.
 3 And so I think that's another tie-in. And when
 4 you look at all the variables, it seems almost impossible
 5 that the Eric on the phone call -- it seems impossible
 6 that it couldn't be -- Eric on the phone call could not be
 7 Dr. Eric Coomer with Dominion Video Systems -- or Voting
 8 Systems. Excuse me.
 9 MR. CAIN: Sorry. I didn't mean to talk over
 10 you. Nonresponsive.
 11 Q. (By Mr. Rhodes) So I'm showing you OAN 385:
 12 "This is how elected autocrats subvert democracy, packing
 13 and weaponizing the courts and other neutral agencies,
 14 buying off the media and the private sector."
 15 And then he has the hashtag #resist,
 16 #deathofthemericaandream; correct?
 17 A. Yes. I think the important word there, if
 18 there's one word that really stands out, is an "autocrat."
 19 He is considering the elected President of the
 20 United States an autocrat, or autocrat. And with his
 21 anarchist Antifa views, you know, that's justification to
 22 have him removed or oppose him. It's an interesting
 23 thought process.
 24 Q. And Antifa is, in fact, short for anti-fascist?
 25 A. That's correct.

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1 Q. And an autocrat is a fascist?
 2 A. Yes. A fascist is one who's either a dictator
 3 or autocrat, is the general definition, as I understand
 4 it.
 5 Q. And then OAN 387: "And in other news, there be
 6 some serious F-ery [sic] going on right here fueled by our
 7 Cheeto-in-chief."
 8 Who did you understand Dr. Coomer was referring
 9 to as the "Cheeto-in-chief?"
 10 A. I believe he's referring to the then-president
 11 of the United States.
 12 Q. And I'm now showing you OAN 388. How would you
 13 describe 388?
 14 A. Well, it's interesting. He's putting all people
 15 with a southern drawl into a box and mocking them.
 16 He also had problems down in Texas, because the
 17 Dominion machines couldn't get certified. Texas objected,
 18 saying that there were a number of fundamental problems
 19 with the software and the hardware.
 20 I think it was Attorney General Kim Paxton that
 21 made some pretty strong statements about Dominion in the
 22 state of Texas.
 23 So it's a little bit showing that people from
 24 another area that have a certain southern drawl, he's
 25 mocking.

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1 Q. Showing you OAN 392: "F [sic] you, Britain. We
2 beat your ass again. We rule. We'll see your silly
3 Brexit and raise you an insane orange narcissist racist
4 xenophobic clown."
5 Who did you understand Dr. Coomer was referring
6 to as an "insane orange narcissist racist xenophobic
7 clown"?
8 A. The president of the United States.
9 Q. And then on the next page, in one of the
10 comments, he writes, "I have words and yet I don't have
11 words. F me. F us. How did a billionaire daddy's boy
12 somehow become the" -- he writes "beckon." I believe he
13 means beacon -- "of the common man? How the F do I have
14 actual relatives/family, that gladly donned the brown
15 shirt?"
16 Who do you believe Dr. Coomer was referring to
17 as the "billionaire daddy's boy"?
18 MR. CAIN: Form.
19 A. It's clear he's referring to the President of
20 United States, Mr. Trump at the time.
21 Q. (By Mr. Rhodes) All right. We're up to 401. I
22 think we have one more group.
23 Okay. Let me know when you can see Exhibit M,
24 as in Mary.
25 (OAN Exhibit M was introduced.)

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1 Q. (By Mr. Rhodes) Can you see Exhibit M?
2 Mr. Herring?
3 A. Excuse me. I apologize. Yes, I can see --
4 Q. That's okay. I can only see the screen. I
5 can't see you. So I thought maybe I lost you.
6 A. I can -- I can see Exhibit M.
7 Q. So I want to direct your attention to the middle
8 of this page where there's a lengthy comment by Eric
9 Coomer. Begins, "Procedurally, he can do a few things
10 that can have immediate impacts."
11 Again, this appears to be posted by someone who
12 has intimate knowledge of the voting systems; correct?
13 A. And election process, yes.
14 Q. The election process, yes.
15 Again, did this assist you in making a
16 determination whether this particular Eric Coomer is --
17 was the Eric Coomer from Dominion Voting?
18 MR. CAIN: Form.
19 A. Yes. I believe it is the Eric Coomer from
20 Dominion Voting. These Facebook posts, I do believe,
21 belong to Eric Coomer of Dominion Voting Systems.
22 Q. (By Mr. Rhodes) Not some other random
23 Eric Coomer?
24 A. No. The knowledge that is being expressed here
25 is a good indication that they are Dr. Coomer's emails --

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1 excuse me -- Facebook postings.
2 Q. So now I want to show you OAN 422, which is
3 entitled "rant/ Facebook friend land - open call."
4 Do you see this?
5 A. I do.
6 Q. What was the significance, if any, to you of
7 this post in making your decision to approve the airing of
8 "Dominion-izing the Vote"?
9 A. Well, there were a couple of things that stood
10 out. The one is -- I understand that people have bias;
11 that they're allowed to have their political view. But
12 this seems extreme to me. It's beyond just having a
13 political view.
14 He's literally calling out his friends. And we
15 know that on Facebook postings, he has coworkers; he has
16 family; he has friends. And, arguably, there's even
17 people on the posting that work for municipalities that
18 are involved in the election process.
19 And here he is, basically, escalating and
20 saying, you know, you need to swear your allegiance, or
21 he's going to de-friend you. And he used some pretty
22 strong language about what he thinks about people that
23 aren't going to vote for -- or people that may vote for
24 Trump: Only an absolute F-ing idiot could vote for,
25 basically, Trump.

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1 So it seems very extreme to me. And it got
2 responses that were -- it got pushback from the Facebook
3 group, his family and friends. And he seems to double
4 down.
5 I think there's another interesting section in
6 it where he talks about -- I have a little difficulty
7 reading it -- near the bottom where he says, "My personal
8 opinions" --
9 Q. If you have trouble reading it, let me read it.
10 The second exit -- edit -- excuse me: "These
11 opinions are rational and completely my own. They are
12 based in reason and highly credible. Though they are not
13 necessarily the thoughts of my employer, though if not, I
14 should probably find another job."
15 Is that what you referring to?
16 A. Yeah. That indicates to me, at the time of
17 writing this, which is summer 2016, that he's basically
18 saying if his employer doesn't agree with these pretty
19 extreme views, then he should leave.
20 And we know that there's people in this group
21 that are Dominion Voting Systems employees. There's a
22 gentleman -- a fairly senior gentleman -- I don't know if
23 he was still at Dominion, whose name is Benjamin Rice, who
24 is a patent holder. We have Penelope Chester Star. There
25 may be others.

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<p>1 But this seems to indicate, considering he was 2 still at Dominion five years later, that his employer 3 seems to either have the same points of view or knew about 4 his views, since there were other Dominion employees in 5 this Facebook group. 6 Q. And, in fact, he writes right after that, "Who 7 wants to work for complete morons?" question mark. 8 A. Yeah. A pretty strong showing that he doesn't 9 tolerate anyone with a different viewpoint. 10 Q. Now, then he adds, "None of my personal opinions 11 affect my professional conduct or attitudes. I am 12 nonpartisan." Did -- did you believe that? 13 MR. CAIN: Form. 14 A. Absolutely not. 15 When he's asking people to swear their 16 allegiance that they won't vote for Trump, I don't know 17 what could be more partisan. 18 Q. (By Mr. Rhodes) And then he adds, "I am not, 19 however, willing to stand and watch this great country be 20 taken over by fascists without saying something, 21 anything"; correct? 22 A. Yes. I see that. 23 Q. And you'd read this when you made the decision 24 to approve the airing of "Dominion-izing the Vote?" 25 A. Yeah. I not only read it, but I tried to study Page 158</p>	<p>1 air. 2 Q. Okay. So -- so once this form is signed, 3 whatever it is can be ingested into the server that can 4 then be disturbed on the network. Is that -- is that what 5 you mean? 6 A. Yes, sir. 7 Q. Okay. And the show series is One America News 8 Investigates; correct? 9 A. Yes. 10 Q. And the show title is "Dominion-izing the Vote"; 11 correct? 12 A. Yes. 13 Q. And then there's a line here for management 14 approval. Do you see that? 15 A. I do. 16 Q. And there's a signature after that. Whose 17 signature is that? 18 A. That's my signature. 19 Q. You -- did you physically sign this form? 20 A. I did. 21 Q. And it's dated November 20, 2020; correct? 22 A. It is. 23 Q. What is the purpose of this form? 24 A. It has a couple different purposes. The most 25 important one is to ensure that nothing goes on air Page 160</p>
<p>1 it a little more in than just a quick reading. 2 Q. And as you said, it drew many comments that go 3 on for pages and pages. And 430, that's the end of the 4 Facebook post. 5 Now, Mr. Cain asked you if you had -- what your 6 involvement was in the preparation of "Dominion-izing the 7 Vote"; correct? 8 A. Yes. 9 Q. If you'll just hold on one minute, I gotta find 10 what I'm looking for. 11 I'm showing you, Mr. Herring, what I've marked 12 as Exhibit N, as in Nancy. 13 (OAN Exhibit N was introduced.) 14 Q. (By Mr. Rhodes) Let me know once you can see 15 that. 16 A. I can see it. 17 Q. Okay. It's a two-page-- I believe it's a two -- 18 it's a two-page document. What is Exhibit N? 19 A. I call it the sign-off sheet to allow content 20 that has been reviewed and approved to go to air. 21 Q. And it's -- it's entitled "One America News 22 Network Ingest Form." What does "Ingest" mean? 23 A. Ingest is the process where content is placed on 24 a server, ingested, so it can go to air. It's the on-air 25 sever. So it basically means t has been greenlit to go on Page 159</p>	<p>1 without the necessary approvals to ensure that the product 2 is ready to go on air from a number of standpoints. 3 This is our management approval form. And so I 4 reviewed the content for a number of things and went ahead 5 and signed off on the -- the form so it could go to air. 6 Q. Now, you told Mr. Cain that you approved the 7 final draft. I want you to clarify: Does that mean you 8 approved the final written script, or you actually 9 approved the video package itself? 10 A. I approved the final video package, with all the 11 appropriate spaces for commercials, that was going to go 12 on air. 13 Q. And, in fact, when you look at the second page, 14 this lists the actual time on the video of each of the 15 four segments of the piece; correct? 16 A. Yes. That's correct. 17 Q. Okay. Did you create this form just for 18 "Dominion-izing the Vote?" 19 A. No. It's a standard form that's used for 20 signing off on the contents before going air. 21 Q. So -- so are there similar forms for other 22 One America News Investigates? 23 A. Every One America News Investigates should have 24 a similar form. 25 Q. So did you treat "Dominion-izing the Vote" any Page 161</p>

1 different than any of the other One America News
 2 Investigates OAN has aired?
 3 A. We did not.
 4 Q. And did you -- did someone bribe you to sign
 5 this form?
 6 A. No.
 7 Q. Did someone coerce you to sign this form?
 8 A. No.
 9 Q. Did someone threaten you to sign this form?
 10 A. No.
 11 Q. Did your father tell you you had to sign this
 12 form?
 13 A. No.
 14 Q. Did anyone tell you you had to sign this form?
 15 A. The form needed to be signed before it went on
 16 air. That didn't take place until after I reviewed the
 17 content and signed off on the form.
 18 Q. And why did you sign off on the form?
 19 A. I was comfortable with the content going on air.
 20 MR. RHODES: I have no further questions, sir.
 21 Thank you.
 22 MR. CAIN: Before we go off the record, just to
 23 reiterate, the last section with Mr. Rhodes questioning
 24 his client, in our view, violates the limited order for
 25 discovery granted in this case.

1 MR. CAIN: Okay. Neither you nor I decide the
 2 answer to that question.
 3 Can we go off the air?
 4 THE VIDEOGRAPHER: Yes. This concludes the
 5 deposition of Charles Herring. Going off the record.
 6 Time is 2:27.
 7 (Whereupon, the video record was concluded.)
 8 MR. RHODES: Mr. Herring, you're finished.
 9 Thank you.
 10 THE REPORTER: I have Mr. Cain's standing order,
 11 but I do need to get transcript orders, including any
 12 rough draft and expedited requests, on the record.
 13 MR. RHODES: This is Mr. Rhodes. The same order
 14 as I had previously.
 15 MR. ZAKHEM: This is John Zakhem from the Trump
 16 Campaign. We'll take a digital copy with exhibits.
 17 MS. BOEHMER: Margaret Boehmer for Eric Metaxas.
 18 We will take our same order: E-tran, please.
 19 MR. ARRINGTON: Barry Arrington for
 20 Sidney Powell. We will also take an electronic copy.
 21 MS. CHRISTOPHER: This is Lexi Christopher on
 22 behalf of Randy Corporon. I do have a question. How soon
 23 can we get the transcript from this deposition?
 24 THE REPORTER: Several attorneys have requested
 25 three-day expedites. That's three business days, not

1 I'd also point out that our obligation is to
 2 make a prima facie showing to the Court. And the Court,
 3 under this context, doesn't weigh conflicting factual
 4 claims and accepts the plaintiff's evidence as true in the
 5 evaluation. Therefore, this line of questioning both
 6 violates the Court order and is irrelevant.
 7 And that's the basis of my objection. We'll
 8 deal with it subsequent, as necessary.
 9 THE REPORTER: Anything further?
 10 MR. RHODES: I disagree. This was appropriate
 11 cross-examination to your direct examination, which you
 12 were entitled to conduct pursuant to court order.
 13 I think it would be inherently unfair for you to
 14 be allowed to take a deposition, ask misleading questions,
 15 obtain incomplete answers, and submit them to the Court,
 16 without the opportunity for the Court to have the full
 17 context of the deposition.
 18 So as long as you want to take advantage of your
 19 opportunity pursuant to the Court order to ask questions
 20 of this witness, I believe, unquestionably, I have the
 21 ability to ask questions related solely to the topics you
 22 have discussed, which I have done, and to obtain
 23 clarification of the witness's answers in response to your
 24 half-questions and misleading questions; so, therefore, I
 25 believe it's completely proper.

1 three consecutive days. Will that work for you?
 2 MS. CHRISTOPHER: We will go with the expedited
 3 one.
 4 * * * * *
 5 WHEREUPON, the foregoing deposition was
 6 concluded at 2:29 p.m., Pacific Time. Total time on the
 7 record was 4 hours and 43 minutes.
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