

<p>DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER, COLORADO</p> <p>Address of Court: 1437 Bannock Street Denver, CO 80202</p>	<p>DATE FILED: November 29, 2021 1:03 PM FILING ID: D1BCAD6AFC4FD CASE NUMBER: 2020CV34319</p>
<p>Plaintiff: ERIC COOMER, Ph.D.</p> <p>v.</p> <p>Defendants: DONALD J. TRUMP FOR PRESIDENT, INC., <i>et al.</i></p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorneys for defendants Herring Networks, Inc., d/b/a One America News Network, and Chanel Rion: Richard A. Westfall, No. 15295 Westfall Law, LLC 5842 W. Marquette Drive Denver, Colorado 80235 Telephone: (720) 904-6022 Email: rwestfall@westfall.law</p> <p>Blaine C. Kimrey (<i>Pro Hac Vice</i>) Jeanah Park (<i>Pro Hac Vice</i>) Bryan K. Clark (<i>Pro Hac Vice</i>) Julia L. Koechley (<i>Pro Hac Vice</i>) Vedder Price P.C. 222 N. LaSalle Street, Suite 2600 Chicago, Illinois 60601 Telephone: (312) 609-7500 Facsimile: (312) 609-5005 Email: bkimrey@vedderprice.com jpark@vedderprice.com bclark@vedderprice.com jkoechley@vedderprice.com</p>	<p>Case Number: 2020CV034319</p> <p>Courtroom: 409</p>
<p>DEFENDANTS HERRING NETWORKS, INC., D/B/A ONE AMERICA NEWS NETWORK, AND CHANEL RION’S LIST OF EXHIBITS TO BE CONSIDERED WITH THEIR SPECIAL MOTION TO DISMISS PURSUANT TO COLO. REV. STAT. § 13-20-1101</p>	

Defendants Herring Networks, Inc., d/b/a One America News Network, and Chanel Rion (the “OAN Defendants”) respectfully submit their List of Exhibits to be considered by the Court in connection with the OAN Defendants’ Special Motion to Dismiss Pursuant to Colo. Rev. Stat. § 13-20-1101. Consistent with the Court’s October 14, 2021 Order, the OAN Defendants’ List of Exhibits contains Plaintiff’s objections and the OAN Defendants’ responses.

Number	OAN Defendants' Exhibits	Reference to Deposition or Hearing Page and Line of Testimony or Introduction of Exhibit	State if No Objection	Plaintiff's Objections	OAN Defendants' Response
1.	Eric Coomer Facebook posts, 2016 to 2020 (OAN500)*^1		No objection		
2.	August 26, 2016 video of Dr. Coomer providing information to Illinois state election officials at public meeting addressing concerns about voting machines (OAN501)^		No objection		
3.	June 27, 2018 video of public Dominion presentation to Pennsylvania state election officials (OAN502)^		No objection		
4.	August 30, 2018 State of Georgia Secure, Accessible & Fair Elections Commission meeting transcript during which Dr. Coomer presented publicly on behalf of Dominion*^		No objection		
5.	September 18-20, 2019 U.S. Cybersecurity & Infrastructure Security Agency Summit Agenda (OAN503)^		No objection		

¹ Entries accompanied by an "*" indicate the exhibit was referred to during the October 13, 2021, opening presentation by counsel for the OAN Defendants; the associated PowerPoint slide deck was provided to the Court on a flash drive on October 13, 2021, without objection by Dr. Coomer, and is attached hereto as **Exhibit A**. Entries accompanied by a "^" indicate that the exhibit was referred to or included in the closing presentation by counsel for the OAN Defendants on October 14, 2021; the associated Word presentation with embedded video and text files was provided to the Court on a flash drive on October 14, 2021, without objection by Dr. Coomer, and is attached hereto as **Exhibit B**.

Number	OAN Defendants' Exhibits	Reference to Deposition or Hearing Page and Line of Testimony or Introduction of Exhibit	State if No Objection	Plaintiff's Objections	OAN Defendants' Response
6.	January 9, 2020 photo of Dr. Coomer taken during testimony by John Poulos, CEO of Dominion Voting Systems, before U.S. House of Representatives Image of Administration Committee Hearing on 2020 Election Security (embedded on page 10 of OAN Defendants' Response to Plaintiff's Motion for Sanctions Against Defendants Joseph Oltmann, FEC United and Shuffling Madness Media, Inc. filed August 25, 2021, DocID 24C55AB2C9077)*^		No objection		
7.	January 24, 2020 State of Texas Election Division, Report of Review of Dominion Voting Systems Democracy Suite 5.5-A (OAN504)		No objection		
8.	August 19, 2020 Declaration of J. Alex Halderman ¶ 13 (submitted by plaintiffs in <i>Curling v. Raffensperger</i> , Case No. 17-cv-02989-AT, N.D. Georgia, D.E. 785-2)^		No objection		
9.	September 16, 2020 Transcript of Proceedings, <i>Curling v. Raffensperger</i> , Case No. 1:17-cv-2989-AT, N.D. Georgia, D.E. 904		No objection		

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10.	Declaration of Tay Anderson (OAN547)		No objection		
11.	September 8, 2021 Deposition Transcript of Joseph Oltmann (OAN548)	<p>15:18-19</p> <p>Q. Was this a Zoom? Was this a Zoom call?</p> <p>A. Yes.</p> <p>41:14-18</p> <p>Q. (By Mr. Cain) What makes someone, in your mind, an antifa journalist?</p> <p>A. A radical leftist that communicates openly with other radical leftists that stand for antifa being antifascist, who are then themselves are the racist pedophiles and racists of our society. Typically white extremist liberals.</p> <p>51:16-24</p> <p>Q. Okay. And in were any of these journalists that you mentioned actually on this Zoom call?</p> <p>A. There -- there was a couple journalists on there, but they weren't doing -- and I only take this by the friendliest comment related to the call. I was somewhat underwhelmed by the conversations because it was filled with rhetoric. But it was fascinating because of the planning and the fact that they were very, very well</p>	No objection		

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		<p>organized on how they communicated on these calls.</p> <p>71:10-15</p> <p>Q. Now, going back to the antifa call, I have seen various dates -- or a range of dates that this call was alleged to occur. What specific date did this Zoom call occur?</p> <p>A. It happened between the mid and end of September.</p> <p>72:1-8</p> <p>Q: Why can you not provide us the actual date that the call occurred?</p> <p>A. Because it wasn't on my calendar. And the only thing that I can do is get within a few days of the September 26th screenshot, which is when I did the information search related to Eric Dominion, Denver, Colorado.</p> <p>Q. Right. Because we have a screenshot of you doing that on September 26th, right?</p> <p>A. Yes.</p>			
12.	September 26, 2020 Google search screenshot taken by Joe Oltmann of "eric dominion denver Colorado" (OAN505)		No objection		
13.	September 28, 2020, Mark Niese, <i>Atlanta Journal Constitution</i> , "Fox		No objection		

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	coming to Georgia touchscreens to restore missing Senate candidates.” (OAN506)				
14.	September 29, 2020, Associated Press, “Lawyers spar over Georgia voting machine glitch, planned fix.” (OAN507)		No objection		
15.	September 29, 2020 Declaration of J. Alex Halderman ¶¶ 2, 7 (submitted by plaintiffs in <i>Curling v. Raffensperfer</i> , Case No. 17-cv-02989, N.D. Georgia, D.E. 923-1)		No objection		
16.	October 11, 2020 Opinion and Order, <i>Curling v. Raffensperger</i> , Case No. 1:17-cv-2989-AT, D.E. 964 (OAN508)		No objection		
17.	November 9, 2020 <i>Conservative Daily</i> Podcast (OAN509)		No objection		
18.	November 10, 2020 <i>Conservative Daily</i> Podcast (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		
19.	November 11, 2020 <i>Conservative Daily</i> Podcast		No objection		

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	(https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)				
20.	November 12, 2020 <i>Conservative Daily</i> Podcast (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		
21.	November 13, 2020 – 7:55 a.m., James Hoft, <i>The Gateway Pundit</i> , “Dominion Voting Systems Officer of Strategy and SECURITY Eric Coomer Admitted in 2016 Vendors and Election Officials Have Access to Manipulate the Vote” (Omnibus Resp. Ex. E-1, PX 86)		No objection		
22.	November 13, 2020 James Hoft YouTube interview with J. Oltmann (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		
23.	November 13, 2020 Michelle Malkin YouTube interview with J. Oltmann (Omnibus Resp. Ex. F-3)		No objection		
24.	November 13, 2020 Michelle Malkin Tweet at 10:10 a.m. MT (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		

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25.	November 13, 2020 Michelle Malkin Tweet at 11:43 a.m. MT (Hrg. PEX BB)		No objection		
26.	November 13, 2020 Michelle Malkin Tweet at 11:46 a.m. MT (Hrg. PEX CC)		No objection		
27.	November 13, 2020 Michelle Malkin Tweet at 11:48 a.m. (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		
28.	November 13, 2020 Michelle Malkin Tweet at 1:31 p.m. MT (Hrg. PEX DD)		No objection		
29.	November 13, 2020 Oltmann Facebook video (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		
30.	November 14, 2020 Randy Corporon 710 KNUS interview with J. Oltmann (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		
31.	November 14, 2020 – 9:21 p.m., James Hoft, <i>The Gateway Pundit</i> , “Report: Anti-Trump Dominion Voting Systems Security Chief Was		No objection		

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	Participating in Antifa Calls, Posted Antifa Manifesto Letter to Trump Online" (Omnibus Resp. Ex. E-1, PX 87)				
32.	November 15, 2020 Deb Flora 710 KNUS interview with J. Oltmann (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		
33.	November 15, 2020 Maria Bartiromo Fox News Interview with Rudy Giuliani (Omnibus Resp. Ex. J-2)		No objection		
34.	November 15, 2020 Michelle Malkin Tweet at 11:09 a.m. MT (Hrg. PEX EE)		No objection		
35.	November 16, 2020 – 10:55 a.m., James Hoft, <i>The Gateway Pundit</i> , "Denver Business Owner: Dominion's Eric Coomer is an Unhinged Sociopath – His Internet Profile Is Being Deleted and Erased (AUDIO)" (Hrg. PEX N)		No objection		
36.	November 16, 2020 <i>Conservative Daily</i> Podcast (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		

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37.	November 16, 2020 Michelle Malkin Tweet at 11:29 a.m. MT (Hrg. PEX FF)		No objection		
38.	November 17, 2020 Peter Boyles 710 KNUS interview with J. Oltmann (https://caincloud.egnyte.com/fl/fvNxSiDjsw#folder-link/)		No objection		
39.	November 17, 2020 Tweet by Chanel Rion, 7:35 a.m. MT (OAN510)^		No objection		
40.	November 21, 2020 OAN, " <i>Dominion-izing the Vote</i> " (PX 32)^		No objection		
41.	December 8, 2020 – 6:00 a.m., Eric Coomer <i>Denver Post</i> , "Guest Commentary: I work for Dominion Voting Systems. I did not commit voter fraud. The attacks against me need to stop." (OAN511)		No objection		
42.	December 22, 2020, Jan Wondra, <i>Ark Valley Voice</i> , "On Edge: There's a \$1,000,000 Bounty on His Head and He Can't go Home" (OAN512)		No objection		

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43.	April 30, 2021 Declaration of Charles Herring (OAN513)		No objection		
44.	April 30, 2021 Declaration of Chanel Rion (OAN514)		No objection		
45.	Society of Professional Journalists Code of Ethics, <i>available at</i> https://spj.org/ethicscode.asp (last accessed October 14, 2021)^			Lack of foundation	The SPJ Code of Ethics was referenced and embedded in the closing presentation by counsel for the OAN Defendants on October 14, 2021 to which Dr. Coomer had no objection. (<i>See</i> Ex. 58, identified herein.) Dr. Coomer has therefore waived any evidentiary objections to the SPJ Code of Ethics. And Dr. Coomer himself relied on the SPJ Code of Ethics in the declaration of Frederick Brown. (<i>See</i> Pl.'s Ex. N ¶ 20.)
46.	July 30, 2021 Deposition Transcript of Charles Peter Herring, individually and as representative of Herring Networks, Inc., dba One	(a) 11:22-16:8 Q. Okay. Given that statement, can you describe for us the research that OAN did, including vetting sources and corroborating facts prior to broadcasting the "Dominion-izing the Vote" piece? A. Yes, I can. Chanel Rion researched extensively, along with other staff members, liabilities in voting		Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162	The testimony is within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly

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	American News Network ² (OAN515)^	machines that were known as early as 2000 all the way up through the summer of 2020. There are a number of media organizations that reported issues through the years. The most recent one that comes to mind was the summer 2020 election in Georgia, where a number of things went wrong, causing names on the ballots not to show up and a number of other issues. That was one of the things that we investigated for that report. We also -- we also looked at the videos of Joe Oltmann. I personally looked at the video of Joe Oltmann. I looked at the video of Michelle Malkin. I read a number of articles, as a matter of fact, basically anything and everything I can find during the weekend of -- I think it was around the 14th and the 15th of 20 November and following into the 16th. There are a number of articles. I believe there's a trio of articles by Gateway Pundit. There were some articles from sources that, frankly, I don't recall right now and had never heard of. And there was one by an outlet; I believe it was called the Clover Chronicle. So that was some of the initial reviews that I did. I had some existing knowledge at the time. I knew that there were issues with Antifa in general in Colorado, and there was some pushback in the community with respect to Antifa and some of the alleged violence by Antifa in the area. I was aware of some statements by a gentleman by the name of Kris Jacks that Project Veritas, James O'Keefe's organization, disclosed. I was aware of a shooting that took place in Colorado. A gentleman by the name of Dolloff, which we actually ran reports on, was accused, and on			failed to investigate its reporting or present balanced reporting. In addition to the testimony on direct (which is consistent), the testimony on cross is relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.

² The video of the deposition of Charles Peter Herring, individually and as representative of Herring Networks, Inc., dba One American News Network, is incorporated by reference herein. The video of the deposition was delivered to the Court on November 2, 2021.

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		<p>video, shooting a gentleman that was using a nonlethal spray. I'm aware of some of the reports as to whether he was a legitimate security officer or not. And I'm aware of some of his postings that were, I believe, on Facebook -- it might have been Twitter -- including comments about the police and about the president at the time, which would be President Trump.</p> <p>Q. I'll stop you there. I appreciate the answer. You used a pronoun, and I don't want it to be ambiguous. You said "I was aware of some of his posts." Who was the -- the "he" that you were referring to there?</p> <p>A. The posts were posts of Mr. Dolloff, I believe his name is. He was a -- a shooter. At the time, he was a security guard for a local news broadcast company. I think it was 8 -- or 9News or News9 or something to that effect.</p> <p>Q. Okay. I just wanted to make sure that when you said the "posts," you weren't referring to, or if you were, Dr. Coomer's Facebook posts.</p> <p>A. No, sir. I wasn't referring to Dr. Coomer's Facebook posts when I made that statement. But I did review a number of Facebook posts that were reported by Gateway Pundit and that were shown on the video that Mr. Oltmann produced and that were shown by Michelle Malkin. In addition, we were in possession of the social media posts, approximately 80 of them, that were transferred over by Mr. Oltmann. And I believe sometime going into -- or coming out of that weekend, which I believe is Sunday, and I think that's November 15th -- somewhere between that time and the 16th, before Chanel Rion interviewed</p>			

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		<p>Mr. Oltmann. I believe that she received approximately 80 Facebook posts from Mr. Oltmann. We also were in possession of a email from Mr. Oltmann that came in through our viewer feed- -- what I call our viewer feedback form on our website. I think it's actually shown as "comments." We refer to it as our viewer feedback form. I recall that email coming in, and I recall seeing FEC United. At the time I had -- I believe I had heard of FEC United, but I wasn't sure. And I didn't have time to dig into that email. I waited until the weekend to actually do a deep dive and investigate further and listen to the videos and such. That's -- that's, maybe, a quick summary of some of the things that -- that were being done. We had other staff members that were also digging in and doing very similar work to what Chanel Rion was doing. We had one gentleman here -- he's an investigative reporter. His name is Pearson Sharp -- that was heavily involved. We had a senior editor that was reviewing content and reviewed "Dominion-izing the Vote" with me.</p> <p>Q. And the identity of that person?</p> <p>A. Brandon Gadow. He's a senior editor for the company.</p> <p>Q. And I -- I apologize. Brandon -- and can you spell the last name for us, please?</p> <p>A. I hope I can. I believe it's G-a-d-o-w.</p> <p>Q. And he was at -- in San Diego?</p> <p>A. Yes, sir. He's in San Diego.</p>			

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		<p>Q. He's still employed by OAN?</p> <p>A. Yes.</p> <p>Q. Okay. Anything else, as you sit here, that you can think of that describes the research that OAN did prior to --</p> <p>A. I -- I think that's a general summary of the types of research we were doing.</p> <p>(b) 18:15-24</p> <p>Q. Can you be any more specific as to Ms. Rion's attempts to reach Dr. Coomer?</p> <p>A. I instructed her to reach out and try to get his side of the story. She had communicated to me that she believed he was in hiding at that time; that his Facebook had been scrubbed, social media was scrubbed; that names were being removed from the Dominion websites. And I'm not exactly sure what reach-out she made, but I encouraged her to try to get his side of the 24 story.</p> <p>(c) 26:8-32:20</p> <p>Q. We talked about your statement that you agreed to, that journalists and news organizations like OAN should confirm multiple times their sources and report the facts. My question is, on a global scale with respect to the people that were not contacted, why is it that OAN felt like it had sufficient information such that it did not need to verify this story with those potential sources?</p>			

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		<p>MR. RHODES: Same objection.</p> <p>A. So why we thought we had sufficient information is Mr. Oltmann provided about a two-hour video explaining the process he went through step by step and what he was trying to do. It was clear to me that Mr. Oltmann was really trying to investigate Antifa. He wasn't trying to investigate Dr. Coomer or Dominion at that time. Based on the knowledge that I had, that made sense. I know that Antifa, along with BLM, was going into suburban areas and causing issues, and that there was a lot of tension between Antifa and people with a center-to-right lean in Denver in general. The credibility of Mr. Oltmann had to be taken into consideration. He made himself available to a number of interviews at the time we reported. He made himself [sic] to at least three interviews with no restrictions. On the other side, we had Dr. Coomer, who we didn't think we were going to be able to reach. I requested that Chanel make an effort and see she if she can reach Dr. Coomer. The other people on the phone call, I believe, Mr. Oltmann was trying to expose. And as the notes show, he's trying to figure out who they are and their tie-in. I had read about how he got on that call; and although there's some missing pieces, I think I have a good indication from his statements that he was engaged in conversation, adversarial conversation, with a person by the name of Heidi or Sean (phonetic) Beedle, and that the loose lips, as he referred to Heidi Beedle, led him access to this Antifa call, and I believe that's how he got on the call. So as far as being able to reach out to the other individuals, it seemed like that would be near, if not, impossible. It's a clandestine group. They're not willing to come out and talk with the</p>			

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		<p>media and explain that they're on the call, which is why he had to try to figure out how to infiltrate Antifa. And, apparently, he did by getting on this call. On the other hand, Dominion seemed to be scrubbing its website. I believe that Mr. Oltmann came out with his report on a Monday. I believe that's November 9th. By at the time we were reporting a week later, on the evening of the 16th, or at least running promos for the programming -- program "Dominion-izing the Vote," which was scheduled to run on Saturday evening, the 20th of November, Dominion, to my knowledge, had not issued any sort of statement. Mr. Coomer did not issue any sort of statement. It appeared that they were on the run, did not want to speak with the media, and did not come out and disclaim either Michelle Malkin's hour-long video or the, roughly, two-hour-long video or a number of the other reports that we came across from Gateway Pundit or some of these other sources that were reporting on Dr. Coomer. So it seemed to me that Mr. Oltmann was -- and I've seen this before, where we could only interview one side with other people that were in the news cycle. And when they're open, they're willing to speak, they appear to be legitimate. In Mr. Oltmann's case, he looked like he was passionate about the community. I was trying to understand his motivation for FEC United and what FEC United was. It looked like he was trying to restore traditional values back into the community. I don't believe that was an intent to make money. I came to the same conclusion with his website. What drove me to that is if you look at the videos on his website --</p> <p>Q. (By Mr. Cain) I want you to -- I don't mean to interrupt you other than when it's not clear what</p>			

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		<p>you're saying. And when you say "his website," I just need you to clarify what --</p> <p>A. Mr. Oltmann's postings, videos on his Facebook website, when I watched, was not monetized. To put a pre-roll ad in is fairly simple. So I came to the conclusion that he wasn't driven by money. He gave a pretty long explanation about himself, how long he's been in business. He was running a business. I think it's called PIN Strategy or PIN Networks. I think that's where he's able to make a living. But I think what he was doing was more of a passion and trying to give back to the community, such as FEC United and his -- his website. They didn't appear to be monetized. He seemed like a credible individual. He was -- according to him, he received an Entrepreneur of the Year award. He explained that his father was black; that he's mixed race; that his brother was killed by a police officer. So he had probably some reasons to, perhaps, have some concerns with police. He just seemed to really put himself out and expose himself. As far as exposing himself, he was operating, according to his claims, Conservative Daily, the videos that are shown on Facebook, and streamed audio on other outlets for 11 years. He didn't seem like he was trying to get publicity. He says he's an introvert. He talked about this with Michelle Malkin; that he wasn't trying to monetize or get publicity, but he was trying to expose Antifa. And it seemed clear to me that Antifa led him to Dr. Eric Coomer, not that he was seeking out Dr. Eric Coomer or Dominion. The credibility comes into play --</p> <p>A. I'll -- I'll try to be very brief with two quick points that I had. The first one is trying to</p>			

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		<p>determine whether the emails that were exposed by Mr. Oltmann were legitimate and tied in a gentleman's name of Eric with Dominion on the phone call to actually tie in with Dr. Coomer with Dominion Voting Systems. I gave that a lot of thought. And one of the things that became very clear is the email that -- or the Facebook postings made it clear that Mr. Coomer was very sympathetic towards Antifa and were consistent with the tone, the voice, and the comments that were being shared on the phone call. And I believe that that corroborates the phone call, Dominion and Dr. Coomer, with the Facebook postings. I also believe that if somebody said that Eric is going to impact the election and he's the Dominion guy -- if he was a Dominion guy and it was Dominion Hamburgers, not Dominion Voting Systems, one would likely ask, Well, why can't Dominion Hamburgers -- just, kind of, using a silly example -- how could he actually have an impact on the election? When the word "Dominion" was used. It appeared that that was sufficient justification that he had some sort of means to impact the election.</p> <p>(d) 71:12-25</p> <p>A. My understanding of the concept of "Dominion-izing the Vote" that we were trying to execute upon was to show the irregularities in voting machines in general over a period of time and the vulnerabilities of those voting machines. I think as the piece was coming together in concept, interviews and such, that when we learned and reviewed, researched the statement by Dr. Coomer, that that was added to the program. I think we were trying to show that</p>			

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		<p>there could be and there was vulnerabilities in the machines that somebody could act upon. And then we had a statement from Dr. Coomer -- allegedly from Dr. Coomer -- that made -- that said that he was going to do something.</p> <p>(e) 117:6-118:1</p> <p>Q. So was there -- was OAN in a hurry to get this on the air if it took 11 days to -- from when you first heard from Mr. Oltmann to getting this on the air?</p> <p>A. No. I believe it was already in process, the concept of producing "Dominion-izing the Vote." We didn't have the information on Eric Coomer, but I believe that, at this time, we were already beginning to produce it.</p> <p>Q. All right. Thank you. That was another area I wanted to -- to clarify. You had stated that Ms. Rion had been working on this for one or two or three weeks. Can you explain what you mean by that, given that you didn't hear from Mr. Oltmann until November 10th?</p> <p>A. She was working on "Dominion-izing the Vote," the concept of exposing voter irregularity, concerns that could happen on voting machines, not Eric Coomer. And that didn't come about until -- to include a short segment with Eric Coomer sometime the weekend of the 14th, 15th. But the concept of the program was already in process.</p> <p>(f) 118:10-123:13</p>			

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		<p>Q. Can you see Exhibit 35?</p> <p>A. Yes.</p> <p>Q. And I believe you previously identified this as -- if we start at the bottom -- Taylor Scott is responding on November 10th to Mr. Oltmann's, I believe you called it, viewer contact form; correct?</p> <p>A. Yes.</p> <p>Q. And Ms. Scott writes, quote, "Do you have any hard evidence to prove this?" closed quote. Do you believe that was an appropriate question to ask Mr. Oltmann?</p> <p>A. Probably the most appropriate.</p> <p>Q. And --</p> <p>A. We had been receiving a lot of forms, a lot of - - well, a lot of feedback on these forms. And frankly, most of them didn't have any substance. So we were trying to make it clear that we're looking for hard evidence.</p> <p>Q. And then you stated that Mr. Oltmann responded to Ms. Scott with various information. And the last paragraph on the first page before he says, "Thanks, Taylor," that includes a link to the Conservative Daily podcast; is that correct?</p> <p>A. Yes.</p> <p>Q. And you've told us that you personally watched all two hours of that video podcast?</p>			

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		<p>A. I did.</p> <p>Q. And that was sometime over the weekend of November 14th and 15th?</p> <p>A. Yes.</p> <p>Q. Then you've indicated that the information in bold below is information that you understood Mr. Oltmann to have copied and pasted from some other -- one or more other documents?</p> <p>A. That was my interpretation. Because it doesn't really flow. So I think he was cutting and pasting and just adding it to the back end of an email trying to give us more information.</p> <p>Q. Okay. So there's the discussion on -- on the second page of Exhibit 35: "I want to give you context on what we are going to discuss. About three weeks ago, I gave a speech at an FEC meeting. As you may or may not know, I am in the data business. I've been incredibly focused on Antifa and the threat of their infiltration of our journalism and the Democratic [sic] party." Do you see that?</p> <p>A. I do.</p> <p>Q. Did you do anything to attempt to verify Mr. Oltmann's statement that he was attempting to focus -- that he was focusing on Antifa and the infiltration of local journalism?</p> <p>A. Yes. In his two-hour posting, his podcast that went out on Conservative Daily -- in there, he says that he spoke at a raceway and exposed Antifa journalists. I went back and looked at one</p>			

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		<p>specific web posting that indicated that he was at an event in mid-October; that he spoke at this event. I think he actually threw the event. He was the person who hosted the event. And he made some claims at that event about tracking down and exposing Antifa, specifically as it regarded to Antifa persons being associated with the media. By the way, that one article linked to another article. And somewhere in there, there was a video that showed him at that event. And, apparently, somebody was -- a reporter, who was believed to be Antifa, showed up at his event and was removed from the event.</p> <p>Q. All right. If you'll hold on one second, please. I am going to show you, sir, what I have marked as OAN Exhibit A, so that the plaintiff can continue their numbering sequence.</p> <p>(OAN Exhibit A was introduced.)</p> <p>Q. (By Mr. Rhodes) And what is OAN Exhibit A?</p> <p>A. This was a web posting that I looked at. I just want to make sure it's the right one. Yeah. So a web posting that I looked at indicating that he was -- that Joe Oltmann was at an event at a speedway and made statements at the event. You can see where you can click through to a Times-Recorder article, and –</p> <p>Q. I'm hovering over by clicking here on the first page, and it gets me a hyperlink to a coloradotimesrecorder.com article, with the slug "FEC United Founder Threatens Journalist at GOP Candidate Event." Do you see that?</p>			

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		<p>A. I do.</p> <p>Q. Okay. And -- and this article, Exhibit A, is dated October 16, 2020?</p> <p>A. Yes. I see that.</p> <p>Q. And so was this -- did you review Exhibit A in an effort to corroborate Mr. Oltmann's statement that he was not on the Antifa call looking for Mr. Coomer, but was on the Antifa call looking for information about local journalists?</p> <p>A. I just wanted to verify that he was at this event and see what knowledge I could gain by researching it a little bit. And it was clear that he made the statement that he was trying to expose Antifa members that were associated with the press. He said he disclosed 13. I think, in one of the articles, it says that the names of those 13 were not given out publicly, but he made the claim during that. And I think there were some elected officials at that event, also. And I believe that he hosted that event through the FEC United organization.</p> <p>Q. All right. And then you've indicated that the -- one of the articles that you read that weekend also linked to a video of Mr. Oltmann from -- at the speedway?</p> <p>A. Yes. That is correct. He was in a white tent. He made a short statement. And I believe there were elected officials there or people running for office.</p> <p>Q. All right. I have marked that video as Exhibit B.</p>			

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		<p>(Exhibit Number B was introduced.)</p> <p>Q. (By Mr. Rhodes) And I will play that and ask you if that's the video you reviewed as part of your investigation the week of November 14th and 15th. (The video segment was played.)</p> <p>Q. (By Mr. Rhodes) Is that the video that you reviewed, Mr. Herring?</p> <p>A. I believe so.</p> <p>Q. And did that confirm for you Mr. Oltmann's statement that he was attempting to infiltrate to expose Antifa members who were posing as journalists?</p> <p>A. Yes. It was consistent with the statements that he made in his video.</p> <p>(g) 128:1-129:1</p> <p>Q. (By Mr. Rhodes) Mr. Herring, Mr. Cain says he doesn't understand the relevance of the Project Veritas video of Kris Jacks. I'm showing you again Mr. Cain's exhibit -- not mine -- Mr. Cain's exhibit of Plaintiff's Exhibit 35, in which Mr. Oltmann describes to you about him having knowledge, supposedly, of a video of Kris Jacks talking about beheading of Americans and a video from Project Veritas, which we now know is the same. Because of your prior knowledge of the Project Veritas video of Mr. Jacks, were you able to corroborate, determine the voracity of Mr. Oltmann's statement in his email that</p>			

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		<p>Mr. Cain has marked as Plaintiff's Exhibit 35 regarding Mr. Jacks calling for the beheading of Americans?</p> <p>A. Yes.</p> <p>A. It further solidifies why Mr. Oltmann was pursuing and trying to call out Antifa. Some of the radical views that are being called out by people that either are Antifa or sympathetic to their point of view, literally asking for, calling for, and trying to justify violence against people that have different points of view is very, very extreme and, I think, of concern to Mr. Oltmann, and probably why FEC United came about in the first place.</p> <p>(h) 135:16-139:7</p> <p>Q. And I believe he showed you – let's go to what he marked as Exhibit 16. And I will show you Exhibit 16. You see Exhibit 16? You were previously shown this, and you made your comment about the Wayback Machine. Do you recall that?</p> <p>A. I do.</p> <p>Q. And you see these point headings: "Vote Deletion/Switching Assertions Are Completely False; Dominion s a Nonpartisan U.S. Company; Dominion Software Accurately Tabulated Ballots, and Tabulated Results are 100% Auditable; No Unauthorized or Last-Minute Software Updates Occurred; There Are No Issues With User Sharpie Pens; Assertions of Voter</p>			

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		<p>Fraud Conspiracies Are 100% False.” Do you see that?</p> <p>A. I do.</p> <p>Q. I want to go back, now, to Exhibit 23, which is the “Dominion-izing the Vote” video that Mr. Cain showed you. And I want to, once it starts, fast forward here to approximately 26:30. (The video segment was played.)</p> <p>Q. (By Mr. Rhodes) So I’m at 26:28 of “Dominion-izing the Vote.” Do you see what’s on the screen here?</p> <p>A. I do.</p> <p>Q. “Dominion Voting Systems categorically denies false assertions about vote switching and software issues with our voting systems.” “1) Vote deletions, switching assertions are completely false.” So OAN, in fact, was aware and used in its report Dominion Voting Systems’ statement; correct?</p> <p>A. It appears so, yes. (The video segment was played.)</p> <p>Q. (By Mr. Rhodes) And then let’s fast forward – (The video segment was played.)</p> <p>Q. (By Mr. Rhodes) So here we are at 29:35, and we see, once again, Dominion’s statement being used in “Dominion-izing the Vote”; correct?</p> <p>A. Yes.</p>			

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		<p>Q. So Mr. Cain is simply wrong in saying that you ignored Dominion's statements; correct?</p> <p>A. That's correct.</p> <p>Q. (By Mr. Rhodes) Now, Dominion has denied this. Why -- why would you -- why would you report on something that Dominion has denied? I mean, once -- once the subject of an investigation denies it, don't you just shut it down?</p> <p>A. No. We've seen a lot of denials that aren't correct.</p> <p>Q. I mean, would be Dominion -- would Dominion be the first subject of an investigation who falsely denied being involved?</p> <p>A. No.</p> <p>Q. So I've marked the first point we stopped as OAN Exhibit H. Let me share that with you.</p> <p>(OAN Exhibit H was introduced.)</p> <p>Q. (By Mr. Rhodes) You see that?</p> <p>A. I do.</p> <p>Q. And that's at the 26:29 that we talked about on the -- when we were playing the video; correct?</p> <p>A. I can't see it, but I'll take your word for it.</p> <p>Q. Okay. Yeah. I can see it on my end. I may have a bigger screen than you. And while we're at it, let's mark the other one.</p>			

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		<p>(OAN Exhibit I was introduced.)</p> <p>Q. (By Mr. Rhodes) And can you see Exhibit I?</p> <p>A. I can.</p> <p>Q. Again, I'll represent to you that's the screenshot from 29:36.</p> <p>A. Okay.</p> <p>Q. So am I correct, then, that OAN obtained a copy of Dominion Voting Systems' statement, and in that statement, which was -- hold still. I apologize. I will represent to you that that statement was issued on November 17th, based upon the screenshot, Exhibit H. And then we will go back to Exhibit 16, that Mr. Cain introduced. Do you see Exhibit 16?</p> <p>A. I do.</p> <p>Q. All right. This is November 13th. The Joe Oltmann podcast was November 9th; correct?</p> <p>A. Yes, it was.</p> <p>Q. And the Michelle Malkin interview was November 10th; is that right?</p> <p>A. I think it was the 13th. I think it was on Friday, November 13th. But that's just my best recollection.</p> <p>Q. Okay. Is there any information in Dominion's statement denying anything about Eric Coomer?</p>			

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		<p>A. I don't see anything in there about Dr. Coomer.</p> <p>(i) 143:24-159:4</p> <p>Q. And do you, in fact, believe it was Dr. Coomer in the Antifa call who said that he could interfere with the 2020 election?</p> <p>A. Yes.</p> <p>Q. And are you aware of any information to cause you to believe that that was not Dr. Coomer on the Antifa call?</p> <p>A. No.</p> <p>Q. Does your review of Dr. Coomer's Facebook post lead you to believe that Dr. Coomer shared the view that he should do whatever he could to keep Trump from winning?</p> <p>A. Yes.</p> <p>Q. Does it matter to you that these Facebook posts were from Dr. Coomer's private Facebook page?</p> <p>A. Yes, it does. I think there is a better indication of his real views when they're behind a pay wall - - excuse me, not pay wall, but a private group setting. I don't think he would be foolish enough to express those views in the open; but he would when it's a private Facebook group. So knowing that it came from a private Facebook group, I think he he's truly expressing his point of view.</p>			

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		<p>Q. I'm going to show you what I've marked as Exhibit J.</p> <p>(OAN Exhibit J was introduced.)</p> <p>Q. (By Mr. Rhodes) This is the first of a series of Facebook posts that Mr. Oltmann provided to you. Just for the record, are you aware of, at any point in this lawsuit, Mr. Coomer, or Dr. Coomer, or Dr. Coomer's lawyers denying that these are, in fact, Mr. Coomer's Facebook posts?</p> <p>A. I am not.</p> <p>Q. So the first page, which is Bates numbered 351: "If you voted for a fascist - friend, family, or foe, F-ing [sic] un-trump me. I've got no truck for racists." Does that suggest to you this is someone who we should be trusting election integrity to?</p> <p>A. I wouldn't think so.</p> <p>THE REPORTER: I'm sorry. Was there an objection that I missed?</p> <p>MR. CAIN: Yeah, Sara, if that's you. I'm not looking up. But I objected to leading.</p> <p>Q. (By Mr. Rhodes) All right. Well, since he objected to leading, how did you interpret Dr. Coomer's statement, "If you voted for a fascist - friend, family, or foe, F-ing un-trump me. I've got no truck for racists"? How did you view that as concerns Dr. Coomer having the position that he does -- did?</p> <p>A. I think it was beyond a normal bias or political viewpoint. I believe it's extreme, especially when</p>			

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		<p>he's talking friend, family, that this somebody who wouldn't – shouldn't be at such a senior position in -- in Dominion or any voting equipment company.</p> <p>Q. And in your mind, even without the statement of Dr. Coomer during the Antifa call, are his Facebook posts by themselves newsworthy?</p> <p>A. I think it's, arguably, that they're more newsworthy to have such a senior person that is expressing anarchist and Antifa-type views. And the reason I say that is there's a manifesto, Antifa manifesto, that it appears that either he forwarded, or maybe he even wrote; I don't know. And in that, it actually says something to the effect that they don't acknowledge the popular vote, people voting for the president. They're not acknowledging the election. And his numerous views that make him appear to be sympathetic to an anarchist point of view are disturbing for a person who works at Dominion Voting Systems.</p> <p>MR. CAIN: Nonresponsive.</p> <p>Q. (By Mr. Rhodes) So I believe you're referring to the statement that begins on OAN 359; is that correct?</p> <p>A. Yes. (Simultaneous speakers.)</p> <p>A. Generally referred to as the "Antifa Manifesto."</p> <p>Q. And this goes on for -- well, here's 359 and 360. Unfortunately, because of the pagination – I'm going to write this down. 359, 360. We've got to go to the next group of documents.</p>			

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		<p>(OAN Exhibit K was introduced.)</p> <p>Q. (By Mr. Rhodes) I'm now showing you Exhibit K. Do you see that?</p> <p>A. I do.</p> <p>Q. Which starts with OAN 361 and goes through 362. So he -- he posts a four-page Antifa Manifesto; correct?</p> <p>A. Yes.</p> <p>Q. And then I want to start with OAN 367: "Pigs for slaughter. They shot an innocent five-year-old kid." Who do you understand "they" to be, and who do you understand "pigs" to be?</p> <p>MR. CAIN: Object to form.</p> <p>A. "Pigs," I believe, is referring to the police. The symbol, I believe, is an anarchist symbol.</p> <p>Q. (By Mr. Rhodes) I see on 368, there's a post by Penelope Chester. You were asked about her during -- or you were played video about her during the "Dominion-izing the Vote" segment.</p> <p>A. Yes.</p> <p>Q. And then Ms. Chester posts on 369 an article, "Don't focus on looting. Be outraged that police keep killing."</p> <p>A. I see that.</p>			

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		<p>Q. And then she posts, "To focus on the damage and looting misses the point. Were it not for the killing of Floyd and the history of police behavior, there would have been no protests." Do you see that?</p> <p>A. I do.</p> <p>Q. And then on 370, you were asked about "Dead Prez - Cop Shot." You were aware of that when you made your decision to approve "Dominionizing the Vote"; correct?</p> <p>A. That's correct.</p> <p>Q. On 371, you were aware of Mr. Coomer's post, "F [sic] the USA"?</p> <p>A. Yeah. This one's somewhat shocking for a gentleman working at an election company to use what appears to be an album cover and indicate "F the USA."</p> <p>Q. Well, but Mr. Cain said to you it's not possible that Dr. Coomer could interfere with the election, because there -- there are federal and state rules against that.</p> <p>What is your response to that statement?</p> <p>A. Well, it's -- it's clear that we got somebody with an anarchist point of view working at a senior position at Dominion. And that is just the type of individual that might take action. And there's other signs of that in this email -- or, excuse me -- in the Facebook postings.</p>			

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		<p>Q. F the USA. F the rules; huh? And here's 372: F the police again; right?</p> <p>A. Yes. Typical language that's used by Antifa, along with the acronym ACAB, "All cops are bastards."</p> <p>Q. And this is exactly the same F the police that was in Mr. Dolloff's Facebook or Twitter post; right?</p> <p>A. That's correct.</p> <p>Q. (By Mr. Rhodes) That you were familiar with prior to receiving these Facebook posts from Mr. Oltmann?</p> <p>A. Yes. I've been familiar with some of the terminology used by Antifa online that included ACAB and F the police. There you go. There it is: ACAB.</p> <p>Q. Yeah. Here. OAN 373 is ACAB, which you've told us already about. And then OAN 374, "Body Count - Cop Killer"; right?</p> <p>A. Yes. Again, pretty extreme.</p> <p>Q. Here's OAN 375: "Dead Cops"; correct?</p> <p>A. Yes. Again, anti-cop rhetoric, antiauthority rhetoric, typical of Antifa and anarchists.</p> <p>Q. And someone -- Scott Wimberley posts, "You're on a rip today." And Mr. -- Dr. Coomer responds, "I'm F-ing [sic] over it."</p>			

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		<p>A. Possibly an indication that, you know, he's – it's about time to do something; again, why I found his postings so disturbing.</p> <p>Q. Was it significant to you that it appears that every other word out of Dr. Coomer's mouth is the F word?</p> <p>A. Well, it's interesting --</p> <p>Q. What he's alleged to have said in the Antifa call was using the F word?</p> <p>A. His -- his tone with -- on Facebook is consistent with his tone that was expressed by Mr. Oltmann on the Antifa call. And I think that they actually line up. And I think it's more than just his tone and using the F word. But on the Antifa call, there's indication that the Eric is a leader and giving advice on what needs to be done: We need to fortify. We need to recruit. And you see on these Facebook postings a number of things along those lines. People -- Eric will put up a posting, and people are commenting on it and how they want him to continue with this rants. He appears to be a leader on the Facebook posting. And so we see similarities between the two.</p> <p>Q. Here's OAN 376. F the police again.</p> <p>A. Yeah. Again, the frequency that he's using F the police and these antiauthority statements – not only the police, but, you know, dead prez and F the USA, is an indication to me he's an anarchist, which is consistent with somebody who is part of Antifa.</p>			

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		<p>Q. On OAN 379. This is Dr. Coomer: "Just because cheeto Jesus won't sign a bill." Who did you understand Mr. Coomer to be referring to as "cheeto Jesus?"</p> <p>A. When he uses the term "cheeto Jesus," he's referring to the President of the United States at the time, which was Donald Trump. In that case, it actually may have been before. I can't see the date clearly.</p> <p>Q. This was 2019.</p> <p>A. Thank you. Yes.</p> <p>Q. All right. We're up to 380. I'm now going to show you Exhibit L, which starts with OAN 381.</p> <p>(OAN Exhibit L was introduced.)</p> <p>Q. (By Mr. Rhodes) Can you see Exhibit L?</p> <p>A. I do.</p> <p>Q. So I want you to look at OAN 383: "Matt Crane is with Eric Coomer. Had a fantastic time at the Colorado County Clerk's Association Summer Conference." There's nothing wrong with that, of course. But, I mean, you first had to satisfy yourself that this Eric Coomer is, in fact, the Eric Coomer with Dominion; right?</p> <p>A. Yes.</p> <p>Q. (By Mr. Rhodes) Okay. And were you able to do that?</p> <p>A. I believe so.</p>			

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		<p>Q. Through things such as OAN 383?</p> <p>A. Yes. And also that the Antifa point of view was consistent with the Eric on the call, which was on an Antifa call.</p> <p>Q. And he was identified as Eric from Dominion?</p> <p>A. That's correct. And the -- the importance, at least in my opinion, is you never question -- or you don't hear who's Dominion or, you know -- not who's Dominion, but why does Dominion have relevance? And why can a guy named Eric from Dominion make sure that Trump is not re-elected? And because that discussion never takes place, this assumption is, is that a guy from Dominion would have the ability to impact the election. And so I think that's another tie-in. And when you look at all the variables, it seems almost impossible that the Eric on the phone call -- it seems impossible that it couldn't be -- Eric on the phone call could not be Dr. Eric Coomer with Dominion Video Systems -- or Voting Systems. Excuse me.</p> <p>...</p> <p>Q. (By Mr. Rhodes) So I'm showing you OAN 385: "This is how elected autocrats subvert democracy, packing and weaponizing the courts and other neutral agencies, buying off the media and the private sector." And then he has the hashtag #resist, #deathofthemericanream; correct?</p> <p>A. Yes. I think the important word there, if there's one word that really stands out, is an</p>			

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		<p>“autocrat.” He is considering the elected President of the United States an autocrat, or autocrat. And with his anarchist Antifa views, you know, that’s justification to have him removed or oppose him. It’s an interesting thought process.</p> <p>Q. And Antifa is, in fact, short for anti-fascist?</p> <p>A. That’s correct.</p> <p>Q. And an autocrat is a fascist?</p> <p>A. Yes. A fascist is one who's either a dictator or autocrat, is the general definition, as I understand it.</p> <p>Q. And then OAN 387: “And in other news, there be some serious F-ery [sic] going on right here fueled by our Cheeto-in-chief.” Who did you understand Dr. Coomer was referring to as the “Cheeto-in-chief?”</p> <p>A. I believe he’s referring to the then-president of the United States.</p> <p>Q. And I’m now showing you OAN 388. How would you describe 388?</p> <p>A. Well, it’s interesting. He’s putting all people with a southern drawl into a box and mocking them. He also had problems down in Texas, because the Dominion machines couldn’t get certified. Texas objected, saying that there were a number of fundamental problems with the software and the hardware. I think it was Attorney General Kim Paxton that made some pretty strong statements about Dominion in the</p>			

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		<p>state of Texas. So it's a little bit showing that people from another area that have a certain southern drawl, he's mocking.</p> <p>Q. Showing you OAN 392: "F [sic] you, Britain. We beat your ass again. We rule. We'll see your silly Brexit and raise you an insane orange narcissist racist xenophobic clown." Who did you understand Dr. Coomer was referring to as an "insane orange narccicist racist xenophobic clown"?</p> <p>A. The president of the United States.</p> <p>Q. And then on the next page, in one of the comments, he writes, "I have words and yet I don't have words. F me. F us. How did a billionaire daddy's boy somehow become the -- he writes "beckon." I believe he means beacon -- "of the common man? How the F do I have actual relatives/family, that gladly donned the brown shirt?" Who do you believe Dr. Coomer was referring to as the "billionaire daddy's boy"?</p> <p>A. It's clear he's referring to the President of United States, Mr. Trump at the time.</p> <p>...</p> <p>Q. (By Mr. Rhodes) All right. We're up to 401. I think we have one more group. Okay. Let me know when you can see Exhibit M, as in Mary. (OAN Exhibit M was introduced.)</p> <p>Q. (By Mr. Rhodes) Can you see Exhibit M? Mr. Herring?</p> <p>A. Excuse me. I apologize. Yes, I can see --</p>			

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		<p>Q. That's okay. I can only see the screen. I can't see you. So I thought maybe I lost you.</p> <p>A. I can -- I can see Exhibit M.</p> <p>Q. So I want to direct your attention to the middle of this page where there's a lengthy comment by Eric Coomer. Begins, "Procedurally, he can do a few things that can have immediate impacts." Again, this appears to be posted by someone who has intimate knowledge of the voting systems; correct?</p> <p>A. And election process, yes.</p> <p>Q. The election process, yes. Again, did this assist you in making a determination whether this particular Eric Coomer is --was the Eric Coomer from Dominion Voting?</p> <p>A. Yes. I believe it is the Eric Coomer from Dominion Voting. These Facebook posts, I do believe, belong to Eric Coomer of Dominion Voting Systems.</p> <p>Q. (By Mr. Rhodes) Not some other random Eric Coomer?</p> <p>A. No. The knowledge that is being expressed here is a good indication that they are Dr. Coomer's emails -- excuse me -- Facebook postings.</p> <p>Q. So now I want to show you OAN 422, which is entitled "rant/ Facebook friend land - open call." Do you see this?</p> <p>A. I do.</p>			

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		<p>Q. What was the significance, if any, to you of this post in making your decision to approve the airing of "Dominion-izing the Vote"?</p> <p>A. Well, there were a couple of things that stood out. The one is -- I understand that people have bias; that they're allowed to have their political view. But this seems extreme to me. It's beyond just having a political view. He's literally calling out his friends. And we know that on Facebook postings, he has coworkers; he has family; he has friends. And, arguably, there's even people on the posting that work for municipalities that are involved in the election process. And here he is, basically, escalating and saying, you know, you need to swear your allegiance, or he's going to de-friend you. And he used some pretty strong language about what he thinks about people that aren't going to vote for -- or people that may vote for Trump: Only an absolute F-ing idiot could vote for, basically, Trump. So it seems very extreme to me. And it got responses that were -- it got pushback from the Facebook group, his family and friends. And he seems to double down. I think there's another interesting section in it where he talks about -- I have a little difficulty reading it -- near the bottom where he says, "My personal opinions" --</p> <p>Q. If you have trouble reading it, let me read it. The second exit -- edit -- excuse me: "These opinions are rational and completely my own. They are based in reason and highly credible. Though they are not necessarily the thoughts of my employer, though if not, I should probably find another job." Is that what you referring to?</p>			

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		<p>A. Yeah. That indicates to me, at the time of writing this, which is summer 2016, that he's basically saying if his employer doesn't agree with these pretty extreme views, then he should leave. And we know that there's people in this group that are Dominion Voting Systems employees. There's a gentleman -- a fairly senior gentleman -- I don't know if he was still at Dominion, whose name is Benjamin Rice, who is a patent holder. We have Penelope Chester Star. There may be others. But this seems to indicate, considering he was still at Dominion five years later, that his employer seems to either have the same points of view or knew about his views, since there were other Dominion employees in this Facebook group.</p> <p>Q. And, in fact, he writes right after that, "Who wants to work for complete morons?" question mark.</p> <p>A. Yeah. A pretty strong showing that he doesn't tolerate anyone with a different viewpoint.</p> <p>Q. Now, then he adds, "None of my personal opinions affect my professional conduct or attitudes. I am nonpartisan." Did -- did you believe that?</p> <p>A. Absolutely not. When he's asking people to swear their allegiance that they won't vote for Trump, I don't know what could be more partisan.</p> <p>...</p>			

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		<p>Q. (By Mr. Rhodes) And then he adds, "I am not, however, willing to stand and watch this great country be taken over by fascists without saying something, anything"; correct?</p> <p>A. Yes. I see that.</p> <p>Q. And you'd read this when you made the decision to approve the airing of "Dominion-izing the Vote?"</p> <p>A. Yeah. I not only read it, but I tried to study it a little more in than just a quick reading.</p> <p>Q. And as you said, it drew many comments that go on for pages and pages. And 430, that's the end of the Facebook post.</p> <p>(j) 159:13-162:19</p> <p>(OAN Exhibit N was introduced.)</p> <p>Q. (By Mr. Rhodes) Let me know once you can see that.</p> <p>A. I can see it.</p> <p>Q. Okay. It's a two-page-- I believe it's a two -- it's a two-page document. What is Exhibit N?</p> <p>A. I call it the sign-off sheet to allow content that has been reviewed and approved to go to air.</p> <p>Q. And it's -- it's entitled "One America News Network Ingest Form." What does "Ingest" mean?</p>			

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		<p>A. Ingest is the process where content is placed on a server, ingested, so it can go to air. It's the on-air sever. So it basically means it has been greenlit to go on air.</p> <p>Q. Okay. So -- so once this form is signed, whatever it is can be ingested into the server that can then be disturbed on the network. Is that -- is that what you mean?</p> <p>A. Yes, sir.</p> <p>Q. Okay. And the show series is One America News Investigates; correct?</p> <p>A. Yes.</p> <p>Q. And the show title is "Dominion-izing the Vote"; correct?</p> <p>A. Yes.</p> <p>Q. And then there's a line here for management approval. Do you see that?</p> <p>A. I do.</p> <p>Q. And there's a signature after that. Whose signature is that?</p> <p>A. That's my signature.</p> <p>Q. You -- did you physically sign this form?</p> <p>A. I did.</p> <p>Q. And it's dated November 20, 2020; correct?</p>			

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		<p>A. It is.</p> <p>Q. What is the purpose of this form?</p> <p>A. It has a couple different purposes. The most important one is to ensure that nothing goes on air without the necessary approvals to ensure that the product is ready to go on air from a number of standpoints. This is our management approval form. And so I reviewed the content for a number of things and went ahead and signed off on the -- the form so it could go to air.</p> <p>Q. Now, you told Mr. Cain that you approved the final draft. I want you to clarify: Does that mean you approved the final written script, or you actually approved the video package itself?</p> <p>A. I approved the final video package, with all the appropriate spaces for commercials, that was going to go on air.</p> <p>Q. And, in fact, when you look at the second page, this lists the actual time on the video of each of the four segments of the piece; correct?</p> <p>A. Yes. That's correct.</p> <p>Q. Okay. Did you create this form just for "Dominion-izing the Vote?"</p> <p>A. No. It's a standard form that's used for signing off on the contents before going air.</p> <p>Q. So -- so are there similar forms for other One America News Investigates?</p>			

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		<p>A. Every One America News Investigates should have a similar form.</p> <p>Q. So did you treat "Dominion-izing the Vote" any different than any of the other One America News Investigates OAN has aired?</p> <p>A. We did not.</p> <p>Q. And did you -- did someone bribe you to sign this form?</p> <p>A. No.</p> <p>Q. Did someone coerce you to sign this form?</p> <p>A. No.</p> <p>Q. Did someone threaten you to sign this form?</p> <p>A. No.</p> <p>Q. Did your father tell you had to sign this form?</p> <p>A. No.</p> <p>Q. Did anyone tell you had to sign this form?</p> <p>A. The form needed to be signed before it went on air. That didn't take place until after I reviewed the content and signed off on the form.</p> <p>Q. And why did you sign off on the form?</p> <p>A. I was comfortable with the content going on air.</p>			

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46A	October 16, 2020 Colorado Politics article: "Antifa among the press corps? New Colorado conservative says so" (OAN516/Herring Dep. Ex. A)	<p>121:8-122:23</p> <p>(OAN Exhibit A was introduced.)</p> <p>Q. (By Mr. Rhodes) And what is OAN Exhibit A?</p> <p>A. This was a web posting that I looked at. I just want to make sure it's the right one. Yeah. So a web posting that I looked at indicating that he was – that Joe Oltmann was at an event at a speedway and made statements at the event. You can see where you can click through to a Times-Recorder article, and –</p> <p>Q. I'm hovering over by clicking here on the first page, and it gets me a hyperlink to a coloradotimesrecorder.com article, with the slug "FEC United Founder Threatens Journalist at GOP Candidate Event." Do you see that?</p> <p>A. I do.</p> <p>Q. Okay. And – and this article, Exhibit A, is dated October 16, 2020?</p> <p>A. Yes. I see that.</p> <p>Q. And so was this – did you review Exhibit A in an effort to corroborate Mr. Oltmann's statement that he was not on the Antifa call looking for Mr. Coomer, but was on the Antifa call looking for information about local journalists?</p> <p>A. I just wanted to verify that he was at this event and see what knowledge I could gain by researching it a little bit. And it was clear that he</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>made the statement that he was trying to expose Antifa members that were associated with the press. He said he disclosed 13. I think, in one of the articles, it says that the names of those 13 were not given out publicly, but he made the claim during that. And I think there were some elected officials at that event, also. And I believe that he hosted that event through the FEC United organization.</p> <p>Q. All right. And then you've indicated that the – one of the articles that you read that weekend also linked to a video of Mr. Oltmann from – at the speedway?</p> <p>A. Yes. That is correct. He was in a white tent. He made a short statement. And I believe there were elected officials there or people running for office.</p>			
46B	October 5, 2020 Oltmann YouTube video (OAN517/Herring Dep. Ex. B)	<p>122:24-123:13</p> <p>Q. All right. I have marked that video as Exhibit B.</p> <p>(OAN Exhibit B was introduced.)</p> <p>Q. (By Mr. Rhodes) And I will play that and ask you if that's the video you reviewed as part of your investigation the week of November 14th and 15th. (The video segment was played.)</p> <p>Q. (By Mr. Rhodes) Is that the video that you reviewed, Mr. Herring?</p> <p>A. I believe so.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being</p>

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		<p>Q. And did that confirm for you Mr. Oltmann's statement that he was attempting to infiltrate to expose Antifa members who were posing as journalists?</p> <p>A. Yes. It was consistent with the statements that he made in his video.</p>			discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.
46C	January 9, 2020 (10:47) Project Veritas video (OAN518/Herring Dep. Ex. C)	<p>125:1-14; 128:1-129:1</p> <p>(OAN Exhibit C was introduced.)</p> <p>Q. (By Mr. Rhodes) I have marked as Exhibit C the Project Veritas video I believe you are referring to. Let me share that screen with you. I'm going to play this video and ask you if you had seen this video prior to your receipt on November 10th and your review on November 14th and 15th about Kris Jacks. (The video was played in its entirety.)</p> <p>Q. (By Mr. Rhodes) Mr. Herring, is that the Project Veritas video regarding Kris Jacks you had seen before you got Mr. Oltmann's viewer comment on November 10th?</p> <p>...</p> <p>Q. (By Mr. Rhodes) Mr. Herring, Mr. Cain says he doesn't understand the relevance of the Project Veritas video of Kris Jacks. I'm showing you again Mr. Cain's exhibit – not mine -- Mr. Cain's exhibit of Plaintiff's Exhibit 35, in which Mr. Oltmann describes to you about him having</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of</p>

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		<p>knowledge, supposedly, of a video of Kris Jacks talking about beheading of Americans and a video from Project Veritas, which we now know is the same. Because of your prior knowledge of the Project Veritas video of Mr. Jacks, were you able to corroborate, determine the voracity of Mr. Oltmann's statement in his email that Mr. Cain has marked as Plaintiff's Exhibit 35 regarding Mr. Jacks calling for the beheading of Americans?</p> <p>A. Yes. It further solidifies why Mr. Oltmann was pursuing and trying to call out Antifa. Some of the radical views that are being called out by people that either are Antifa or sympathetic to their point of view, literally asking for, calling for, and trying to justify violence against people that have different points of view is very, very extreme and, I think, of concern to Mr. Oltmann, and probably why FEC United came about in the first place.</p>			actual malice at the anti-SLAPP stage.
46D	October 14, 2020 e-mail from devan95@yahoo.com to Charles Herring and multiple parties referencing Kris Jacks (OAN519/Herring Dep. Ex. D)	<p>129:2-131:1</p> <p>Q. (By Mr. Rhodes) I want to show you what I've marked as Exhibit D.</p> <p>(OAN Exhibit D was introduced.)</p> <p>Q. (By Mr. Rhodes) Can you tell me what Exhibit D is?</p> <p>A. This is an email that I received on – looks like it's October 14, 2020 – that talks about Kris Jacks. It was sent to a wide range of media.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.

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		<p>Q. I don't see your name on here. Why do you say you received this?</p> <p>A. It's in my emails. There's an email address that is TDL – I think it TDL@oann.com – which is an email address that I have filtered into my primary email.</p> <p>Q. And this regards the “Democratic Official: I will lie; I will cheat; I will steal”; correct?</p> <p>A. Yes.</p> <p>Q. This is Kris Jacks, that we just talked about?</p> <p>A. Yes. Probably missing one other thing, which is “I will include violence.”</p>			<p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>
46E	<p>October 13, 2020 Breitbart article, “WATCH– ‘Guillotines Motherf*ck*r’: Colorado Dem Operative Reveals Violent Agenda Should Trump Win” (OAN520/Herring Dep. Ex. E)</p>	<p>130:2-131:8</p> <p>(OAN Exhibit E was introduced.)</p> <p>Q. (By Mr. Rhodes) I'm showing you Exhibit E, which, I will represent, the hyperlink in Exhibit D takes you to this Breitbart article from October 13, 2020. Do you see that?</p> <p>A. I do.</p> <p>Q. And then on the very beginning of the Breitbart is the link to the 12-minute, 21-second YouTube video that we just watched; is that correct?</p> <p>A. It appears to be, yes.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E.</p>

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		<p>Q. Okay. So almost a month before Mr. Oltmann wrote you anything about Kris Jacks and his desire, and the desire of other members of Antifa, to behead Americans, you were aware of Mr. Jacks and the Project Veritas video; correct?</p> <p>A. I was.</p> <p>Q. (By Mr. Rhodes) Prior to Mr. Oltmann emailing OAN on November 10th, were you aware of any other alleged Antifa members in Colorado?</p> <p>A. I was aware of Antifa going into the suburbs with BLM and intimidating residents. I was aware of a connection with a shooting that took place where a gentleman who was a security guard for a news channel pulled a gun and shot another individual.</p> <p>I think his name is Matthew Dolloff. I am generally aware of Antifa raising heck in multiple areas around the United States. We did a special on Antifa prior to November 9th, 2020. And we've had staff -- I don't recall the time frame, but we've had staff members, or a staff member, that was that harassed by Antifa.</p>			<p>401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>
46F	<p>October 11, 2020, email correspondence Re: One America News Network Contact Form received and reviewed by Charles Herring regarding Matthew Robert Golloff and noqreport.com (OAN521/Herring Dep. Ex. F)</p>	<p>131:9-132:3</p> <p>(OAN Exhibit F was introduced.)</p> <p>Q. (By Mr. Rhodes) I'm showing you Exhibit F, which is an email – a series of emails from October 11, 2020. And I want to direct your attention to about a third of the way down, begin forward message from Dr. Reg Barrow to</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of</p>

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		<p>contact@oann. I believe you previously told us that you received copies of emails sent to this email address; correct?</p> <p>A. Yes, I do.</p> <p>Q. And on the second page of Exhibit F, Dr. Barrow messages: "Alleged Denver shooter Matthew Robert Dolloff is a proud radial leftist," with a link to a report on -- to noqreport.com; is that correct?</p> <p>A. Yes.</p> <p>Q. Prior to your receipt of Mr. Oltmann's email on November 10th, had you reviewed that NOQ Report?</p> <p>A. I reviewed it, and OAN reported on it.</p> <p>Q. If you'll hold on one minute, I've got to move my exhibit sticker so it's not covering up anything.</p>		exceeded the scope of direct; see pp. 115-162	<p>probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>
46G	October 11, 2020 NOQ Report article, "Alleged Denver Shooter Matthew Robert Dolloff is a Proud Radical Leftist" (OAN522/Herring Dep. Ex. G)	<p>132:4-137:22</p> <p>(OAN Exhibit G was introduced.)</p> <p>Q. (By Mr. Rhodes) I'm showing Exhibit G, Mr. Herring. Is this is NOQ Report that you reviewed?</p> <p>A. Yes.</p> <p>Q. And this is dated October 11, 2020; correct?</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly

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		<p>A. Yes.</p> <p>Q. And this discusses the Denver – the alleged Denver shooter, Matthew Robert Dolloff, and his reported ties to Antifa. And I'm directing your attention to page five, where there purports to be – and I don't know if these are tweets or Facebook posts, from Mr. Dolloff.</p> <p>The first one appears to be Mr. Giuliani June 11, 2016: "Ran into a Trump supporter with a" – I can't – it's cut off. "Trump -- i like their im a racist button. They – F Trump." Do you see that?</p> <p>A. I do.</p> <p>Q. Is – is – is "F Trump" something that Mr. Coomer used in his post?</p> <p>A. I believe it is.</p> <p>Q. And then I see there's one from Mr. Dolloff: "No justice, no peace. F the police." Is that a similar post that Mr. Coomer used?</p> <p>A. "F the police" is, yes.</p> <p>Q. So when you got Mr. Mr. Coomer's -- excuse me -- Mr. Oltmann's email, you were familiar with Antifa -- alleged Antifa members in Colorado threatening violence, threatening beheading, using such terms as "F Trump, F the police"; correct?</p> <p>A. Yes. That's correct.</p> <p>Q. So was there anything in what Mr. Oltmann told you that caused you to not believe him?</p>			<p>failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. No. After trying to dig in and understand the social media, it seemed pretty consistent that Mr. Coomer was associated or sympathetic towards Antifa. But more importantly, it was clear that Mr. Oltmann was trying to track down Antifa members, especially Antifa members in the media. And I can understand why he was doing that.</p> <p>Q. So when Mr. Cain says you didn't -- you didn't follow your own advice of confirming from multiple sources the voracity of Mr. Oltmann, is that true?</p> <p>MR. CAIN: Object to form.</p> <p>A. I don't believe so.</p> <p>...</p> <p>Q. (By Mr. Rhodes) So, Mr. Herring, I understand you independently researched Mr. Oltmann's claim that he was attempting to expose reporters as Antifa members; correct?</p> <p>A. Yes.</p> <p>Q. And you already had existing knowledge of Kris Jacks and his love of Antifa and his desire to behead Americans in Colorado; right?</p> <p>A. Yes, I did.</p> <p>...</p>			

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		<p>Q. (By Mr. Rhodes) And you already had existing knowledge about Mr. Dolloff's Facebook post; correct?</p> <p>A. I did.</p> <p>...</p> <p>Q. (By Mr. Rhodes) And -- and Mr. Oltmann provided you with many of Dr. Coomer's Facebook posts?</p> <p>A. He did.</p> <p>Q. And what was your impression of those Facebook posts?</p> <p>A. When I went through them the first time, I was disturbed. It was clear to me that he was associated with Antifa, more importantly, an anarchist. They tend to run together. Matter of fact, the Antifa logo -- it has an anarchist, many times, when you see them on the street. But it reminded me of the Unabomber. And I actually went back and read just a short segment of the manifesto from the Unabomber and tried to see if -- you know, how closely they compared. There were some things that were close. But I really thought that he was so radicalized that he may take action. That action could be harming another person, which is part of the reason why I was wondering if the FBI was informed.</p> <p>Q. Now, Mr. Cain asked you whether or not you attempted to contact -- "you" being OAN -- contact Dominion or were even aware that Dominion had issued a statement. Do you recall that?</p>			

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		<p>A. I do.</p> <p>Q. And I believe he showed you – let's go to what he marked as Exhibit 16. And I will show you Exhibit 16. You see Exhibit 16? You were previously shown this, and you made your comment about the Wayback Machine. Do you recall that?</p> <p>A. I do.</p> <p>Q. And you see these point headings: "Vote Deletion/Switching Assertions Are Completely False; Dominion s a Nonpartisan U.S. Company; Dominion Software Accurately Tabulated Ballots, and Tabulated Results are 100% Auditable; No Unauthorized or Last-Minute Software Updates Occurred; There Are No Issues With User Sharpie Pens; Assertions of Voter Fraud Conspiracies Are 100% False." Do you see that?</p> <p>A. I do.</p> <p>Q. I want to go back, now, to Exhibit 23, which is the "Dominion-izing the Vote" video that Mr. Cain showed you. And I want to, once it starts, fast forward here to approximately 26:30. (The video segment was played.)</p> <p>Q. (By Mr. Rhodes) So I'm at 26:28 of "Dominion-izing the Vote." Do you see what's on the screen here?</p> <p>A. I do.</p>			

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		<p>Q. "Dominion Voting Systems categorically denies false assertions about vote switching and software issues with our voting systems." "1) Vote deletions, switching assertions are completely false." So OAN, in fact, was aware and used in its report Dominion Voting Systems' statement; correct?</p> <p>A. It appears so, yes. (The video segment was played.)</p> <p>Q. (By Mr. Rhodes) And then let's fast forward – (The video segment was played.)</p> <p>Q. (By Mr. Rhodes) So here we are at 29:35, and we see, once again, Dominion's statement being used in "Dominion-izing the Vote"; correct?</p> <p>A. Yes.</p> <p>Q. So Mr. Cain is simply wrong in saying that you ignored Dominion's statements; correct?</p> <p>A. That's correct.</p> <p>...</p> <p>Q. (By Mr. Rhodes) Now, Dominion has denied this. Why -- why would you -- why would you report on something that Dominion has denied? I mean, once -- once the subject of an investigation denies it, don't you just shut it down?</p> <p>A. No. We've seen a lot of denials that aren't correct.</p>			

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		<p>Q. I mean, would be Dominion -- would Dominion be the first subject of an investigation who falsely denied being involved?</p> <p>A. No.</p>			
46H	<p>November 17, 2020 Screenshot from www.oann.com, "Dominion Voting Systems Categorically Denies False Assertions About Vote Switching And Software Issues With Our Voting Systems" (OAN523/Herring Dep. Ex. H)</p>	<p>137:23-138:6</p> <p>Q. So I've marked the first point we stopped as OAN Exhibit H. Let me share that with you.</p> <p>(OAN Exhibit H was introduced.)</p> <p>Q. (By Mr. Rhodes) You see that?</p> <p>A. I do.</p> <p>Q. And that's at the 26:29 that we talked about on the -- when we were playing the video; correct?</p> <p>A. I can't see it, but I'll take your word for it.</p> <p>Q. Okay. Yeah. I can see it on my end. I may have a bigger screen than you. And, while we're at it, let's mark the other one.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>
46I	<p>November 17, 2020 Screenshot from www.oann.com, "1) Vote</p>	<p>138:8-143:23</p>		<p>Relevance</p>	<p>The exhibit and testimony are within the scope of direct because</p>

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	<p>Deletion/Switching Assertions Are Completely False” (OAN524/Herring Dep. Ex. I)^</p>	<p>(OAN Exhibit I was introduced.)</p> <p>Q. (By Mr. Rhodes) And can you see Exhibit I?</p> <p>A. I can.</p> <p>Q. Again, I'll represent to you that's the screenshot from 29:36.</p> <p>A. Okay.</p> <p>Q. So am I correct, then, that OAN obtained a copy of Dominion Voting Systems' statement, and in that statement, which was -- hold still. I apologize. I will represent to you that that statement was issued on November 17th, based upon the screenshot, Exhibit H. And then we will go back to Exhibit 16, that Mr. Cain introduced. Do you see Exhibit 16?</p> <p>A. I do.</p> <p>Q. All right. This is November 13th. The Joe Oltmann podcast was November 9th; correct?</p> <p>A. Yes, it was.</p> <p>Q. And the Michelle Malkin interview was November 10th; is that right?</p> <p>A. I think it was the 13th. I think it was on Friday, November 13th. But that's just my best recollection.</p> <p>Q. Okay. Is there any information in Dominion's statement denying anything about Eric Coomer?</p>		<p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. I don't see anything in there about Dr. Coomer.</p> <p>Q. By the way, you understand that Mr. Coomer is no longer with Dominion Voting Systems; correct?</p> <p>A. That's my understanding.</p> <p>Q. Do you know why?</p> <p>A. I can only speculate.</p> <p>Q. You were shown Exhibit 29. I'll show that to you. Can you see Exhibit 29?</p> <p>A. I can.</p> <p>Q. And you were asked if you had seen that any time prior to today; correct?</p> <p>A. That's correct.</p> <p>Q. Well, now that you've seen it, I'm showing you, on the second page -- and there's a statement just over halfway down, "Trump not going to win. I made F-ing [sic] sure of that." If you had seen this note prior to approving the publication of "Dominion-izing the Vote," would this have changed your mind?</p> <p>MR. CAIN: Form. Leading.</p> <p>A. Yes. It would have changed my mind, because I would only have been even more confident in</p>			

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		<p>our decision. I was already confident in our decision, but that seems pretty definitive.</p> <p>...</p> <p>Q. (By Mr. Rhodes) You were asked if there was an electronic recording of the call. You remember that?</p> <p>A. I do.</p> <p>Q. And you said not that you were aware of?</p> <p>A. I believe so. I wasn't aware of one.</p> <p>Q. Does OAN only report on events that it has an electronic recording of?</p> <p>A. No. I've seen reporters through the years that are some of the best in the industry, and they have a legal pad or a pad in front of them and a pen, and do one heck of a job reporting on events, including at the White House in the Briefing Room.</p> <p>Q. I just -- I think I know what you meant, but I'm not sure the record is clear.</p> <p>You were asked about people referring to "H stories." Do you recall that?</p> <p>A. I do.</p> <p>Q. And you made two statements. You said the press refers to H stories. You recall that?</p>			

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

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		<p>A. I know he has patents on -- a number of patents on election machines, including on adjudication -- adjudication. Excuse me.</p> <p>Q. And does Dr. Coomer work at a rocket company, whether it's NASA or -- what is it -- Blue Origin or Virgin?</p> <p>A. Not to my knowledge.</p> <p>Q. Did he work at Dominion Voting Systems?</p> <p>A. That's my understanding.</p> <p>Q. And was he the director of product strategy and security at Dominion Voting Services [sic]?</p> <p>A. I've seen that title used. And I've also seen it used, instead of director, vice president. But, yes, I've seen -- seen those titles used.</p> <p>Q. So would you agree that it's not potentially likely that Dr. Coomer built a rocket and actually went to the moon?</p> <p>A. I would agree with that.</p> <p>Q. Okay. Do you believe it's potentially likely that Dr. Coomer interfered with the 2020 presidential election?</p> <p>A. Yes. It could be.</p> <p>Q. Are you aware of any information that he did not interfere with the 2020 presidential election?</p>			

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		<p>A. No, I am not.</p> <p>Q. And do you, in fact, believe it was Dr. Coomer in the Antifa call who said that he could interfere with the 2020 election?</p> <p>A. Yes.</p> <p>Q. And are you aware of any information to cause you to believe that that was not Dr. Coomer on the Antifa call?</p> <p>A. No.</p> <p>Q. Does your review of Dr. Coomer's Facebook post lead you to believe that Dr. Coomer shared the view that he should do whatever he could to keep Trump from winning?</p> <p>A. Yes.</p> <p>Q. Does it matter to you that these Facebook posts were from Dr. Coomer's private Facebook page?</p> <p>A. Yes, it does. I think there is a better indication of his real views when they're behind a pay wall - - excuse me, not pay wall, but a private group setting. I don't think he would be foolish enough to express those views in the open; but he would when it's a private Facebook group. So knowing that it came from a private Facebook group, I think he he's truly expressing his point of view.</p>			

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46J	Eric Coomer Facebook post Re: Stiff Little Fingers – Suspect Device (OAN525/Herring Dep. Ex. J)^	<p>143:24-146:8</p> <p>Q. I'm going to show you what I've marked as Exhibit J.</p> <p>(OAN Exhibit J was introduced.)</p> <p>Q. (By Mr. Rhodes) This is the first of a series of Facebook posts that Mr. Oltmann provided to you. Just for the record, are you aware of, at any point in this lawsuit, Mr. Coomer, or Dr. Coomer, or Dr. Coomer's lawyers denying that these are, in fact, Mr. Coomer's Facebook posts?</p> <p>A. I am not.</p> <p>Q. So the first page, which is Bates numbered 351: "If you voted for a fascist - friend, family, or foe, F-ing [sic] un-trump me. I've got no truck for racists." Does that suggest to you this is someone who we should be trusting election integrity to?</p> <p>A. I wouldn't think so.</p> <p>Q. (By Mr. Rhodes) All right. Well, since he objected to leading, how did you interpret Dr. Coomer's statement, "If you voted for a fascist - friend, family, or foe, F-ing un-trump me. I've got no truck for racists"? How did you view that as concerns Dr. Coomer having the position that he does -- did?</p> <p>A. I think it was beyond normal bias or political viewpoint. I believe it's extreme, especially when he's talking friend, family, that this somebody who wouldn't – shouldn't be at such a senior</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>position in -- in Dominion or any voting equipment company.</p> <p>Q. And in your mind, even without the statement of Dr. Coomer during the Antifa call, are his Facebook posts by themselves newsworthy?</p> <p>A. I think it's, arguably, that they're more newsworthy to have such a senior person that is expressing anarchist and Antifa-type views. And the reason I say that is there's a manifesto, Antifa manifesto, that it appears that either he forwarded, or maybe he even wrote; I don't know. And in that, it actually says something to the effect that they don't acknowledge the popular vote, people voting for the president. They're not acknowledging the election. And his numerous views that make him appear to be sympathetic to an anarchist point of view are disturbing for a person who works at Dominion Voting Systems.</p> <p>...</p> <p>Q. (By Mr. Rhodes) So I believe you're referring to the statement that begins on OAN 359; is that correct?</p> <p>A. Yes. (Simultaneous speakers.)</p> <p>...</p> <p>A. Generally referred to as the "Antifa Manifesto."</p> <p>Q. And this goes on for -- well, here's 359 and 360. Unfortunately, because of the pagination --</p>			

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		I'm going to write this down. 359, 360. We've got to go to the next group of documents.			
46K	Eric Coomer Facebook posts Re: antifa manifesto, "Pigs for Slaughter," "Penelope Chester," "Dead Prez," "F the USA," "Dead Cops," (OAN526/Herring Dep. Ex. K)	<p>146:9-150:21</p> <p>(OAN Exhibit K was introduced.)</p> <p>Q. (By Mr. Rhodes) I'm now showing you Exhibit K. Do you see that?</p> <p>A. I do.</p> <p>Q. Which starts with OAN 361 and goes through 362. So he -- he posts a four-page Antifa Manifesto; correct?</p> <p>A. Yes.</p> <p>Q. And then I want to start with OAN 367: "Pigs for slaughter. They shot an innocent five-year-old kid." Who do you understand "they" to be, and who do you understand "pigs" to be?</p> <p>MR. CAIN: Object to form.</p> <p>A. "Pigs," I believe, is referring to the police. The symbol, I believe, is a anarchist symbol.</p> <p>Q. (By Mr. Rhodes) I see on 368, there's a post by Penelope Chester. You were asked about her during -- or you were played video about her during the "Dominion-izing the Vote" segment.</p> <p>A. Yes.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>Q. And then Ms. Chester posts on 369 an article, "Don't focus on looting. Be outraged that police keep killing."</p> <p>A. I see that.</p> <p>Q. And then she posts, "To focus on the damage and looting misses the point. Were it not for the killing of Floyd and the history of police behavior, there would have been no protests." Do you see that?</p> <p>A. I do.</p> <p>Q. And then on 370, you were asked about "Dead Prez - Cop Shot." You were aware of that when you made your decision to approve "Dominionizing the Vote"; correct?</p> <p>A. That's correct.</p> <p>Q. On 371, you were aware of Mr. Coomer's post, "F [sic] the USA"?</p> <p>A. Yeah. This one's somewhat shocking for a gentleman working at an election company to use what appears to be an album cover and indicate "F the USA."</p> <p>Q. Well, but Mr. Cain said to you it's not possible that Dr. Coomer could interfere with the election, because there -- there are federal and state rules against that. What is your response to that statement?</p> <p>A. Well, it's -- it's clear that we got somebody with an anarchist point of view working at a senior position at Dominion. And that is just the</p>			

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		<p>type of individual that might take action. And there's other signs of that in this email -- or, excuse me -- in the Facebook postings.</p> <p>Q. F the USA. F the rules; huh? And here's 372: F the police again; right?</p> <p>A. Yes. Typical language that's used by Antifa, along with the acronym ACAB, "All cops are bastards."</p> <p>Q. And this is exactly the same F the police that was in Mr. Dolloff's Facebook or Twitter post; right?</p> <p>A. That's correct.</p> <p>...</p> <p>Q. (By Mr. Rhodes) That you were familiar with prior to receiving these Facebook posts from Mr. Oltmann?</p> <p>A. Yes. I've been familiar with some of the terminology used by Antifa online that included ACAB and F the police. There you go. There it is: ACAB.</p> <p>Q. Yeah. Here. OAN 373 is ACAB, which you've told us already about. And then OAN 374, "Body Count - Cop Killer"; right?</p> <p>A. Yes. Again, pretty extreme.</p> <p>Q. Here's OAN 375: "Dead Cops"; correct?</p> <p>A. Yes. Again, anti-cop rhetoric, antiauthority rhetoric, typical of Antifa and anarchists.</p>			

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		<p>Q. And someone -- Scott Wimberley posts, "You're on a rip today." And Mr. -- Dr. Coomer responds, "I'm F-ing [sic] over it."</p> <p>A. Possibly an indication that, you know, he's -- it's about time to do something; again, why I found his postings so disturbing.</p> <p>Q. Was it significant to you that it appears that every other word out of Dr. Coomer's mouth is the F word?</p> <p>A. Well, it's interesting --</p> <p>Q. What he's alleged to have said in the Antifa call was using the F word?</p> <p>A. His -- his tone with -- on Facebook is consistent with his tone that was expressed by Mr. Oltmann on the Antifa call. And I think that they actually line up. And I think it's more than just his tone and using the F word. But on the Antifa call, there's indication that the Eric is a leader and giving advice on what needs to be done: We need to fortify. We need to recruit. And you see on these Facebook postings a number of things along those lines. People -- Eric will put up a posting, and people are commenting on it and how they want him to continue with this rants. He appears to be a leader on the Facebook posting. And so we see similarities between the two.</p> <p>Q. Here's OAN 376. F the police again.</p> <p>A. Yeah. Again, the frequency that he's using F the police and these antiauthority statements -- not only the police, but, you know, dead prez and F</p>			

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		<p>the USA, is an indication to me he's an anarchist, which is consistent with somebody who is part of Antifa.</p> <p>Q. On OAN 379. This is Dr. Coomer: "Just because cheeto Jesus won't sign a bill." Who did you understand Mr. Coomer to be referring to as "cheeto Jesus?"</p> <p>A. When he uses the term "cheeto Jesus," he's referring to the President of the United States at the time, which was Donald Trump. In that case, it actually may have been before. I can't see the date clearly.</p> <p>Q. This was 2019.</p> <p>A. Thank you. Yes.</p> <p>Q. All right. We're up to 380.</p>			
46L	Eric Coomer series of Facebook posts (OAN527/Herring Dep. Ex. L)	<p>150:22-153:22</p> <p>Q. I'm now going to show you Exhibit L, which starts with OAN 381.</p> <p>(OAN Exhibit L was introduced.)</p> <p>Q. (By Mr. Rhodes) Can you see Exhibit L?</p> <p>A. I do.</p> <p>Q. So I want you to look at OAN 383: "Matt Crane is with Eric Coomer. Had a fantastic time at the Colorado County Clerk's Association Summer Conference." There's nothing wrong with that, of course. But, I mean, you first had to</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony</p>

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		<p>satisfy yourself that this Eric Coomer is, in fact, the Eric Coomer with Dominion; right?</p> <p>A. Yes.</p> <p>...</p> <p>Q. (By Mr. Rhodes) Okay. And were you able to do that?</p> <p>A. I believe so.</p> <p>Q. Through things such as OAN 383?</p> <p>A. Yes. And also that the Antifa point of view was consistent with the Eric on the call, which was on an Antifa call.</p> <p>Q. And he was identified as Eric from Dominion?</p> <p>A. That's correct. And the -- the importance, at least in my opinion, is you never question -- or you don't hear who's Dominion or, you know -- not who's Dominion, but why does Dominion have relevance? And why can a guy named Eric from Dominion make sure that Trump is not re-elected? And because that discussion never takes place, this assumption is, is that a guy from Dominion would have the ability to impact the election. And so I think that's another tie-in. And when you look at all the variables, it seems almost impossible that the Eric on the phone call -- it seems impossible that it couldn't be -- Eric on the phone call could not be Dr. Eric Coomer with Dominion Video Systems -- or Voting Systems. Excuse me.</p> <p>...</p>			<p>on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>Q. (By Mr. Rhodes) So I'm showing you OAN 385: "This is how elected autocrats subvert democracy, packing and weaponizing the courts and other neutral agencies, buying off the media and the private sector." And then he has the hashtag #resist, #deathofthamericandream; correct?</p> <p>A. Yes. I think the important word there, if there's one word that really stands out, is an "autocrat." He is considering the elected President of the United States an autocrat, or autocrat. And with his anarchist Antifa views, you know, that's justification to have him removed or oppose him. It's an interesting thought process.</p> <p>Q. And Antifa is, in fact, short for anti-fascist?</p> <p>A. That's correct.</p> <p>Q. And an autocrat is a fascist?</p> <p>A. Yes. A fascist is one who's either a dictator or autocrat, is the general definition, as I understand it.</p> <p>Q. And then OAN 387: "And in other news, there be some serious F-ery [sic] going on right here fueled by our Cheeto-in-chief." Who did you understand Dr. Coomer was referring to as the "Cheeto-in-chief?"</p> <p>A. I believe he's referring to the then-president of the United States.</p> <p>Q. And I'm now showing you OAN 388. How would you describe 388?</p>			

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		<p>A. Well, it's interesting. He's putting all people with a southern drawl into a box and mocking them. He also had problems down in Texas, because the Dominion machines couldn't get certified. Texas objected, saying that there were a number of fundamental problems with the software and the hardware. I think it was Attorney General Kim Paxton that made some pretty strong statements about Dominion in the state of Texas. So it's a little bit showing that people from another area that have a certain southern drawl, he's mocking.</p> <p>Q. Showing you OAN 392: "F [sic] you, Britain. We beat your ass again. We rule. We'll see your silly Brexit and raise you an insane orange narcissist racist xenophobic clown." Who did you understand Dr. Coomer was referring to as an "insane orange narccicist racist xenophobic clown"?</p> <p>A. The president of the United States.</p> <p>Q. And then on the next page, in one of the comments, he writes, "I have words and yet I don't have words. F me. F us. How did a billionaire daddy's boy somehow become the" -- he writes "beckon." I believe he means beacon -- "of the common man? How the F do I have actual relatives/family, that gladly donned the brown shirt?" Who do you believe Dr. Coomer was referring to as the "billionaire daddy's boy"?</p> <p>MR. CAIN: Form.</p>			

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		<p>A. It's clear he's referring to the President of United States, Mr. Trump at the time.</p> <p>Q. (By Mr. Rhodes) All right. We're up to 401. I think we have one more group.</p>			
46M	Eric Coomer series of Facebook posts by Eric Coomer (OAN528/Herring Dep. Ex. M)	<p>154:23-159:10</p> <p>Q. Okay. Let me know when you can see Exhibit M, as in Mary.</p> <p>(OAN Exhibit M was introduced.)</p> <p>Q. (By Mr. Rhodes) Can you see Exhibit M? Mr. Herring?</p> <p>A. Excuse me. I apologize. Yes, I can see –</p> <p>Q. That's okay. I can only see the screen. I can't see you. So I thought maybe I lost you.</p> <p>A. I can – I can see Exhibit M.</p> <p>Q. So I want to direct your attention to the middle of this page where there's a lengthy comment by Eric Coomer. Begins, "Procedurally, he can do a few things that can have immediate impacts." Again, this appears to be posted by someone who has intimate knowledge of the voting systems; correct?</p> <p>A. And election process, yes.</p> <p>Q. The election process, yes. Again, did this assist you in making a determination whether this particular Eric Coomer is –was the Eric Coomer from Dominion Voting?</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. Yes. I believe it is the Eric Coomer from Dominion Voting. These Facebook posts, I do believe, belong to Eric Coomer of Dominion Voting Systems.</p> <p>Q. (By Mr. Rhodes) Not some other random Eric Coomer?</p> <p>A. No. The knowledge that is being expressed here is a good indication that they are Dr. Coomer's emails – excuse me – Facebook postings.</p> <p>Q. So now I want to show you OAN 422, which is entitled "rant/ Facebook friend land – open call." Do you see this?</p> <p>A. I do.</p> <p>Q. What was the significance, if any, to you of this post in making your decision to approve the airing of "Dominion-izing the Vote"?</p> <p>A. Well, there were a couple of things that stood out. The one is -- I understand that people have bias; that they're allowed to have their political view. But this seems extreme to me. It's beyond just having a political view. He's literally calling out his friends. And we know that on Facebook postings, he has coworkers; he has family; he has friends. And, arguably, there's even people on the posting that work for municipalities that are involved in the election process. And here he is, basically, escalating and saying, you know, you need to swear your allegiance, or he's going to de-friend you. And he used some pretty strong language about what he thinks about people that aren't going to vote for -- or pe-ple that may vote</p>			

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		<p>for Trump: Only an absolute F-ing idiot could vote for, basically, Trump. So it seems very extreme to me. And it got responses that were -- it go--pushback from the Facebook group, his family and friends. And he seems to double down. I think there's another interesting section in it where he talks about -- I have--a little difficulty reading it -- near --e bottom where he says, "My personal opinions" --</p> <p>Q. "If you have trouble reading it, let me read it. The second exit -- edit -- excuse--me: "These opinions are rational and completely my own. They are based in reason and highly credible. Though they are not necessarily the thoughts of my employer, though if not, I should probably find another job." Is that what you referring to?</p> <p>A. Yeah. That indicates to me, at the time of writing this, which is summer 2016, that he's basically saying if his employer doesn't agree with these pretty extreme views, then he should leave. And we know that there's people in this group that are Dominion Voting Systems employees. There's a gentleman -- a fairly senior gentleman -- I don-- know if he was still at Dominion, whose name is Benjamin Rice, who is a patent holder. We have Penelope Chester Star. There may be others. But this seems to indicate, considering he was still at Dominion five years later, that his employer seems to either have the same points of view or knew about his views, since there were other Dominion employees in this Facebook group.</p> <p>Q. And, in fact, he writes right after that, "Who wants to work for complete morons?" question mark.</p>			

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		<p>A. Yeah. A pretty strong showing that he doesn't tolerate anyone with a different viewpoint.</p> <p>Q. Now, then he adds, "None of my personal opinions affect my professional conduct or attitudes. I am nonpartisan." Did – did you believe that?</p> <p>A. Absolutely not. When he's asking people to swear their allegiance that they won't vote for Trump, I don't know that could be more partisan.</p> <p>Q. (By Mr. Rhodes) And then he adds, "I am not, however, willing to stand and watch this great country be taken over by fascists without saying something, anything"; correct?</p> <p>A. Yes. I see that.</p> <p>Q. And you'd read this when you made the decision to approve the airing of "Dominion-izing the Vote?"</p> <p>A. Yeah. I not only read it, but I tried to study it a little more in than just a quick reading.</p> <p>Q. And as you said, it drew many comments that go on for pages and pages. And 430, that's the end of the Facebook post. Now, Mr. Cain asked you if you had -- what –your involvement was in the preparation of "Dominion-izing the Vote"; correct?</p> <p>A. Yes.</p>			

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46N	One America News Network Approval Form used by Charles Herring to sign off on content before it airs (OAN529/Herring Dep. Ex. N)	<p>159:11-162:19</p> <p>Q. I'm showing you, Mr. Herring, what I've marked as Exhibit N, as in Nancy.</p> <p>(OAN Exhibit N was introduced.)</p> <p>Q. (By Mr. Rhodes) Let me know once you can see that.</p> <p>A. I can see it.</p> <p>Q. Okay. It's a two-page-- I believe it's a two -- it's a two-page document. What is Exhibit N?</p> <p>A. I call it the sign-off sheet to allow content that has been reviewed and approved to go to air.</p> <p>Q. And it's -- it's entitled "One America News Network Ingest Form." What does "Ingest" mean?</p> <p>A. Ingest is the process where content is placed on a server, ingested, so it can go to air. It's the on-air sever. So it basically means it has been greenlit to go on air.</p> <p>Q. Okay. So -- so once this form is signed, whatever it is can be ingested into the server that can then be disturbed on the network. Is that -- is that what you mean?</p> <p>A. Yes, sir.</p> <p>Q. Okay. And the show series is One America News Investigates; correct?</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 115-162</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding OAN's alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. Yes.</p> <p>Q. And the show title is "Dominion-izing the Vote"; correct?</p> <p>A. Yes.</p> <p>Q. And then there's a line here for management approval. Do you see that?</p> <p>A. I do.</p> <p>Q. And there's a signature after that. Whose signature is that?</p> <p>A. That's my signature.</p> <p>Q. You -- did you physically sign this form?</p> <p>A. I did.</p> <p>Q. And it's dated November 20, 2020; correct?</p> <p>A. It is.</p> <p>Q. What is the purpose of this form?</p> <p>A. It has a couple different purposes. The most important one is to ensure that nothing goes on air without the necessary approvals to ensure that the product is ready to go on air from a number of standpoints. This is our management approval form. And so I reviewed the content for a number of things and went ahead and signed off on the -- the form so it could go to air.</p> <p>Q. Now, you told Mr. Cain that you approved the final draft. I want you to clarify: Does that mean</p>			

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		<p>you approved the final written script, or you actually approved the video package itself?</p> <p>A. I approved the final video package, with all the appropriate spaces for commercials, that was going to go on air.</p> <p>Q. And, in fact, when you look at the second page, this lists the actual time on the video of each of the four segments of the piece; correct?</p> <p>A. Yes. That's correct.</p> <p>Q. Okay. Did you create this form just for "Dominion-izing the Vote?"</p> <p>A. No. It's a standard form that's used for signing off on the contents before going air.</p> <p>Q. So -- so are there similar forms for other One America News Investigates?</p> <p>A. Every One America News Investigates should have a similar form.</p> <p>Q. So did you treat "Dominion-izing the Vote" any different than any of the other One America News Investigates OAN has aired?</p> <p>A. We did not.</p> <p>Q. And did you -- did someone bribe you to sign this form?</p> <p>A. No.</p> <p>Q. Did someone coerce you to sign this form?</p>			

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		<p>A. No.</p> <p>Q. Did someone threaten you to sign this form?</p> <p>A. No.</p> <p>Q. Did your father tell you you had to sign this form?</p> <p>A. No.</p> <p>Q. Did anyone tell you you had to sign this form?</p> <p>A. The form needed to be signed before it went on air. That didn't take place until after I reviewed the content and signed off on the form.</p> <p>Q. And why did you sign off on the form?</p> <p>A. I was comfortable with the content going on air.</p>			
47.	August 9, 2021 Deposition Transcript of Chanel Rion ³ (OAN530)^	<p>(a) 12:8-13:17</p> <p>A. Of course. I had been working on this OAN Investigates special for several weeks. I was looking into documents that were submitted by Congress to voting machine companies, the three that dominate the market now. I was looking at congressional hearings. These were all publicly available documents. Was watching prior media reporting on election vulnerabilities. There were quite a few to pull from, especially between 2016 and 2020. I had seen -- I had been reading the reports that were being put out by hackathons,</p>		Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170	The testimony is within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its

³ The video of the deposition of Chanel Rion, is incorporated by reference herein. The video was hand-delivered to the Court on November 2, 2021.

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		<p>like Voter Village's DEF CON meetings. They would put out reports and findings for the vulnerabilities they were identifying in election systems in the United States today. I had been reading documents from secretary of state's offices. They would put out reports about the security of their elections. I had consulted -- I had seen several documentaries on this, including Kill Chain -- HBO's Kill Chain, where they laid out, you know, the hackathon that I just mentioned by DEF CON. They would talk about the vulnerabilities in our system today. These were some of the things that I looked at in -- in researching, generally, for the "Dominion-izing the Vote." And then, of course, I had interviews included in the actual final product.</p> <p>Q. Is it fair to say -- you said several weeks. Can you be any more specific than that?</p> <p>A. I can try to be. I think it was mid-October when I first started reading and, kind of, mulling over the topic and thinking about ways to put this into a cohesive piece to air on OAN.</p> <p>(b) 18:22-19:7</p> <p>A. We had -- I had been lining up interviews for this particular piece long before I was even aware of Dr. Coomer's existence or Joe Oltmann's existence. So they -- they ended up landing on my radar around the time that Michelle Malkin did her interview on November 13th or so. So about a day after or so, we started looking into Joe Oltmann's story and his accounting. And then we started looking into Eric Coomer. And that's</p>			<p>reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross is relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>about -- that's about -- about a week or ten days or so before the piece went to air.</p> <p>(c) 47:6-17</p> <p>A. I think it's in the user guide itself of Dominion Voting Systems. In the user guides for Dominion Voting Systems, there are two manuals that I read in the research -- doing research for this piece. And in both manuals -- and I can't -- I don't know if I can cite the exact page numbers. But in both manuals, there are ways in which an engineer can remotely access these machines and fix problems, to put it in layman's terms, with the system. If there were any -- any problems with the system, there are ways that a Dominion engineer either exclusively had to access these machines or could remotely do so.</p> <p>(d) 47:21-48:4</p> <p>Q. Did you, as part of your reporting, come up with some evidence that there was remote access by either Dr. Coomer or anyone at Dominion Voting Systems in any of the battleground states during the election?</p> <p>A. There's a point I'd like to highlight in answering this question. I believe Dr. Coomer was also head of engineering at Dominion before he became vice president of strategy and security.</p> <p>(e) 63:4-17</p> <p>A. I believe that all of our OAN Investigates pieces go through a fact-checking process. I don't know what that is. I've never actually met</p>			

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		<p>Brandon. But I know that several eyes do the fact-checking, including Charles Herring and Brandon Gadow. But I don't know what that process is. I know that Brandon is a technical editor, and he edits the technical aspects and listens to the entire piece from beginning to end to ensure that it's broadcast-ready. And whether that's editorial or technical, I can't say for all of his work descriptions. But as far as this piece is concerned, I recall only technical elements being edited.</p> <p>(f) 83:2-10</p> <p>But this statement is not an indisputable fact. The 3 indisputable facts that we moved forward as a news network and put in "Dominion-izing the Vote" was the fact that you have an individual who is in a very high-level position at a company that dominates one-third of the U.S. election system, with very partisan, radically partisan, sentiments, and evidence that he was acting on those sentiments. That was the portion that was newsworthy, and that is undisputable.</p> <p>(g) 89:16-90:17</p> <p>A. I was unable to procure a comment from Dr. Coomer. Charles Herring called me about a day after the Michelle Malkin interview, right in the middle of my working on "Dominion-izing the Vote," and asked me if I could get a hold of Dr. Coomer. So I tried to find way to contact Dr. Coomer, and I did not succeed in that. As -- as -- as I would later experience and confirm, he became a ghost. He seemed to have scrubbed his profile online.</p>			

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		<p>Q. How long did you try to contact him? And describe your efforts in detail.</p> <p>A. I don't remember the span of time, but I remember putting an effort into finding him. I remember looking on all the social media platforms. I remember looking for his -- trying to find out what his middle initials were to find out if there was a way to find him on other sources. I don't remember all the ways, but I remember I put an effort, because it was a request from my boss, Charles Herring, to go find this guy. So I put in the effort. I just don't remember all of the methods that I did to try and find him. But he was -- I could not find him, at the end of the day.</p> <p>Q. Did you task anyone else in your -- on your team to try to locate Dr. Coomer for a comment?</p> <p>A. I don't recall that I did. I may have. I don't remember.</p> <p>(h) 115:2-7</p> <p>Q. And as you -- you didn't know about Dr. Coomer before you started doing your research for this piece; right?</p> <p>A. No, sir. I was made aware of Dr. Coomer's existence on, I'd say, November 13 or 14, shortly after Michelle Malkin's interview of him.</p> <p>(i) 117:15-17</p>			

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		<p>A. But in this case, Dr. Coomer's story was out and discussed in the public sphere before OAN went to air with it.</p> <p>(j) 137: 24:138:8</p> <p>Q. I'm going to show you what I am marking as Exhibit OAN O.</p> <p>(OAN Exhibit O was introduced.)</p> <p>Q. (By Mr. Rhodes) Is Exhibit O the tweet that you were referring to from Mr. Krebs?</p> <p>A. Yes, sir.</p> <p>Q. Quote, "I have never claimed that there wasn't fraud in the election, because that's not CISA's job. It's a law enforcement matter"; correct?</p> <p>A. Correct.</p> <p>(k) 145:13-161:2</p> <p>Q. I'm going to mark as the next exhibit –</p> <p>(OAN Exhibit Q was introduced.)</p> <p>Q. (By Mr. Rhodes) I've marked as Exhibit Q the Dominion Democracy Suite ImageCast Central User Guide. You see that?</p> <p>A. I see it.</p> <p>Q. Mr. Watkins provided this to you?</p>			

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		<p>A. Yes, he did. It was a link that was -- I think it was publicly available.</p> <p>Q. All right. It want to direct your attention to page 16, at the bottom, OAN 782, and the chapter three. There's the Administrator mode, and then there's "Supervisor mode is a high-level mode reserved for technicians authorized by Dominion Voting." Do you see that?</p> <p>A. Yes, I do.</p> <p>Q. And when you were discussing with Mr. Watkins the user manuals, did you have a copy in front of you?</p> <p>A. I did.</p> <p>Q. And you were following along with him as he was explaining things?</p> <p>A. Yes, I was.</p> <p>Q. And going to page 19 of the manual, Bates Number 7825. For the Supervisor mode, turning to the next page, 20, 786: "The ImageCast Central's advanced settings allow for adjustment of the scanning properties with the application in Supervisor mode." Do you see that?</p> <p>A. I do.</p> <p>Q. And among those settings I highlighted here is the gamma setting.</p> <p>A. Right.</p>			

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		<p>Q. Is that consistent with what Mr. Watkins told you?</p> <p>A. It is very consistent with what he told us.</p> <p>Q. And on the next page, page 21 of the report, Bates Number 787, again, a reference to the brightness, contrast, and gamma levels; correct?</p> <p>A. Correct.</p> <p>Q. Mr. Cain asked you, Well, who can adjust those settings? And the answer is, Only somebody that Dominion has given permission to; correct?</p> <p>A. Correct.</p> <p>Q. And that would include Dr. Coomer?</p> <p>A. Yes.</p> <p>Q. Mr. Watkins also gave you a second manual, you said; correct?</p> <p>A. Yes.</p> <p>Q. I'm showing you Exhibit R.</p> <p>(OAN Exhibit R was introduced.)</p> <p>Q. (By Mr. Rhodes) Is this the second manual that Mr. Watkins provided you, the Democracy Suite EMS Election Event Designer User Guide?</p> <p>A. That was the one.</p>			

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		<p>Q. And I'm showing you page 262 of the manual, Bates labeled OAN 1096, with the section titled A.11, "Changing Scanning Configuration." Do you see that?</p> <p>A. Yes, I do.</p> <p>Q. And then the next page, 263, OAN 1097: "NOTE: The scanning parameters should only be changed by an advisory of the Dominion Voting Systems engineering group." So again, in response to Mr. Cain's question, the individuals who were able to change the scanner settings, pursuant to Mr. Watkins' theory, are only individuals at Dominion Voting Systems?</p> <p>A. That's correct. This is what Mr. Watkins shared with us in our interview. So we're following along in this manual, and that's -- that was reasonable to us.</p> <p>...</p> <p>Q. (By Mr. Rhodes) Was there anything Mr. Watkins told you during the interview which you -- you found contradicted in any of the nearly thousand pages he gave you?</p> <p>A. Not -- not that I'm aware of. We conducted a fairly lengthy interview with him, and we followed along with -- along with every statement he made in that interview.</p> <p>(OAN Exhibit S was introduced.)</p> <p>Q. (By Mr. Rhodes) I'm going to show you what I've marked as Exhibit S. This is one of the three</p>			

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		<p>Texas secretary of state reports that Mr. Watkins provided you; correct?</p> <p>A. Correct.</p> <p>Q. And you'll see on the third page, Bates Number 1162, one of the objections of the Texas secretary of state is that some of the hardware in the Democracy 5.5 system can be connected to the internet; correct?</p> <p>A. Yes. That was a very central concern with these machines.</p> <p>Q. And on the next page, page 4, Bates Number 1163, their discussion of "The adjudication portion of the tabulation process in which the election management software was problematic and showed that the handwritten write-ins subject to adjudication were not easily picked up by the ballot scanner. "This poor resolution on the scanner also failed to pick up some of the printed wording on the ballots. "In a follow-up, the vendor stated that only black Sharpie markers should be used for marking the ballots. However, when black Sharpie was used during testing, it did, on a few occasions, bleed through to the back side of the two-sided ballot in such a way that it would confuse the ballot scanner or kick the ballot out"; correct?</p> <p>A. Correct.</p> <p>Q. This was while you were preparing "Dominion-izing the Vote"?</p> <p>A. Yes.</p>			

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		<p>Q. So I want to go back to Exhibit 61 that Mr. Cain marked -- the statement from Dominion Voting Systems corporation that there are no issues with the use of Sharpie pens. Do you know why Dominion would say that when they have in writing from the Texas secretary of state that is there an issue with the use of Sharpie pens?</p> <p>A. It was one of the aspects that we looked at, and -- and it caused -- causes one to question every other fact-checking element that Dominion Voting Systems was putting out. So I don't know why they would have issued that statement, given the problems that were existing in, at least, Texas.</p> <p>...</p> <p>Q. (By Mr. Rhodes) And -- and by the way, you said that by the time of your tweet on November 17th, Eric Coomer and his "Don't worry. I made F-ing sure of it," were trending on Twitter; correct?</p> <p>A. For several days, it was trending on Twitter, I think right after Michelle Malkin's interview.</p> <p>Q. Is there anything in Dominion's statement coming to the defense of Mr. Coomer?</p> <p>A. No. That was -- there does not seem to be any mention of Eric Coomer in this statement, which was very odd to us considering Eric Coomer was, arguably, one of the number-one controversies involving Dominion systems at the time they issued this statement. So we've -- that was -- that was very odd to us. It -- it seemed to indicate that Dominion was -- knew of -- I mean, they -- they clearly didn't address Dr. Coomer. So I don't -- it</p>			

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		<p>was -- it was very unusual, considering the profile that Eric Coomer was building in the public sphere.</p> <p>(OAN Exhibit T was introduced.)</p> <p>Q. (By Mr. Rhodes) I'll show you what I've marked as Exhibit T. This is the second of the Texas secretary of state reports that Mr. Watkins provided you; correct?</p> <p>A. Correct.</p> <p>Q. And on the second unnumbered page, Bates Number 1166, under Findings: "Examiner reports raise concerns about whether the Democracy Suite 5.5 is suitable for its intended purpose, operates efficiently and accurately." You knew that when you were preparing "Dominion-izing the Vote"; correct?</p> <p>A. Yes.</p> <p>Q. You knew that when you were assessing the credibility of Ron Watkins; correct?</p> <p>A. Correct.</p> <p>Q. And is there anything about these statements from the Texas secretary of state that would cause you to think that Mr. Watkins didn't know what he was talking about?</p> <p>A. The statement -- the report seems to confirm what Mr. Watkins relayed to us, and that's -- that was part of our assessment.</p> <p>(OAN Exhibit U was introduced.)</p>			

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		<p>Q. (By Mr. Rhodes) I'll show you what I've marked as Exhibit U. Do you see that?</p> <p>A. I do.</p> <p>Q. On the first page: "A distinguishing feature is the extensive use of commercial off-the-shelf components, or COTS components, to use the industry parlance. COTS components are standard hardware or software products, as opposed to custom-made components. "For example, the D Suite voting terminals are commercially available Android tablets that include the stand and the smartcard reading used for voter authentication. "Similarly, the PCs, networking gear, hard drives, printers, and some scanners are COTS components"; correct?</p> <p>A. Correct. Like Windows Operating System 10, I believe. This was --</p> <p>Q. And is that consistent, again, with what Mr. Watkins told you?</p> <p>A. It matches up exactly.</p> <p>Q. Turning to page three of the third Texas secretary of state report, Bates Number 1170, Problems Identified: "Adjudication results can be lost. In the January exam, during adjudication of the ballots in the test election, one of the Dominion representatives made a series of mistakes that caused the entire batch of adjudication results to be lost." Again, is that consistent with what Mr. Watkins told you?</p> <p>A. Yes.</p>			

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		<p>...</p> <p>Q. (By Mr. Rhodes) Next, look at page 4, OAN 1171, Test Voting: "During our voting test, we discovered that some party names and proposition texts were not displayed, and one scanner was not accepting some ballots. These all turned out to errors Dominion made in setting up the standard test election used by the secretary of state. "In the case of the scanner, it had actually been configured not to accept machine-marked ballots." And scanner configurations, we know, are left to Dominion; correct?</p> <p>A. Correct.</p> <p>Q. We saw that in the Dominion manual.</p> <p>A. Yes.</p> <p>Q. Is this -- is this fact here about the Dominion software failing the test voting in Texas something that, in your mind, added to your belief in the credibility of Mr. Watkins?</p> <p>A. Absolutely. It was -- this was particularly relevant to us.</p> <p>Q. Page 5, Bates Number OAN 1172: "USB Port Vulnerability. The ICX ballot-marking device has an indicator light on top to show poll workers when the station is in use. That light is connected by a USB port. "When Brian Mechler's phone was attached to the USB port, the ICX scanned the files on his phone and did not complain; although Dominion later showed the event was logged. "When a USB drive with files was</p>			

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		<p>inserted, the ICX sometimes complained and sometimes did not, apparently according to the contact of the USB drive and whether it was present when the ICX was first powered up or inserted later." Again, was this an issue that Mr. Watkins explained to you was a vulnerability, was the accessibility of ports on the Dominion system?</p> <p>A. It was. And furthermore, that was confirmed in the DEF CON 27 report, where hackers were able to access these USB drives without having to tamper or struggle with the machine. It was fairly accessible. So all of this corroborated Mr. Watkins' statement.</p> <p>(OAN Exhibit V was introduced.)</p> <p>Q. (By Mr. Rhodes) I'm going to show you what I marked as Exhibit V, as in Victor, and ask you if this is a report from the Pennsylvania secretary of state which Mr. Watkins provided you and which you reviewed while preparing "Dominion-izing the Vote."</p> <p>A. This is the document.</p> <p>Q. And you mentioned earlier, I believe, something about part of the problem with this CO – commercial off-the-shelf, you said, included -- I think you mentioned Windows 10; is that right?</p> <p>A. Yes. A particularly vulnerable system, I understand, from those who hack for a living. They say that Windows 10 is one of the easier systems to hack into.</p>			

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		<p>Q. And I'm showing you Bates Number OAN 1229. And for the Dominion Voting Systems software, you see it's a running off Windows 10 as a commercially off-the-shelf software; correct?</p> <p>A. Correct.</p> <p>Q. And then there's all kinds of other unmodified commercially off-the-shelf products. On the next page, 1230, virtually the whole page are unmodified commercially off-the-shelf products. Oh. And I see there's a -- there's a reference to the aerial fonts.</p> <p>A. Yes.</p> <p>Q. Did that strike any bells with you?</p> <p>A. Of course. That was actually one of the pieces of -- or one of the concerning elements for Mr. Watkins, was the fact that, in aerial, you have the capital letter I and the letter -- the lowercase letter L look exactly the same. So you could potentially write "Repubican" versus "Republican". The reason that is relevant is that you could, potentially, have marked President Donald J. Trump as "Repubican," and then the rest of the Republican candidates as "Republican," using the correct L. And that would have allowed for those Republican candidates to have registered -- their votes to have been registered, but Donald Trump's votes to have been, potentially, tossed aside, which would explain, as Mr. Watkins laid out for us, why, in some precincts, Donald Trump did not perform as well as the down-ballot ticketing for the rest of the Republicans on the ballot.</p>			

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		<p>Q. So -- so Mr. Watkins' story was corroborated down to the font?</p> <p>A. Down to the font.</p> <p>Q. The next page, OAN 1231, I see we have commercial off-the-shelf. We have Dell, Dell, Dell, Dell, Dell, Dell, Canon, Canon --</p> <p>A. Right.</p> <p>Q. -- Dell, Dell, Dell, HP, HP, Dell, Dell, Dell, Dell, Dell, Dell; right?</p> <p>A. Right.</p> <p>Q. All things that Mr. Watkins told you was concerning to him?</p> <p>A. Correct.</p> <p>Q. And the same thing on page 1232; correct?</p> <p>A. Correct.</p> <p>Q. Mr. Watkins also provided you with the. Calhoun County, Michigan, ICC User Manual; correct?</p> <p>A. Yes, he did.</p> <p>Q. I've marked that as Exhibit W.</p> <p>(OAN Exhibit W was introduced.)</p> <p>Q. (By Mr. Rhodes) All right. Can you see Exhibit W?</p>			

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		<p>A. Yes, I can.</p> <p>Q. And turning to the second page, there's instructions to open the file explorer, select "This PC." This looks remarkably similar to the Windows folder system; correct?</p> <p>A. It does, yes. And, plus, there's the One Drive, which also indicates it's a Microsoft system.</p> <p>Q. Okay. Yeah. Oh. Okay. Again, is this something that Mr. Watkins told you, is that this system simply runs on a Windows file system?</p> <p>A. Yes. This was consistent with what he told us and raised a red flag for him.</p> <p>Q. Because anyone can just go in and move folders around?</p> <p>A. Correct. It's a matter of copy, pasting, or clicking and dragging a folder from one spot to the next.</p> <p>Q. And then, also, you mentioned the reference to One Drive. What is One Drive?</p> <p>A. One Drive is a cloud, I guess, storage system from Microsoft.</p> <p>Q. So these systems are actually, in purpose, set out -- designed to connect to the cloud?</p> <p>A. Yes. You can't use One Drive without connecting to the internet.</p> <p>Q. So when Dominion says, Oh, they don't connect to the internet, that -- that's not consistent</p>			

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		<p>with the documents Mr. Watkins provided you, is it?</p> <p>A. No, sir. That's right. Not consistent.</p> <p>Q. You were asked whether or not you were -- whether you asked Mr. Oltmann for a copy of his notes. Do you recall that?</p> <p>A. Yes.</p> <p>Q. Have you seen his notes?</p> <p>A. Not before putting out this report.</p> <p>Q. Have you since seen them?</p> <p>A. I have.</p> <p>Q. I'm going to show you what's previously been marked as Plaintiff's Exhibit 29. And in particular, I'm directing your attention to the second page, where it says, quote, "Trump not going to win. I made F-ing [sic] sure of that," closed quote. If you had seen these notes prior to broadcasting "Dominion-izing the Vote", would they have change were changed your report in any way or –</p> <p>A. No, they would not have.</p> <p>Q. Are these notes consistent with what Mr. Oltmann told you?</p> <p>A. Yes.</p> <p>...</p>			

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		<p>Q. (By Mr. Rhodes) You told Mr. Cain, I believe, when he showed you -- well, here. We'll do it. We'll pull up Exhibit 60. I'm showing you Exhibit 60, which Mr. Cain marked. This is Mr. Watkins' tweet on, it says, November 3rd: "Ms. Chanel Rion just reached out to me, and I'll be talking with her about Dominion tomorrow"; correct?</p> <p>A. Correct.</p> <p>Q. Well, I think you previously testified that you were not aware of Mr. Oltmann or Mr. Coomer until on or after the Michelle Malkin interview on November 13.</p> <p>A. That's correct.</p> <p>Q. So, I mean, did Mr. Oltmann send you to Mr. Watkins?</p> <p>A. No. I found Mr. Watkins before even -- I even knew about Eric Coomer or even heard of Michelle Malkin's interview.</p> <p>Q. So you independently found Mr. Watkins and independently determined his credibility. You did not rely on anything Mr. Oltmann told you?</p> <p>A. Absolutely.</p> <p>(l) 161:8-162:7</p> <p>Q. I just want to clarify: Other than setting up -- attempting -- attempting to set up or actually setting up interviews in connection with "Dominion-izing the Vote", did you have any</p>			

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		<p>other – any other contact with anybody from the Trump campaign, Rudy Giuliani, or Sidney Powell?</p> <p>A. I'm going to step outside for a quick second, but I'm going to answer your question. Sorry. So to answer your question, no. I -- I recall setting up interviews. And oftentimes, over the course of being a -- working as a journalist, I will often send information to my interviewees either to confirm a fact or to get their statement on it. So that's the extent of other correspondences you may have -- you may see from me to the Trump Campaign.</p> <p>Q. Did -- did -- did anyone from the Trump Campaign or Rudy Giuliani or Sidney Powell review "Dominion-izing the Vote" before it aired?</p> <p>A. No.</p> <p>Q. Did you share any portions of the script with them?</p> <p>A. No.</p> <p>Q. Did they have any input into what went into it, other than Mr. Giuliani appearing for a -- an interview?</p> <p>A. No.</p> <p>(m) 163:13-168:25</p> <p>Q. I'm going to show you what I've marked as Exhibit X. And tell us what this is, please.</p>			

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		<p>(OAN Exhibit X was introduced.)</p> <p>Q. (By Mr. Rhodes) Let's hope you can see this, because optimizing screen sharing does not come through.</p> <p>(The video segment was played.)</p> <p>Q. (By Mr. Rhodes) Could you hear that?</p> <p>A. Yes.</p> <p>Q. And what is that report?</p> <p>A. That report was on leftist group that was colluding on phone calls, conference calls. And they were discussing ways to sow chaos and discord in Washington, D.C. They were anti-Trump, Antifa-sympathizing anarchists.</p> <p>Q. And that was prior to the election. I believe that was on November 2nd; correct?</p> <p>A. Yes. I believe that was one day before the election.</p> <p>Q. So when you heard that Mr. Oltmann said that he'd infiltrated an Antifa call, was that -- did you find that credible based upon your personal experience?</p> <p>A. Yes. That was -- it did not seem unreasonable that Antifa as a group was coming together and making plans as a group.</p> <p>Q. You also told Mr. Cain, I believe -- you couldn't quite remember the name of it, but you</p>			

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		<p>had reviewed an article -- I'm showing you Exhibit A -- in Colorado Politics.</p> <p>A. That's right.</p> <p>Q. And this is, again, Mr. Oltmann stating that his intent was to identify Antifa reporters long before any information came out about Eric Coomer; correct?</p> <p>A. Correct.</p> <p>Q. You also said that you had looked into his business -- by "his," I mean Mr. Oltmann's, business, the PIN Business Network. Let me show you what I've marked as Exhibit Y.</p> <p>(OAN Exhibit Y was introduced.)</p> <p>Q. (By Mr. Rhodes) Let's try this. I'm going to show you my copy of what I'll represent to you is marked as Exhibit Y. Do you see this?</p> <p>A. Yes.</p> <p>Q. From the P-I-N, PINbusinessnetwork.com, "Who Are We?" And that's Mr. Oltmann as the president; correct?</p> <p>A. Correct.</p> <p>Q. And it goes on to show -- I don't know -- more than 50 people? A. Yes.</p> <p>Q. Was that significant to you?</p> <p>A. It was. It showed that Mr. Oltmann had -- had a business, a legitimate business, that he was not</p>			

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		<p>likely to throw away by stepping out and providing some kind of story that he didn't feel comfortable sharing. It was significant that he had a fairly established presence in his community.</p> <p>Q. And I'll show you Exhibit Z. Hopefully this one works better.</p> <p>(OAN Exhibit Z was introduced.)</p> <p>Q. (By Mr. Rhodes) What is Exhibit Z, Ms. Rion?</p> <p>A. This is the press release showing Oltmann was nominated, I guess, entrepreneur of the year. This corroborated what had he told us. And this is actually a press release I looked at.</p> <p>Q. This is all research you did to assess Mr. Oltmann's credibility?</p> <p>A. Correct.</p> <p>Q. So in addition to all the other information you told us about Mr. Coomer and where you believe it was Mr. Coomer who's "Eric from Dominion," you also came to believe that Mr. Oltmann was credible?</p> <p>A. Yes; that what he told us about his own background was credible, and that his motives for sitting in on this call were also -- they seemed to match up. They were reasonable.</p> <p>Q. You said that as part of your investigation into Dr. Coomer, you reviewed the fact that he had six patents and another six patent applications; correct? A. Correct.</p>			

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		<p>Q. I'm showing you Exhibit AA.</p> <p>(OAN Exhibit AA was introduced.)</p> <p>Q. (By Mr. Rhodes) Is this a listing that you collected while preparing "Dominion-izing the Vote" of Dr. Coomer's patents and patent applications?</p> <p>A. Yes. The page that you're showing me is one of them.</p> <p>Q. Is one of them, yes. So the first one, the patent is titled "Ballot Adjudication and Voting System Utilizing Ballot Images"; correct?</p> <p>A. That's right.</p> <p>Q. And it shows the assignee is a Dominion Voting, and one of the vendors is Eric Coomer?</p> <p>A. Dominion Voting Incorporated.</p> <p>Q. Okay. And then we keep going. Ballot adjudication. Ballot adjudication. "Ballot level security features for optical scan voting machine capable of ballot image processing, secure ballot printing, and ballot layout authentication and verification."</p> <p>A. Yes.</p> <p>Q. "Systems for configuring voting machines, docking devices for voting machines, warehouse support, and asset traffic of voting machines."</p> <p>A. Yes.</p>			

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		<p>Q. If a group of hackers could play Pong on a Dominion voting machine over a weekend, what did you believe that someone who had this knowledge of the Dominion Voting Systems could do?</p> <p>A. That he could -- someone with that kind of background could access machines on a systemwide basis and, certainly, adjust the gamma settings, adjust the image settings, whatever it was that would set ballots aside for adjudication. That was something that was feasible considering Dr. Coomer's background and invention of that actual technology.</p> <p>Q. You also told us that prior to your work in preparing "Dominion-izing the Vote," you had seen Kill Chain; correct?</p> <p>A. Correct.</p> <p>Q. The HBO documentary Kill Chain. I want to play just a very short piece of that, which I've marked as Exhibit AB.</p> <p>(OAN Exhibit AB was introduced.)</p> <p>Q. (By Mr. Rhodes) It starts at the beginning with a little bit about ESS, and then it goes into Dominion.</p> <p>(The video segment was played.)</p> <p>Q. (By Mr. Rhodes) You had seen this documentary prior to preparing "Dominion-izing the Vote"; correct?</p>			

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		<p>A. I had.</p> <p>(n) 170:7-16</p> <p>Q. Dr. Coomer states that he was employed by Dominion Voting Systems, Inc., beginning in 2010, and as the director of product strategy and security from 2013 until May 11 -- excuse me -- May 14, 2021. Do you see that?</p> <p>A. I see that.</p> <p>Q. So Dr. Coomer was responsible for Dominion's security in 2014, when the machine that was the subject of Kill Chain was hacked; correct?</p> <p>A. Yes.</p>			
47O	November 18, 2020 Tweet by Chris Krebs (OAN531/Rion Dep. Ex. O)^	<p>138:1-21</p> <p>(OAN Exhibit O was introduced.)</p> <p>Q. (By Mr. Rhodes) Is Exhibit O the tweet that you were referring to from Mr. Krebs?</p> <p>A. Yes, sir.</p> <p>Q. Quote, "I have never claimed that there wasn't fraud in the election, because that's not CISA's job. It's a law enforcement matter"; correct?</p> <p>A. Correct.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony</p>

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		<p>Q. Now, going back to Exhibit 61, there is a statement by Dominion that "Dominion is a nonpartisan U.S. company." Do you see that?</p> <p>A. Yes.</p> <p>Q. Well, if you scroll all the way down, you'll see this page says its copyright 2020 by Dominion Voting Systems Corp. Do you see that?</p> <p>A. Yes.</p> <p>Q. And you told us you thought that Dominion Voting Systems was a Canadian corporation, and you said you thought you'd looked at the certificate of incorporation or something; correct?</p> <p>A. Yes.</p>			<p>on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>
47P	Corporation Profile Report – Dominion Voting Systems Corporation, August 9, 2021 (OAN532/Rion Dep. Ex. P)	<p>138:22-139:23</p> <p>Q. I'm going to show you what I am marking – here we go – what I'm marking as Exhibit P.</p> <p>(OAN Exhibit P was introduced.)</p> <p>Q. (By Mr. Rhodes) Can you see Exhibit P?</p> <p>A. Yes.</p> <p>Q. I see it lists Dominion Voting Systems Corporation. That's -- that's the name that we just looked at on the statement; right?</p> <p>A. Yes.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony</p>

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		<p>Q. It says the jurisdiction is Ontario. And you understand Ontario to be a province in Canada, don't you?</p> <p>A. I do.</p> <p>Q. Are you aware of any jurisdiction in the United States called Ontario?</p> <p>A. No, sir.</p> <p>Q. And the corporation type is an Ontario business corporation, and that it's active; correct?</p> <p>A. Correct. And there is an address, I believe, right below that: Toronto, Ontario, Canada, Suite 200.</p> <p>Q. Why would Dominion Voting Systems Corporation issue a statement that they're a U.S. corporation when it's plain they're a Canadian corporation? Do you know?</p> <p>A. I -- I don't know. I assume that they -- it's better for their -- their fact sheet for them to be able to say that they're a U.S. company.</p> <p>...</p> <p>Q. (By Mr. Rhodes) You were also shown Exhibit 56, the DEF CON report. Do you recall that?</p> <p>A. Yes.</p>			<p>on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>Q. And this is something you looked at in connection with "Dominion-izing the Vote"; is that correct?</p> <p>A. The DEF CON 27 report, I believe.</p> <p>Q. I'm showing that to you now.</p> <p>A. That's the one.</p> <p>Q. Okay. You were asked about Matt Blaze. You said you did not know Professor Blaze; correct?</p> <p>A. Correct.</p> <p>Q. But then Mr. Cain showed you another document, which we'll look at, in which Professor Blaze said that he's not aware of any hacking that occurred in the 2020 election; correct?</p> <p>A. Correct.</p> <p>Q. You see there's -- there's other academics here -- Mary Hanley from the University of Chicago, Rachel Wehr from Georgetown, Kendall Spencer from Georgetown, Christopher Ferris from Georgetown. Do you see these people?</p> <p>A. Yes.</p> <p>Q. I'm going to show you Exhibit 58, which Mr. Cain showed you. And fortunately for us, these people put their name in alphabetical order. So the first one I mentioned is Mary Hanley. Let's see. That would be -- L, M -- that would be</p>			

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		<p>somewhere between 22 and 23. Do you see Mary Hanely from the University of Chicago on here?</p> <p>A. I do not.</p> <p>Q. Then there's Rachel Wehr, W-e-h-r. That'd be between 55 and 56. Do you see her on here?</p> <p>A. No.</p> <p>Q. Then I see Kendall Spencer -- S-p. Oh, Specter. We're close. Spencer, I guess, would be 46 and 47. Do you see him on here?</p> <p>A. No.</p> <p>Q. Christopher Ferris, F-e. That'd be between 18 and 19. Do you see him on her -- him on here?</p> <p>A. No, sir, do not.</p> <p>Q. So these experts haven't said anything about them believing that there's nothing happening to the 2020 election, have they?</p> <p>...</p> <p>Q. (By Mr. Rhodes) Go ahead, Ms. Rion. Those individuals haven't said that there was no hacking of the 2020 election, have they?</p> <p>A. It appears not. And they have not endorsed this letter. It seems they haven't.</p> <p>...</p>			

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		<p>Q. (By Mr. Rhodes) Okay. Let's go back to Exhibit 56, the DEF CON report. Now, I did Mr. Watkins tell you about this document?</p> <p>A. No. I found this document on my own. I -- I don't remember how I -- (audio interference) -- not this particular report, but I know DEF CON was referenced in the HBO series -- film Kill Chain. But I found DEF CON 27, this particular report, on my own.</p> <p>Q. And I'm directing your attention to the Bates Number 1632, page six. When it just gives an executive summary and says, "Every piece of equipment at the Village is currently certified for use in at least one U.S. jurisdiction"; correct?</p> <p>A. Correct.</p> <p>Q. "And once again, Voting Village participants were able to find new ways or previously published methods of compromising every one of the devices in the room in ways that could alter stored vote tallies, change ballots displayed to voters, or alter the internal software that controls the machines. "In many cases, the DEF CON participants tested equipment they had no prior knowledge of or experience with and worked with any tools they could find in a challenging setting with far fewer resources and far less time than a professional lab or even the most casual attacker would typically have"; correct?</p> <p>A. Correct.</p> <p>...</p>			

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		<p>Q. (By Mr. Rhodes) I want to now turn to page 123, Bates Number 1638. This is a listing of the items that were tested, and among them is the Dominion ImageCast Precinct; correct?</p> <p>A. Correct.</p> <p>Q. And the results of that testing start on page 20; correct?</p> <p>A. Yes.</p> <p>Q. And it states that "The Dominion ImageCast Precinct is an integrated hybrid voting system. Participants were able to access USB, RG45, and CF," -- compact flash -- "slots on this machine without using destructive force"; correct?</p> <p>A. Yes.</p> <p>Q. "The system also runs Busybox Linux 1.7.4, which has twenty currently known medium to high level vulnerabilities, including the ability to allow remote attackers to gain access"; correct?</p> <p>A. Yes.</p> <p>Q. The next page, page 21, Bates Number 1647: "As a group, they were able to boot an operating system of their choice and play video games on the voting machine, including a popular game called 'Pong'"; correct?</p> <p>A. Correct.</p>			

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		<p>Q. You were aware of that while you were preparing "Dominion-izing the Vote"?</p> <p>A. Yes, I was.</p> <p>Q. You were aware of that fact when you interviewed Ron Watkins and he explained the vulnerabilities to you?</p> <p>A. Yes, I was.</p> <p>Q. Now, you also said that Mr. Watkins provided you almost a thousand pieces of -- a thousand pages of documents; correct?</p> <p>A. Yes. About -- about a thousand.</p> <p>Q. Including the user manuals for Dominion, correct?</p> <p>A. Correct. I believe there were two. One was a -- I forget what was second one was, but they were, at the end of the day, user manuals for Dominion Voting Systems.</p>			
47Q	May 31, 2019 Democracy Suite ImageCase Central User Guide (OAN533/Rion Dep. Ex. Q)	<p>145:13-147:10</p> <p>Q. I'm going to mark as the next exhibit -- (OAN Exhibit Q was introduced.)</p> <p>Q. (By Mr. Rhodes) I've marked as Exhibit Q the Dominion Democracy Suite ImageCast Central User Guide. You see that?</p> <p>A. I see it.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its</p>

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		<p>Q. Mr. Watkins provided this to you?</p> <p>A. Yes, he did. It was a link that was -- I think it was publicly available.</p> <p>Q. All right. It want to direct your attention to page 16, at the bottom, OAN 782, and the chapter three. There's the Administrator mode, and then there's "Supervisor mode is a high-level mode reserved for technicians authorized by Dominion Voting." Do you see that?</p> <p>A. Yes, I do.</p> <p>Q. And when you were discussing with Mr. Watkins the user manuals, did you have a copy in front of you?</p> <p>A. I did.</p> <p>Q. And you were following along with him as he was explaining things?</p> <p>A. Yes, I was.</p> <p>Q. And going to page 19 of the manual, Bates Number 7825. For the Supervisor mode, turning to the next page, 20, 786: "The ImageCast Central's advanced settings allow for adjustment of the scanning properties with the application in Supervisor mode." Do you see that?</p> <p>A. I do.</p> <p>Q. And among those settings I highlighted here is the gamma setting.</p>			<p>reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. Right.</p> <p>Q. Is that consistent with what Mr. Watkins told you?</p> <p>A. It is very consistent with what he told us.</p> <p>Q. And on the next page, page 21 of the report, Bates Number 787, again, a reference to the brightness, contrast, and gamma levels; correct?</p> <p>A. Correct.</p> <p>Q. Mr. Cain asked you, Well, who can adjust those settings? And the answer is, Only somebody that Dominion has given permission to; correct?</p> <p>A. Correct.</p> <p>Q. And that would include Dr. Coomer?</p> <p>A. Yes.</p> <p>Q. Mr. Watkins also gave you a second manual, you said; correct?</p> <p>A. Yes.</p>			
47R	May 31, 2019 Democracy Suite EMS Election Event Designer User Guide (OAN534/Rion Dep. Ex. R)	<p>147:11-148:16</p> <p>Q. I'm showing you Exhibit R. (OAN Exhibit R was introduced.)</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless</p>

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		<p>Q. (By Mr. Rhodes) Is this the second manual that Mr. Watkins provided you, the Democracy Suite EMS Election Event Designer User Guide?</p> <p>A. That was the one.</p> <p>Q. And I'm showing you page 262 of the manual, Bates labeled OAN 1096, with the section titled A.11, "Changing Scanning Configuration." Do you see that?</p> <p>A. Yes, I do.</p> <p>Q. And then the next page, 263, OAN 1097:</p> <p>"NOTE: The scanning parameters should only be changed by an advisory of the Dominion Voting Systems engineering group." So again, in response to Mr. Cain's question, the individuals who were able to change the scanner settings, pursuant to Mr. Watkins' theory, are only individuals at Dominion Voting Systems?</p> <p>A. That's correct.</p> <p>MR. CAIN: Form. Leading.</p> <p>A. This is what Mr. Watkins shared with us in our interview. So we're following along in this manual, and that's -- that was reasonable to us.</p> <p>Q. (By Mr. Rhodes) Was there anything Mr. Watkins told you during the interview which you -- you found contradicted in any of the nearly thousand pages he gave you?</p>		<p>exceeded the scope of direct; see pp. 136-170</p>	<p>disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. Not -- not that I'm aware of. We conducted a fairly lengthy interview with him, and we followed along with -- along with every statement he made in that interview.</p>			
47S	<p>February 15, 2019 Letter from Brandon Hurley to Keith Ingram Re: Inspection of the Dominion Voting Systems' Suite 5.5 conducted on January 15, 2019 (OAN535/Rion Dep. Ex. S)</p>	<p>148:18-151:11</p> <p>Q. (By Mr. Rhodes) I'm going to show you what I've marked as Exhibit S. This is one of the three Texas secretary of state reports that Mr. Watkins provided you; correct?</p> <p>A. Correct.</p> <p>Q. And you'll see on the third page, Bates Number 1162, one of the objections of the Texas secretary of state is that some of the hardware in the Democracy 5.5 system can be connected to the internet; correct?</p> <p>A. Yes. That was a very central concern with these machines.</p> <p>Q. And on the next page, page 4, Bates Number 1163, their discussion of "The adjudication portion of the tabulation process in which the election management software was problematic and showed that the handwritten write-ins subject to adjudication were not easily picked up by the ballot scanner. "This poor resolution on the scanner also failed to pick up some of the printed wording on the ballots. "In a follow-up, the vendor stated that only black Sharpie markers should be used for marking the ballots. However, when black Sharpie was used during testing, it did, on a few occasions, bleed through to the back side of the two-sided ballot in such a way that it</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>would confuse the ballot scanner or kick the ballot out"; correct?</p> <p>A. Correct.</p> <p>Q. This was while you were preparing "Dominion-izing the Vote"?</p> <p>A. Yes.</p> <p>Q. So I want to go back to Exhibit 61 that Mr. Cain marked -- the statement from Dominion Voting Systems corporation that there are no issues with the use of Sharpie pens. Do you know why Dominion would say that when they have in writing from the Texas secretary of state that is there an issue with the use of Sharpie pens?</p> <p>A. It was one of the aspects that we looked at, and -- and it caused -- causes one to question every other fact-checking element that Dominion Voting Systems was putting out. So I don't know why they would have issued that statement, given the problems that were existing in, at least, Texas.</p> <p>Q. (By Mr. Rhodes) And -- and by the way, you said that by the time of your tweet on November 17th, Eric Coomer and his "Don't worry. I made F-ing sure of it," were trending on Twitter; correct?</p> <p>A. For several days, it was trending on Twitter, I think right after Michelle Malkin's interview.</p> <p>Q. Is there anything in Dominion's statement coming to the defense of Mr. Coomer?</p>			

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		<p>A. No. That was -- there does not seem to be any mention of Eric Coomer in this statement, which was very odd to us considering Eric Coomer was, arguably, one of the number-one controversies involving Dominion systems at the time they issued this statement. So we've -- that was -- that was very odd to us. It -- it seemed to indicate that Dominion was -- knew of -- I mean, they -- they clearly didn't address Dr. Coomer. So I don't -- it was -- it was very unusual, considering the profile that Eric Coomer was building in the public sphere.</p>			
47T	<p>June 20, 2019 TX Secretary of State – Report of Review of Dominion Voting Systems Democracy Suite 5.5, Preliminary Statement (OAN536/Rion Dep. Ex. T)</p>	<p>151:12-152:9</p> <p>(OAN Exhibit T was introduced.)</p> <p>Q. (By Mr. Rhodes) I'll show you what I've marked as Exhibit T. This is the second of the Texas secretary of state reports that Mr. Watkins provided you; correct?</p> <p>A. Correct.</p> <p>Q. And on the second unnumbered page, Bates Number 1166, under Findings: "Examiner reports raise concerns about whether the Democracy Suite 5.5 is suitable for its intended purpose, operates efficiently and accurately." You knew that when you were preparing "Dominion-izing the Vote"; correct?</p> <p>A. Yes.</p> <p>Q. You knew that when you were assessing the credibility of Ron Watkins; correct?</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible</p>

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		<p>A. Correct.</p> <p>Q. And is there anything about these statements from the Texas secretary of state that would cause you to think that Mr. Watkins didn't know what he was talking about?</p> <p>A. The statement -- the report seems to confirm what Mr. Watkins relayed to us, and that's -- that was part of our assessment.</p>			evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.
47U	November 3, 2019 Voting System Examination, Dominion Voting Systems Democracy Suite 5.5-A (OAN537/Rion Dep. Ex. U)	<p>152:10-155:14</p> <p>(OAN Exhibit U was introduced.)</p> <p>Q. (By Mr. Rhodes) I'll show you what I've marked as Exhibit U. Do you see that?</p> <p>A. I do.</p> <p>Q. On the first page: "A distinguishing feature is the extensive use of commercial off-the-shelf components, or COTS components, to use the industry parlance. COTS components are standard hardware or software products, as opposed to custom-made components." For example, the D Suite voting terminals are commercially available Android tablets that include the stand and the smartcard reading used for voter authentication. "Similarly, the PCs, networking gear, hard drives, printers, and some scanners are COTS components"; correct?</p> <p>A. Correct. Like Windows Operating System 10, I believe. This was --</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and</p>

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		<p>Q. And is that consistent, again, with what Mr. Watkins told you?</p> <p>A. It matches up exactly.</p> <p>Q. Turning to page three of the third Texas secretary of state report, Bates Number 1170, Problems Identified: "Adjudication results can be lost. In the January exam, during adjudication of the ballots in the test election, one of the Dominion representatives made a series of mistakes that caused the entire batch of adjudication results to be lost." Again, is that consistent with what Mr. Watkins told you?</p> <p>A. Yes.</p> <p>...</p> <p>Q. (By Mr. Rhodes) Next, look at page 4, OAN 1171, Test Voting: "During our voting test, we discovered that some party names and proposition texts were not displayed, and one scanner was not accepting some ballots. These all turned out to errors Dominion made in setting up the standard test election used by the secretary of state. "In the case of the scanner, it had actually been configured not to accept machine-marked ballots." And scanner configurations, we know, are left to Dominion; correct?</p> <p>A. Correct.</p> <p>Q. We saw that in the Dominion manual.</p> <p>A. Yes.</p>			<p>convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>Q Is this -- is this fact here about the Dominion software failing the test voting in Texas something that, in your mind, added to your belief in the credibility of Mr. Watkins?</p> <p>A. Absolutely. It was -- this was particularly relevant to us.</p> <p>Q. Page 5, Bates Number OAN 1172: "USB Port Vulnerability. The ICX ballot-marking device has an indicator light on top to show poll workers when the station is in use. That light is connected by a USB port. "When Brian Mechler's phone was attached to the USB port, the ICX scanned the files on his phone and did not complain; although Dominion later showed the event was logged. "When a USB drive with files was inserted, the ICX sometimes complained and sometimes did not, apparently according to the contact of the USB drive and whether it was present when the ICX was first powered up or inserted later." Again, was this an issue that Mr. Watkins explained to you was a vulnerability, was the accessibility of ports on the Dominion system?</p> <p>A. It was. And furthermore, that was confirmed in the DEF CON 27 report, where hackers were able to access these USB drives without having to tamper or struggle with the machine. It was fairly accessible. So all of this corroborated Mr. Watkins' statement.</p>			
47V	January 17, 2019 Commonwealth of Pennsylvania Department of State, Report Concerning the Examination Results of Dominion Voting	<p>155:15-158:1</p> <p>(OAN Exhibit V was introduced.)</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized,</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual</p>

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	Systems Democracy Suite 5.5A (OAN538/Rion Dep. Ex. V)	<p>Q. (By Mr. Rhodes) I'm going to show you what I marked as Exhibit V, as in Victor, and ask you if this is a report from the Pennsylvania secretary of state which Mr. Watkins provided you and which you reviewed while preparing "Dominion-izing the Vote."</p> <p>A. This is the document.</p> <p>Q. And you mentioned earlier, I believe, something about part of the problem with this CO – commercial off-the-shelf, you said, included -- I think you mentioned Windows 10; is that right?</p> <p>A. Yes. A particularly vulnerable system, I understand, from those who hack for a living. They say that Windows 10 is one of the easier systems to hack into.</p> <p>Q. And I'm showing you Bates Number OAN 1229. And for the Dominion Voting Systems software, you see it's a running off Windows 10 as a commercially off-the-shelf software; correct?</p> <p>A. Correct.</p> <p>Q. And then there's all kinds of other unmodified commercially off-the-shelf products. On the next page, 1230, virtually the whole page are unmodified commercially off-the-shelf products. Oh. And I see there's a -- there's a reference to the aerial fonts.</p> <p>A. Yes.</p> <p>Q. Did that strike any bells with you?</p>		self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170	<p>malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. Of course. That was actually one of the pieces of -- or one of the concerning elements for Mr. Watkins, was the fact that, in aerial, you have the capital letter I and the letter -- the lowercase letter L look exactly the same. So you could potentially write "Repubican" versus "Republican". The reason that is relevant is that you could, potentially, have marked President Donald J. Trump as "Repubican," and then the rest of the Republican candidates as "Republican," using the correct L. And that would have allowed for those Republican candidates to have registered -- their votes to have been registered, but Donald Trump's votes to have been, potentially, tossed aside, which would explain, as Mr. Watkins laid out for us, why, in some precincts, Donald Trump did not perform as well as the down-ballot ticketing for the rest of the Republicans on the ballot.</p> <p>Q. So -- so Mr. Watkins' story was corroborated down to the font?</p> <p>A. Down to the font.</p> <p>Q. The next page, OAN 1231, I see we have commercial off-the-shelf. We have Dell, Dell, Dell, Dell, Dell, Dell, Canon, Canon --</p> <p>A. Right.</p> <p>Q. -- Dell, Dell, Dell, HP, HP, Dell, Dell, Dell, Dell, Dell, Dell; right?</p> <p>A. Right.</p>			

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		<p>Q. All things that Mr. Watkins told you was concerning to him?</p> <p>A. Correct.</p> <p>Q. And the same thing on page 1232; correct?</p> <p>A. Correct.</p> <p>Q. Mr. Watkins also provided you with the Calhoun County, Michigan, ICC User Manual; correct?</p> <p>A. Yes, he did.</p>			
47W	Election Source, ImageCast Central (ICC) 5.5 Operations (OAN539/Rion Dep. Ex. W)	<p>158:2-163:12</p> <p>Q. I've marked that as Exhibit W. (OAN Exhibit W was introduced.)</p> <p>Q. (By Mr. Rhodes) All right. Can you see Exhibit W?</p> <p>A. Yes, I can.</p> <p>Q. And turning to the second page, there's instructions to open the file explorer, select "This PC." This looks remarkably similar to the Windows folder system; correct?</p> <p>A. It does, yes. And, plus, there's the One Drive, which also indicates it's a Microsoft system.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the</p>

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		<p>Q. Okay. Yeah. Oh. Okay. Again, is this something that Mr. Watkins told you, is that this system simply runs on a Windows file system?</p> <p>A. Yes. This was consistent with what he told us and raised a red flag for him.</p> <p>Q. Because anyone can just go in and move folders around?</p> <p>A. Correct. It's a matter of copy, pasting, or clicking and dragging a folder from one spot to the next.</p> <p>Q. And then, also, you mentioned the reference to One Drive. What is One Drive?</p> <p>A. One Drive is a cloud, I guess, storage system from Microsoft.</p> <p>Q. So these systems are actually, in purpose, set out -- designed to connect to the cloud?</p> <p>A. Yes. You can't use One Drive without connecting to the internet.</p> <p>Q. So when Dominion says, Oh, they don't connect to the internet, that -- that's not consistent with the documents Mr. Watkins provided you, is it?</p> <p>A. No, sir. That's right. Not consistent.</p> <p>Q. You were asked whether or not you were -- whether you asked Mr. Oltmann for a copy of his notes. Do you recall that?</p>			<p>OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. Yes.</p> <p>Q. Have you seen his notes?</p> <p>A. Not before putting out this report.</p> <p>Q. Have you since seen them?</p> <p>A. I have.</p> <p>Q. I'm going to show you what's previously been marked as Plaintiff's Exhibit 29. And in particular, I'm directing your attention to the second page, where it says, quote, "Trump not going to win. I made F-ing [sic] sure of that," closed quote. If you had seen these notes prior to broadcasting "Dominion-izing the Vote", would they have change were changed your report in any way or --</p> <p>A. No, they would not have.</p> <p>Q. Are these notes consistent with what Mr. Oltmann told you?</p> <p>A. Yes.</p> <p>...</p> <p>Q. (By Mr. Rhodes) You told Mr. Cain, I believe, when he showed you -- well, here. We'll do it. We'll pull up Exhibit 60. I'm showing you Exhibit 60, which Mr. Cain marked. This is Mr. Watkins' tweet on, it says, November 3rd: "Ms. Chanel Rion just reached out to me, and I'll</p>			

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		<p>be talking with her about Dominion tomorrow"; correct?</p> <p>A. Correct.</p> <p>Q. Well, I think you previously testified that you were not aware of Mr. Oltmann or Mr. Coomer until on or after the Michelle Malkin interview on November 13.</p> <p>A. That's correct.</p> <p>Q. So, I mean, did Mr. Oltmann send you to Mr. Watkins?</p> <p>A. No. I found Mr. Watkins before even -- I even knew about Eric Coomer or even heard of Michelle Malkin's interview.</p> <p>Q. So you independently found Mr. Watkins and independently determined his credibility. You did not rely on anything Mr. Oltmann told you?</p> <p>A. Absolutely.</p> <p>Q. You were asked about did you have contact with the Trump Campaign, Rudy Giuliani, or Sidney Powell. And you said, Yes, in connection with setting up interviews; is that correct?</p> <p>A. That's correct.</p> <p>Q. I just want to clarify: Other than setting up -- attempting -- attempting to set up or actually setting up interviews in connection with "Dominion-izing the Vote", did you have any other -- any other contact with anybody from the</p>			

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		<p>Trump campaign, Rudy Giuliani, or Sidney Powell?</p> <p>A. I'm going to step outside for a quick second, but I'm going to answer your question. Sorry. So to answer your question, no. I -- I recall setting up interviews. And oftentimes, over the course of being a -- working as a journalist, I will often send information to my interviewees either to confirm a fact or to get their statement on it. So that's the extent of other correspondences you may have -- you may see from me to the Trump Campaign.</p> <p>Q. Did -- did -- did anyone from the Trump Campaign or Rudy Giuliani or Sidney Powell review "Dominion-izing the Vote" before it aired?</p> <p>A. No.</p> <p>Q. Did you share any portions of the script with them?</p> <p>A. No.</p> <p>Q. Did they have any input into what went into it, other than Mr. Giuliani appearing for a -- an interview?</p> <p>A. No.</p> <p>Q. You were asked whether or not Mr. Oltmann was a conservative activist, and you said "Yes."</p> <p>A. Yes.</p>			

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		<p>Q. And then you were asked, Did that make a difference to you? And you said, "Yes." What did you mean by "Yes"?</p> <p>A. I meant that, in confirming that Mr. Oltmann was actually working to identify Antifa radical leftist elements in his community and was an activist, in that he was exposing journalists who had Antifa affiliations, this made sense that he was conservative activist, and that confirmed his bona fides, if you will, as an Antifa exposor.</p> <p>Q. Okay. You're not suggesting that merely because he's conservative, he's credible?</p> <p>A. Oh, no, no. That his conservatism confirmed that he was, in fact, investigating or at least looking into Antifa and trying to expose them -- a leftist organization or group.</p> <p>Q. And you also mentioned in your examination by Mr. Cain that you were familiar with conference calls or Zoom calls by other leftist organizations; correct?</p> <p>A. Correct. I believe -- I believe I -- I was doing a story on the Sunrise Movement, for example. This was a group of federal employees who were convening a conference call. And in these conference calls, they were figuring out ways they could act out their rage and create -- sow disorder and chaos in Washington, D.C. and elsewhere.</p>			

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47X	Video: November 2, 2020, report by Chanel Rion (OAN540/Rion Dep. Ex. X)	<p>163:13-164:20</p> <p>Q. I'm going to show you what I've marked as Exhibit X. And tell us what this is, please.</p> <p>(OAN Exhibit X was introduced.)</p> <p>Q. (By Mr. Rhodes) Let's hope you can see this, because optimizing screen sharing does not come through.</p> <p>(The video segment was played.)</p> <p>Q. (By Mr. Rhodes) Could you hear that?</p> <p>A. Yes.</p> <p>Q. And what is that report?</p> <p>A. That report was on leftist group that was colluding on phone calls, conference calls. And they were discussing ways to sow chaos and discord in Washington, D.C. They were anti-Trump, Antifa-sympathizing anarchists.</p> <p>Q. And that was prior to the election. I believe that was on November 2nd; correct?</p> <p>A. Yes. I believe that was one day before the election.</p> <p>Q. So when you heard that Mr. Oltmann said that he'd infiltrated an Antifa call, was that -- did you find that credible based upon your personal experience?</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>A. Yes. That was -- it did not seem unreasonable that Antifa as a group was coming together and making plans as a group.</p> <p>Q. You also told Mr. Cain, I believe -- you couldn't quite remember the name of it, but you had reviewed an article -- I'm showing you Exhibit A -- in Colorado Politics.</p> <p>A. That's right.</p> <p>Q. And this is, again, Mr. Oltmann stating that his intent was to identify Antifa reporters long before any information came out about Eric Coomer; correct?</p> <p>A. Correct.</p>			
47Y	Web archive – PIN Business Network, We The People members (OAN541/Rion Dep. Ex. Y)	<p>164:21-165:25</p> <p>Q. You also said that you had looked into his business -- by "his," I mean Mr. Oltmann's, business, the PIN Business Network. Let me show you what I've marked as Exhibit Y.</p> <p>(OAN Exhibit Y was introduced.)</p> <p>Mr. Cain: And I'm going to renew my objection that if you want to question her some more, we do it at a later day. The Trump Campaign has now been sitting for 42 minutes after we noticed his deposition. So I would ask, Bernie, that you put a bookmark in this, and we can deal with it later.</p> <p>...</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being</p>

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		<p>Q. (By Mr. Rhodes) Let's try this. I'm going to show you my copy of what I'll represent to you is marked as Exhibit Y. Do you see this?</p> <p>A. Yes.</p> <p>Q. From the P-I-N, PINbusinessnetwork.com, "Who Are We?" And that's Mr. Oltmann as the president; correct?</p> <p>A. Correct.</p> <p>Q. And it goes on to show -- I don't know -- more than 50 people?</p> <p>A. Yes.</p> <p>Q. Was that significant to you?</p> <p>A. It was. It showed that Mr. Oltmann had -- had a business, a legitimate business, that he was not likely to throw away by stepping out and providing some kind of story that he didn't feel comfortable sharing. It was significant that he had a fairly established presence in his community.</p>			discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.
47Z	September 1, 2020 PIN Business Network Article: EY Announces Joe Oltmann of PIN Business Network as an Entrepreneur of The Year 2020 (OAN542/Rion Dep. Ex. Z)	<p>166:1-19</p> <p>Q. And I'll show you Exhibit Z. Hopefully this one works better.</p> <p>(OAN Exhibit Z was introduced.)</p> <p>Q. (By Mr. Rhodes) What is Exhibit Z, Ms. Rion?</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well</p>	The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or

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		<p>A. This is the press release showing Oltmann was nominated, I guess, entrepreneur of the year. This corroborated what had he told us. And this is actually a press release I looked at.</p> <p>Q. This is all research you did to assess Mr. Oltmann's credibility?</p> <p>A. Correct.</p> <p>Q. So in addition to all the other information you told us about Mr. Coomer and where you believe it was Mr. Coomer who's "Eric from Dominion," you also came to believe that Mr. Oltmann was credible?</p> <p>A. Yes; that what he told us about his own background was credible, and that his motives for sitting in on this call were also -- they seemed to match up They were reasonable.</p>		exceeded the scope of direct; see pp. 136-170	<p>allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>
47AA	<p>Patents by Inventor Eric Coomer from https://patents.justia.com (OAN543/Rion Dep. Ex. AA)</p>	<p>166:20-168:11</p> <p>Q. You said that as part of your investigation into Dr. Coomer, you reviewed the fact that he had six patents and another six patent applications; correct?</p> <p>A. Correct.</p> <p>Q. I'm showing you Exhibit AA.</p> <p>(OAN Exhibit AA was introduced.)</p> <p>Q. (By Mr. Rhodes) Is this a listing that you collected while preparing "Dominion-izing the</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p>

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		<p>Vote" of Dr. Coomer's patents and patent applications?</p> <p>A. Yes. The page that you're showing me is one of them.</p> <p>Q. Is one of them, yes. So the first one, the patent is titled "Ballot Adjudication and Voting System Utilizing Ballot Images"; correct?</p> <p>A. That's right.</p> <p>Q. And it shows the assignee is a Dominion Voting, and one of the vendors is Eric Coomer?</p> <p>A. Dominion Voting Incorporated.</p> <p>Q. Okay. And then we keep going. Ballot adjudication. Ballot adjudication. "Ballot level security features for optical scan voting machine capable of ballot image processing, secure ballot printing, and ballot layout authentication and verification."</p> <p>A. Yes.</p> <p>Q. "Systems for configuring voting machines, docking devices for voting machines, warehouse support, and asset traffic of voting machines."</p> <p>A. Yes.</p> <p>Q. If a group of hackers could play Pong on a Dominion voting machine over a weekend, what did you believe that someone who had this</p>			<p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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		<p>knowledge of the Dominion Voting Systems could do?</p> <p>A. That he could -- someone with that kind of background could access machines on a systemwide basis and, certainly, adjust the gamma settings, adjust the image settings, whatever it was that would set ballots aside for adjudication. That was something that was feasible considering Dr. Coomer's background and invention of that actual technology.</p>			
47AB	<p>“Kill Chain: The Cyber War on America’s Elections” (HBO) (OAN544/Rion Dep. Ex. AB)^</p>	<p>168:12-25</p> <p>Q. You also told us that prior to your work in preparing "Dominion-izing the Vote," you had seen Kill Chain; correct?</p> <p>A. Correct.</p> <p>Q. The HBO documentary Kill Chain. I want to play just a very short piece of that, which I've marked as Exhibit AB.</p> <p>(OAN Exhibit AB was introduced.)</p> <p>Q. (By Mr. Rhodes) It starts at the beginning with a little bit about ESS, and then it goes into Dominion.</p> <p>(The video segment was played.)</p> <p>Q. (By Mr. Rhodes) You had seen this documentary prior to preparing "Dominion-izing the Vote"; correct?</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>Video clips of “Kill Chain: The Cyber War on America’s Election” (“Kill Chain”) were played during the closing presentation of the OAN Defendants’ closing argument on October 14, 2021. During the hearing, the Court specifically asked, “Does anyone object to me watching Kill Chain?” (Oct. 14, 2021 Tr. of Proceedings at 568:4-5.) Dr. Coomer’s counsel did not object, and therefore waived any objections to the use of Kill Chain by the OAN Defendants.</p> <p>In addition, clips from Kill Chain were referenced and embedded in the closing presentation given by the OAN Defendants on October 14, 2021, to which Dr. Coomer had no objection. (See Ex. 58, identified</p>

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		A. I had.			<p>herein.) Dr. Coomer has therefore waived any objections to the use of Kill Chain by the OAN Defendants.</p> <p>Furthermore, the exhibit and testimony are within the scope of direct examination because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate her reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by Ms. Rion and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>

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47AC	June 1, 2021 Declaration of Eric Coomer (OAN545/Rion Dep. Ex. AC)	<p>170:2-16</p> <p>(OAN Exhibit AC was introduced.)</p> <p>Q. (By Mr. Rhodes) Ms. Rion, I'm showing you what I've marked as Exhibit AC, which is the Sworn Declaration of Eric Coomer in this case. Do you see that?</p> <p>A. I do.</p> <p>Q. Dr. Coomer states that he was employed by Dominion Voting Systems, Inc., beginning in 2010, and as the director of product strategy and security from 2013 until May 11 -- excuse me -- May 14, 2021. Do you see that?</p> <p>A. I see that.</p> <p>Q. So Dr. Coomer was responsible for Dominion's security in 2014, when the machine that was the subject of Kill Chain was hacked; correct?</p> <p>A. Yes.</p> <p>Q. Do you know why Dr. Coomer is no longer with Dominion?</p> <p>A. I don't know why.</p> <p>Q. Would you like to know why?</p> <p>A. I would.</p>		<p>Relevance</p> <p>Objection to the scope of the unauthorized, self-serving cross (redirect by OAN counsel) that also well exceeded the scope of direct; see pp. 136-170</p>	<p>The exhibit and testimony are within the scope of direct because Dr. Coomer's counsel examined the witness regarding her alleged actual malice including, for example, questions suggesting she and OAN exhibited knowing falsity or reckless disregard for the truth (subjective awareness of probable falsity) and/or allegedly failed to investigate its reporting or present balanced reporting.</p> <p>In addition to the testimony on direct (which is consistent), the testimony on cross and the exhibit being discussed are relevant under C.R.E. 401 and 402 to further demonstrate the absence of actual malice by the OAN Defendants and the failure of Dr. Coomer to present any admissible evidence, much less clear and convincing admissible evidence, of actual malice at the anti-SLAPP stage.</p>
48.	August 24, 2021, Susan Dominus, <i>New York Times Magazine</i> , "He		No objection		

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	Was the 'Perfect Villain' for Voting Conspiracists"*^ (OAN546)				
49.	September 9, 2021 Deposition Transcript of FEC United (OAN549)	25:25-26:2 Q. After you first told the story about Dr. Coomer on November 9th -- A. It's not a story. It's not a story. It's what happened. So it's not a story. It's exactly what happened.	No objection		
50.	September 17, 2021 at 2:33 p.m., updated September 18, 2021 9:45 a.m., Sam Tabachnik, <i>Denver Post</i> , "Tay Anderson censured by Denver school board: 'There is a line and it was crossed.'" (OAN550)		No objection		
51.	September 20, 2021, <i>Colorado Peak Politics</i> , "Hundreds of Denver high school students walk out, demand Tay Anderson resign." (OAN551)		No objection		
52.	September 20, 2021 editorial, <i>Denver Gazette</i> , "Tay Anderson has got to go." (OAN552)		No objection		
53.	September 21, 2021 Declaration of J. Alex Halderman ¶ 8 (submitted by plaintiffs in <i>Curling v.</i>		No objection		

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	<i>Raffensperfer</i> , Case No. 17-cv-02989, N.D. Georgia, D.E. 1177-1)^				
54.	September 23, 2021 Deposition Transcript of Eric Coomer (OAN553)	<p>17:7-15</p> <p>Q. Okay. I've put up what's going to be marked as Exhibit P23.</p> <p>(Exhibit P23 was marked for identification.)</p> <p>Q. (By Mr. Arrington) I'm on page 9 of P23. Is this your Facebook post, Mr. Coomer --or Dr. Coomer?</p> <p>A. It's a repost that I made on my private Facebook, yes.</p> <p>34:5-12</p> <p>Q. So it is an organization?</p> <p>A. Not that I know of. That's why I'm not a member.</p> <p>Q. But you don't believe that it does?</p> <p>A. According to all of the evidence that I've seen, including from the FBI under the Trump Campaign, the Trump presidency, they said it doesn't exist. I'll give them the credit.</p> <p>36:9-15</p> <p>Q. So did you tell the New York Times reporter that, in 2016, you were on Facebook when you came across a few posts -- well, let's stop. Read to</p>	No objection		

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		<p>yourself from "In 2016" to "linking to both songs" and tell --</p> <p>A. Everything in -- sir, everything in quotes are quotes from me that I said.</p> <p>43:22-44:3</p> <p>Q. (By Mr. Arrington) So I've put up Exhibit P19, which is a document called "Guest Commentary." Are you familiar with this document?</p> <p>A. Yeah, that's in The Denver Post.</p> <p>Q. You wrote it, right?</p> <p>A. Yes, I did.</p> <p>44:12-17</p> <p>Q. Which fringe media personalities did you have in mind?</p> <p>A. I -- off the top of my head, Max McGuire, Joe Oltmann, Michelle Malkin, Sidney Powell, Rudy Giuliani, Eric Trump, Eric Metaxas, Clay Clark, Randy Corporon.</p> <p>108:1-23</p> <p>Q. No, that's not my question, Mr. Coomer. Mr. Coomer, my question to you is very direct: Are you antifascist?</p>			

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		<p>A. Absolutely.</p> <p>Q. And is Antifa a truncation of antifascists?</p> <p>...</p> <p>THE DEPONENT: It's a neologism.</p> <p>Q. (By Ms. Hall) So you agree that Antifa is part of being an antifascist?</p> <p>A. No.</p> <p>Q. So do you agree that Antifa is a truncation of antifascists?</p> <p>A. No, it's a neologism.</p> <p>Q. What's your definition of neologism?</p> <p>MR. CAIN: And that's going to be your last answer.</p> <p>THE DEPONENT: Let's bring up dictionary.com, kids.</p> <p>MR. CAIN: No. That can be your – if you can define it, you've gone your minute. So try to define it, Dr. Coomer, and that's your last answer.</p> <p>THE DEPONENT: It's a combination of two words truncated into one.</p> <p>111:7-8</p> <p>"Ms. Hall said, 'Antifa is?'"</p>			

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		THE DEPONENT: So I don't know what Antifa refers to.			
55.	<i>U.S. Dominion, Inc. et al. v. Sidney Powell, et al.</i> , Answer and Counterclaim of Defendants Sidney Powell, Sidney Powell, P.C. and Defending the Republic (filed September 24, 2021) (OAN554)		No objection		
56.	Eric Coomer Facebook posts provided to Chanel Rion by Joe Oltmann (OAN555)*^		No objection		
57.	October 13, 2021 opening presentation by counsel for the OAN Defendants		No objection		
58.	October 14, 2021 closing presentation by counsel for the OAN Defendants ⁴		No objection		
59.	Any exhibits identified by any defendant			Plaintiff did not submit a position	
60.	Any non-objectionable, admissible exhibit identified by Dr. Coomer			Plaintiff did not submit a position	

⁴ This version has been modified slightly from the version provided to the Court on October 14, 2021 to reflect that the clip featuring Dr. Coomer from the referenced videos from *Kill Chain: The Cyber War on America's Elections* appeared in the second, not the first, clip shown to the Court.

Number	OAN Defendants' Exhibits	Reference to Deposition or Hearing Page and Line of Testimony or Introduction of Exhibit	State if No Objection	Plaintiff's Objections	OAN Defendants' Response
61.	Any exhibit necessary for impeachment or rebuttal			Plaintiff did not submit a position	

Respectfully submitted November 29, 2021,

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of November, 2021, I electronically filed **DEFENDANTS' HERRING NETWORKS, INC., D/B/A ONE AMERICA NEWS NETWORK, AND CHANEL RION'S LIST OF EXHIBITS TO BE CONSIDERED WITH THEIR SPECIAL MOTION TO DISMISS PURSUANT TO COLO. REV. STAT. § 13-20-1101** with the Clerk of the Court using the ICCES electronic filing system, which will send an electronic copy of this filing to all counsel of record.

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