

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 20-cv-03747-NRN

KEVIN O'ROURKE,  
NATHANIEL L. CARTER,  
LORI CUTUNILLI,  
LARRY D. COOK,  
ALVIN CRISWELL,  
KESHA CRENSHAW,  
NEIL YARBROUGH, and  
AMIE TRAPP,

Plaintiffs,

v.

DOMINION VOTING SYSTEMS INC., a Delaware corporation,  
FACEBOOK, INC., a Delaware corporation,  
CENTER FOR TECH AND CIVIC LIFE, an Illinois non-profit organization,  
MARK E. ZUCKERBERG, individually,  
PRISCILLA CHAN, individually,  
BRIAN KEMP, individually,  
BRAD RAFFENSPERGER, individually,  
GRETCHEN WHITMER, individually,  
JOCELYN BENSON, individually,  
TOM WOLF, individually,  
KATHY BOOCKVAR, individually,  
TONY EVERS, individually,  
ANN S. JACOBS, individually,  
MARK L. THOMSEN, individually,  
MARGE BOSTELMAN, individually,  
JULIE M. GLANCEY,  
DEAN KNUDSON, individually,  
ROBERT F. SPINDELL, JR, individually, and  
DOES 1-10,000,

Defendants.

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**MINUTE ORDER**

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Entered by Magistrate Judge N. Reid Neureiter

In anticipation of the hearing set for Friday July 16, 2021 at 10:30 a.m., the Court asks that the parties be prepared to discuss, in connection to the matters raised in the briefs, the following:

1. The appropriate legal standard for a reasonable pre-filing inquiry under Rule 11 of the Federal Rules of Civil Procedure and whether reliance on press/media reports, or factual allegations made in other lawsuits, is enough to satisfy the requirement of a reasonable pre-filing inquiry.
2. The non-frivolous legal and factual basis that would justify name plaintiff Kevin O'Rourke (a citizen of Virginia) bringing a lawsuit in federal court in Colorado against the Governors of Pennsylvania, Wisconsin, Georgia, and Michigan for conduct by those Governors that allegedly occurred, respectively, in Pennsylvania, Wisconsin, Georgia and Michigan.
3. The non-frivolous legal and factual basis that would justify name plaintiff Larry D. Cook (a resident of California) bringing a lawsuit in federal court in Colorado against the Governors of Pennsylvania, Wisconsin, Georgia, and Michigan for conduct by those Governors that allegedly occurred, respectively, in Pennsylvania, Wisconsin, Georgia and Michigan.
4. The number of persons who have contributed to Plaintiffs' counsel's appeal for litigation funding and the total amount generated by that appeal as of July 14, 2021. See <https://www.dominionclassaction.com/> ("Contribute to the Litigation Cost. Thank You for your contribution. Every dollar helps us to hire the experts we need to win in Federal Court as well as in the court of public opinion.").
5. The relevance, if any, of the following documents/incidents to the Court's consideration of the pending motions:
  - a. The November 12, 2020 press release of the United States Cybersecurity & Infrastructure Security Agency ("CISA"), including a Joint Statement from Executive Committee of the Elections Infrastructure Government Coordinating Council declaring the November 3, 2020 election to be "the most secure in American History." See <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>
  - b. Judicial admissions by lawyers for the Trump Presidential Campaign that they could not and did not allege there was fraud in connection with the election. See, *Donald J. Trump for President, Inc. v. Sec'y of Pa.*, 830 F. App'x 377, 381–82 (3d Cir. 2020) ("The Trump Presidential Campaign asserts that Pennsylvania's 2020 election was unfair. But as lawyer

Rudolph Giuliani stressed, the Campaign ‘doesn’t plead fraud. . . . [T]his is not a fraud case.’”).

- c. Statements by Attorney General William Barr as early as December 1, 2020, to the effect that the FBI had investigated allegations of voter fraud and found no evidence of fraud on a scale that would have effected a different outcome of the election. See, e.g, Michael Balsamo, *Disputing Trump, Barr Says No Widespread Election Fraud*, AP News (December 1, 2020), <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>; Jonathan D. Karl, *Inside William Barr’s Breakup with Trump*, The Atlantic (June 2021), <https://www.theatlantic.com/politics/archive/2021/06/william-barrs-trump-administration-attorney-general/619298/> (quoting William Barr as saying “My attitude was: It was put-up or shut-up time. If there was evidence of fraud, I had no motive to suppress it. But my suspicion all the way along was that there was nothing there. It was all b\*\*\*\*t.”).
- d. The risk-limiting audit report from the state of Georgia reflecting a hand count of ballots with audit boards from all 159 Georgia counties examining 41,881 batches, confirming the original result of the election that Joe Biden won the Presidential Contest in the State of Georgia.” *Risk-Limiting Audit Report, Georgia Presidential Contest, November 2020* (Nov. 19, 2020), [https://sos.ga.gov/admin/uploads/11.19\\_.20\\_Risk\\_Limiting\\_Audit\\_Report\\_Memo\\_1.pdf](https://sos.ga.gov/admin/uploads/11.19_.20_Risk_Limiting_Audit_Report_Memo_1.pdf)
- e. The findings of the recently issued report of the Michigan Senate Oversight Committee, *Report on the November 2020 Election in Michigan*, which concludes, “The Committee can confidently assert that it has been thorough in examination of numerous allegations of unlawful actions, improper procedures, fraud, vote theft, or any other description which would cause citizens to doubt the integrity of Michigan’s 2020 election results. Our clear finding is that citizens should be confident the results represent the true results of the ballots cast by the people of Michigan. The Committee strongly recommends citizens use a critical eye and ear toward those who have pushed demonstrably false theories for their own personal gain.” Found at [https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO\\_2020ElectionReport\\_2.pdf](https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport_2.pdf)
- f. *In the Matter of Rudolph W. Giuliani*, Case No. 2021-00506 (N.Y. App. Div. May 3, 2021), in which an appeals court immediately suspended attorney Rudolph Giuliani for violations of the New York Rules of

Professional Conduct based on “uncontroverted evidence” that Mr. Giuliani “communicated demonstrably false and misleading statements to courts, lawmakers and the public at large in his capacity as lawyer for former President Donald J. Trump and the Trump campaign in connection with Trump’s failed effort at reelection in 2020. These false statements were made to improperly bolster respondent’s narrative that due to widespread voter fraud, victory in the 2020 United States presidential election was stolen from his client.” Order at 2.

Date: July 14, 2021

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