

DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, CO 80202	DATE FILED: April 4, 2022 6:21 PM FILING ID: 91DE483254C83 CASE NUMBER: 2022CV30920 ▲ COURT USE ONLY ▲
ERIC COOMER, Ph.D., Plaintiff vs. MICHAEL J. LINDELL, FRANKSPEECH LLC, AND MY PILLOW, INC., Defendants	
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ORIGINAL COMPLAINT AND JURY DEMAND	

Plaintiff Eric Coomer, Ph.D. (Dr. Coomer), by and through undersigned counsel, brings this defamation action against Michael J. Lindell (Lindell), Frankspeech LLC, and My Pillow, Inc. (collectively Defendants).

I. INTRODUCTION

1. This case arises from efforts by a wealthy businessman and his multiple media and business entities to target a private individual with false allegations of criminal conduct on a scale unprecedented in American history. Lindell and his related companies Frankspeech LLC and My Pillow, Inc. have been among the most prolific vectors of baseless conspiracy theories claiming election fraud in the 2020 election. The real-world consequences for the subjects of those lies have been devastating.

2. Throughout his efforts to undermine faith in American democracy and enrich himself in the process, Lindell and his companies have gone out of their way to target Dr. Coomer, former Director of Product Strategy and Security for Dominion Voting Systems. Defendants began this targeted defamation campaign after Lindell aligned himself with an Antifa-obsessed Colorado podcaster and conspiracy theorist, Joseph Oltmann, who had made up a story about overhearing someone identified only as “Eric, the Dominion guy” claim to have rigged the election against former President Trump on a supposed “Antifa conference call.” Oltmann claimed this supposed call happened on some unspecified date months before the election, but that he did not think to take action on the alleged plot until after the election was called for President Biden. Oltmann claimed that he later identified Dr. Coomer as the anonymous “Eric” referred to by other anonymous third parties on the supposed call by simply Googling

“Eric Dominion Denver Colorado.” Days after making his false claims against Dr. Coomer, Oltmann then fabricated evidence to suggest that this Google search had occurred in late September, when it had not. Oltmann’s story is inherently implausible. Lindell, however, has a long history of publishing and amplifying any story he hears that aligns with his preconceived narrative that the election was rigged, and Oltmann’s baseless lies about Dr. Coomer soon made their way into Lindell’s rotation.

3. Since aligning himself with Oltmann, Lindell has publicly accused Dr. Coomer of being “a traitor to the United States.” He has claimed, without evidence, that Dr. Coomer committed treason and that he should turn himself into the authorities. Defendants have published these numerous false statements, defamatory interviews, and other dishonest content maligning Dr. Coomer on the website frankspeech.com often alongside a sales pitch for products from MyPillow. In addition, Defendants further made claims against Dr. Coomer a centerpiece of a failed “Cyber Symposium” that they organized and broadcast around the world.

4. Despite Defendants’ baseless claims of election fraud being disproven by credible authorities across political parties, they persist in their campaign to profit from of the “Big Lie” by destroying the lives of private individuals like Dr. Coomer. They have not acknowledged the harm they have caused, nor have they retracted any of their false statements. The damage caused to Dr. Coomer by Defendants’ conduct is immense. After more than fifteen years as a respected professional at the top of his field, Dr. Coomer’s reputation has been irreparably tarnished. He can no longer work in the elections industry on account of the unwarranted distrust inspired by Defendants’ lies, and instead

now endures frequent credible death threats and the burden of being made the face of an imagined criminal conspiracy of unprecedented scope in American history.

II. PARTIES

5. Plaintiff Eric Coomer, Ph.D. is an individual domiciled in Colorado who may be contacted c/o Cain & Skarnulis PLLC, P.O. Box 1064, Salida, Colorado 81201.

6. Defendant Michael J. Lindell is an individual domiciled in Minnesota, and the founder and CEO of Frankspeech LLC and My Pillow, Inc. Lindell may be served with process at 1440 Bavarian Shores Drive, Chaska, Minnesota 55318; 343 E. 82nd Street, Suite 102, Chaska, Minnesota; or wherever he may be located. Lindell has published and sponsored defamatory statements directed at and received by Colorado audiences.

7. Frankspeech LLC (Frankspeech) is a limited liability company organized and existing under the laws of the state of Delaware. Frankspeech may be served with process through its registered agent Registered Agent Solutions, Inc., 838 Walker Road, Suite 21-2, Dover, Delaware 19904, or by serving its Chief Executive Officer Lindell wherever he may be located. Frankspeech broadcasts its programming to a national audience on its own website frankspeech.com. The Frankspeech website hosts defamatory content recorded in Colorado and produced by Frankspeech, as well as other defamatory content recorded in Colorado that was directed at and received by Colorado audiences. Frankspeech is independently liable for its own tortious conduct, and vicariously liable for the conduct of Defendant Lindell, who at all times relevant was acting as an agent and representative of Frankspeech.

8. Defendant My Pillow, Inc. (MyPillow) is a for-profit corporation with its principal place of business in Chaska, Minnesota. MyPillow may be served with process by serving its Chief Executive Officer Lindell at 1440 Bavarian Shores Drive, Chaska, Minnesota 55318; 343 E. 82nd Street, Suite 102, Chaska, Minnesota; or wherever he may be located. MyPillow published defamatory statements about Dr. Coomer in Colorado and directed such defamatory statement at Colorado audiences via its agent Lindell. MyPillow has sponsored and sought to profit from the false and defamatory publications by co-Defendants Lindell and Frankspeech. At all relevant times, Lindell was acting as an agent and representative of MyPillow.

III. JURISDICTION AND VENUE

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

10. This Court has personal jurisdiction over Defendants pursuant to C.R.S. § 13-1-124 because Defendants transacted business in Colorado and committed tortious acts within Colorado.

11. Specifically, this Court has personal jurisdiction over Lindell because he committed tortious acts against a resident of the state of Colorado giving rise to this cause of action. Lindell had the knowledge and intent that: the effects of his actions would be felt in the state of Colorado; the injury would occur in Colorado; and that his defamatory messages would be directed at Colorado. *See Keeton v. Hustler Magazine*, 465 U.S. 770, 776-81 (1984) (finding “libel is generally held to occur wherever the offending material is circulated” and a defendant continuously and deliberately exploiting a market “must

reasonably anticipate being haled into court there in a libel action”). Lindell derived his defamatory statements from Coloradan sources.¹ The subject of those statements concerned a Colorado resident and that resident’s work and employment for a business based in Colorado, making Colorado an integral focal point for his defamatory statements.² *See Calder v. Jones*, 465 U.S. 783, 788-89 (1984); *see also Keeton*, 465 U.S. at 780 (recognizing a plaintiff’s residence may be relevant to the jurisdictional inquiry as it “may be the focus of the activities of the defendant out of which the suit arises”). Lindell purposefully sought a national audience and directed promotional materials to Colorado and Coloradan audiences for circulation, which were received by Coloradan audiences.³ *See Keeton*, 465 U.S. at 776-81.

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

¹ Lindell knowingly relied on Oltmann as his source for his false statements; specifically identified Oltmann as a Denver, Colorado businessman within his statements; and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra* at ¶¶ 27, 38, 60, 81, 89.

² Lindell knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of his false statements. *See infra* at ¶¶ 27, 33, 60, 89.

³ Lindell knowingly published his statements using national platforms and broadcasts that purposefully direct their statements into the state of Colorado and to Coloradan audiences. Lindell intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradan audiences. *See infra* at ¶¶ 46, 49, 69, 71.

defamatory statements that were recorded in Colorado.⁴ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in Colorado, making Colorado an integral focal point for its defamatory statements.⁵ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. Frankspeech purposefully sought a national audience and directed promotional materials to Colorado and Coloradan audiences for circulation, which are received by Coloradan audiences.⁶ *See Keeton*, 465 U.S. at 776-81.

13. This Court may exercise personal jurisdiction over MyPillow because it committed tortious acts against a resident of the state of Colorado giving rise to this cause of action. MyPillow had the knowledge and intent that: the effects of its actions would be felt in the state of Colorado; the injury would occur in Colorado; and that its defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. MyPillow derived its defamatory statements from Coloradan sources and published defamatory statements that were recorded in Colorado.⁷ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business based in

⁴ Frankspeech knowingly relied on Oltmann as its source for its false statements; specifically identified Oltmann as a Denver, Colorado businessman within its statements; and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra* at ¶¶ 27, 38, 53-54, 58, 81, 89.

⁵ Frankspeech knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of its false statements. *See infra* at ¶¶ 27, 38, 53-54, 58, 89.

⁶ Frankspeech knowingly published its statements using national platforms and broadcasts that purposefully direct their statements into the state of Colorado and to Coloradan audiences. Frankspeech intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradan audiences. *See infra* at ¶¶ 46, 49, 53, 69, 71.

⁷ MyPillow knowingly relied on Oltmann as its source for its false statements; specifically identified Oltmann as a Denver, Colorado businessman within its statements; and derived those statements from information Oltmann allegedly gained while in Colorado. *See infra* at ¶¶ 27, 38, 53-54, 58, 81, 89.

Colorado, making Colorado an integral focal point for its defamatory statements.⁸ *See Calder*, 465 U.S. at 788-89; *see also Keeton*, 465 U.S. at 780. MyPillow purposefully sought a national audience and directed promotional materials to Colorado and Coloradan audiences for circulation, which are received by Coloradan audiences.⁹ *See Keeton*, 465 U.S. at 776-81.

14. Requiring Defendants to litigate these claims in Colorado does not offend traditional notions of fair play and substantial justice and is permitted by the Due Process Clause of the United States Constitution. Dr. Coomer's claims arise from defamatory statements Defendants not only published in Colorado, but also from defamatory statements made and recorded in the state of Colorado that were directed at and received by Colorado audiences. Jurisdiction in Colorado provides for the efficient resolution of the claims herein.

15. Jurisdiction in Colorado provides for the efficient resolution of the claims herein. Venue is proper in this Court pursuant to Colorado Rule of Civil Procedure 98 because a substantial part of the events and omissions giving rise to the claims occurred in Denver County, Colorado.

⁸ MyPillow knowingly relied on Dr. Coomer, a Colorado resident, and Dominion, a business based in Colorado, and alleged actions and events taken in Colorado as the subject of its false statements. *See infra* at ¶¶ 27, 38, 53-54, 58, 89.

⁹ MyPillow knowingly published its statements using national platforms and broadcasts that purposefully direct their statements into the state of Colorado and to Coloradan audiences. Frankspeech intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradan audiences. *See infra* at ¶¶ 46, 49, 53, 69, 71.

IV. FACTS

16. Plaintiff Dr. Coomer is the former Director of Product Strategy and Security for Dominion Voting Systems. Dominion is based in Denver, Colorado and provides election support services across the United States, including from initial project implementation through election set-up, ballot layout, multiple language audio, machine set-up, and system testing. Dominion provided election related services to at least 30 different states during the 2020 presidential election.

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

17. The 2020 presidential election results have been verified by numerous independent entities, including government officials and agencies. State elections officials tasked with verifying the election and vote counts certified the election results across all 50 states and the District of Columbia.¹⁰ Electors met and formally cast their ballots with President Joe Biden securing 306 electoral votes and winning the popular vote by more than seven million votes.¹¹ Despite incited violence, Congress formally

¹⁰ See Maggie Astor, et al., *Biden Secures Enough Electors to Be President*, N.Y. TIMES (Dec. 9, 2020), <https://www.nytimes.com/interactive/2020/11/20/us/politics/2020-election-certification-tracker.html> (“Election results have now been certified in all 50 states and Washington, D.C.”).

¹¹ See Nick Corasaniti, et. al., *Electoral College Vote Officially Affirms Biden’s Victory*, N.Y. TIMES (Dec. 14, 2020), <https://www.nytimes.com/2020/12/14/us/politics/biden-electoral-college.html>

counted the electoral votes, and former Vice President Mike Pence declared Joe Biden the winner of the presidential election.¹²

18. On November 12, 2020, the Cybersecurity & Infrastructure Security Agency (CISA), a standalone United States federal agency under the Department of Homeland Security, issued a Joint Statement from the Elections Infrastructure Government Coordinating Council and the Elections Infrastructure Sector Coordinating Executive Committees stating:

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

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

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

While we know there are many unfounded claims and opportunities for misinformation about the process of our elections, we can assure you we have the utmost confidence in the security and integrity of our elections, and you should too. When you have questions, turn to elections officials as trusted voices as they administer elections.¹³

¹² See John Wagner, et al., *Pence declares Biden winner of presidential election after Congress finally counts electoral votes*, WASH. POST (Jan. 7, 2021), <https://www.washingtonpost.com/politics/2021/01/06/congress-electoral-college-vote-live-updates/>.

¹³ CISA, *Joint Statement from Elections Infrastructure Gov't Coordinating Council & the Election Infrastructure Sector Coordinative Exec. Comms.* (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election> (emphasis in original).

19. Former Director of CISA, Chris Krebs, after his dismissal by President Trump, acknowledged that states had transitioned to auditable voting systems with paper-based ballots that could be recounted, independent of any allegedly hacked software or hardware.¹⁴ Krebs explained that these paper ballots, when paired with state post-election checks, ensured the accuracy of the voting counts.

20. On November 16, 2020, 59 of the top computer scientists and election security experts in the country issued a joint letter affirming that no election manipulation had occurred, stating, “To our collective knowledge, no credible evidence has been put forth that supports a conclusion that the 2020 election outcome in any state has been altered through technical compromise.” They went on to note that, “Anyone asserting that a U.S. election was ‘rigged’ is making an extraordinary claim, one that must be supported by persuasive and verifiable evidence.”¹⁵

21. On December 1, 2020, then U.S. Attorney General William Barr confirmed “to date, we have not seen fraud on a scale that could have effected a different outcome in the election.”¹⁶

22. As of this filing, claims of election fraud arising from the 2020 election have been rejected by at least 86 different judges across the country, including all nine

¹⁴ Chris Krebs, *Trump fired me for saying this, but I’ll say it again: The Election wasn’t rigged*, WASH. POST (Dec. 1, 2020), https://www.washingtonpost.com/opinions/christopher-krebs-trump-election-wasnt-hacked/2020/12/01/88da94a0-340f-11eb-8d38-6aea1adb3839_story.html.

¹⁵ Nicole Perlroth, *Election Security Experts Contradict Trump’s Voting Claims*, N.Y. TIMES (Nov. 16, 2020), <https://www.nytimes.com/2020/11/16/business/election-security-letter-trump.html>.

¹⁶ Michael Balsamo, *Disputing Trump, Barr says no widespread election fraud*, AP (Dec. 1, 2020), <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

Supreme Court Justices.¹⁷ Over 60 separate lawsuits brought by President Trump's campaign and its supporters across the country attempting to challenge the legitimacy of the election results have failed.¹⁸ With these, courts have rejected baseless allegations of widespread voter fraud raised to overcome the election results.¹⁹ Notably in one case, the court in the United States District Court for the Middle District of Pennsylvania rendered an opinion stating:

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

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

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

¹⁷ Beth Reinhard et. al., *As Giuliani coordinated plan for Trump electoral votes in states Biden won, some electors balked*, WASH. POST (Jan. 20, 2022), https://www.washingtonpost.com/investigations/electors-giuliani-trump-electoral-college/2022/01/20/687e3698-7587-11ec-8b0a-bcfab800c430_story.html

¹⁸ Rosalind S. Helderman, et al., *'The last wall': How dozens of judges across the political spectrum rejected Trump's efforts to overturn the election*, WASH. POST (Dec. 12, 2020), https://www.washingtonpost.com/politics/judges-trump-election-lawsuits/2020/12/12/e3a57224-3a72-11eb-98c4-25dc9f4987e8_story.html; William Cummings, et al., *By the numbers: President Donald Trump's failed efforts to overturn the election*, USA TODAY (Jan. 6, 2021), <https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/> ("Out of the 62 lawsuits filed challenging the presidential election, 61 have failed").

¹⁹ See e.g., *Bowyer, et al., v. Ducey, et al.*, No. 2:20-cv-02321-DJH (D. Ariz.) at Dkt. No. 84, p. 28 (concluding "[n]ot only have Plaintiffs failed to provide the Court with factual support for their extraordinary claims, but they have wholly failed to establish that they have standing for the Court to consider them. Allegations that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings and procedure in federal court.").

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

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

23. Courts have already acted against some of those most responsible for spreading post-election falsehoods, including those about Dr. Coomer. For example, Rudy Giuliani²⁰ has had his license to practice law suspended in New York. The Attorney Grievance Committee there found that “there is uncontroverted evidence that respondent communicated demonstrably false and misleading statements to courts, lawmakers, and the public at large in his capacity as lawyer for former President Donald and the Trump Campaign.” It concluded that “[Giuliani’s] conduct immediately threatens the public interest and warrants interim suspension from the practice of law.”²¹ Similarly, the United States District Court for the Eastern District of Michigan recently ordered sanctions against Sidney Powell,²² who had relied on Oltmann in making false allegations against Dr. Coomer in the complaint she filed in the Eastern District of Michigan. In ordering sanctions against Powell, the Court described the lawsuit as “a historic and profound abuse of the judicial process” and concluded that the “attorneys have scorned

²⁰ Rudy Giuliani is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

²¹ *In re Matter of Giuliani*, Supreme Court of the State of New York Appellate Division, Case No. 2021-00506, at 1, [https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20\(2021-00506\)%20PC.pdf](https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20(2021-00506)%20PC.pdf).

²² Sidney Powell and Sidney Powell P.C. are defendants in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

their oath, flouted the rules, and attempted to undermine the integrity of the judiciary along the way.”²³ The Texas Bar Association has filed a disciplinary action against Powell related to her abuse of the judicial process in pursuing such baseless claims.²⁴

24. Numerous investigations and subsequent audits have served to confirm the legitimacy of the election results and to reaffirm that President Biden was duly elected to office. The Republican-led Michigan Senate Oversight Committee, for example, issued a “Report on the November 2020 Election in Michigan” on June 23, 2021, wherein they examined various claims of voter fraud. The Committee found no basis for claims by former President Trump and his allies that there was widespread voter fraud in the 2020 election.²⁵ Similarly, a months-long Republican-led “full forensic audit” of election results in Maricopa County, Arizona, confirmed President Biden’s win, and in fact discovered that Biden had won by more votes than previously reported.²⁶

25. Here in Colorado, multiple counties have spent taxpayer funds performing third-party audits of the 2020 election results, only to confirm that the election was free and fair and that the falsehoods being spread by Defendants and others are completely

²³ *King v. Whitmer*, Case No. 20-13134, (E.D. Mich. Aug. 25, 2021), https://storage.courtlistener.com/recap/gov.uscourts.mied.350905/gov.uscourts.mied.350905.172.0_3.pdf.

²⁴ David Lee, *Texas Bar files disciplinary action against former Trump attorney*, COURTHOUSE NEWS SERVICE, Mar. 8, 2022, <https://www.courthousenews.com/texas-bar-files-disciplinary-action-against-former-trump-attorney/>.

²⁵ Clare Hendrickson and Dave Boucher, *Michigan Republican-led investigation rejects Trump’s claim that Nov. 3 election was stolen*, DETROIT FREE PRESS (June 23, 2021), <https://www.freep.com/story/news/politics/elections/2021/06/23/michigan-senate-investigation-election-trump/5035244001/>.

²⁶ David Schwartz and Nathan Layne, *‘Truth is truth’: Trump dealt blow as Republican-led Arizona audit reaffirms Biden win*, REUTERS (Sept. 27, 2021), <https://www.reuters.com/world/us/arizona-republicans-release-findings-widely-panned-election-audit-2021-09-24/>.

without merit.²⁷ Even Mesa County, home of Lindell-ally Tina Peters (as discussed more fully below) has recently conducted a third-party audit of its recent 2021 election results, which served to once again confirm the accuracy of Dominion voting machines.²⁸

26. Dr. Coomer's former employer, Dominion Voting Systems, also published a lengthy FAQ section on its website in the days following the 2020 presidential election, which systematically addressed and debunked the numerous conspiracy theories being directed at the Denver-based company and its employees. These thorough rebuttals were and remain easily accessible on Dominion's website.²⁹

B. Oltmann fabricated a conspiracy.³⁰

27. Defendants relied on Joe Oltmann, a Colorado conspiracy theorist and podcast host, as the sole source of their defamation against Dr. Coomer, who is also a Colorado resident. Oltmann is a political activist and supporter of former President

²⁷ See Anna Lynn Winfrey, *Clear Ballot audit of 2020 election affirms accuracy of Dominion Voting Systems*, MONTROSE PRESS (Jan. 19, 2022), https://www.montrosepress.com/news/clear-ballot-audit-of-2020-election-affirms-accuracy-of-dominion-voting-systems/article_0537bd16-78f2-11ec-b373-47ff0af51fce.html (describing \$20,000 audit of Montrose County election results, and finding only an 8-vote discrepancy in the entire county); Breanna Jent, *Independent audit of El Paso County election results shows local voting system works: Clerk and Recorder*, THE GAZETTE (May 18, 2021), https://gazette.com/news/independent-audit-of-el-paso-county-election-results-shows-local-voting-system-works-clerk-and/article_a175bdc8-b821-11eb-9797-279892a22c0c.html (finding a 0.002% discrepancy between the official 2020 results and the final tally, or a change of 13 out of roughly 383,000 votes cast in El Paso County).

²⁸ Charles Ashby, *Clear Ballot count of 2021 election verifies original results*, THE DAILY SENTINEL (Feb. 17, 2022), https://www.gjsentinel.com/news/western_colorado/clear-ballot-count-of-2021-election-verifies-original-results/article_d1b2c428-9024-11ec-89d8-1f944117f330.html

²⁹ See <https://www.dominionvoting.com/setting-the-record-straight/> (last visited Dec. 21, 2021).

³⁰ Oltmann and his related entities, FEC United and Shuffling Madness Media, Inc. dba Conservative Daily are defendants in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

Trump with ambitions of creating a political movement.³¹ Oltmann formed a nonprofit organization, FEC United, allegedly to restore and secure constitutional protections he perceived as under attack, which includes a paramilitary civilian defense group.³² In the runup to the 2020 election, FEC United hosted rallies for armed civilians to gather, as well as political events on behalf of the Colorado Republican Party and the Trump Campaign.³³ By way of example, FEC United reportedly solicited its members to sign up for the “Army for Trump” poll watcher program before the election, claiming that “Democrats have been actively stacking the poll-watching positions with their own people, and this will only contribute to the fraud . . . Join Our Election Day Team!”³⁴ Oltmann serves as a host of the Conservative Daily podcast with videos posted on Conservative Daily’s website, which are now also hosted by Frankspeech.

28. After the results of the election were called for President Biden, Oltmann co-hosted a Conservative Daily podcast on November 9, 2020, which served as the genesis

³¹ See Joe Oltmann (@Joeoltmann), PARLER (Dec. 2, 2020) (In response to lawsuits brought by President Trump, “[w]e do this without the weak ass Republican traitors.”); (Dec. 4, 2020) (“It’s time we turn out the corrupt government and weaponized media and tech companies. This is our country . . . #reckoning #ericcoomerisatraitor #dominionvotingsystems”); (Dec. 6, 2020) (“I will love my neighbors after I beat their ass and stop this evil indoctrination and cancer on our community . . . I punched one of these asshats in the face and defended our country”); (Dec. 7, 2020) (“I am angry we are where we are and we allowed the loony left to even get their claws of deceit and despair into the fiber of our country. I am disappointed we let the evil left remove God from our schools and communities without a bigger fight . . . Pray for our country. Pray for our President. Pray for our leaders that they can have courage. Pray for the warriors of our nation that will stand up for you. God bless you all. We will not surrender and we will never retreat.”); (Dec. 10, 2020) (“Pray for our country and that our Supreme Court has the courage to reject the evil we face.”); (Dec. 12, 2020) (“Now we got to war as the people . . . the deep state runs deep. Evil at work . . .”).

³² See FEC United, *Defend the American Way of Life*, <https://fecunited.com> (last visited Nov. 12, 2021); United American Defense Fund, *Defend and Protect What Is Ours*, <https://fecunited.com/uadf/> (last visited Nov. 12, 2021).

³³ See Erik Maulbetsch, *Conservative Group Behind the Deadly “Patriot Muster” Rally Working Closely With Colorado GOP*, COLO. TIMES RECORDER (Oct. 12, 2020), <https://coloradotimesrecorder.com/2020/10/conservative-group-behind-deadly-patriot-muster-rally-working-closely-with-colorado-gop/31445/>.

³⁴ See *id.*

for his false claims about Dr. Coomer.³⁵ On that podcast, he alleged to have learned almost two months earlier of a conspiracy to elect the president of the United States. Oltmann claimed he gained this information after infiltrating Antifa. Despite his interest in the election and prolific podcasting schedule, Oltmann apparently took no action at that time to report this alleged threat to democracy.³⁶ Oltmann began this podcast, saying:

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

Oltmann then posted a photo of Dr. Coomer's face. Oltmann explained he had allegedly "infiltrated an Antifa conference call" sometime in late September with unknown and unverified participants. Oltmann claimed while on this purported call one of these unknown participants was referred to as "Eric" and another allegedly explained "Eric is the Dominion guy." Oltmann claimed when another unknown participant asked, "What are we gonna do if f-ing Trump wins?" the unknown "Eric" responded, which Oltmann paraphrased as, "Don't worry about the election, Trump is not gonna win. I made f-ing sure of that. Hahahaha." Afterward, Oltmann's alleged efforts to identify the unknown speakers of this purported call were limited to Googling "Eric," "Dominion," and

³⁵ Joe Oltmann, et al., *Ep. 196—Dominion Voting Systems*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020).

³⁶ The *Conservative Daily* podcast posted fifty podcasts from September 1, 2020 to November 9, 2020. *See id.*; *see also* Joseph Oltmann, et al., *Ep. 146—Someone Stole My Trump Sign (And I'm Pissed)*, CONSERVATIVE DAILY PODCAST (Sept. 1, 2020).

“Denver, Colorado.”³⁷ With this, Oltmann claimed he identified Dr. Coomer and Dominion Voting Systems, Inc.³⁸ In reality, however, Oltmann actually fabricated evidence of his supposed Google search on November 11, 2020, two days after his initial claims about Dr. Coomer, by deliberately altering a screenshot image to suggest the search had occurred in late September.³⁹ Unsurprisingly, at no point has Oltmann contacted Dr. Coomer to confirm his involvement in this purported call.

29. Only after President Trump had lost the presidential election did Oltmann claim to remember Dr. Coomer and take steps to target him. Oltmann had conceived a storyline about the election—that its results were fraudulent—and consciously set out to establish that Dr. Coomer perpetuated this fraud.⁴⁰ This included accessing Dr. Coomer’s

³⁷ In a subsequent interview, Oltmann explained, “So it was really simple. This is what I did, right. I put in ‘Eric,’ into Google search, ‘Eric,’ ‘Dominion,’ ‘Denver, Colorado.’ Not very clever, right?” See Michelle Malkin, *#MalkinLive: U.S. Elections*, YOUTUBE (Nov. 13, 2020).

³⁸ Oltmann provides no explanation for how he understood “Dominion” to mean “Dominion Voting Systems, Inc.” and not any of the number of other Dominion-named businesses and locations in Colorado, including, but not limited to: Old Dominion Freight Line; Dominion Life Church; Dominion Realty Group; Dominion Water & Sanitation District; either of the two Dominion Towers constituting Dominion Plaza; Dominion Mortgage; and Dominion Carpet Cleaning Inc.

³⁹ In related case, Case No. 2020CV34319, Oltmann did not respond to a motion highlighting the fabrication for the Court and noting Oltmann’s multiple and implausible explanations for how the document in question was altered. The Court has since ordered Oltmann to preserve and disclose all devices (and corresponding serial numbers) on which he conducted supposed “research” on Dr. Coomer. As of this filing, Oltmann has still not complied with the February 14, 2022 Order.

⁴⁰ Oltmann has a history of advancing varying allegations of voter fraud to support his political beliefs and his preferred candidates as well as to promote himself and his businesses interests. See e.g., Erik Maulbetsch, *Conservative Group Behind the Deadly “Patriot Muster” Rally Working Closely With Colorado GOP*, COLO. TIMES RECORDER (Oct. 12, 2020) (FEC United alleging election fraud); Joe Oltmann, et al., *Ep. 151–Voter Fraud is Real*, CONSERVATIVE DAILY PODCAST (Sept. 9, 2020) (separate allegations of election fraud); *Ep. 126–GOP Caving to Pelosi’s Cheat-By-Mail Demands*, CONSERVATIVE DAILY PODCAST (Aug. 5, 2020) (separate allegations of election fraud). Shortly after the election, Oltmann’s baseless allegations of fraud continued to evolve across various theories until coalescing into his false statements against Dr. Coomer. Compare Joe Oltmann, et al., *Ep. 193–Democrats Just Got Caught*, CONSERVATIVE DAILY PODCAST (Nov. 5, 2020) (separate allegations of election fraud), *Ep. 194–How Democrats Stole It*, CONSERVATIVE DAILY PODCAST (Nov. 6, 2020) (separate allegations of election fraud), and *Ep. 194–How Democrats Stole It (Part 2)*, CONSERVATIVE DAILY PODCAST (Nov. 6, 2020) (separate allegations of election

private Facebook profile. Despite no credible evidence of Dr. Coomer's involvement in the purported "Antifa Conference Call" (or Zoom meeting), Oltmann used posts on Dr. Coomer's Facebook profile that were critical of President Trump to allege he was the anonymous "Eric." Oltmann also used Dr. Coomer's position and employment with Dominion to allege Dr. Coomer was a key figure in a high-level conspiracy to rig the election against President Trump.⁴¹ These statements are baseless and unequivocally false. Dr. Coomer has no knowledge of this alleged Antifa conference call; Dr. Coomer did not participate in such an alleged call; Dr. Coomer did not make the comments Oltmann alleged were made; and Dr. Coomer did not take steps to subvert the results of the presidential election.

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

fraud), with *Ep.196–Dominion Voting Systems*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020) ("we're doing a deep dive on Dominion Voting Systems, all the stuff we're seeing with Scorecard, with Hammer, big tech as a whole."). Oltmann ultimately utilized these false allegations for personal gain. On November 5, 2020, the Conservative Daily podcast informed its viewers it was the "#119 most popular political podcast in America," on November 6, 2020 it informed them it was then the "#108 most popular political podcast," on November 9, 2020 it was "#66," on November 10, 2020 it was "#62," November 14, 2020 it was "#53," on November 19, 2020 it was "#28," on December 2, 2020 it was "#8."

⁴¹ See Joe Oltmann, *Dominion, Big Tech, and How They Stole It*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020) ("It's not admitting it's vulnerable, it's actually creating the vulnerability so that it can actually be manipulated, and that's what's happened here, Max. That's what's happened here. You have a guy that literally is a fanatic. He's on calls, he's taking time in the middle of an election season to get on a call. Three weeks before an election. Three weeks before the election! He's getting on the phone and he's saying very clearly that 'I have it handled.' And he runs product strategy and security. We're not talking about someone that is at a low level, that has an opportunity to just - He's in everywhere you look!").

of it as he has refused to disclose his source despite a court order to do so, and despite having been sanctioned for not doing so.⁴²

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

C. Oltmann spreads the conspiracy theory.

32. Oltmann began spreading his baseless allegations.⁴³ Throughout November 2020, Oltmann did numerous interviews with various conservative pundits, media personalities, and elected officials. For example, on November 13, 2020, Oltmann did an interview with Michelle Malkin⁴⁴ on her livestream #MalkinLive, where he repeated his false allegations that Dr. Coomer had participated in an Antifa conference call, that he claimed on that call that he had rigged the election, and that he did in fact rig the election. Oltmann claimed that “the treason is punishable by death” and encouraged Dr. Coomer to turn himself in to the Department of Justice. He went on to give interviews

⁴² See *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319, Sanctions Order Against Oltmann and Counsel, (Mar. 22, 2022).

⁴³ On December 6, 2020 alone, Oltmann claimed he had “been busy doing 15 interviews in the last 2 days.” See Joe Oltmann (@Joeoltmann), PARLER (Dec. 6, 2020).

⁴⁴ Michelle Malkin is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

to James Hoft⁴⁵ of the right-wing blog The Gateway Pundit,⁴⁶ Chanel Rion⁴⁷ of One America News Network (OAN),⁴⁸ nationally syndicated radio host Eric Metaxas,⁴⁹ and on Michelle Malkin's Newsmax⁵⁰ program "Sovereign Nation." At the same time, Oltmann was appearing regularly as a guest on various Denver-based talk radio shows, including Colorado Republican National Committeeman Randy Corporon's⁵¹ Denver-based radio program Wake Up! with Randy Corporon on 710 KNUS.⁵²

⁴⁵ James Hoft is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

⁴⁶ TGP Communications LLC dba The Gateway Pundit is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

⁴⁷ Chanel Rion is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

⁴⁸ Herring Networks Inc. dba One America News Network is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

⁴⁹ Eric Metaxas is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

⁵⁰ Newsmax was a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319. Newsmax settled and issued a public apology to Dr. Coomer and a retraction of its coverage of Oltmann's false claims on April 30, 2021, and was dismissed from this lawsuit.

⁵¹ Randy Corporon is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Nov. 13, 2021, *Coomer v. Salem Media of Colorado Inc., et. al.*, Denver District Court Case No. 2021CV33632.

⁵² Salem Media of Colorado, Inc., owns 710 KNUS and is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Nov. 13, 2021, *Coomer v. Salem Media of Colorado Inc., et. al.*, Denver District Court Case No. 2021CV33632.

33. Oltmann was also promoting his false claims about Dr. Coomer to former President Trump's⁵³ legal team, including Rudy Giuliani⁵⁴ and Sidney Powell.⁵⁵ Both Giuliani and Powell would go on to specifically name Dr. Coomer during a November 19, 2020 press conference, where they repeated Oltmann's false claims about Dr. Coomer, alongside other bizarre and false assertions about the election.

34. Throughout this time, Oltmann continued to grow more extreme in his rhetoric and conduct. He began discussing Dr. Coomer on his podcast, "Conservative Daily," on an almost daily basis. On November 16, 2020, he described calling Dr. Coomer's friends and threatening them with doxing and harassment if they did not provide him with harmful information about Dr. Coomer.⁵⁶ On December 5, 2020, he posted a photo of Dr. Coomer's house to his thousands of social media followers, stating, "Blow this shit up. Share, put his name everywhere. No rest for this shitbag. Eric Coomer, Eric Coomer, Eric Coomer. This shitbag and the corrupt asshats in Dominion Voting Systems must not steal our election and our country! Eric we are watching you" ⁵⁷ On December 14, 2020, he admitted to having Dr. Coomer

⁵³ Donald J. Trump for President, Inc. is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

⁵⁴ Rudy Giuliani is a defendant in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

⁵⁵ Sidney Powell and her related entities, Sidney Powell, P.C. and Defending the Republic, Inc., are all defendants in a separate defamation lawsuit filed by Dr. Coomer on Dec. 22, 2020, *Coomer v. Donald J. Trump for President, et. al.*, Denver District Court Case No. 2020CV34319.

⁵⁶ See Jim Hoft, *Denver Business Owner: Dominion's Eric Coomer is an Unhinged Sociopath – His Internet Profile is Being Deleted and Erased (AUDIO)*, THE GATEWAY PUNDIT (Nov. 16, 2020) (Audio interview wherein Oltmann claimed he called Dr. Coomer's friend and threatened that he would "be the next person that [Oltmann] put[s] on Twitter" if he hung up the phone.)

⁵⁷ See Joe Oltmann (@Joeoltmann), PARLER (Dec. 6, 2020)

surveilled, claiming that he had people watching Dr. Coomer's every move and following him everywhere he went.⁵⁸

35. Oltmann's response to the continuing erosion of his credibility and the increasing costs of litigating his baseless defense has been to become increasingly volatile and belligerent. In addition to repeatedly asserting that Dr. Coomer can and should be put to death for treason, Oltmann has also called for his perceived enemies to be hanged "two inches off the ground, so they choke to death."⁵⁹ He has called for mass executions of his political opponents, who he deems "traitors" to the country, including Colorado Governor Jared Polis and many U.S. Senators.⁶⁰ On his Conservative Daily podcast on December 3, 2021, for example, his former co-host Max McGuire read aloud the names of 19 Senate Republicans who had voted with Democrats to approve an 11-week stopgap spending bill. "There's your list of 19 traitors to the American people, along with all the other traitors to the American people," Oltmann said. "I want people to go out there and get some wood. The gallows are getting longer and longer. We should be able to build gallows all the way from Washington, D.C. to California."⁶¹ Later in the show, Oltmann mentioned something he claimed to have posted online calling Governor Polis a liar and

⁵⁸ See Joe Oltmann, *Dominion Audit Proves Fraud!*, CONSERVATIVE DAILY PODCAST (Dec. 14, 2020) (Oltmann: "He should never be allowed to leave his house, at all, without everybody knowing who he is, where he is. I have people in Salida that literally are following him around and saying alright, Joe. Here's where he's at next. Here's where he's at next. I found him. He's staying in this basement, up here. Oh, he's at his house now.")

⁵⁹ See Chase Woodruff, *'Stretch that rope': Colorado Conservative leader suggests Gov. Polis should be hanged*, COLORADO NEWSLINE (Dec. 3, 2021), <https://coloradonewsline.com/2021/12/03/stretch-that-rope-colorado-conservative-leader-suggests-gov-polis-should-be-hanged/> (last visited Dec. 21, 2021); see also Joe Oltmann, *McConnell Stabbed You In The Back*, CONSERVATIVE DAILY PODCAST (Dec. 3, 2021).

⁶⁰ *Id.*

⁶¹ *Id.*

a traitor. “So that’s what I sent to Governor Polis,” he said. “Gallows. I had to stretch that rope.”⁶² In another of many similar instances, on December 13, 2021, Oltmann referred to “the left” as “the trash that frankly we should drag behind our car until body parts fall off.”⁶³ More recently, Oltmann has appeared alongside Lindell allies Tina Peters and Shawn Smith at a meeting of Oltmann’s right-wing extremist group, FEC United. Once again, the speakers issued direct calls to political violence, this time also including Colorado Secretary of State Jena Griswold.⁶⁴ Smith, for example, introduced himself by saying, “You may know me as the number one most dangerous election denier in Colorado.” Referring to Griswold, Smith stated, “You know, if you’re involved in election fraud, then you deserve to hang.”

36. Many of Oltmann’s own former allies in the election fraud conspiracy theory movement have grown concerned with his constant calls for violence, and Oltmann has publicly lashed out at them in response. For example, former CEO of Overstock.com, Patrick Byrne,⁶⁵ recently stated:

⁶² *Id.*

⁶³ See Joe Oltmann, *Arrested for Standing Outside the Capitol!*, Conservative Daily Podcast (Dec. 13, 2021) (Oltmann: “When I say the evil are everything they say they’re fighting against, when they are the pedophiles, the rapists, the closet racists, when they are the disgusting part about our society. When they lie all the time, when they can’t tell the truth, and I’m putting emphasis on this. When they are the trash that frankly we should drag behind our car until body parts fall off.”)

⁶⁴ Marshall Zelinger, *Colorado group with militia wing hosts town hall with Who’s Who of election conspiracy theorists*, 9NEWS (Feb. 11, 2022), <https://www.9news.com/article/news/local/next/colorado-group-militia-wing-town-hall-election-conspiracy-theorists-fec-united-tina-peters/73-fddb213a-7c47-47cd-964d-f895746e6753>

⁶⁵ Patrick Byrne is a close ally of Sidney Powell and Michael Flynn, and famously snuck into the White House on December 18, 2020 in an effort to convince former President Trump to appoint Sidney Powell as a special counsel to investigate election fraud claims and seize Dominion Voting Machines. See Luke Broadwater, et. al., *Jan. 6 Panel Examining Trump’s Role in Proposals to Seize Voting Machines*, NEW YORK TIMES (Feb. 1, 2022), <https://www.nytimes.com/2022/02/01/us/jan-6-panel-trump-voting-machines.html>. Byrne also produced a “documentary” in June of 2021 titled “The Deep Rig” which alleges

I'm just telling you, there's not a conversation that guy has been around where he's in the six months I've seen, or nine months, where he's not looking for the opportunity to try to draw people into, "So, what I want to know is when are we going to do what needs to be done? When are we going to take care of business? When are the bullets going to start flying?" Joe Oltmann, every conversation that he's ever in, that's what he's trying to get people to talk about.⁶⁶

37. Similarly, former Oltmann ally Jovan Pulitzer⁶⁷ stated on January 7, 2022, that "Joe has positioned many times to lead this effort and to have people gather their weapons and get in the streets. I and many others do not think that is wise—such would allow the government to repeal the 2nd Amendment and fight other ways."

38. Defendants' knowing reliance on and re-publication of Oltmann's defamation of Dr. Coomer—despite Oltmann's well-publicized calls to violence, including

a vast conspiracy to rig the election and prominently features Oltmann's claims about Dr. Coomer. In response to Byrne's video statement that Oltmann is constantly calling for violence, Oltmann angrily denied issuing calls to violence and stated that he was sitting across the table from Rudy Giuliani in the Willard Hotel during the insurrection on January 6, 2021, when Byrne entered the room to ask Giuliani to arrange a pardon for him. According to Oltmann, Byrne claimed that he could go to prison for "a thousand years" for what he had done if he did not receive a presidential pardon. *See Joe Oltmann, GOPers Covering Up Election Fraud, CONSERVATIVE DAILY PODCAST* (Feb. 3, 2022), at 52:35 <https://conservative-daily.com/cd-livestream/gopers-covering-up-election-fraud>

⁶⁶ See video of these statements at @J1llove, TWITTER (Feb. 3, 2020 3:46 PM), <https://twitter.com/J1llove/status/1489369640052658185>

⁶⁷ Jovan Hutton Pulitzer (formerly known as Jeffrey Philyaw) is a former treasure hunter, *see The Curse of Oak Island: Pulitzer Reveals Theory* (S2, E3) History, YOUTUBE (Nov. 19, 2014), <https://www.youtube.com/watch?v=qdKM8oKANpo> (arguing in a History Channel special that the Arc of the Covenant was taken from the Middle East to Nova Scotia by ship in roughly 500 B.C.) and failed inventor, *see also Jerod MacDonald-Evoy, Audit using unproven technology developed by 'failed inventor' Jovan Pulitzer*, ARIZONA MIRROR (Apr. 30, 2021), <https://www.azmirror.com/2021/04/30/audit-using-unproven-technology-developed-by-failed-inventor-jovan-pulitzer/>, who became involved with the election fraud conspiracy movement in December, 2020, when he falsely claimed to the Georgia legislature that he had hacked into a Dominion voting machine in real time, *see also Brooke Conrad, Georgia Secretary of State blasts lawmakers over hearing witness*, KATV NEWS (Jan. 1, 2021), <https://katv.com/news/nation-world/georgia-secretary-of-state-blasts-lawmakers-over-hearing-witness>. Pulitzer co-starred with Oltmann in Byrne's "documentary" titled "The Deep Rig," but the two had a falling out after Oltmann falsely claimed that they had both been victims of an anthrax attack at a Covid-19 denial conference. *See Zachary Petrizzo, Far-Right Group Fantasizes They've Been Attacked With Anthrax*, THE DAILY BEAST (Dec. 22, 2021), <https://www.thedailybeast.com/far-right-stars-joe-oltmann-jovan-pulitzer-fantasize-theyve-been-attacked-with-anthrax>.

calls for the murder of political opponents and assurances that he intends to incite actual violence—have only heightened the harm Defendants have caused Dr. Coomer, who continues to endure the burden of being the target of such threats.

D. Defendants’ have a history of promoting false claims of election fraud.

39. Lindell is a long-time supporter of former President Trump, who endorsed Lindell’s company, MyPillow, on live national television from the White House on July 19, 2017.⁶⁸ Since that time, MyPillow has become prominent advertisers on conservative and right-wing media platforms, including Fox News,⁶⁹ Newsmax,⁷⁰ and One America News Network (OAN).⁷¹ As of December 22, 2021, Lindell has claimed to have spent at least \$25 million of his own money spreading election fraud disinformation and misinformation across the country.⁷²

40. Lindell and MyPillow began promoting a variety of claims that the November 2020 election had been rigged against former President Trump very shortly

⁶⁸ Fox Business Network, *My Pillow gets endorsement from President Trump*, YOUTUBE (July 20, 2017), https://www.youtube.com/watch?v=tSv_cGUhHOI

⁶⁹ See Haley Victory Smith, *Thirty-eight percent of Tucker Carlson’s advertising came from My Pillow in 2020, data firm estimates*, WASHINGTON EXAMINER (July 7, 2020), <https://www.washingtonexaminer.com/news/thirty-eight-percent-of-tucker-carlsons-advertising-came-from-mypillow-in-2020-data-firm-estimates>

⁷⁰ See Tiffany Hsu, *As Corporate America Flees Trump, My Pillow’s CEO Stands by Him*, NEW YORK TIMES (Jan. 12, 2021), <https://www.nytimes.com/2021/01/12/business/media/mypillow-mike-lindell-trump.html> (noting that MyPillow spent tens of thousands of dollars advertising with Newsmax in a single week following the insurrection).

⁷¹ See Derek Blaine, *Trump Fans May Be Abandoning Right Wing Niche News Networks*, FORBES (Jan. 18, 2022), <https://www.forbes.com/sites/derekbaine/2022/01/18/trump-fans-may-be-abandoning-right-wing-niche-news-networks/?sh=66af84446f48> (noting that much of OAN’s \$16 million in ad revenue in 2020 came from infomercials purchased by MyPillow).

⁷² Amy Gardner et. al., *Inside the nonstop pressure campaign by Trump allies to get election officials to revisit the 2020 vote*, WASH. POST (Dec. 22, 2021), https://www.washingtonpost.com/politics/trump-election-officials-pressure-campaign/2021/12/22/8a0b0788-5d26-11ec-ae5b-5002292337c7_story.html

after the election was called for President Biden. For example, starting in late November 2020, Lindell and MyPillow sponsored the “Women for America First” bus tour, which traveled around the country in a bus emblazoned with the MyPillow logo promoting baseless conspiracies regarding the election. Lindell regularly spoke at these MyPillow sponsored events, where he frequently targeted Dr. Coomer’s former employer, Dominion Voting Systems. For example, at an event in Des Moines, Iowa, on December 6, 2020, Lindell falsely claimed that “Donald Trump got so many votes that they didn’t expect that but it broke the algorithms in those machines.”⁷³ A week later, on December 10, 2020, in Pittsburgh, Pennsylvania, Lindell gave another tour speech where he again referred to “crooked Dominion machines.”⁷⁴



41. Throughout this timeframe, Lindell and MyPillow were on notice that Lindell’s claims were false. Multiple authorities from within the Trump administration itself had publicly confirmed that the election results were legitimate. On December 23,

⁷³ Craig Silverman, et. al., *How “The Women for America First” Bus Tour Led To The Capitol Coup Attempt*, BUZZFEED NEWS (Jan. 26, 2021), <https://www.buzzfeednews.com/article/craigsilverman/maga-bus-tour-coup>

⁷⁴ *Id.*

2020, Dominion Voting Systems even sent a demand letter to Lindell, laying out the reasons that his claims were baseless and insisting that he cease and desist in his efforts to continue spreading lies.⁷⁵

42. On January 6, 2021, supporters of former President Trump launched a violent attack on the U.S. Capitol in an attempt to stop the counting of electoral votes and prevent the peaceful transfer of power to President Biden. During the attack, Lindell posted a video to Facebook Live where he denied the events unfolding on live television. “The riots you are seeing on TV,” he said, “That’s a joke . . . Don’t believe what you are seeing on the news . . . there was some early stuff on with Antifa. I think they were plants.”⁷⁶ At the same time, and throughout the attack on the Capitol, MyPillow was offering discounts to people who used the promo code “FightForTrump” at checkout.⁷⁷

43. On January 8, 2021, Dominion Voting Systems sent another cease and desist to Lindell, again putting him on notice of specific, detailed information disproving his various unsubstantiated claims and outright falsehoods about Dominion Voting Systems.⁷⁸

44. Rather than distance themselves from such allegations in the aftermath of the attack, Lindell and MyPillow instead doubled down on their efforts to manufacture evidence, or promote manufactured evidence provided to them by others, of their

⁷⁵ See *U.S. Dominion, Inc., et. al. v. My Pillow, Inc., et. al.*, Case No. 1:21-cv-00445 (D.C. Dist. Ct.) filed Feb. 22, 2021, Complaint and Demand for Jury Trial, at ¶ 63.

⁷⁶ *Id.*, at ¶ 66.

⁷⁷ Tiffany Hsu, *As Corporate America Flees Trump, MyPillow C.E.O. Stands by Him*, N.Y. TIMES (Jan. 12, 2021), <https://www.nytimes.com/2021/01/12/business/media/mypillow-mike-lindell-trump.html>

⁷⁸ See *U.S. Dominion, Inc., et. al. v. My Pillow, Inc., et. al.*, Case No. 1:21-cv-00445 (D.C. Dist. Ct.) filed Feb. 22, 2021, Complaint and Demand for Jury Trial, at ¶ 69.

preconceived narrative that the 2020 election results were not legitimate. These efforts included attempts to influence former President Trump personally, as well as close coordination with others who had publicly defamed Dr. Coomer. For example, on January 15, 2021, Lindell was photographed outside the White House awaiting an interview with the president. The photograph showed portions of a document Lindell was holding, which read in part, “Insurrection Act now as result of the assault on the” and “martial law if necessary.”⁷⁹ Just three days later, on January 18, 2021, Lindell claimed that he was speaking with Sidney Powell at least twice a day.⁸⁰

45. On February 22, 2021, Dominion Voting Systems sued Lindell and MyPillow, alleging claims for defamation per se and deceptive trade practices, and seeking damages in the amount of \$1.3 billion.⁸¹ The heavily footnoted 115-page complaint laid out in painstaking detail the numerous ways in which Defendants’ claims of election fraud were unsupported and had in fact been proven false on numerous instances.

46. Despite having been repeatedly put on notice regarding the baselessness of their claims of election fraud, Defendants were undeterred. In their ongoing efforts to sustain their false claims that the election was rigged, Defendants eventually crossed paths with Olthmann, who had similarly persisted in knowingly and recklessly spreading lies regarding the election and having already been sued for defamation. On March 11,

⁷⁹ Martin Pengelly, *Trump ally Mike Lindell of MyPillow pushes martial law at White House*, THE GUARDIAN (Jan. 15, 2021), <https://www.theguardian.com/us-news/2021/jan/15/mike-lindell-mypillow-trump-white-house-martial-law>

⁸⁰ *RSBN’s Exclusive with Mike Lindell, Part 2*, at 15:54 (Jan. 18, 2021), <https://rumble.com/vc2x1t-rsbn-exclusive-interview-with-mike-lindell-part-2.html>

⁸¹ *U.S. Dominion Inc., et. al. v. My Pillow Inc., et. al.*, Case No. 1:21-cv-00445 (Dist. Ct. D.C.).

2021, Lindell appeared as a guest on Oltmann's podcast "Conservative Daily"⁸² which is recorded in Colorado and published online. Oltmann's former co-host Max McGuire started the episode by saying, "We have a special treat for everyone today, an episode that everyone has been really hoping for. We are joined today by Mr. Mike Lindell, the CEO of MyPillow, affectionately known as the MyPillow guy." Oltmann confirmed the basis for his relationship with Defendants, stating, "I got involved in this entire election integrity issue, as you know, based on Eric Coomer. So, I got sued by Eric Coomer, and I happened to be on that call, that Dominion call. And that led me down a path, where as soon as they started attacking me, I jumped head first into it." As the interview proceeded, Lindell sought customers for MyPillow, informing Conservative Daily listeners that they could use the podcast's unique promotional code "CD21" to get discounts on MyPillow products. Oltmann concluded the interview by promising to promote Defendants' forthcoming social media platform, Frankspeech, stating, "We will be a tireless advocate for MyPillow. We'll be a tireless advocate for what we're doing on the election integrity issue, or side, and we will make sure people know about the platform. We'll be moving over to the platform ourselves. And we will make sure that we support you 100%."⁸³

47. In the following weeks, Defendants' plans to create a social media platform where users could allegedly speak freely without fear of consequence from the platform itself began to take shape. In a March 30, 2021 interview with Eric Metaxas,⁸⁴ Lindell

⁸² Joe Oltmann, *Mike Lindell (The MyPillow Guy)*, CONSERVATIVE DAILY PODCAST (Mar. 11, 2021).

⁸³ *Id.*

⁸⁴ Eric Metaxas is also a defendant in *Coomer v. Donald J. Trump for President, et. al.*, where Dr. Coomer has alleged claims for defamation, intentional infliction of emotional distress, civil conspiracy, and for injunctive relief arising from a prior defamatory interview published by Metaxas.

explained that the new platform frankspeech.com, would be up and running within two weeks.⁸⁵ Lindell explained the new platform as follows:

There's nothing like it out there. I will tell you that. Nothing like it. Imagine a YouTube, and then your YouTube is a mini Twitter. And it's just amazing. People are talking about, you're basically, it's our free speech. It's going to be everybody. All of your newscasters, your podcasters, everybody coming over. And they will be able to talk without worrying about getting kicked off of YouTube. On my platform, Eric, if you get kicked off of YouTube, you're going to get a bonus! We give bonuses if you're kicked off of YouTube.⁸⁶

48. On April 19, 2021, Defendants' website frankspeech.com officially launched.⁸⁷ The new platform kicked off with a 48-hour "Frankathon" that was beset by technical difficulties and involved Defendants making a variety of election fraud claims and promising to release a new election fraud documentary, "Absolute Interference."⁸⁸

E. Defendants defame Dr. Coomer via frankspeech.com.

49. Defendants utilized Frankspeech to defame Dr. Coomer to an online audience around the world, including Colorado, where their defamatory conduct took a variety of forms, including republication of defamatory articles that had been retracted by other outlets, publication of defamatory interviews conducted by Frankspeech hosts, and publication of defamatory statements by Lindell himself.⁸⁹

⁸⁵ The Eric Metaxas Radio Show, *Mike Lindell On His Election Investigation And FrankSpeech.com*, RUMBLE (Mar. 30, 2021), <https://rumble.com/vf77xd-mike-lindell-on-his-election-investigation-and-frankspeech.com.html>

⁸⁶ *Id.*

⁸⁷ Jason Murdock, Mike Lindell's Site Frank Goes Down Days After Launch, Dubbed 'Epic Success', Newsweek (Apr. 22, 2021), <https://www.newsweek.com/mike-lindell-frank-speech-down-offline-launch-mypillow-social-media-1585592>

⁸⁸ Cheryl Teh, *I watched 8 hours of Mike Lindell's 48-hour Frankathon. Here are the highlights.*, BUSINESS INSIDER (Apr. 20, 2021), <https://www.businessinsider.com/mike-lindell-frank-a-thon-highlights-2021-4#>

⁸⁹ See *infra* at ¶¶ 50-60.

50. Specifically, the Frankspeech website includes a wide variety of content, including a 24-hour livestream of “Lindell TV”, links to various news articles and segments produced either by Frankspeech or by various other third-parties, a podcast page where dozens of podcasts are platformed, an online store selling a variety of MyPillow products, and a variety of links under a tab labeled “Fix2020First.” Significantly, this includes re-publishing Oltmann’s “Conservative Daily” podcast with almost daily publications defaming Dr. Coomer with ongoing allegations that he participated in an Antifa conference call, claimed on that call that he intended to subvert the results of the 2020 election, and then did in fact subvert the presidential election.⁹⁰

51. Additionally, the “Fix2020First” tab published by Defendants includes a link to a series of articles titled “Proof from Internet Sources.” The articles included in this section appear to be printouts from articles from various other sources that were then altered or otherwise augmented with highlights, underlined portions, and other indicia of modification before then being scanned and uploaded to the website. They promote a wide variety of false claims about the 2020 election in general and also include false claims about Dr. Coomer that expressly or implicitly state he participated in an Antifa

⁹⁰ See generally, <https://frankspeech.com/shows/conservative-daily-podcast-o>. Conservative Daily produces two podcasts a day, and the variety of defamatory content published therein is too voluminous to describe here, but a few recent examples include *Eric Coomer: A Case Study in Sociopathy*, CONSERVATIVE DAILY PODCAST (Mar. 3, 2022); *Is This the Calm Before the Storm? Clay Clark Dives into Klaus Schwab Advisor*, CONSERVATIVE DAILY PODCAST, (Mar. 16, 2022); *The Fraud Continues – A Decade of Deception*, CONSERVATIVE DAILY PODCAST, (Mar. 29, 2022).

conference call, claimed on that call that he intended to subvert the results of the 2020 election, and then did in fact subvert the presidential election.⁹¹

52. In an article published by Defendants and titled, “Who are behind Smartmatic, Sequoia, and Dominion Voting Systems?” an unidentified author states the following about Dr. Coomer: “Eric Coomer is a [sic] Dominion’s VP, Antifa Supporter and Trump Hater. He travelled all the battleground states in 2019 and made sure that Dominion voting systems [sic] was in all of them. He said in an Antifa Conference call that he makes [sic] sure Trump will not win 2020 election [sic].”⁹² These statements are unequivocally false. In reality, Dr. Coomer did not travel to every battleground state in 2019; did not and could not have “made sure” those states purchased Dominion products; did not participate in an Antifa conference call; did not claim that he had rigged the election; and did not in fact rig the election.

53. Further, on May 3, 2021, Frankspeech anchor Brannon Howse conducted an interview with Oltmann titled “Joe Oltmann Exposes Eric Coomer of Dominion Voting Systems.”⁹³ The interview, which was more than 40 minutes long, started with Howse informing the audience that Oltmann was appearing from Colorado, and speaking on behalf of MyPillow to request that viewers purchase MyPillow products from

⁹¹ See <https://cdn.frankspeech.com/static/articles/15yrsDominionCorruption11-20-20.pdf>; <https://cdn.frankspeech.com/static/articles/DominionMachinesrelationtoSmartmaticSequoia03-05-21.pdf>; <https://cdn.frankspeech.com/static/articles/FunctiontoSwitchVotes03-27-21.pdf>; <https://cdn.frankspeech.com/static/articles/AntifaCalls03-27-21.pdf>; <https://cdn.frankspeech.com/static/articles/WhoisSmartmatic,Sequoia,andDominion.pdf>

⁹² See <https://cdn.frankspeech.com/static/articles/WhoisSmartmatic,Sequoia,andDominion.pdf> (last visited Apr. 4, 2022).

⁹³ See Frankspeech, LINDELL TV, (May 3, 2021) <https://home.frankspeech.com/video/joe-oltmann-exposes-eric-coomer-dominion-voting-systems>

mypillow.com. Howse began, “Again, I want to remind you before we go to our next guest in Colorado, he’s going to tell you about a live conference call with one of the leaders of Dominion voting machines. Before we go to that guest, don’t forget, go to mypillow.com if you would. Use the promo code FRANK and save up to 66%.”

54. After introductions, the interview proceeded with Howse asking Oltmann to identify Dr. Coomer for the Frank TV audience. “So you were on a phone call with Eric . . . Cooner? Is that his name again?” “Eric Coomer,” Oltmann responded. “Eric Coomer, yes.” Howse then asked, “So who is he, for those that don’t know?” Oltmann responded, “He is the Director of Strategy and Security for Dominion Voting Systems, among other things.”

55. Oltmann then repeated his false claims about Dr. Coomer claiming to have rigged the election, stating, “And as I came in and people started speaking, um, someone interrupts a guy named Eric and somebody asked this guy named Eric, who is this guy named Eric? And somebody answers ‘Eric is the Dominion guy.’ So, I take very, very good notes. So, I started taking notes, writing down all the information that I was gathering. Somebody interrupts after they said, ‘go ahead, Eric.’ And somebody interrupts and goes, ‘What are we gonna do if f-ing Trump wins?’ And Eric responds, ‘Don’t worry about the election, Trump’s not going to win. I made f-ing sure of it.’ And then they all started laughing, right.”

56. Minutes later, Oltmann claimed that he had determined the anonymous “Eric” allegedly referred to by other anonymous speakers on the “Antifa call” was Dr. Coomer by conducting a Google search. “Now, I got off that call,” he said, “started

doing research, researched, uh, it wasn't that brilliant even though I'm in a data company it didn't take me much to figure out who he was. I Googled 'Eric Dominion Denver Colorado' and up pops all this information on Eric Coomer of Dominion Voting Systems and what he did.”⁹⁴ Oltmann did not identify any other reliable means or expertise for identifying these alleged speakers. Howse did not ask for any evidence to support Oltmann's assertions, nor did Oltmann disclose that he had fabricated evidence of a supposed Google search in the days after his initial claims about Dr. Coomer in order to bolster his claims.

57. Despite claiming to have uncovered a plot to subvert the presidential election months before it occurred, Oltmann then claimed to have forgotten about the “Antifa call” until a friend sent him an article about election irregularities on November 6, 2020. “As I go down the article,” Oltmann said, “guess who is in the article as the spokesperson for Dominion Voting Systems? It's none other than Eric Coomer. So, at that point, my heart sank.” Oltmann described this supposed revelation as follows: “I knew at that moment that the voice of the American people had been completely destroyed. It was decimated, and that what we have now is in essence a communist society.”

58. Oltmann went on to describe how Dr. Coomer had sued him in Colorado for defamation. “What for?” asked Howse. “For defamation,” Oltmann responded. “Because the truth hurts, I guess.” Oltmann then described his pending motion to dismiss

⁹⁴ Oltmann alleged, and subsequently swore under oath, to have taken screenshot of the Google search results September 26, 2020. However, the image includes a Google image only made as of November 11, 2020, placing the alleged search conclusively after Oltmann first raised allegations against Dr. Coomer on November 9, 2020.

Dr. Coomer's complaint pursuant to Colorado's anti-SLAPP statute, stating, "We filed a motion to dismiss, so it's in that, and then the anti-SLAPP motion which basically says that he has to prove I lied. It's really hard to prove that I lied because I didn't lie."

59. The lengthy interview concluded with Oltmann highlighting what he believed to be the significance of his false allegations against Dr. Coomer and about his broader claims of election fraud in general. "What we're dealing with now is not some small problem," he said. "It is a massive problem. And if the US falls, billions of people, listen to me, billions of people across this globe will die. They will die."

60. Less than a week later, on May 9, 2021, Lindell also appeared on Frankspeech, where he again inextricably linked Dr. Coomer to Dominion Voting Systems, thus perpetuating the conflation of conspiracy theories about Dominion with Dr. Coomer himself. "It's over for Dominion," Lindell stated. "It's too late to close the gate. The cows are out of the barn. Dominion, you did your best, and Smartmatic, to take our country through China. You did your best, you corrupt people, you. You tried to suppress our voice. You did it, but you failed." Lindell then turned his attention directly to Dr. Coomer, stating:

Yeah, Eric Coomer, if I'm you right now, I am, instead of going over and making deals at Newsmax, **if I'm you, I'm turning myself in and turning in the whole operation so maybe, just maybe, that you get immunity and you only get to do, I don't know, ten, twenty years. I mean, you are disgusting, and you are treasonous. You are a traitor to the United States of America.** And you know what? I can say that, just like I can about Brian Kemp and Brad Raffensberger. **These are things that I have evidence of. The evidence is there.** You know, it's sitting there. Well Mike, 'Why don't you turn it all in to the

Supreme Court and bring it to the FBI?' Oh, it's getting to the Supreme Court, everybody.⁹⁵

61. Defendants further knew their claims about Dr. Coomer were false or had reason to doubt their veracity given that Newsmax had just issued a public retraction and apology to Dr. Coomer days prior for their own coverage of Oltmann's lies. Defendants were obviously familiar with that retraction based on Lindell's reference to Dr. Coomer "making deals at Newsmax." Newsmax's on-air retraction and apology to Dr. Coomer stated:

Since election day, various guests, attorneys, and hosts on Newsmax have offered opinions and claims about Dr. Eric Coomer, the Director of Product Strategy and Security at Dominion Voting Systems. Newsmax would like to clarify its coverage of Dr. Coomer and note that while Newsmax initially covered claims by President Trump's lawyers, supporters and others that Dr. Coomer played a role in manipulating Dominion voting machines, Dominion voting software, and the final vote counts in the 2020 presidential election, Newsmax subsequently found no evidence that such allegations were true. Many of the states whose results were contested by the Trump Campaign after the November 2020 election have conducted extensive recounts and audits and each of these states certified the results as legal and final.

There are several facts that our viewers should be aware of. Newsmax has found no evidence that Dr. Coomer interfered with the Dominion voting machines or voting software in any way, nor that Dr. Coomer ever claimed to have done so, nor has Newsmax found any evidence that Dr. Coomer ever participated in any conversation with members of Antifa, nor that he was directly involved with any partisan political organization. On behalf of Newsmax, we would like to apologize for any harm that our reporting of allegations against Dr. Coomer may have caused to Dr. Coomer and his family. For more on this, please go to our website at Newsmax.com and read facts about Dominion and Smartmatic that you should know.⁹⁶

⁹⁵[https://caincloud.egnyte.com/dl/9st1fcl4HI/20210509 Twitter PatriotTakes Mike Lindell Video.m p4](https://caincloud.egnyte.com/dl/9st1fcl4HI/20210509%20Twitter%20PatriotTakes%20Mike%20Lindell%20Video.mp4) (last visited Apr. 4, 2022).

⁹⁶ <https://caincloud.egnyte.com/dl/niHLw3JAoG>

62. Despite this unequivocal retraction and apology, Defendants still fully adopted and republished Oltmann’s false claims about Dr. Coomer in their multiple publications in early May 2021.⁹⁷

63. This was not the first time that Defendants disregarded retractions regarding their false claims. On the Frankspeech “Proof from Internet Sources” webpage,⁹⁸ Defendants republished an article on April 4, 2021, identified as “American Thinker on Dominion Voter Fraud”⁹⁹ with allegations made that had been retracted. The American Thinker article, originally written by Andrea Widburg on November 29, 2020, contained a series of false statements involving Dominion Voting Systems and allegations of election fraud.¹⁰⁰ However, Defendants do not disclose that on January 15, 2021, American Thinker issued the following retraction regarding its reporting on Dominion Voting Systems, stating:

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

These statements are completely false and have no basis in fact. Industry experts and public officials alike have confirmed that Dominion conducted

⁹⁷ *Supra* ¶¶ 53-60.

⁹⁸ See <https://frankspeech.com/content/2020-election-fraud-proof-internet-sources>

⁹⁹ See <https://cdn.frankspeech.com/static/articles/AmericanThinkeronDominionVoterFraud11-29-20.pdf>

¹⁰⁰ See *id.*

itself appropriately and that there is simply no evidence to support these claims.

It was wrong for us to publish these false statements. We apologize to Dominion for all of the harm this caused them and their employees. We also apologize to our readers for abandoning 9 journalistic principles and misrepresenting Dominion's track record and its limited role in tabulating votes for the November 2020 election. We regret this grave error.¹⁰¹

64. Defendants' publications also appear to violate Frankspeech's own posted "Terms of Use" which are publicly available on its website.¹⁰² Specifically, under the section labeled "Content Standards," the Terms of Use state:

These content standards apply to any and all user [sic] comply with all applicable federal, state, local, and international laws and regulations. Without limiting the foregoing, user contributions must not:

- Contain any material that is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable.

* * *

- Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms of Use.
- Be likely to deceive any person.
- Promote any illegal activity, or advocate, promote, or assist any unlawful act.¹⁰³

¹⁰¹ Thomas Lifson, *Retraction*, AMERICAN THINKER (Jan. 15, 2021), <https://www.americanthinker.com/blog/2021/01/statement.html>.

¹⁰² See <https://frankspeech.com/terms> (last visited Feb. 18, 2022).

¹⁰³ *Id.*

65. The Terms of Use also make clear that Frankspeech has the ability to remove content that violates its own standards if it chooses to do so. Specifically, under the section labeled, “User contributions,” the Terms of Use state:

We have the right to:

- Remove or refuse to post any user contributions for any or no reason in our sole discretion.
- Take any action with respect to any user contribution that we deem necessary or appropriate in our sole discretion, including if we believe that such user contribution violates the Terms of Use.

* * *

- Terminate or suspend your access to all or part of this Website for any or no reason, including without limitation, any violation of these Terms of Use.¹⁰⁴

66. The defamatory content produced and published by Frankspeech also violates its own published “Community Standards.”¹⁰⁵ The Community standards do not appear to detail any journalistic standards, but do state that

Frank is grounded in certain eternal truths, **including respect for the rights and human dignity of others.** In keeping with our legal and Constitutional history as a nation, **Frank will enforce and enjoy community standards that are consistent with the legal and constitutional standards** embodied in the laws of nature and nature’s God that are the basis of our federal and state Constitutional Republics.

(Emphases added).

¹⁰⁴ *Id.*

¹⁰⁵ See <https://frankspeech.com/community-standards> (last visited Feb. 18, 2022).

67. Despite these stated values, Frankspeech continues to host and promote Oltmann's defamatory publications, and even offers a discount code, "CD21," for MyPillow products to viewers of Oltmann's podcast.



68. Frankspeech can and should have retracted and removed its defamatory publications in keeping with its own professed standards, but here, as elsewhere, Defendants continue to perpetuate their baseless defamation.

F. Defendants defame Dr. Coomer at the “Cyber Symposium” in Sioux Falls, South Dakota.

69. Lindell's grasping claims of election fraud reached a new low in August 2021, when he hosted a “Cyber Symposium” (the Symposium) in Sioux Falls, South Dakota. Defendants promoted this event through their various platforms, including their websites frankspeech.com and mypillow.com. On the MyPillow webpage, for example, Lindell posted a videotaped advertisement for the upcoming Symposium, stating:

I'm having a Cyber Symposium on August 10th, 11th, and 12th. This historical event will be livestreamed 72 hours straight on my new platform, FrankSpeech.com. You can help by getting everybody you know to go to

FrankSpeech.com now. To help support this Cyber Symposium event, I am offering some of the best prices ever on MyPillow products, but they're only offered on FrankSpeech.com. Go to FrankSpeech.com now to receive these exclusive MyPillow offers!¹⁰⁶

70. On July 2, 2021, Defendants went on right-wing OAN to promote the event. There, Lindell stated that "I have all of the packet captures of the whole election, if you look up what packet captures are. Packet captures are, they're like having a movie of the whole, inside the internet, and we have every single one of them for the whole 2020 election."¹⁰⁷ Lindell went on to state that "we're bringing all the packet captures there. We're bringing, inviting all these cyber forensic experts that have the right credentials, CISSP, whatever that means. I'm not even sure, but what that means."¹⁰⁸ Lindell assured the audience that following the Symposium, "not one person on the planet can say that this isn't real and that Donald Trump did not win eighty million to sixty-eight million, because he did."¹⁰⁹

71. The Frankspeech webpage hosted a promotional flyer for the Symposium, highlighting in large gold letters a "\$5,000,000 CHALLENGE."¹¹⁰ The flyer claimed that "A \$5,000,000 prize will be offered to any attendee who can prove that this cyber data is not valid data from the November 2020 election."¹¹¹ In capital letters, the flyer concluded

¹⁰⁶ See <https://www.mypillow.com/frankspeech> (last visited Feb. 9, 2022).

¹⁰⁷ See *Lindell Announces Cyber Symposium Exposing Election Fraud Evidence*, OAN (July 2, 2021), <https://frankspeech.com/video/mike-lindell-announces-details-upcoming-cyber-symposium-oan>

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ <https://frankspeech.com/content/mike-lindells-cyber-symposium-2021>

¹¹¹ *Id.*

by stating, “HELP SAVE OUR COUNTRY AND MAKE THIS IMPORTANT EVENT THE MOST WATCHED LIVE EVENT IN HISTORY.”¹¹²

72. Below the promotional flyer, published by frankspeech.com, appeared additional text explaining the Symposium and assuring its audience that the Symposium would present verifiable facts. “For our attendees, they have one goal. Find proof that this cyber data is not valid data from the November Election. For the people who are able to find the evidence, 5 million is their reward. Seems insane, right? But this is real!”¹¹³ The ad went on to state that, “Despite the mockery, it doesn’t hide this simple truth. Regardless of political affiliation, a corrupt election system is disastrous for all of us. That is why everyone should be fighting to find out the truth. And this 72-hour event has been put together by Mike Lindell to do just that.”¹¹⁴

73. On the first night of the Symposium, Tina Peters,¹¹⁵ the county clerk and recorder for Mesa County, Colorado, took the stage with other Colorado election fraud conspiracy theorists, including Shawn Smith, and claimed that her office had been “invade[d]” and “raided” by investigators with the Colorado Secretary of State’s office, who were conducting an investigation into a potential breach of election security systems.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ Peters was an early adopter of the false claims about Dr. Coomer, and on January 3, 2021, attempted to influence Republican Senator Pat Toomey’s decision to certify the election results for President Biden, in part by alluding the false claims spread by Oltmann. See <https://web.archive.org/web/20210103152507/https://twitter.com/bhealthynow/status/1345752918805286913>. On March 9, 2022, a grand jury indicted Peters on ten counts, including five felony counts arising from her alleged misconduct as county clerk. The Mesa County Deputy Clerk, Belinda Knisley, also faces four felony counts arising from her coordination with Peters. See Jesse Paul, *Mesa County Clerk Tina Peters indicted by grand jury on felony charges*, COLORADO SUN, Mar. 9, 2022, <https://coloradosun.com/2022/03/09/tina-peters-indicted-grand-jury/>

The investigation was launched after materials from the Mesa County Clerk's office were identified on the Telegram account of Ron Watkins, a right-wing conspiracy theorist widely believed to be the individual behind the "QAnon" conspiracy theory.¹¹⁶ The next day, Watkins appeared remotely at the conference to discuss the stolen data, only to abruptly claim that his lawyer had just instructed him to say that the files were from hard drives that were taken "without authorization" from the Mesa County Clerk's office. Watkins then stated that, "we should stop this data review."¹¹⁷ Watkins went on to state that he had received the stolen data from Sherrona Bishop, former campaign director for U.S. Representative Lauren Boebert.¹¹⁸

74. Despite the surprise appearance of Tina Peters, the work of actually inspecting the supposed "packet captures" or "PCAPS" that Defendants claimed would reveal foreign interference in the 2020 election continued. By day two of the Symposium, the outright falsity of Defendants' claims with respect to the alleged "evidence" they claimed to possess had become widely apparent.

75. Defendants' own "cyberexpert" Josh Merritt¹¹⁹ who was hired by Defendants to serve on their so called "red team," stated that "our team said we're not

¹¹⁶ See A.J. Vicens, *QAnon Hero Claims to Present Sensitive Election Files at MyPillow CEO Event*, MOTHER JONES (Aug. 11, 2021), <https://www.motherjones.com/politics/2021/08/qanon-hero-claims-to-present-sensitive-election-files-at-mypillow-ceo-event/>

¹¹⁷ See Trapezoid of Discovery, @get_innocuous, TWITTER (Aug. 11, 2021), https://twitter.com/get_innocuous/status/1425566065413607427?s=20&t=ghYw-7CivFxGBnSs_nVd6A

¹¹⁸ See Trapezoid of Discovery, @get_innocuous, TWITTER (Aug. 11, 2021), https://twitter.com/get_innocuous/status/1425566214353342466?s=20&t=ghYw-7CivFxGBnSs_nVd6A

¹¹⁹ Prior to working with Lindell, Merritt provided an affidavit to Sidney Powell, where he was identified with the pseudonym "Spyder" and described as being a "military intelligence expert." In reality, Merritt was an army mechanic who never completed an entry-level training course for military intelligence. See Emma Brown et. al., *Sidney Powell's secret 'military intelligence expert,' key to fraud claims in election lawsuits, never worked in military intelligence*, WASHINGTON POST (Dec. 11, 2020),

going to say that this is legitimate if we don't have confidence in the information." Merritt went on to state, "We were handed a turd. And I had to take that turd and turn it into a diamond. And that's what I think we did."¹²⁰ In a subsequent interview,¹²¹ Merritt confirmed that Defendants knew the information they intended to present at the Symposium was fraudulent but proceeded anyway in willful avoidance of the truth. "In the days leading up to the Symposium, we found that the information did not hold up to what Lindell claimed,"¹²² said Merritt. "The days leading up to the Symposium, the 10th and the morning of the 11th, we kept telling Lindell, 'Hey, this information is not what is claimed.' And he wouldn't have it. Even his own attorney told him, 'Look, there's some problems here.'"¹²³ Merritt went on to state that Defendants knowingly concealed their knowledge of the falsity of the information presented to the public, stating, "All of the precursor information was showing not to be legitimate. So he just decided to hide that type of information from the public, but still talk about PCAPS."¹²⁴ Merritt went on to state, "You can't stop fraud by then being involved in more fraud, because all that's going to do is destroy what you're doing."¹²⁵

https://www.washingtonpost.com/investigations/sidney-powell-spider-spyder-witness/2020/12/11/0cd567e6-3b2a-11eb-98c4-25dc9f4987e8_story.html

¹²⁰ See Aaron Blake, *The spectacular implosion of Mike Lindell*, WASHINGTON POST (Aug. 12, 2021), <https://www.washingtonpost.com/politics/2021/08/12/spectacular-implosion-mike-lindell/>

¹²¹ See QAnon Anonymous, *Episode 171 – Inside the Election Fraud Conspiracy Theories* (Dec. 21, 2021), <https://soundcloud.com/qanonanonymous/episode-171-inside-the-election-fraud-conspiracy-theories>

¹²² *Id.*, at 50:04.

¹²³ *Id.*

¹²⁴ *Id.*, at 51:14.

¹²⁵ *Id.*, at 51:44.

76. Another expert at the Symposium described the information “revealed” to the attendees as “random garbage that wastes our time.”¹²⁶ Upon realizing that attendees had become aware that this “evidence” was clearly fraudulent, Defendants then unsuccessfully attempted to quietly withdraw the \$5 million reward.¹²⁷ Here again, Merritt confirmed that Defendants were knowingly committing fraud, stating:

And then Lindell got mad because I disclosed a lot of this, disclosed the dishonesty that was going on backstage. He knowingly frauded the cyber experts that were there by saying that there was a five million dollar reward to prove that his information was wrong, but he knew that no one would be able to win it because when we were in the red team room, he checked with his lawyer to make sure that it was worded so that nobody could win.¹²⁸

77. As word spread that Defendants had no proof that any election fraud had occurred, news also broke that the federal court in Washington D.C. had denied Lindell and MyPillow’s motion to dismiss the \$1.3 billion defamation lawsuit filed against them

¹²⁶ See Justin Baragona, *MyPillow Guy’s ‘Cyber Expert’ Admits They Have No Proof of Election Hack*, YAHOO! NEWS (Aug. 11, 2021), https://news.yahoo.com/mypillow-guy-cyber-expert-admits-030459933.html?guccounter=1&guce_referrer=aHRocHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAF7dxv6z6LHUwMN8R9jeZsouYZ4bq9Ei2prK1FLhARingFfFh-EGLdG94ckT3lWqMOHjsvx37vrD9STqHRtN-wPcQCISGxf8zcRd-A3MIUpX2QoSPgtg8bWYwGAwFMrkPIFeteRSmhW4dMfgnDdzon9_aTorVEwtW4dQvmvnbM

¹²⁷ See Beth Warden, *Cyber Symposium expert delivers papers to Lindell’s attorneys claiming \$5 million reward*, DAKOTA NEWS NOW (Aug. 17, 2021), <https://www.dakotanewsnw.com/2021/08/18/cyber-symposium-expert-delivers-papers-lindells-attorneys-claiming-5-million-dollar-reward/>

¹²⁸ *Supra* n. 110, at 59:58.

by Dominion Voting Systems in February 2021.¹²⁹ Upon being apprised of the news, Lindell rushed offstage in the middle of a presentation by another speaker.¹³⁰

78. Undeterred by the chaos unfolding around him, Defendants proceeded with the Symposium, where they brought Oltmann onstage to defame Dr. Coomer at length, as they knew he would, and to impugn the credibility of the judiciary as a whole, all while publishing the entire event live online. Oltmann, who had been ordered to appear for a deposition in Denver that same day, appeared onstage with fellow conspiracy theorists David Clements, Phil Waldron, Patrick Colbeck, and Josh Merritt.

79. Oltmann introduced himself to the audience, saying “My name is Joe Oltmann. I was the CEO of a tech company. I had to resign. I was the one who came forward with the information about Eric Coomer of Dominion Voting Systems.” Oltmann then went on to present a series of falsehoods as absolute truth, stating, “So I’ve studied Dominion, like literally every manual, diagram, RFP, um, I got sued by Eric Coomer for defamation. By the way, I just want to say publicly to whoever is listening, I never lied. And I would never ever, ever put somebody’s name out there if I wasn’t 100% sure that he was the one that was on the call with Antifa, and at the time I didn’t know who he was.” In reality, Oltmann has no meaningful knowledge of how Dominion machines operate,

¹²⁹ See *U.S. Dominion, Inc., et. al. v. My Pillow, Inc. et. al.*, 1:21-cv-00445-CJN, Order Denying Defendants’ Motions to Dismiss, at pp. 24-27, (Filed Aug. 11, 2021) (noting that “As a preliminary matter, a reasonable juror could conclude that the existence of a vast international conspiracy that is ignored by the government but proven by a spreadsheet on an internet blog is so inherently improbable that only a reckless man would believe it,” and concluding, “In totality, [Dominion] has adequately alleged that Lindell made his claims knowing that they were false or with reckless disregard for the truth.”)

¹³⁰ See Grace Dean, *Here’s what happened at Mike Lindell’s cyber symposium, from him storming offstage to Bolsonaro’s son giving him a MAGA hat signed by Trump*, BUSINESS INSIDER (Aug. 15, 2021), <https://www.businessinsider.com/mike-lindell-voter-election-fraud-cyber-symposium-donald-trump-bolsonaro-2021-8>

has repeatedly admitted that he could not conclusively identify Dr. Coomer on the supposed Antifa call,¹³¹ and has been rebutted by multiple witnesses who have submitted sworn affidavits disputing his implausible claims.

80. Later in the discussion, another member of the panel, David Clements, provided the audience with context for Oltmann's statements by asking a series of leading questions. That exchange occurred as follows:

Clements: "Ok, so let's connect another dot really quick. You need to keep in mind that one of the major players is Eric Coomer. Eric Coomer was or is a vice president of Dominion systems. And what particular title does he have as vice president?"

Oltmann: "He was the Director of Security and Strategy for Dominion Voting Systems. He holds the adjudication patent that was assigned to, I think HSBC, as a guarantor on it."

Clements: "Well follow me here, there's a few other questions. You mentioned that your presiding judge was marching in Antifa rallies last summer."

Oltmann: "Yes."

Clements: "Were you not the person who disclosed screenshots of social media posts that also shows that Eric Coomer has deep ties with Antifa?"

Oltmann: "100%."

¹³¹ Joe Oltmann, *Dominion, Big tech, and how they stole it*, CONSERVATIVE DAILY PODCAST, Nov. 9, 2020, at 16:01 (Oltmann: "As the call carried on, a person who called himself Eric was on the call. Now **I can't tell you if it was the same Eric** but I'm going to tell you how it led me to gather the rest of this information."); at 17:10 (Oltmann: "So Eric continues to fortify, so this person Eric continues to fortify groups and recruiting and **he was eccentric and very boisterous compared to what I remember hearing in his other videos. I think it's a match but I can't be sure so I'm going to put that out there**, but I can be sure of everything else I'm about to share with you."); at 52:52 (Oltmann: "Let me put this all together for you guys, so you have a guy that is actually going to an Antifa meeting that tells somebody else, supposedly, that he's got the election in hand," McGuire: "Well not supposedly, you heard it. Not supposedly, you heard it. You're an eye witness." Oltmann: "**But I didn't see him, right? They identified him as Eric from Dominion, but I didn't, I mean, I have to basically say that there could be, maybe it's a different guy, but that led me to all the other things that I got, which is, getting access to Facebook, getting access to this information.**") (Emphases added).

Clements: “Ok, and were you not also on a phone call with Eric Coomer, or some recording where he made a particularly controversial statement about our then president?”

Oltmann: “Yeah, so, uh, yes.”

Clements: “And what was that statement?”

Oltmann: “He said that, uh,-”

Waldron: “He’s in full on lawyer mode.”

Oltmann: “Yeah he is in lawyer mode, I’m like yes sir! ‘Don’t worry about the election. Trump’s not going to win. I made f-ing sure of it.’ I’m a Christian so I’m not going to use that word up here.”

81. Oltmann then digressed with additional commentary about his beliefs on the corruption of the court, and Clements later rejoined, “You’ve got a truth teller over here in Joe Oltmann, who is trying to tell you about his odyssey through all of these things.” At the conclusion of the discussion, Patrick Colbeck thanked Lindell, who he credited for sponsoring publication of the lengthy attack on both Dr. Coomer and the Denver District Court, stating, “This is a point of hope for everyone here. Despite them trying to keep us silent for nine months, for this election here, here we are in Sioux Falls, South Dakota, because of the leadership of Mike Lindell, and him being able to risk everything to get us all together. We are here to talk about this, and we are not being quiet. No more being quiet.”

82. Following the panel discussion, Defendants went on to publish another presentation prepared by Clements, which he titled “The Vote Trafficking Parable.” Clements then described a murder investigation involving a drug trafficking gang in New Mexico, the “AZ Boys.” Clements claims to have partaken in the investigation while

working as a prosecutor years prior. Clements then analogized executives at Dominion Voting Systems and local elections officials to members of the drug trafficking gang. He displayed photos of various individuals, stating, “That’s [CEO of Dominion Voting Systems] John Poulos, we’ve got Eric Coomer, we’ve got [Maricopa County Recorder] Adrian Fontes, we’ve got the Maricopa County board of supervisors. So in one case we’ve got the AZ Boys, and in the other case we’ve got the Maricopa County Board of Supervisors trafficking our votes.”



83. As the “parable” continued, Clements made clear that was comparing Dr. Coomer to the “trigger man” in the story about the AZ Boys. He stated:

Alright, so you’ve got a couple of hitmen that were pulling the triggers. The first gentleman, if you know, is John Poulos, who is the CEO of Dominion. When he gave those remarks, it was before the legislature, under oath. John Poulos committed perjury, time and time again. The other gentleman at the end was a person we’ve heard about because of Joe Oltmann. Eric Coomer, who holds the patent for the feature known as adjudication, which is one of the tools in their tool chest to murder the American people’s vote. And this is one of the statements he made along with, when Joe Oltmann talked about being on the call, this is what he heard. And you heard from Joe Oltmann. You can assess whether you think he's telling the truth. ‘I made

f-ing sure that Trump's not going to win.' That's the vice president of a company that's running elections in 28 states. You've got your election cartel, you've got your vote trafficking organizations, and you have the man that pulled the trigger.

84. In an apparent threat directed at Dr. Coomer and others, Clements went on to state, "So my message for some of you out there in the vote trafficking world, it's not too late for you to get some lenience, because we're going to get you one way or the other."

85. The defamation of Dr. Coomer continued onstage at the Symposium with Oltmann appearing for yet another presentation, this one titled "Dominion: Serbian Tech with Chinese Characteristics." In this convoluted and contradictory presentation attempting to draw some connection between China and Dominion Voting Systems, Oltmann went on to again defame Dr. Coomer, stating, "I think that my only nexus involved in this deal was uncovering the information that I had related to Eric Coomer, and that he was in a position where he could affect the election, and that from there, all of the other evidence that's come forward about Dominion." In reality, Dr. Coomer was not in a position to affect the election, and Oltmann has never "uncovered" information suggesting otherwise.



86. Oltmann went on to again falsely assert that Dr. Coomer partook in an Antifa call where he supposedly bragged about the election. “I will accept the truth,” he falsely stated. “I’ll even accept that maybe Eric Coomer got on that and it was hyperbolic, right? That he just wanted to puff his chest and have a little bit of him. I’d accept that if all the other indicators didn’t show that we had a massive fraud on the American people. I’m a realist.”

G. Lindell continues to target Colorado with election falsehoods.

87. Since the Symposium, Defendants have maintained close relationships with various Colorado election fraud conspiracy theorists, including Joe Oltmann, Tina Peters, Sherrona Bishop, Shawn Smith, Ashley Epp, Holly Kasun, and others.¹³² For example, Lindell is now funding the Colorado-based right-wing group Cause of America. Smith

¹³² Erik Maulbetsch, *MyPillow CEO Hires Colorado Conspiracists to Jet Around Country Pushing Big Lie*, COLORADO TIMES RECORDER (Nov. 29, 2021), <https://coloradotimesrecorder.com/2021/11/my-pillow-ceo-hires-colorado-conspiracists-to-jet-around-country-pushing-big-lie/41494/>

told Steve Bannon that “Mike Lindell is kind of the angel investor, and the purpose of Cause of America is to enable the grassroots organizations across the country who are doing election integrity.”¹³³



88. More recently, Lindell’s private jet has been recorded ferrying election fraud conspiracy theorists to and from Colorado, including shortly after Tina Peters was recently arrested for allegedly obstructing a peace officer and obstructing government operations.¹³⁴ When contacted with questions about his work in Colorado, Lindell stated, “Peters did nothing but be a patriot and make a copy of a corrupt thing. As the county clerk, she made a copy. She was supposed to do it. By the way, did you know other clerks in Colorado did that too? Same thing! And we have – it’s not just her.”¹³⁵ Lindell went

¹³³ Julia Fennell, *MyPillow’s Lindell funds new nationwide ‘election integrity’ group with Colorado ties, activist tells Steve Bannon*, COLORADO TIMES RECORDER (Nov. 25, 2021), <https://coloradotimesrecorder.com/2021/11/mypillows-lindell-funds-new-nationwide-election-integrity-group-with-colorado-ties-activist-tells-steve-bannon/41439/>

¹³⁴ Erik Maulbetsch, *MyPillow CEO’s Jet Flew to Grand Junction Hours After Clerk Peters’ Arrest*, COLORADO TIMES RECORDER (Feb. 10, 2022), <https://coloradotimesrecorder.com/2022/02/mypillow-ceos-jet-flew-to-grand-junction-hours-after-clerk-peters-arrest/42977/>

¹³⁵ *Id.*

on to echo the calls for violence recently issued against elected officials in Colorado, stating, “Because in Colorado, they deleted the whole 2020 election! And guess what? We have what they deleted! They’re all going to prison, period. And [Secretary of State] Jena Griswold is number one on the list.”¹³⁶

H. Defendants’ allegations against Dr. Coomer were made with actual malice.

89. Then, as now, Defendants relied exclusively on Oltmann as the sole source of their defamatory claims against Dr. Coomer. From the beginning, Defendants have had numerous reasons to know that Oltmann’s claims about Dr. Coomer were false and that they have published and continue to publish highly defamatory content with either knowledge of its falsity or reckless disregard for the truth.

90. Oltmann has offered no evidence in support of his allegations against Dr. Coomer. Oltmann does not know Dr. Coomer and had no personal knowledge of Dr. Coomer at the time of the alleged Antifa conference call. Oltmann has not disclosed any witness with personal knowledge that identified Dr. Coomer on the alleged Antifa conference call. Oltmann has not identified any expertise or reliable methodology with which he identified Dr. Coomer on the alleged Antifa conference call. Oltmann did not record the call despite allegedly conducting a Project Veritas-style sting to expose Antifa journalists. Instead, Oltmann’s allegations against Dr. Coomer were based on the lie Oltmann made up about the Google search and alleged YouTube videos of Dr. Coomer he

¹³⁶ *Id.*

claims to have subsequently watched at a later undisclosed time. These are not reliable methodologies for identification.

91. Similarly, Oltmann has no personal knowledge of any election fraud involving Dr. Coomer. Oltmann has not disclosed any witness with personal knowledge of any election fraud committed by Dr. Coomer. Oltmann has offered no evidence of election fraud committed by Dr. Coomer. And Oltmann has not identified any expertise in elections systems with which to identify election fraud. Instead, Oltmann's allegations of fraud were based on his speculation of Dr. Coomer's Facebook posts and his employment with Dominion, neither of which include evidence of election fraud. The Facebook posts themselves are limited to Dr. Coomer's personal and political beliefs, which have no probative value as to the allegations made.

92. Otherwise, Oltmann's allegations are based on anonymous sources—specifically unknown and unverified speakers on an Antifa call Oltmann allegedly infiltrated. Only after Dr. Coomer filed suit against Oltmann did Oltmann claim to have personal knowledge of other participants on the purported call. However, the witnesses Oltmann directly or indirectly identified have denied any knowledge of such a call, denied any knowledge of the statements Oltmann alleged occurred on the call, and denied any knowledge of Dr. Coomer on such a call. No other participants have come forward and Oltmann has not disclosed any other alleged participants. Regardless, Oltmann's alleged knowledge of some participants does not impute knowledge of the relevant unknown and unverified speakers on which Oltmann based his claims. Those alleged speakers remain anonymous.

93. Oltmann's allegations regarding the alleged Antifa call itself have varied. Oltmann initially provided no explanation for how he infiltrated the alleged Antifa call. Oltmann then claimed to have gained access from a Colorado Springs journalist, Heidi Beedle. However, Heidi Beedle has provided sworn testimony that she has no knowledge of the alleged call or Oltmann's allegations. Oltmann has since acknowledged his claim that she was on the call was a "wild guess." Oltmann now claims another unnamed Antifa member gave him access to the call but has refused to disclose the alleged witness's name. Oltmann has not identified when the purported call occurred, at times placing the call in mid-to late-September and at times stating it occurred on or about the week of September 27, 2020. A screenshot Oltmann allegedly took of the Google search of the terms "Eric," "Dominion," and "Denver Colorado," entered into evidence, and swore to its authenticity under oath is dated September 26, 2020, which would place the Google search before the call, but that document has now been revealed as a fabrication that was actually created on November 11, 2020. Oltmann's placement of the call changed again with the filing of his reply in support of his special motion to dismiss in Denver District Court. Specifically, Oltmann introduced in his reply the Declaration of John "Tig" Tiegen (Tiegen), who claims Oltmann alleged a call occurred sometime between September 17 and 21, 2020. Notably, Tiegen's description of Oltmann's allegations did not include Dr. Coomer, Dominion, or election fraud, but, instead, only theories that "journalists were trying out some propaganda." Tiegen himself has no personal knowledge of an alleged call or of Oltmann's allegations against Dr. Coomer. Oltmann has provided no record evidence of the call itself, such as electronic records

contemporaneously made that list identifying information such as the date, time, or method of the call. Instead, Oltmann has provided undated notes Oltmann alleges he took during the call. Similarly, the method of communication has also changed with Oltmann first alleging it was a phone call only to now allege it was a Zoom call. Moreover, Oltmann has no recording of the call despite Oltmann having allegedly accessed it to investigate Antifa.¹³⁷

94. Defendants have been on notice that Dr. Coomer had sued Oltmann for defamation and that his claims were unreliable. In that litigation, Oltmann has fabricated evidence to support his claims, lied about that evidence under oath, and defaulted on a motion seeking a preservation order for devices and other records that would prove his fraudulent conduct, and has still not abided by that Order as of this filing.

95. In addition, Oltmann has continually defied court-ordered discovery in a separate proceeding related to this matter; refused to produce relevant evidence; refused to disclose alleged information; and refused to provide relevant deposition testimony. This conduct is not new, nor is it unknown to Defendants, as Oltmann regularly discusses his legal troubles publicly, including at length during the Symposium. Oltmann's convenient excuse—that he fears his source will be subjected to some unspecified harm—only serves to highlight his deception. Like his unnamed, unsubstantiated source, Oltmann has put forth no credible evidence of an acute threat to anyone in this case—except to Dr. Coomer.

¹³⁷ See Joe Oltmann, *Dominion, Big Tech, and How They Stole It*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020) (McGuire at 1:06:27: “But we don’t have it recorded.” Oltmann: “It doesn’t matter that I don’t have it recorded!”)

I. Defendants harmed Dr. Coomer.

96. The harm caused by Defendants’ repeated and ongoing nationwide publication of false claims about Dr. Coomer is immense. Despite an utter lack of any evidence whatsoever for the false claims, Dr. Coomer has received countless credible death threats, and continues to receive those threats on a regular basis. Defendants are familiar with Oltmann’s social media presence, his daily podcast, and his frequent calls for political violence and the execution of his political adversaries. The following are just a few illustrative examples of the countless threats directed at Dr. Coomer¹³⁸ on the basis of the lies that Defendants have published and persist in publishing.

97. On May 9, 2021, just after the Frankspeech interview with Oltmann and the day before Lindell accused Dr. Coomer of treason, Twitter user @HoseaCanusimi agreed that Dr. Coomer would soon be executed for treason.

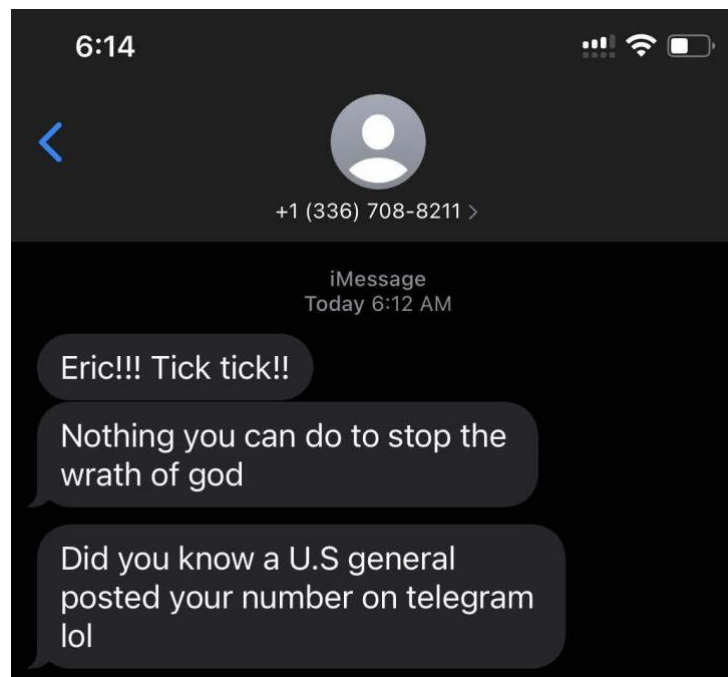
¹³⁸ Plaintiff has documented at least 1,040 different online accounts using the terms “kill,” “die,” “shoot,” “treason,” “hang,” “traitor,” “arrest,” and/or “attack” in posts containing the term “Coomer” between January 12, 2021, and June 30, 2021 alone. That number is inevitably far higher now, as Dr. Coomer continues to receive death threats to this day.



98. A week later, on May 15, 2021, Twitter user @RogaJolly called Dr. Coomer a “traitor” and said he was “on his way to GITMO for treason.”



99. As another example, on August 24, 2021, just days after the Cyber Symposium, Dr. Coomer received the following text message on his personal cell phone:



100. Despite all of this, Defendants persisted and continue to persist in airing the false claims against Dr. Coomer. The onslaught of threats Dr. Coomer has experienced and the necessary measures he has been forced to take to protect himself are the direct result of Defendants' defamatory conduct. Dr. Coomer has and will continue to experience serious and severe emotional and physical distress as a result. The harm Defendants have caused to Dr. Coomer's reputation,¹³⁹ privacy, safety, and earnings, and other pecuniary loss is immense.

¹³⁹ These false statements have damaged Dr. Coomer's professional reputation, which depended on working relationships with state and county officials and compromised his continued involvement and employment in relation to and support of elections. See Saja Hindi, *GOP demand for probe of Colorado's Dominion voting system part of "debunked conspiracy theories."* House speaker says, DENVER POST, Dec. 7, 2020, <https://www.denverpost.com/2020/12/07/colorado-republicans-dominion-investigation/>.

V. CAUSES OF ACTION

A. *Defamation Against Defendants*

101. Plaintiff fully incorporates the prior paragraphs, as well as the Introduction of this Complaint.

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

103. The defamatory meaning of Defendants' false statements is apparent from the face of their publication, refer to Dr. Coomer, and are understood to be about him. These statements are defamatory per se as they inherently injure Dr. Coomer's reputation, impute a crime, and disparage his business practices. On their face, they falsely assert Dr. Coomer has participated in a conspiracy that undermined the integrity of the election; disenfranchised millions of voters; and fraudulently elected the president of the United States. Defendants falsely allege Dr. Coomer accomplished this through fraudulent business practices as an employee of Dominion. Defendants falsely allege Dr. Coomer is a traitor. Defendants' false statements have subjected Dr. Coomer to scorn, outrage, and threats from his community. Their false statements have harmed

Dr. Coomer's reputation by lowering him in the estimation of at least a substantial and respectable minority of the community.

104. Defendants published their false statements both negligently and with actual malice. Defendants knew or had reason to know that these statements were false and published their statements with knowledge or reckless disregard of their falsity. Defendants failed to contact and question obvious available sources for corroboration; disregarded reliable sources refuting their claims; had no credible bases for the false allegations made; fabricated specific allegations; treated speculation and innuendo as evidence; and published their allegations in a manner calculated to create a false inference. Their allegations were inherently improbable, derived from unreliable sources, and are unsupported by evidence. Defendants preconceived a conspiracy and then set out to establish that conspiracy to further their own ends. Frankspeech and MyPillow ratified and endorsed the statements of Lindell and the other Frankspeech hosts who promoted the false claims against Dr. Coomer and are both independently and vicariously liable for the conduct described herein. Frankspeech and MyPillow could have put a stop to Lindell and other Frankspeech hosts' conduct and intentionally allowed them to continue to defame Dr. Coomer.

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

B. Intentional Infliction of Emotional Distress Against Defendants

106. Plaintiff fully incorporates the prior paragraphs, as well as the Introduction of this Complaint.

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

108. Defendants are aware of Oltmann's consistently violent and threatening rhetoric. They know he frequently calls for the execution of his political opponents, that

he is closely affiliated with an extremist militia group, that he talks about Dr. Coomer almost daily, and that even his own former allies have expressed concerns about his constant calls to violence. Despite this knowledge, Defendants persist in publishing, promoting, and ratifying Oltmann's false and extremely dangerous lies about Dr. Coomer.

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

C. Civil Conspiracy Against Defendants

110. Plaintiff fully incorporates the prior paragraphs, as well as the Introduction of this Complaint.

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

112. Defendants' collective objective was to promote the false claim that the 2020 presidential election was rigged for their own financial and political gain. To do that, Defendants agreed, both expressly and implicitly, to create a demonstrably false narrative that the election had been rigged and that President Trump lost his reelection bid because of fraudulent election activities.

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

to further their objective, Defendants agreed, by their words and conduct, to publish and republish defamatory statements about Plaintiff and threats towards Plaintiff.

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

D. Permanent Injunction

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

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

VI. DEMAND FOR RETRACTION

117. Plaintiff demands Defendants immediately and publicly retract all defamatory statements regarding Plaintiff. Plaintiff reserves the right to amend his pleadings in accordance with the Colorado Rules of Civil Procedure. Plaintiff anticipates amending his pleadings as more information becomes available, including the full scope of defamatory statements Defendants have made.

VII. JURY DEMAND

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

PRAYER FOR RELIEF

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

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

Respectfully submitted this 4th day of April 2022.

Respectfully submitted,

/s/ Charles J. Cain

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