

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:22-cv-1575

ERIC COOMER, Ph.D.,

Plaintiff

v.

PATRICK BYRNE, STEVEN LUCESCU, and
THE AMERICA PROJECT, INC., a Florida non-profit corporation,

Defendants

ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Plaintiff Eric Coomer, Ph.D. (Dr. Coomer), by and through undersigned counsel, brings this defamation action against Defendants Patrick Byrne (Byrne), Steven Lucescu (Lucescu), and The America Project, Inc. (TAP, and collectively, Defendants).

I. INTRODUCTION

1. This case arises from a propaganda effort to distribute false claims that the 2020 presidential election was supposedly “rigged” by Dr. Coomer, former Director of Product Strategy and Security for Dominion Voting Systems, Inc. (Dominion). Through their production and distribution of the film “The Deep Rig” (the Film), which is based on a self-published book by Patrick Byrne bearing the same name (the Book), Defendants sought to profit from lies that Byrne himself was instrumental in creating months prior, namely that the 2020 presidential election had been rigged to ensure a win for President

Biden. The Film was produced by Defendants Byrne and Lucescu, and TAP owns the copyright to the Film.

2. “The Deep Rig” lays out a series of disparate and unsubstantiated conspiracy theories that the election was somehow rigged. The Film’s variety of claims are premised on logical fallacies, non sequiturs, technical impossibilities, disproven factual assertions, and QAnon tropes.

3. Through a series of interviews, the Film presents these competing theories as though each somehow constitutes a piece of what would be a vast, unprecedented and impossible conspiracy to commit one of the biggest and most sophisticated crimes in history. In some degree, however, every proposed theory features some element casting doubt on the reliability of voting machines manufactured by Dominion, Plaintiff’s former employer. To that end, the Film seizes on the baseless claims and obvious lies of Colorado conspiracy theorist Joe Oltmann (Oltmann), who in the days after the 2020 presidential election was called for President Biden, made up a story that he had overheard Dr. Coomer claim on an “Antifa conference call” months before the election that Dr. Coomer had made sure former President Trump would not win. The Film presents this fabrication as the dramatic lynchpin of a supposed plot to steal the election, with Oltmann stating:

They had to do an update [of Dominion software] in the middle [of election day] and that took it down for four hours. But the person who gave the update was Eric Coomer. And at that moment my heart sank. That’s when I knew. That’s when I knew that there was a, you know, Dominion Voting Systems was in 28 states. That’s when I started to realize that, you know, this guy Eric Coomer, when he said on that call ‘Don’t worry about Trump, he’s not going to win.’ That’s when I realized that there’s a high probability he affected the election.

4. These lies are provably false. Dominion software did not require an update on election day. Dr. Coomer did not “give” that update. Dr. Coomer did not participate in an “Antifa conference call.” He did not claim on that call that he had rigged the election. And he did not, of course, rig the election. Nonetheless, Defendants made these absurd claims a focal point of their Film and prominently featured Oltmann in various lengthy segments.

5. The Film also features a handful of other election fraud conspiracy theorists, many of whom made names for themselves after the 2020 election by proposing their own competing but occasionally overlapping theories about how the election was supposedly rigged. Like Oltmann, the other cast members all embarked on their own imaginative journeys to come up with a plausible theory about how Trump did not in fact lose, and, like Oltmann, they all quickly found a means to monetize their audience’s disappointment in the election results.

6. Since the time of the Film’s release, however, many cast members have fallen out with one another, often publicly accusing each other of various forms of fraud on social media in the process. Oltmann and Byrne, for example, who were both present with Trump attorneys Rudy Giuliani and John Eastman during the insurrection on January 6, 2021, have made various accusations against one another in recent months. Byrne has grown publicly uneasy with Oltmann’s constant calls for violence and the murder of his political adversaries, while Oltmann has repeatedly demanded an explanation for why Byrne requested a pardon after the failed attack on the Capitol. “Why

did you ask for a pardon? Why did you walk in there and ask Giuliani for a pardon?”

Oltmann once demanded of Byrne on his podcast, Conservative Daily:

Please, tell me. I didn't say a word about it. I was sitting right next to you. And here's the bad part about it, Patrick Byrne. There was some idiot behind us, I don't even know how he got into the place, he was videoing it! While you're asking for a pardon! So go ahead and tell the American people why you asked for a pardon. Why did you say that 'what I did could have gotten me in jail for a thousand years?' Why? You tell me!

7. For a brief window of time, however, Defendants were able to herd this fractious confederacy in front of a film crew for long enough to cobble their cultural grievances and QAnon plotlines into an almost coherent work of propaganda. The theories were not built to last, and the alliance of grifters that came up with them was bound to splinter in the resulting competition for a shrinking pool of GiveSendGo donors willing to finance their half-baked hypotheses. But for Dr. Coomer, the harm they caused will last a lifetime. Once an esteemed professional at the top of his field, Dr. Coomer has been made the face of an imagined crime unprecedented in American history by Defendants' actions. No longer able to work in the elections industry, he now endures still frequent, credible death threats and chronic periods of turmoil for himself and his community following similarly frequent posting of his personal contact information and images of his home on right-wing social media.

8. This madness must end, and Defendants must be held accountable for the grave and reckless harm they have inflicted.

II. PARTIES

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

10. Defendant Patrick Byrne is an individual resident of Florida. Byrne is the former CEO of overstock.com and the producer and co-star of a defamatory film, “The Deep Rig.” Byrne has published a book bearing the same title and has traveled the country promoting defamatory falsehoods against Dr. Coomer and profiting off their promulgation. Byrne may be served with process at 458 E. Mac Ewen Drive, Osprey, Florida 34229; 8388 S. Tamiami Trail, Suite 293, Sarasota, Florida 34238; or wherever he may be located.

11. Defendant Steve Lucescu is an individual resident of Georgia. Lucescu is a producer of the Film, “The Deep Rig.” Lucescu may be served with process at 61 Gravitt Drive, Rising Fawn, Georgia 30738, or wherever he may be located.

12. Defendant The America Project, Inc. (TAP) is a Florida not for profit corporation. TAP owns the copyright to “The Deep Rig” and has received at least a portion of the profits generated by the Film. TAP’s Board of Directors is comprised of three individuals: Joe Flynn, Carl Johnson, and Patrick Byrne. All are residents of Florida. TAP may be served with process by serving its registered agent at Abel Bean Law, P.A., 100 N. Laura Street, Suite 501, Jacksonville, Florida 32202.

III. JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between Plaintiff and Defendants and

the amount in controversy exceeds \$75,000, in both economic and non-economic damages, exclusive of interest and costs. Dr. Coomer has incurred at least a \$100,000 annual pay reduction on account of having had to change professions as a result of the lies published by Defendants. He has also incurred substantial costs related to his frequent need to go into hiding with successive waves of death threats, and his claim for unjust enrichment seeks disgorgement of the profits Defendants derived through defaming him. This amount is anticipated to be in the millions of dollars. Dr. Coomer has also sustained non-economic injuries that far exceed the \$75,000 threshold, and he intends to seek an award of non-economic damages in excess of the Court's jurisdictional requirements.

14. 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.

15. Specifically, this Court has personal jurisdiction over Byrne because he committed tortious acts against a resident of the state of Colorado giving rise to this cause of action. Byrne 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, Inc.*, 465 U.S. 770, 776-81 (1984). Byrne derived his defamatory statements from Coloradan sources.¹ The subject of those statements concerned a Colorado resident and that

¹ Byrne knowingly relied on Olthmann as the source for his false statements; specifically identified Olthmann as a Colorado businessman within his statements; and derived those statements from information Olthmann allegedly gained while in Colorado. *See infra* at ¶¶ 30, 38, 72, 78, 80-81, 94-100.

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"). Byrne purposefully sought a national audience and directed promotional materials for the Film to Colorado audiences for circulation, which were received by Coloradan audiences.³ *See Keeton*, 465 U.S. at 776-81 (finding "libel is generally held to occur wherever the offending material is circulated" and a defendant continuously and deliberately exploiting a market "must reasonably anticipate being haled into court there in a libel action").

16. This Court has personal jurisdiction over Lucescu because he committed tortious acts against a resident of the state of Colorado giving rise to this cause of action. Lucescu had the knowledge and intent that: the effects of his actions would be felt in the state of Colorado; the injury would occur in Colorado; and that his defamatory messages would be directed at Colorado. *See Keeton*, 465 U.S. at 776-81. Lucescu derived his defamatory statements from Coloradan sources.⁴ The subject of those statements concerned a Colorado resident and that resident's work and employment for a business

² Byrne 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 ¶¶ 9, 31-33, 78, 80.

³ Byrne knowingly published his statements using national platforms and broadcasts that purposefully direct their statements into the state of Colorado and to Coloradan audiences. Byrne intended that the Film would reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradan audiences. *See infra* at ¶¶ 65-66, 88-90, 102, 104, 117.

⁴ Lucescu knowingly relied on Oltmann as his source for its 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 ¶¶ 30, 38, 72, 78, 80-81, 94-100.

based in Colorado, making Colorado an integral focal point for his defamatory statements.⁵ *See Calder*, 465 U.S. at 788-89; *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”). Lucescu purposefully sought a national audience and directed promotional materials for the Film to Colorado audiences for circulation, which were received by Coloradan audiences.⁶ *See Keeton*, 465 U.S. at 776-81 (finding “libel is generally held to occur wherever the offending material is circulated” and a defendant continuously and deliberately exploiting a market “must reasonably anticipate being haled into court there in a libel action”).

17. This Court may exercise personal jurisdiction over TAP as it committed tortious acts against a resident of the state of Colorado giving rise to this cause of action. TAP 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. TAP derived its defamatory statements from Coloradan sources.⁷ The subject of those statements concerned a Colorado resident and that resident’s work and employment for a business based in

⁵ Lucescu 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 ¶¶ 9, 31-33, 78, 80.

⁶ Lucescu knowingly published his statements using national platforms and broadcasts that purposefully direct their statements into the state of Colorado and to Coloradan audiences. Lucescu intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradan audiences. *See infra* at ¶¶ 65-66, 88-90, 102, 104, 117.

⁷ TAP 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 ¶¶ 30, 38, 72, 78, 80-81, 94-100.

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. TAP purposefully sought a national audience and directed promotional materials for the Film in Colorado to Colorado audiences for circulation, which were received by Coloradan audiences.⁹ *See Keeton*, 465 U.S. at 776-81.

18. 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 published in Colorado, and based on statements made in Colorado about events which supposedly occurred in Colorado, for the purpose of targeting an individual resident of Colorado. Jurisdiction in Colorado provides for the efficient resolution of the claims herein.

19. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial part of the events and omissions giving rise to the claims in this Complaint occurred in Colorado, were directed at Colorado and specifically at Denver, Colorado, and were felt in Colorado and specifically in Denver, Colorado, and because Defendants are subject to the Court's personal jurisdiction in Colorado.

⁸ TAP 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 ¶¶ 9, 31-33, 78, 80.

⁹ TAP knowingly published its statements using national platforms and broadcasts that purposefully direct their statements into the state of Colorado and to Coloradan audiences. TAP intended to reach every citizen in the United States and purposefully sought this national audience, which included Colorado and Coloradan audiences. *See infra* at ¶¶ 65-66, 88-90, 102, 104, 117.

IV. FACTS

20. Dr. Coomer is the former Director of Product Strategy and Security for Dominion. 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 thirty different states during the 2020 presidential election.

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

21. 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 fifty states and the District of Columbia.¹⁰ Electors met and formally cast their ballots with President Joe Biden securing 306 electoral college votes and winning the popular vote by more than seven million votes.¹¹ Despite incited violence, Congress

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>.

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

22. 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).

23. 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. Such post-election checks were utilized with recounts in Georgia and Wisconsin, which affirmed the election results.¹⁵

24. On November 16, 2020, fifty-nine 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.”¹⁶

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 Scott Bauer, *Wisconsin certifies Joe Biden as winner following recount*, AP, Nov. 30, 2020, <https://apnews.com/article/election-2020-joe-biden-donald-trump-wisconsin-lawsuits-2e9cf60550f519537d31b6b71aa32c3c>; Kate Brumback, *Georgia again certifies election results showing Biden won*, AP, Dec. 7, 2020, <https://apnews.com/article/election-2020-joe-biden-donald-trump-georgia-elections-4eeea3b24f10de886bcdeab6c26b680a>.

¹⁶ 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>.

25. 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.”¹⁷

26. Over sixty 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.

¹⁷ Michael Balsamo, *Disputing Trump, Barr says no widespread election fraud*, AP, Dec. 1, 2020, <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

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.”).

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

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

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

27. 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 J. Trump 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

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).

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 their oath, flouted the rules, and attempted to undermine the integrity of the judiciary along the way.”²³

28. 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 and that the vote counts were not manipulated. 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, including those put forward by Defendants in this case. The Committee found no basis for claims by former President Trump and his allies that there was widespread voter fraud in the 2020 election.²⁴ Similarly, a months-long Republican-led “full forensic audit” of election results in Maricopa County, Arizona, that was financed in large part by

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.

²³ *King v. Whitmer*, Case No. 20-13134, (E.D. Mich. Aug. 25, 2021), https://www.michigan.gov/-/media/Project/Websites/AG/releases/2011/December/172_opinion_order_King_733786_7.pdf?rev=b4ba66dccd3947e08db1a43b5f92412e.

²⁴ 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/>.

Defendant TAP, confirmed President Biden's win, and in fact discovered that President Biden had won by more votes than previously reported.²⁵

29. Dr. Coomer's former employer, Dominion, 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.²⁶

B. Oltmann fabricated a conspiracy.²⁷

30. Joseph Oltmann is a Colorado based political activist and supporter of President Trump with ambitions of creating a political movement.²⁸ Oltmann formed a nonprofit organization, FEC United, allegedly to restore and secure constitutional protections he perceived as under attack, which is closely tied to a paramilitary civilian

²⁵ 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/>.

²⁶ See <https://www.dominionvoting.com/setting-the-record-straight/> (last visited June 21, 2022).

²⁷ 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.

²⁸ See Joseph Oltmann (@Joeoltmann), PARLER (Dec. 2, 2020) (In response to lawsuits brought by President Trump, "[w]e do this without the weak ass Republican traitors."); (Dec. 4, 2020) ("It's time we turn out the corrupt government and weaponized media and tech companies. This is our country . . . #reckoning #ericcoomerisatraitor #dominionvotingsystems"); (Dec. 6, 2020) ("I will love my neighbors after I beat their ass and stop this evil indoctrination and cancer on our community . . . I punched one of these asshats in the face and defended our country"); (Dec. 7, 2020) ("I am angry we are where we are and we allowed the loony left to even get their claws of deceit and despair into the fiber of our country. I am disappointed we let the evil left remove God from our schools and communities without a bigger fight . . . Pray for our country. Pray for our President. Pray for our leaders that they can have courage. Pray for the warriors of our nation that will stand up for you. God bless you all. We will not surrender and we will never retreat."); (Dec. 10, 2020) ("Pray for our country and that our Supreme Court has the courage to reject the evil we face."); (Dec. 12, 2020) ("Now we got to war as the people . . . the deep state runs deep. Evil at work . . .").

defense group.²⁹ FEC United has hosted rallies for armed civilians to gather, as well as political events on behalf of the Colorado Republican Party and the Trump Campaign.³⁰ 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!”³¹ Oltmann served as a co-host of the Conservative Daily podcast (under the pseudonym Joe Otto prior to his claims about Dr. Coomer) with videos also posted on Conservative Daily’s YouTube channel.

31. After the results of the election were called for President Joe Biden, Oltmann co-hosted a Conservative Daily podcast on November 9, 2020, which served as the genesis for his false claims about Dr. Coomer.³² 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 that supposedly occurred in Colorado. 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.³³ Oltmann began this podcast, saying:

²⁹ 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/>.

³⁰ See *id.*

³¹ See *id.*

³² Joseph Oltmann, et al., *Ep. 196—Dominion Voting Systems*, CONSERVATIVE DAILY PODCAST, Nov. 9, 2020.

³³ 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).

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 2020, 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 "Denver, Colorado."³⁴ With this, Oltmann claimed he identified Dr. Coomer and Dominion.³⁵ At no point has Oltmann contacted Dr. Coomer to confirm his involvement in this purported call.

³⁴ 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). In reality, however, on November 11, 2020, Oltmann fabricated a screenshot of Google search results which he falsely labeled as having occurred on September 26, 2020, in order to suggest he had looked into Dr. Coomer before and to support his false claims about the Google search.

³⁵ 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.

32. Only after President Trump had lost the presidential election did Oltmann allegedly remember Dr. Coomer and take steps to target him. Oltmann had conceived a storyline about the election—that its results were fraudulent—and consciously set out to establish that Dr. Coomer perpetuated this fraud.³⁶ This included accessing Dr. Coomer’s 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.³⁷ These statements are baseless and unequivocally

³⁶ Oltmann has a history of advancing varying allegations of voter fraud to support his political beliefs and his preferred candidates as well as to promote himself and his businesses interests. *See e.g.*, Erik Maulbetsch, *Conservative Group Behind the Deadly “Patriot Muster” Rally Working Closely With Colorado GOP*, COLO. TIMES RECORDER, Oct. 12, 2020 (FEC United alleging election fraud); Joseph Oltmann, et al., *Ep. 151–Voter Fraud is Real*, CONSERVATIVE DAILY PODCAST (Sept. 9, 2020) (separate allegations of election fraud); *Ep. 126–GOP Caving to Pelosi’s Cheat-By-Mail Demands*, CONSERVATIVE DAILY PODCAST (Aug. 5, 2020) (separate allegations of election fraud). Shortly after the election, Oltmann’s baseless allegations of fraud continued to evolve across various theories until coalescing into his false statements against Dr. Coomer. *Compare* Joseph Oltmann, et al., *Ep. 193–Democrats Just Got Caught*, CONSERVATIVE DAILY PODCAST (Nov. 5, 2020) (separate allegations of election fraud), *Ep. 194–How Democrats Stole It*, CONSERVATIVE DAILY PODCAST (Nov. 6, 2020) (separate allegations of election fraud), and *Ep. 194–How Democrats Stole It (Part 2)*, CONSERVATIVE DAILY PODCAST (Nov. 6, 2020) (separate allegations of election fraud), *with Ep.196–Dominion Voting Systems*, CONSERVATIVE DAILY PODCAST (Nov. 9, 2020) (“we’re doing a deep dive on Dominion Voting Systems, all the stuff we’re seeing with Scorecard, with Hammer, big tech as a whole.”). Oltmann ultimately utilized these false allegations for personal gain. On November 5, 2020, the Conservative Daily podcast informed its viewers it was the “#119 most popular political podcast in 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,” on November 14, 2020 it was “#53,” on November 19, 2020 it was “#28,” on December 2, 2020 it was “#8.”

³⁷ *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!”).

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 2020 presidential election.

33. In reality, Dr. Coomer, like many, had a private Facebook page that he shared with approximately 300 friends. He shared political views and was critical of President Trump. He shared satire that Oltmann intentionally disregarded and held out as true. None of it was public. It remains unclear how Oltmann obtained possession of it as he has refused to disclose his source despite a prior court order to do so.

34. 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, Democrat, 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.

35. Oltmann began spreading his baseless allegations.³⁸ Throughout November 2020, Oltmann did numerous interviews with various conservative pundits, media personalities, and elected officials. For example, on November 13, 2020, Oltmann

³⁸ On December 6, 2020 alone, Oltmann claimed he had “been busy doing 15 interviews in the last 2 days.” See Joseph Oltmann (@Joeoltmann), PARLER (Dec. 6, 2020).

did an interview with Michelle Malkin³⁹ 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 to James Hoft⁴⁰ of the right-wing blog The Gateway Pundit,⁴¹ Chanel Rion⁴² of One America News Network (OAN),⁴³ nationally syndicated radio host Eric Metaxas,⁴⁴ and on Michelle Malkin’s Newsmax⁴⁵ program “Sovereign Nation.” At the same time, Oltmann was appearing regularly as a guest on various Denver based talk radio shows,

³⁹ 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.

⁴⁰ 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.

⁴¹ 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.

⁴² 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.

⁴³ 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.

⁴⁴ 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.

⁴⁵ 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 the lawsuit.

including Colorado Republican National Committeeman Randy Corporon's⁴⁶ Denver based radio program Wake Up! with Randy Corporon on 710 KNUS.⁴⁷

36. Oltmann was also promoting his false claims about Dr. Coomer to former President Trump's⁴⁸ legal team, including Rudy Giuliani and Sidney Powell. Both Giuliani and Powell would go on to specifically name Dr. Coomer during a November 19, 2020 press conference. Both Powell and Giuliani repeated Oltmann's false claims about Dr. Coomer, alongside other bizarre and false assertions about the election, including claims that Dominion was founded in Venezuela by Hugo Chavez to steal elections.

37. 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 a practically daily basis. On November 16, 2020, he described calling Dr. Coomer's friends and threatening them with publication of their personal identifying information ("doxing") and harassment if they did not provide him with harmful information about Dr. Coomer.⁴⁹ 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

⁴⁶ 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.

⁴⁷ 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.

⁴⁸ 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.

⁴⁹ 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.)

Coomer. This shitbag and the corrupt asshats in Dominion Voting Systems must not steal our election and our country! Eric we are watching you”⁵⁰ On December 14, 2020, he admitted to having Dr. Coomer surveilled, claiming that he had people watching Dr. Coomer’s every move and following him everywhere he went.⁵¹

38. Dr. Coomer sued Oltmann and numerous others on December 22, 2020, alleging claims for defamation, intentional infliction of emotional distress, civil conspiracy, and for a permanent injunction. On May 13, 2022, the Court in that proceeding issued a 136-page order denying all fourteen defendants’ anti-SLAPP motions to dismiss in their entirety. 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.”⁵² 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.⁵³ On his Conservative Daily podcast on December 3, 2021, for example, his former co-host Max McGuire read

⁵⁰ See Joseph Oltmann (@Joeoltmann), PARLER, (Dec. 6, 2020).

⁵¹ 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.”)

⁵² 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 June 21, 2022); see also Joe Oltmann, *McConnell Stabbed You In The Back*, CONSERVATIVE DAILY PODCAST (Dec. 3, 2021).

⁵³ *Id.*

aloud the names of nineteen 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.”⁵⁴ Later in the show, Oltmann mentioned something he claimed to have posted online calling Governor Polis a liar and a traitor. “So that’s what I sent to Governor Polis,” he said. “Gallows. I had to stretch that rope.”⁵⁵ 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.”⁵⁶

39. Following Oltmann’s full throated and ongoing declaration of support for the Russian invasion of Ukraine,⁵⁷ Oltmann’s Conservative Daily podcast co-host Max McGuire finally cut ties with Oltmann, as did former Conservative Daily producer Josh Hammerling. In a recent podcast,⁵⁸ both men discussed their knowledge that Oltmann regularly published or attempted to publish lies during the timeframe giving rise to this dispute. McGuire stated:

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ 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.”)

⁵⁷ See Davey Alba, et. al., *‘I’ll Stand on the Side of Russia’: Pro-Putin Sentiment Spreads Online*, N.Y. TIMES, Feb. 25, 2022, <https://www.nytimes.com/2022/02/25/technology/russia-supporters.html>.

⁵⁸ The Max McGuire Show, *Responding to Joe Oltmann (Feat. Mr. Producer Josh)*, May 3, 2022, <https://rumble.com/v13dtop-pride-cometh-before-the-fall.html>.

I'm just thinking about, I don't know how much I'm allowed to say, how much I'm allowed to talk about, but there were just so many meetings that you and I were in, where topics were brought before us, and they're like hey we want to talk about this, and you and I are both like, 'what?' No, you can't say that. You can't just accuse someone of doing that without any evidence. This is obviously fake. It's obviously not true. And sometimes we won out, other times we were overruled. I'm thinking back about all of them and it's just so crazy. It kind of pisses me off that I waited so long to leave. In hindsight it's so obvious what was going to happen.⁵⁹

40. In addition to discussing their disgust with Oltmann's insistence on maintaining and promoting his personal legal defense fund, all while living a lavish lifestyle, purchasing real estate and vehicles, taking extravagant vacations, and paying for substantial home renovations, McGuire and Hammerling also discussed their deep discomfort with Oltmann's constant calls for violence. McGuire stated:

The rhetoric was starting to heat up to a level that made everyone uncomfortable, started bringing death threats on you. Obviously, you saw it. You recognized what was going to happen before I did. As I said over the weekend, my biggest regret was that I stayed as long as I did, and I gave legitimacy to that violent rhetoric.⁶⁰

41. This disconcerting rhetoric, and Oltmann's corresponding assurances that he sincerely means his calls for violence, have only heightened the emotional distress experienced by Dr. Coomer as he continues to endure the stress and anxiety of threats being regularly directed at him personally as a result of the lies that Defendants made the focal point of the Film. Byrne too has always known that Oltmann regularly calls for violence and the execution of his political adversaries. For example, Byrne recently stated:

⁵⁹ *Id.*, at 16:26.

⁶⁰ *Id.*, at 15:45.

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.⁶¹

42. Despite this knowledge, Defendants still made Oltmann and his lies about Dr. Coomer the centerpiece of the Film, which they promoted, distributed, and profited from across the country.

D. Byrne's pre-conceived narrative that the election would be rigged.

43. Byrne began scripting a narrative that the 2020 presidential election would be "rigged" long before the election ever occurred. In the Film, Byrne states that he "got involved in this in August of last year. August 2020." Byrne claims that "a very dear friend of mine, a part Native American guy who was kind of a spiritual advisor showed up and told me that he needed me to meet some people involved in this movement studying election integrity, election fraud. He died the next day, oddly enough, in a plane crash."⁶² In the Book, Byrne echoes this claim, stating that "in late July 2020, a friend from Montana . . . told me of a group of people, some ex-federal, some not, some cyber experts and some of other expertise, who were organizing on the subject of election fraud." Byrne claims in the Film that at his friend's funeral he "met the people that he had been talking about. It was a group of very serious, very sober, FEMA, ex-military high ranking officers

⁶¹ See video of these statements at @J1llove, TWITTER (Feb. 3, 2020 3:46 PM), <https://twitter.com/J1llove/status/1489369640052658185>.

⁶² Upon information and belief, the individual Byrne referred to was Brandon Hogan. See https://www.kulr8.com/top_story/crews-trying-to-get-to-the-scene-of-an-airplane-crash-in-madison-county/article_0a1b19e9-88d3-5111-bb29-0654cdb1dffe.html.

and such who had been studying this issue of election integrity and thought we were vulnerable to a massive attack.”

44. The group that Byrne refers to is the Allied Special Operations Group (ASOG), but the timeline Byrne puts forward has been contradicted by one of ASOG’s former long-term employees, Joshua Merritt. In a December 21, 2021 interview,⁶³ Merritt stated that “Patrick Byrne, initially in the midterms, he was funding us as ASOG for voter fraud investigations. So he had involvement very early on, and then Tore⁶⁴ was involved with the midterms as well. So when we were working in Kentucky on the Matt Bevin case, I was dealing with Tore back then.”⁶⁵ Merritt clarified that “Tore is working directly for Patrick Byrne.” As a result, it appears that Byrne likely misrepresented the nature and duration of his relationship with ASOG in both the Film and the Book, but in any case, his work creating a preconceived narrative that the election would be rigged substantially predated the election itself.

45. ASOG has supposedly provided a variety of different services for its clients over the years, but its focus has shifted substantially over time.⁶⁶ At the time when Byrne

⁶³ 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>.

⁶⁴ “Tore” is a prolific QAnon promoter better known as “Tore Says.” Her real name is Terpishore Maras-Lindeman. Like Oltmann, Maras-Lindeman also filed affidavits in Sidney Powell’s lawsuits attempting to overturn the election results which featured numerous falsehoods and exaggerations. See Jon Swaine, *Sidney Powell’s secret intelligence contractor witness is a pro-Trump podcaster*, WASH. POST, Dec. 24, 2020, https://www.washingtonpost.com/investigations/sidney-powells-secret-intelligence-contractor-witness-is-a-pro-trump-podcaster/2020/12/24/d5a1ab9e-4403-11eb-a277-49a6d1f9dff1_story.html.

⁶⁵ *Supra.*, n. 66 at 1:01:35. Bevin lost the Kentucky gubernatorial race on November 5, 2019.

⁶⁶ A promotional video for ASOG from 2018, for example, claims the group then had three focuses: (1) “protective services and training,” (2) “cyber security and intelligence collection,” and (3) “full spectrum business consulting and solution engineering in non-permissive environments.” The video claims that

began working with ASOG, it was led by Russell “Russ” Ramsland, an oil and gas heir from Dallas, Texas. In 2016, Ramsland attempted to challenge Republican Pete Sessions in the primary in his race for the U.S. House of Representatives, running from the far right as a “Tea Party” candidate. He lost by thirty-eight points. Ramsland, who has a documented history of making outlandish claims,⁶⁷ joined ASOG in late 2017. By the fall of 2018, he had shifted ASOG’s focus to “election security,” and the organization’s other executives soon departed the company following disagreements with ASOG’s new emphasis.⁶⁸

46. Following the 2018 midterm elections, ASOG began actively seeking out losing Republican candidates who would sign up to claim their elections had been rigged.⁶⁹ ASOG promoted its search for these candidates by making presentations at an airplane hangar in Addison, Texas, to a variety of individuals such as Texas Representative Louie Gohmert,⁷⁰ Sidney Powell (then acting as an attorney to former

ASOG personnel had taken part in the types of missions “that many of us only see in the movies.” See “ASOG – Overview,” YouTube, Feb. 16, 2018, <https://www.youtube.com/watch?v=YJQRmyrdu-M>.

⁶⁷ On September 28, 2017, for example, Ramsland gave a speech at the “Park Cities/Preston Hollow Leadership Forum” where he made a variety of outlandish claims, including that the “deep state” was the product of a World War II era collaboration between Prescott Bush (father of former president George H.W. Bush), the Muslim Brotherhood, and Hungarian philanthropist George Soros, who at that time would have been a child.

⁶⁸ See Emma Brown, et. al., *The Making of a Myth*, WASH. POST, May 9, 2021, <https://www.washingtonpost.com/investigations/interactive/2021/trump-election-fraud-texas-businessman-ramsland-asog/>.

⁶⁹ *Id.*

⁷⁰ According to sworn testimony provided before the January 6 Special Committee on June 23, 2022, Rep. Gohmert was one of several members of Congress who requested a pardon from former President Trump for his role in attempting to overturn the 2020 election results.

General Michael Flynn), and conservative talk radio host Kevin Freeman.⁷¹ Throughout 2019 and 2020, Freeman interviewed Ramsland on various occasions, and Ramsland presented many of the absurd and preconceived claims that ASOG would go on to promote after the election. For example, Ramsland claimed that a Spanish based company called ScytI was “housing all of our votes.” In another interview with Debbie Georgatos, Ramsland first floated the bizarre theory that American votes were “being held on a server in Frankfurt, Germany.”⁷²

47. In July 2020, ASOG gave a two-hour briefing to seven members of the House Freedom Caucus, where it presumably promulgated the same baseless falsehoods that would get thrown out of dozens of courtrooms across the country months later. That same summer, ASOG reached out to Senate Homeland Security, and eventually forwarded a packet of information to the CISA, part of the Department of Homeland Security. The DHS “reviewed the information provided and determined it was speculative and not actionable.”⁷³

48. Months later, in an interview on Olthmann’s podcast “Conservative Daily” with other co-stars of the Film, ASOG employee Phil Waldron stated that he began working with Byrne in the summer of 2020, and that they sent a memo to people in the White House as soon as October 2020, laying out the preconceived narrative they intended to promote if and when Trump ended up losing the election, as polls across the country indicated he would. The following exchange occurred:

⁷¹ *Supra*, n. 68.

⁷² *Id.*

⁷³ *Id.*

Waldron: I happen to be in this mix because we had a small team that started studying Antifa and BLM and their activities in the summer of last year, which led to a lot of following the dollar trails, and a lot of open source publicly available research, and found the link to the elections. And we kind of shifted gears realizing that Antifa and BLM activity was just a ruse, but that the center of gravity were actually the election was going to be stolen. And that's actually when I first met Patrick, I believe sometime around June or July.

Byrne: August.

Waldron: Yeah, something like that. I think we came out to Utah to meet you, and you came to Texas and saw some of the things that we were putting together, and pretty much predicted everything that was going to happen, how it happened, and even briefed, sent a two-page summary to the White House a couple different people, in October, the 19th and the 20th. So we had a little foresight into predictive analysis of the elections.

49. Following former President Trump's defeat in the 2020 presidential election, Byrne accelerated his work with ASOG to try and introduce their preconceived narrative that voting machines were somehow responsible for Trump's loss into mainstream news coverage. To this end, Byrne made contact with Trump's legal team, specifically Sidney Powell and Rudy Giuliani, as early as November 9, 2020.⁷⁴ Byrne also began working with a team of conspiracy theorists, including many who would go on to feature in the Film, including Michael Flynn, Seth Keshel, Jim Penrose, Katherine Friess, and others. Working together at the South Carolina property of QAnon promoter Lin Wood, the team began drafting a report that they hoped they could eventually claim was the result of a forensic inspection of Dominion machines. The Book details these

⁷⁴ See Sarah D. Wire, *Inside the MAGA world scramble to produce findings suggesting the 2020 election was stolen*, LOS ANGELES TIMES, June 17, 2022, <https://www.latimes.com/politics/story/2022-06-17/jan-6-behind-scenes-trump-election-maga-world-search-fraud>.

preparations and contains several pages of excerpts from the “Report” they produced. For example, the Book includes several pages of numbered paragraphs, one of which reads:

The system intentionally generates an enormously high number of ballot errors . . . The intentional errors lead to bulk adjudication of ballots with no oversight, no transparency, and no audit trail. This is the exact type of issue that leads to voter and/or election fraud.⁷⁵

Byrne states that the report was “generally prepared by or before Thanksgiving, November 26, 2020, by my colleagues.”⁷⁶

50. When a Michigan election fraud conspiracy theorist filed a lawsuit challenging the results of a local election in Antrim County, Michigan, Byrne and the ASOG team realized they had their chance. Byrne flew the ASOG team to Michigan on November 27, 2020.⁷⁷ On December 4, 2020, Judge Elsenheimer issued an order⁷⁸ allowing the plaintiff’s forensic experts to secure forensic images of the Dominion machines used in Antrim County. On December 6, 2020, Trump attorney Jenna Ellis left no doubt that the ASOG team was actually working on behalf of former President Trump, stating that “[their] team” was examining Antrim’s voting equipment⁷⁹ following the December 4, 2020 Order. On December 13, 2020, the Plaintiff in Antrim County filed the

⁷⁵ See Patrick Byrne, *THE DEEP RIG*, Self Published 2021, p. 54. Note that the Book does not actually include page numbers. As a result, the reference to page 54 relies on undersigned counsel’s self-numbered copy.

⁷⁶ *Id.* at p. 83.

⁷⁷ *Supra* n. 74.

⁷⁸ *Bailey v. Antrim County*, Case. No. 2020009238CZ, Antrim County Circuit Court, Decision and Order Regarding Plaintiff’s Motion for an Ex Parte Temporary Restraining Order, Show Cause Order and Preliminary Injunction, Dec. 4, 2020.

⁷⁹ See Paul Egan, *Trump attorney: ‘Our team’ examining Antrim voting equipment after judge issued order*, DETROIT FREE PRESS, Dec. 6, 2020, <https://www.freep.com/story/news/politics/elections/2020/12/06/trump-legal-team-examining-antrim-county-voting-equipment/3847931001/>.

“Allied Security Operations Group Antrim Michigan Forensics Report.” The report is signed by Russell Ramsland, and on page one it leads with the supposed “conclusion” of the inspection of Dominion machines in Antrim County, stating in part that “The system intentionally generates an enormously high number of ballot errors. The electronic ballots are then transferred to adjudication. The intentional errors lead to bulk adjudication of ballots with no oversight, no transparency, and no audit trail. This leads to voter or election fraud.” These statements are completely and demonstrably false, but not coincidentally, they focus on the adjudication process, and are the exact same claims that Byrne and ASOG had decided they would make before ever even getting access to Dominion machines in the first place.

51. The Antrim County report is a series of ridiculous and readily debunked falsehoods, and it has been repeatedly debunked by election security experts, as well as the Republican-led Michigan Senate Oversight Committee, which recommended that the Michigan Attorney General investigate those who authored and promoted it. The absurdities it presents are surface level inaccuracies. For example, the report utilizes election data from Minnesota to suggest impossibilities occurring in Michigan. The Report also claims 68.05% of Antrim County’s votes were sent to electronic adjudication, but adjudication is an optional feature of Dominion machines that Antrim County had not even purchased and, therefore, did not and could not have possibly utilized in the 2020 election.

52. Despite the obvious inaccuracies of the Antrim County report, former President Trump embraced its claims and believed they would allow him to cling to power

despite having lost the election. In his testimony to the January 6 Committee, former Attorney General Bill Barr stated that the claims the president relied on were “completely bogus and silly and usually complete misinformation.”⁸⁰ Barr stated that he told Trump the claims about Dominion machines were “idiotic claims.”⁸¹ Describing the Antrim County report, which Trump had handed to him in a meeting in December 2020, Barr stated that it “looked very amateurish to me,” and contained no supporting information for Trump’s claims.⁸²

53. Despite the evident falsity of the Antrim County report, Byrne continued to advocate for its conclusions, including through a widely reported meeting at the White House on December 18, 2020, when he, Sidney Powell, and Michael Flynn were allowed to sneak into the White House⁸³ with the help of Garrett Ziegler,⁸⁴ a staffer for Peter Navarro, Director of Trade and Manufacturing Policy. Upon entering the White House, the trio were able to get a brief private audience with former President Trump before White House counsel became aware and intervened. According to numerous reports of the incident, including the Book authored by Byrne, the trio attempted to convince Trump to name Sidney Powell as special counsel to investigate election fraud claims and to issue an executive order (authored by Waldron) authorizing the Secretary of Defense to “seize,

⁸⁰ See Erin B. Logan, *Trump became ‘detached from reality’ over voter fraud claims, Barr tells Jan. 6 panel*, LOS ANGELES TIMES, June 13, 2022, <https://www.latimes.com/politics/story/2022-06-13/barr-trying-to-shoot-down-trumps-bogus-election-fraud-claims-was-like-playing-whack-a-mole>.

⁸¹ *Id.*

⁸² *Id.*

⁸³ See Jonathan Swan et. al., *Inside the craziest meeting of the Trump presidency*, AXIOS, Feb. 2, 2021, <https://www.axios.com/2021/02/02/trump-oval-office-meeting-sidney-powell>.

⁸⁴ To this day, Ziegler regularly posts Dr. Coomer’s personal contact information to his social media accounts.

collect, retain and analyze” voting machines. The draft executive order identified Dr. Coomer by name.⁸⁵ White House counsel eventually were able to get Byrne, Powell, and Flynn out of the White House, but some of their counsel likely remained with the President. The very next day, Trump began promoting, for the first time, a “wild” protest to be held in Washington D.C. on January 6, 2021.⁸⁶

54. On the day of the failed attempt to overthrow the American government and end centuries of the peaceful transfer of power, both Byrne and Oltmann were present in Washington, D.C. According to the Book, Byrne planned to give a speech on the Ellipse, as did Michael Flynn, but both were apparently cut from the roster at the last minute.⁸⁷ For his part, Oltmann started the day at the Trump Hotel, then moved on to meet with top level officials at the State Department, including Bob Destro and likely Secretary of State Mike Pompeo.⁸⁸ The reasons for this meeting remain unclear, but in any case, according to Oltmann, both men ended up in a room with Rudy Giuliani that evening after the attack on the Capitol had failed. As Oltmann has described on more than one occasion, Byrne, like many Republican Congressmen and Trump’s own counsel John Eastman, requested that Rudy Giuliani arrange for Trump to pardon him for the crimes he had committed. In one lengthy rant where Oltmann complained about Byrne

⁸⁵ See Betsy Woodruff Swan, *Read the never-issued Trump order that would have seized voting machines*, POLITICO, Jan. 21, 2022, <https://www.politico.com/news/2022/01/21/read-the-never-issued-trump-order-that-would-have-seized-voting-machines-527572>.

⁸⁶ See Dan Barry et. al., *‘Be There. Will Be Wild!’: Trump All but Circled the Date*, NEW YORK TIMES, Jan. 6, 2021, <https://www.nytimes.com/2021/01/06/us/politics/capitol-mob-trump-supporters.html>.

⁸⁷ *Supra* n. 77, at pp. 170-172.

⁸⁸ See Rosalind Helderman, *Senior Trump official at State met with election denial activists Jan. 6*, WASH. POST, May 17, 2022, <https://www.washingtonpost.com/politics/2022/05/17/senior-trump-official-state-met-with-election-denial-activists-jan-6/>.

accurately noting that Oltmann is constantly calling for political violence, Oltmann stated, “I’m not the one that walked in and asked Giuliani and said, ‘Hey, can you do me a favor. Can you go ask President Trump for a pardon?’ I’m not the one that did that. No, Patrick Byrne did that.” In an apparent reference to the Film, Oltmann continued, “You want to know what else? I’m not the guy that stole a movie from a guy under contract, and then used it at TAP to make money. I’m not the one that did that. No that’s you, Patrick Byrne. You did that. You stole it. Not me. You did. And if you want to go through all the details of this, I’m game.”

55. Despite the chaos and multiple deaths that occurred at the U.S. Capitol on January 6, 2021, and despite Byrne’s apparent concern that he had committed one or more serious felonies in the preceding months, he still proceeded in his attempts to undermine the American government and to end American democracy. On January 9, 2021, MyPillow CEO Mike Lindell⁸⁹ was seen outside the White House holding a paper that appeared to reference “martial law.”⁹⁰ Byrne would subsequently acknowledge that the information which Lindell was attempting to provide Trump that day was actually provided by him.⁹¹ Upon information and belief, this was the same fraudulent

⁸⁹ Both MyPillow and Mike Lindell are defendants in a separate defamation lawsuit brought by Dr. Coomer, *Coomer v. Lindell et. al.*, Case No. 1:22-cv-01129-SKC (Dist. Ct. Colo.).

⁹⁰ See Maggie Haberman, *Photos of Trump ally who visited the White House capture notes about martial law*, NEW YORK TIMES, Jan. 15, 2021, <https://www.nytimes.com/2021/01/15/us/politics/mike-lindell-notes-west-wing.html>.

⁹¹ See Eric Metaxas, THE ERIC METAXAS SHOW, June 6, 2021 (Byrne: “Mike Lindell is out there saying it should be nine to nothing, we have the proof. I know the proof he has. You know, Mike Lindell likes to say that on January 9 some white hat hackers showed up in his life. If you read the book, I describe some hackers I call the Bad News Bears. They were the guys. We had reached a point on January 9 that I didn’t have any more access to the president. Lindell did, and I sent these white hat hackers to Lindell. And then Lindell started going into the White House and telling Trump what it was we were finding.”)

information that would be peddled by Lindell at a failed “Cyber Symposium” later that year in South Dakota.⁹²

56. In the months following the failed insurrection, Byrne turned to further undermining the American government and monetizing his false claims in the process through a variety of bad faith propaganda efforts. To that end, he and Michael Flynn founded TAP, then financed the production of the Film, which was based of his self-published Book of the same title. The copyright to the Film is owned by Defendant TAP, and the Terms and Conditions published on the official website for the Film state that “The Deep Rig Movie and The America Project refer to The America Project, Inc. and all affiliates.” With reference to the Film’s copyright, the Terms and Conditions further state that “The America Project has all rights therein, subject to the limitation of the rights of our licensees and licensors under applicable agreements or arrangements.” At least some of the Film’s profits were funneled into TAP in order to finance bad faith and highly partisan “audits” of election results around the country.

E. The premier of the Film.

57. The Film premiered on June 26, 2021, with a special event held in Phoenix, Arizona. The event was emceed by QAnon promoter Ann Vandersteel, and featured a panel of characters from the Film, including producers Byrne and Lucescu, director Roger Richards, Phil Waldron, Joe Flynn, Bob Hughes, and Oltmann, as well as remote

⁹² See Q Anon Anonymous, *Episode 171 – Inside the Election Fraud Conspiracy Theories*, Dec. 21, 2021 (Former ASOG employee and Lindell “cyber security expert” Joshua Merritt: “All of this had originated from Dennis Montgomery, and they were purposely trying to hide that. After it had flopped before 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.”)

appearances from Jovan Pulitzer and Bobby Piton. The Q&A before the premiere was livestreamed online to a national audience. The Film itself, however, was not.

58. Vandersteel began by asking Lucescu, “What does it mean to you for these gentlemen, or anyone participating in any of this to be a hero? How do you define that?” Lucescu responding by assuring the audience that the Film presented facts of historical significance, and not any form of political rhetoric or hyperbole. He stated:

I define it with what each and every one of these participants are to me. They are true heroes. They are beyond patriots. They stand for truth. They stand against all adversity. They take ridicule. They have integrity. They don’t back down. They stand up for what they know is right. They’re standing up for each and every one of you here today, here watching this livestream, and those that will follow. The moment in this film that I look at, and I look at what this will bring and what it will be a part of, and every one of these guys, every single one of them, are forging the way of what will ultimately become one of the most historical events of the history of this country.

This statement echoed Lucescu’s insistence on the truth presented by the Film in a prior May 28, 2021 interview he conducted with Byrne on Vandersteel’s QAnon podcast, Steel Truth. There, Lucescu stated:

What we’re doing with this movie is giving you the facts. Every single fact that we can come up with. Everything that we find, everything that we’ve proven, everything that we can show you, we’re giving it to you. We’re giving it to everybody for them to see every aspect of it.

59. As the panel proceeded, Byrne took an opportunity to mislead his audience with outright falsehoods, and to impliedly defame Dr. Coomer, who helped secure the patents for Dominion’s adjudication feature, in the process. Byrne stated:

We had been going through the operating manuals of these equipment companies and saw these crazy facts. Like, you could adjudicate, that when the machine doesn’t read your vote, it goes into a pile to be ‘adjudicable.’ And it might build up a stack of a thousand, not actual paper ballots but

digital images. It's right there in the operator's manual, the precinct administrator can come by with a mouse click, drag 'em over and give them to Joe Biden or whoever they want. It's so obviously a design flaw that I was horrified.

60. As Byrne knew at the time and still knows today, this is a lie. Dominion machines are not capable of bulk adjudication. Adjudicators cannot adjudicate more than one ballot at a time. In reality, the adjudication feature that Dr. Coomer helped improve serves to ensure that every individual adjudication is transparent, auditable, and easily traceable to the adjudicators responsible for determining individual instances of voter intent.

61. Vandersteel later turned to Oltmann, where she wove a surprising number of conspiracy theories into a single defamatory question, asking:

Joe Oltmann, Phil was talking about color revolutions. You managed to get embedded in Antifa and figure out that there was somebody who was very high up at Dominion Voting Systems who was a member of Antifa. He exposed himself right before your eyes. How do you see Antifa playing a role in color revolutions, and are they sort of, is Antifa deployed worldwide as an asset under a different name? Is it all part of the same CIA psyop worldwide in order to take control of governments worldwide?

62. In reality, Oltmann did not "manage to get embedded in Antifa," he did not "figure out that there was somebody who was very high up at Dominion Voting Systems who was a member of Antifa," and Dr. Coomer did not "expose himself before [Oltmann's] very eyes." Nonetheless, Oltmann responded with a similarly meandering response, stating:

Has anybody seen Bourne Identity? So, do you remember in Bourne Identity where they had Antifa on the street and they were talking about being antifascist? And the idea when that came out, that was nearly fifteen, twelve years ago when that came out. So, this is not something new. They perfected it overseas and brought it here. They perfected the idea of creating

chaos to make you afraid. To intimidate you and threaten you. And the one thing that I will say about Antifa is that they are everything that they say they are fighting against. They are the fascists, they are the liars, they are the pedophiles, they are the rapists, they are the racists, but they want to convince you that you're a bad person.

63. The questioning eventually made its way to director Roger Richards, who had previously directed a film promoting theories that space aliens provided secret technology to the Nazis, who had secret Nazi bases on both the moon and Mars.



A screenshot from the 2018 Roger Richards film “Above Majestic” showing a supposed Nazi moon base. The film presents itself as a “documentary.”

“Everybody likes true crime novels,” Richards stated. “They like true crime podcasts. This is the generation of true conspiracy film making.”

64. Byrne explained that the Film would generate revenue for TAP. He described the process to Vandersteel as follows, making clear that he had a “share” of the Film, which he had chosen to contribute to the separate entity which he had created with the Flynn brothers, TAP:

Byrne: If this plays, it should generate a fair amount of revenue for The America Project.

Vandersteel: Can you explain the revenue generating aspects for the people out here as well?

Byrne: Yeah, I gave my share of the movie to The America Project. And The America Project that I started, and Joe [Flynn] is on the board, and his brother. Joe and his brother and myself started an enterprise which is basically, as pretentious as it sounds, we think it's what needs to be done to save America.

Byrne went on to confirm that "All my money for this goes to The America Project."

65. Byrne later circled back to further explain to viewers how they could actually make exorbitant profits by streaming the Film at its then price tag of \$500.00.⁹³ Byrne stated:

Folks watching on livestream should think about this. This has been set up, thanks to Steve and Roger's brilliance, as a way people can really make money out there. And I mean good money. Just for your reference, each one of these wedges holds about six hundred people, say, if it's full. You can get a license to show this movie at a dollar a seat. So you can rent a local theatre, is it a minimum \$200, or \$500? Five hundred. So rent a local theatre with 500 seats. You pay 500 dollars for the license to show that once, you fill it, sell the seats. I don't know what a movie ticket costs these days, fifteen bucks? You know, you keep the rest. You're giving us 500 bucks, make 8,000 in revenue, pay us the 500. This has been priced so that patriots can make money. This has been priced so that people can make good money by taking a couple afternoons and organizing something like that. You can make a few thousand dollars I think, or more. And there's no reason you can only do it once.

66. Lucescu also chimed in to tout the incredible profits that viewers could reap by paying the low price of just \$500 to stream their conspiracy film. "If you want to get together, we're giving you the opportunity to make money. This is what you haven't got

⁹³ The Film now streams online for free and has been hosted by the homepage for The Deep Rig, as well as by the homepage for TAP.

from the government, so far. They're trying to take your money," he said. "We have a \$500 minimum because we want you to get people together. We want to start everybody gathering, everybody banding together to form your own group of people, and then getting in touch with TAP and you'll have your network involved."

67. True to form, Oltmann concluded the Film's Q&A session with a thinly veiled call for political violence, stating:

So, when we talk about what is really happening in our society, let's stop trying to put icing over it and say, oh the Supreme Court is going to wake up one day and they're going to grow a conscience. The Supreme Court, they had that opportunity and they said that it was moot because they moved it until after January 20th. So we do have a voice, and we do have an opportunity, but unfortunately, our voice is going to have to become loud. We are going to have to find that voice, because right now what they did in the election is they took away our ability to have a voice in that election, so now we have to do something after the election that's probably going to have to be pretty drastic . . . If not you, who? And if not now, when? We are in a critical time in our country, and we have had millions of people who have died for this country, that have bled to uphold the constitution. I'll be damned if I'm going to wait for someone else to stand up and do something for me.⁹⁴

F. The Film defames Dr. Coomer.

68. Shortly after the Film begins, Byrne makes clear that the series of falsehoods the Film is about to present arise from a preconceived narrative that Byrne had decided before the election even occurred, namely that if Donald Trump did not win reelection, then that could only mean the 2020 election was rigged.⁹⁵

⁹⁴ See Jerod MacDonald-Evoy, *Election conspiracy film stars promoted vigilante action against officials*, AZ MIRROR, June 30, 2021, <https://www.azmirror.com/2021/06/30/election-conspiracy-film-stars-promoted-vigilante-action-against-officials/>.

⁹⁵ See *infra*, ¶ 42.

69. Byrne goes on to assert his theory of the supposed “fraud” that occurred, first by stating that there was not in fact widespread election fraud. “You can’t do it with widespread election fraud. You do it with narrow, deep fraud in six cities. Those six are Las Vegas, Nevada, in Clark County, Phoenix in Maricopa, Milwaukee, Wisconsin, Detroit, Michigan, Philadelphia, Pennsylvania, and Atlanta, Georgia.” Here immediately, had Defendants done any research whatsoever, they would have quickly realized the theory about Dr. Coomer they were about to present did not hold up. Dominion was not even operating in Philadelphia or Milwaukee in 2020.

70. The next surface level falsehood comes minutes later, when Byrne states, “All of these states have a common feature. At some point, election counting was shut down. At some point there’s some big injection of Biden votes and then at the end he comes out winning by a hair.” This is easily disproven by Arizona, which both the Film and TAP would go on to focus on at length. In Arizona, Biden started out far ahead of Trump, and his share of the vote total dwindled as in-person votes were counted.⁹⁶ Arizona therefore upends the theory that massive injections of Biden votes “flipped” swing states across the country. What actually happened in all of these states is much more easily explained by state statutes, which either allowed mail in votes (which heavily favored Biden) to be counted early, as in Arizona, or they did not, as in Pennsylvania.⁹⁷

⁹⁶ See @Politics_Polls, TWITTER, Nov. 4, 2020 1:52 PM, https://twitter.com/Politics_Polls/status/1324092133473689611 (showing Biden with a 93,016 vote lead as of 1:52 PM on November 4, 2020. President Biden would go on to win Arizona by just 10,457 votes).

⁹⁷ These claims have been roundly refuted by a team of statisticians at Stanford University. See Andrew C. Eggers, et. al., *No evidence for systemic voter fraud: A guide to statistical claims about the 2020 election*, PNAS, Nov. 2, 2021, <https://www.pnas.org/doi/10.1073/pnas.2103619118>.

71. The Film next embarks on a vague and circuitous discussion led by Phil Waldron about “Antifa.” Waldron states that, “We were approached, our team, to look at the roots of the color revolution that was happening, is happening, in America. Color revolutions are based in Marxist ideology that basically stir people up to overpower local governments. Part of what we were looking for was why there were certain areas that were rife with riots and burning problems.” Waldron never explains who “approached” his “team” to undertake this research, nor does he provide any specifics whatsoever as to what they supposedly discovered or how. He does, however, go on to invoke the 91-year-old Hungarian philanthropist George Soros in an attempt to somehow conjure up a link between “Antifa” and the 2020 election. “We found a common link that sort of led us to the elections. You know, follow the breadcrumbs. And that brought us to the Open Societies Foundation. Some of their strategic documents that we saw from as far back as 2015 said they were going to commit resources, personnel, and effort into several of what we were looking at as battleground states for the election.” Waldron provides no explanation whatsoever for what this supposed “link” was, nor does he describe any of the “breadcrumbs” he supposedly “follow[ed].”

72. Following this inexplicable series of non sequiturs against a background of dramatic music and suggestive editing, the Film turns to its focal point, Oltmann, and his false claims about Dr. Coomer. Oltmann is identified onscreen as the “Founder of FEC United” and he introduces himself by stating, “My name is Joe Oltmann. I’m a data company CEO, based out of Denver, Colorado.” Oltmann first begins discussing his trip

to Washington, D.C. where he and Matthew DePerno⁹⁸ met with various high ranking officials at the State Department on January 6, 2021.⁹⁹ Oltmann states:

I started reaching out to people who were actually involved in it at a very high level, and had positions in government at a high level, and the more information I fed to them, the more they came back and said listen, can you come to Washington D.C.? They all asked me a bunch of questions like how did you come up with this model? I told them about the math, how I actually discounted different values, and every single person that I was able to sit down with validated the information that I was able to create by actually stacking this information on top of each other.

73. In reality, Oltmann has no relevant experience whatsoever to allow him to conduct any of the supposed analysis he claims to have conducted but has never produced, and no government official has ever “validated” any of his false claims.



74. Without yet going into the substance of Oltmann’s claims, the Film then turns to DePerno, who purports to lend an air of legitimacy to the lies promulgated by the

⁹⁸ Matthew DePerno is an attorney from Michigan who represented the Plaintiff in *Bailey v. Antrim County* and sponsored the filing of the ASOG Report in that proceeding. He is currently running for Attorney General in Michigan.

⁹⁹ See Rosalind Helderman, *Senior Trump official at State met with election denial activists Jan. 6*, WASH. POST, May 17, 2022, <https://www.washingtonpost.com/politics/2022/05/17/senior-trump-official-state-met-with-election-denial-activists-jan-6/>.

Film by virtue of his status as an attorney. “You have to be able to look at affidavits that people file, but then investigate the truth of those affidavits,” he says. “And that’s important for a lawyer, because down the road we have to present these witnesses in front of a court, in front of a jury, and in front of the people, and be able to investigate the truth and accuracy of their statements.”¹⁰⁰

75. DePerno goes on to promote the legitimacy of the now universally debunked “Antrim Report” prepared for use in *Bailey v. Antrim Co.* by ASOG. As discussed above, the Antrim Report was largely drafted before the ASOG team ever even had access to the Dominion machines in Antrim County, and it contains numerous outright falsehoods. For example, the Antrim Report used statistical data from Minnesota to analyze what it claimed had occurred in Michigan, and it falsely asserts that Antrim County’s Dominion machines adjudicated thousands of votes. In reality, Antrim County never even purchased Dominion’s optional adjudication feature, and the several pages of wild speculation the Antrim Report dedicates to concerns over adjudication are entirely without basis or merit. Nonetheless, DePerno revels in the manner in which he misled the court in the *Bailey* case in order to get access to the Dominion machines. “The way we did it is, we didn’t challenge the presidential election, per se. We challenged down ballot races, and we did that for a particular reason. Our goal really was to go in and

¹⁰⁰ Neither DePerno nor any of the Defendants here apparently ever undertook to perform this analysis on the affidavit that Olthmann himself submitted to Sidney Powell in her various ill-fated “kraken” suits. Had they done so, they would have realized that it contains numerous surface level falsehoods, many of which have been contradicted by the sworn testimony of multiple witnesses in *Coomer v. Donald J. Trump for President Inc., et. al.*

collect data about the election, but we didn't want to do it in a way that drew attention to ourselves, or that drew attention to the court itself."

76. DePerno goes on to make an implied reference to the adjudication feature of Dominion machines. Adjudication is a necessary feature of any voting system which has existed for decades, as Defendants knew or would have known had they done any research at all before publishing the Film. Nonetheless, DePerno goes on to imply there is something nefarious in a process developed over decades to ensure the accuracy of vote counts. "We want to see if anyone accessed that system on election night," DePerno says. "We want to see if anyone used the modules within the system that allows them, that are built into the system and allows them to manipulate and change votes. This isn't me making this up. This isn't conspiracy theory. These are actually procedures that are outlined within the Dominion manual itself."

77. Again, attempting to bolster the legitimacy of the Antrim Report, DePerno then tells a series of outright lies about the Antrim Report and its reception, stating:

They've never put out one single thing that shows any real technical problem with the report. This is a real piece of history we have in terms of how we produced it, how we delivered it, how we got a court order that allowed us to release it that day. Think about that. A judge in advance reviewed this report.

78. The Antrim Report was roundly and conclusively rebutted in a 54-page report authored by Dr. J. Alex Halderman¹⁰¹ on March 26, 2021, months before the Film's

¹⁰¹ See Analysis of the Antrim County, Michigan November 2020 Election Incident, J. Alex Halderman, Mar. 26, 2021, <https://www.michigan.gov/-/media/Project/Websites/sos/30lawens/Antrim.pdf?rev=fbfe881cdco043a9bb80b783d1bb5fe9>. Notably, Dr. Halderman actually features briefly in the Film, when Defendants include a snippet of his prior Congressional testimony as support for their argument that voting machines are not trustworthy.

release. The Antrim Report was submitted as rebuttal in the *Bailey* case, which DePerno obviously knew given his role as counsel for the Plaintiff. In that rebuttal, Dr. Halderman systematically dissembles every false claim put forward by ASOG. Dr. Halderman's conclusions were further bolstered by the Michigan Republican-led Senate Oversight Committee, which produced a "Report on the November 2020 Election in Michigan" on June 23, 2021.¹⁰² The Committee Report "recommends the Attorney General consider investigating those who have been utilizing misleading and false information about Antrim County to raise money or publicity for their own ends. The Committee finds those promoting Antrim County as the prime evidence of a nationwide conspiracy to steal the election place all other statements and actions they make in a position of zero credibility."¹⁰³ Defendants of course knew about these rebuttals, but they deliberately omitted any reference to them or their contents in order to knowingly mislead their audience with outright falsehoods.

79. After DePerno assured the Film's audience of the Antrim Report's credibility, Defendants then return the Film's focus to Oltmann, who proceeds to lay out his entirely fabricated story that (a) Dr. Coomer participated in an Antifa conference call; (b) Dr. Coomer stated on that call that he had rigged the election; and (c) Dr. Coomer did, in fact, rig the election. Specifically, Oltmann stated the following:

I set out to find out who the Antifa activists were, and so, as the story goes, that's when I discovered Eric Coomer. So, in September of 2020, I set out to infiltrate Antifa. And I did. So, I met a guy that was a part of Antifa and he said, 'I've got to figure out a way to get out, but I'm too deep into the

¹⁰² See Michigan Senate GOP, Report on the November 2020 Election in Michigan, <https://www.misenategop.com/oversightcommitteereport/> (last visited May 27, 2022).

¹⁰³ *Id.*, at p. 19.

process.’ And I said, ‘well the first thing that could happen is we could dismantle it, and an easy way to dismantle it is to uncover who is running Antifa.’ So, he got me on a phone call. They were talking about how they needed to fortify and continue to do the things that they were doing, not just in Colorado Springs, but in Denver and all over Colorado. And a guy named Eric started speaking, and when Eric started speaking, he started talking again about how they needed to fortify and not give up. They asked, ‘Who is Eric?’ Alright, ‘Who is Eric?’ Somebody came back and said, ‘Oh, Eric is the Dominion guy.’ As he continued to speak, somebody else interrupted him and said, ‘Hey, what are we going to do if Trump wins?’ And he responded, ‘Don’t worry about the election. Trump’s not going to win. I made fucking sure of it.’ So, I hung up the phone, started doing research on Eric. I didn’t know Eric was Coomer, I just knew Eric. I’m kind of a research junky, so I just went through and started gathering information. Went and listened to YouTube videos to make sure that the voice I heard on the call was the same voice to match up to that particular individual.”¹⁰⁴

80. None of those things happened.¹⁰⁵ If Defendants had done any research whatsoever, this would have been clear. Instead, they relied exclusively on Oltmann and took him completely at his word, without even attempting to contact any possibly corroborating sources such as any of the other participants on the supposed call, anyone with any knowledge of the supposed call, Dominion, or even Dr. Coomer himself.

¹⁰⁴ In his original November 9, 2020 podcast where he first levels his false allegations against Dr. Coomer, Oltmann repeatedly admits that he was not actually able to confirm a voice match with Dr. Coomer. *See 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).

¹⁰⁵ The utter absurdity of Oltmann’s claims, and the total lack of evidence to substantiate any of them, is thoroughly discussed in the 136-page Order issued on May 13, 2022, by Judge Marie Avery Moses, wherein she denies all fourteen defendants’ anti-SLAPP motions to dismiss in their entirety in *Coomer v. Donald J. Trump for President, Inc., et. al.*, Case No. 2020CV34319, Denver County District Court.

81. Oltmann goes on to explain to the Film's audience how he supposedly realized that Dr. Coomer had rigged the election, stating:

November 3rd, we all know what happened. We all went to sleep with President Trump handily ahead. We woke up the next morning and Biden had won. And nothing to see here. And I'm sitting at my friend's place, and I get this text message. It says Joe, you need to read this article. And as I went through the article, it talked about in Georgia, in several precincts, the system on election day actually went down. And there was a description inside of the article that said why it went down. That they had to do an update in the middle and that took it down for four hours. But the person who gave the update was Eric Coomer. And at that moment my heart sank. That's when I knew. That's when I knew that there was a, you know, Dominion Voting Systems was in 28 states. That's when I started to realize that, you know, this guy Eric Coomer, when he said on that call 'Don't worry about Trump, he's not going to win.' That's when I realized that there's a high probability he affected the election.

82. Again, this is all made up. There is no article saying that Dr. Coomer "gave [an] update" to Dominion machines on election day, and there is zero probability that he affected the election. Importantly, the Film completely omits any reference to the numerous facts that Oltmann glosses over in his rendition of his story that would have allowed the audience to assess the merits of his claims. For example, Oltmann provides no information about how he accessed the call or who provided him that access. He makes no reference to the other participants on the call (which Oltmann has alternatively said was a Zoom meeting), nor does he disclose their identities. He does not disclose when he got access to Dr. Coomer's Facebook account or who gave him that access. He does not acknowledge that he repeatedly stated on both November 9 and November 10, 2020, that he was not able to identify Dr. Coomer as the supposed "Eric" on the call, nor does he disclose that on November 11, 2020, he fabricated evidence to suggest that he had actually Googled Dr. Coomer on September 26, 2020. And, he does not disclose that at the time

the Film was made, Dr. Coomer had sued him for defamation and categorically denied his false allegations.

83. The Film goes on to play multiple videos of Dr. Coomer demonstrating the adjudication function on Dominion machines to potential customers in 2017. Those presentations were given to government officials, and the videos have been publicly available for years. They discuss a very mundane and absolutely necessary feature of every voting system in the country, and one that has existed for decades: adjudication. Dr. Coomer helped develop patents for Dominion's adjudication feature which made the system much more transparent, secure, and easily auditable. There is nothing nefarious or secretive about any of this.

84. Waldron then re-enters the Film to suggest that his "small team" understood Oltmann's claims to be somehow significant, stating, "We first really started digging into Dominion was when Joe Oltmann's report on Eric Coomer first came out. And some of the comments that he had allegedly made on a teleconference, or a video call."

85. Oltmann re-enters the Film to give a lengthy and technically infeasible explanation of a flow chart that he apparently created to explain how the machines supposedly rig elections. Oltmann's entire theory is made up and conjured up from his total lack of any experience whatsoever in election administration or technology. In relevant part, Oltmann states:

Inside of the Dominion system, you have the ability to set different levels of what becomes adjudicated. So, I could send ballots through the system with absolutely nothing filled out. Now this is where it gets really tricky. Once you do that and it goes to adjudication, and you develop intent, it erases the

ballot, that the image was taken, and it replaces it with the one of intent. It replaces it completely. So, you don't actually have a history of that ballot being replaced in the adjudication process. So, if you have ballot harvesting, and it gets through those different cons that you have there, it's still going to be tied to a real voter. When you put phantom ballots or you put blank ballots through the system that aren't tied to that verification process, when it enters that environment, then you have to find a way to align it with a voter. You have to have the system come down and come back up so that it can validate against those blank ballots or phantom ballots.

86. This is all complete and utter nonsense, much of which was roundly debunked by the Halderman Report which Defendants knew about and deliberately concealed from their audience. There is no such thing as "phantom ballots" nor the ability to produce them. The adjudication process maintains an image of the original ballot, and any changes made are traceable to the multiple adjudicators who would have to sign off on any changes made to any individual ballot.

87. Somewhat remarkably, just minutes later, Waldron actually acknowledges that Dominion's adjudication function was not even used in Antrim County. The admission serves to completely unravel the links the Film has by that point spent over an hour trying to draw between Antrim County and Dr. Coomer. Waldron explains away this critical distinction, however, stating, "So, when we look at harvesting of votes, one township in Antrim County, 1200 out of 1500 ballots were error ballots. They had to be adjudicated. *Now Antrim County didn't do electronic adjudication*, they did manual adjudication, but in the counties and the states where they do electronic adjudication, you can export all those adjudicated ballots in a batch file or a CSV or an Excel spreadsheet." (Emphasis added). Defendants, therefore, obviously knew that the central premise of the Film was an outright lie, but they published and profited from the Film anyway, all while

defaming Dr. Coomer in a desperate effort to somehow make the pieces the fit. Waldron's concluding remark implying that ballots can be adjudicated in bulk "in a batch file" is also a complete fabrication. Dominion machines do not allow for more than one ballot to be adjudicated at any given time.

88. The remainder of the Film focuses on the future, with a heavy emphasis on the "audit" then taking place in Maricopa County, Arizona, which was financed in large part by Defendant TAP, and which would go on to conclude that President Biden had actually gotten more votes than previously reported. The Film concludes with another call for the audience's money, with a written statement which reads, "A heartfelt Thanks to all of you, every single one of you For not giving up, and for demanding an extremely important Election Integrity Process. Please donate whatever amount you can to the patriotic, heroic efforts, work and achievements of this incredible cause."

G. The Film is directed at and published to Colorado audiences.

89. The Film has been repeatedly directed at and published to Colorado audiences, including by Oltmann himself and his political organization, FEC United. For example, on July 27, 2021, the FEC United official Twitter account published the following:

Audits are GOOD. Transparency is GOOD. Election integrity should be every American's TOP priority. Want to host 'The Deep Rig' to expose the truth? Visit our website fecunited.com and submit your info on the home page. #ElectionIntegrity #thedeepriq

90. Days later, FEC United again tweeted about the Film, this time promoting a specific showing in Colorado Springs:

← Tweet



FEC United
@FEC_United

...

Want to watch The Deep Rig? RSVP Now!!
eventbrite.com/e/fec-united-m... #cosprings
#thedeeprig
#Election2020 #electionintegrity

11:36 AM · Jul 29, 2021 · Twitter Web App

91. FEC United continued promoting the Film in subsequent tweets directed at Colorado audiences and promoting events taking place in Colorado, including a publication on August 3, 2021. The advertisement prominently featured Oltmann's false claims about Dr. Coomer in its promotion of the Film.



H. Byrne goes on to defame Dr. Coomer in subsequent publications.

92. Dr. Coomer was notably absent from the Book version of the Film, but Byrne apparently recognized the utility of Oltmann's lies about Dr. Coomer at some time prior to the publication of the Film, and he continued to promote those lies on various occasions thereafter. For example, on July 6, 2021, Byrne was a guest on The Eric

Metaxas Show, hosted by New York radio personality, Eric Metaxas. Byrne again promoted his theory about election fraud occurring in six specific cities, and again omitted the fact that Dominion was not operating in either Philadelphia or Milwaukee during the 2020 election. “Who oversaw that operation [of shutting down voting in six key counties]?” Metaxas asked. Byrne responded:

Well, there is a great deal of Eric Coomer’s name shows up in a lot of places. It shows up in Arizona. It shows up in Georgia. Resetting, Dominion reloaded, which, it’s illegal, you have a safe harbor under the law which up until about 60 days before the election you can put new software in your equipment, but you can’t update after sixty days. They were updating, they took down, I think it was Fulton County, they took it offline in Georgia, or maybe it was Coffee County. They took it down and uploaded new software in the middle of the day.

93. Again, these statements have no basis in fact, and Byrne is knowingly spreading objectively false claims with these publications. Months later, on September 28, 2021, he would go on to be a guest on Oltmann’s podcast “Conservative Daily” where he again promoted another outright falsehood about Dr. Coomer. This time, he and Oltmann discussed something called Vote Secure Paper, also known as Security Paper, which is another optional feature offered by Dominion. Dominion’s Security Paper has never been purchased by or utilized in Maricopa County, Arizona. Nonetheless, Byrne and Oltmann engaged in the following exchange, wherein Byrne made very clear through nods and other gestures that he was leveling this accusation at Dr. Coomer:

Byrne: The Dominion machines have a setting that it turns out internally they have that same device that looks for Vote Secure Paper, and they can be set to look for that. If something is not Vote Secure Paper, it gets sent, it gets diverted, either electronically or physically. So those machines have that setting. But there’s a secret way, that no one would have known about to turn that setting off while making it look like it was turned on. Very few people know about that. It’s not the kind of thing that election officials in

Maricopa would have known about, but it is the kind of thing that Dominion employees would know about, that there's this secret setting. Very few people in the industry even knew that this exists, but you can have it look like it's voting, checking to make sure every paper is Vote Secure Paper, while in fact its ignoring. That's how we believe this was set for this election, because it didn't identify even when it was 100% fake, it didn't find it. Well, who could have done that? I don't know. I have a few hypotheses on who did that. I have three candidates I'll tell you first. There were two Dominion employees as a [unintelligible] to the Maricopa County board in this election, and there was a third employee you may have heard of who advised them from up above, specifically on the paper issue. You'll never guess his name!

Oltmann: Let me say.

[Conservative Daily Co-Host] Max McGuire: Is he a baker?

Oltmann: Is he a baker? Does he now call himself a baker that happens to have a Ph.D. in nuclear engineering? Who goes by the name of Eric Coomer? Might be.

Byrne: [laughing] Might be!

94. This too is nonsense. Dr. Coomer did not flip some "secret setting" that made Dominion machines in Maricopa County fail to recognize Vote Secure Paper, nor could he have given that Maricopa County has never even purchased Vote Secure Paper, and such a setting, even if it did exist, would have been completely inconsequential there.

I. Oltmann's claims—relied on by Defendants—were made with actual malice.

95. 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.

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

97. 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.

98. 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 him 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.

99. 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 in sworn testimony that 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 the 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, but these notes materially differ from statements Oltmann has published where he claimed to be reading from his supposed notes. 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.¹⁰⁶

100. 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

¹⁰⁶ 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!").

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.

101. In addition, Oltmann has continually defied court-ordered discovery; refused to produce relevant evidence; refused to disclose alleged information; and refused to provide relevant deposition testimony. He has been sanctioned for tens of thousands of dollars, including in multiple orders from the Denver District Court and one sanctions order from the Colorado Court of Appeals. This conduct is not new, nor is it unknown to Defendants, as Oltmann regularly discusses his legal troubles publicly, including at length during his daily podcasts, onstage during his appearances with the ReAwaken America Tour,¹⁰⁷ and onstage with other members of the Film cast at Mike Lindell’s “Cyber Symposium” in South Dakota. 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.

J. The harm Defendants caused Dr. Coomer.

102. The harm caused by Defendants’ 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 he continues to receive those threats on a regular basis. Defendants are familiar with Oltmann’s social

¹⁰⁷ The “ReAwaken America Tour” is a QAnon themed, traveling, days-long conference that visits a different city every four to six weeks and features dozens of speakers, often including Oltmann. The Tour is headlined by Michael Flynn and has featured appearances by both Byrne and Waldron. The Tour is organized by Clay Clark and conducted by Make Your Life Epic LLC dba Thrivetime Show. Both Clark and Thrivetime Show are defendants in a separate defamation suit filed by Dr. Coomer, *Coomer v. Make Your Life Epic LLC, et. al.*, Case No. 1:21-cv-03440-WJM-KLM (Dist. Ct. Colo.).

media presence and his daily podcast, and they know that Dr. Coomer has filed numerous lawsuits describing the harm their lies have caused him. This harm includes but is not limited to numerous death threats sent directly to Dr. Coomer or his family members through text message, voicemail, email, and standard U.S. Mail. One limited review of just six months of online activity on a single platform, Twitter, identified more than a thousand unique individuals who had discussed Dr. Coomer in the same sentence with the words “kill,” “die,” “shoot,” “treason,” “hang,” “traitor,” “arrest,” and/or “attack.” These threats have not abated but, instead, continue with regular frequency to this day.

103. Despite all of this, Defendants produced, polished, and published the false claims against Dr. Coomer, and promoted their dangerous and dishonest propaganda in Colorado and across the country. 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,¹⁰⁸ privacy, safety, and earnings, and other pecuniary loss is immense.

¹⁰⁸ 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*

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

105. 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, and specifically across Colorado.

106. 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.

107. 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.

108. 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

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

110. 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.

111. 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

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

113. Defendants engaged in a conspiracy to defame and inflict emotional distress upon Dr. Coomer.

114. 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.

115. Defendants fed their narrative by falsely accusing Dr. Coomer 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 Dr. Coomer'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 Dr. Coomer and threats towards Dr. Coomer.

116. As a result of Defendants' coordinated conduct, Dr. Coomer 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. Unjust Enrichment

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

118. Defendants have all profited from the publication, distribution, and sale of the rights to the Film in Colorado, across the country, and around the world.

119. The Film made money for Defendants by promulgating defamatory lies about Dr. Coomer, who has suffered damages as a result.

120. Under these circumstances, it would be unjust for Defendants to retain the benefits of their wrongful conduct.

121. 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.

E. Permanent Injunction

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

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

VI. DEMAND FOR RETRACTION

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

VII. RIGHT TO AMEND

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

VIII. JURY DEMAND

126. Pursuant to Federal 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;
- Disgorgement of profits derived from the Film;
- 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 24th day of June 2022.

Respectfully submitted,

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