

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Representative ERIC SWALWELL)	
174 Cannon House Office Building)	
U.S. House of Representatives)	
Washington, D.C. 20515,)	
)	
Plaintiff,)	
)	
v.)	
)	
DONALD J. TRUMP)	
(in his personal capacity))	
The Mar-A-Lago Club)	
1100 S. Ocean Blvd.)	Case No. _____
Palm Beach, FL 33480,)	
)	JURY TRIAL DEMANDED
DONALD J. TRUMP JR.)	
425 E. 58th Street)	
Apt. 12 CD)	
New York, NY 10022,)	
)	
Representative MO BROOKS)	
(in his personal capacity))	
2185 Rayburn House Office Building)	
U.S. House of Representatives)	
Washington, D.C. 20515,)	
)	
and)	
)	
RUDOLPH GIULIANI)	
Rudolph W. Giuliani, PLLC)	
445 Park Avenue)	
18th Floor)	
New York, NY 10022,)	
)	
Defendants.)	

COMPLAINT

1. The peaceful transfer of power is a sacrament of American democracy. Donald Trump, his son Donald Trump Jr., his advisor Rudy Giuliani, and Congressman Mo Brooks,

together with many others, defiled that sacrament through a campaign of lies and incendiary rhetoric which led to the sacking of the United States Capitol on January 6, 2021.

2. Donald Trump lost the 2020 presidential election; he was unwilling to accept defeat. Trump lied to his followers, telling them that the certification of Joe Biden's election was a "coup" and that their country was being stolen from them. The Defendants filed frivolous lawsuits, all of which failed. The Defendants tried to intimidate state officials, none of whom caved to the pressure. Out of options and out of time, the Defendants called their supporters to Washington, D.C. on the day Congress met to certify Joe Biden's win, telling them to "Stop the Steal" and "be wild." Thousands came to the District in response. Some planned violence at the Capitol in advance; some were stirred to violence by the Defendants' words on that day.

3. Trump implored the crowd to "fight like hell" and "walk down Pennsylvania Avenue . . . to the Capitol." According to an analysis of cell phone location data, approximately 40% of the rally attendees did just that.¹

4. As a direct and foreseeable consequence of the Defendants' false and incendiary allegations of fraud and theft, and in direct response to the Defendants' express calls for violence at the rally, a violent mob attacked the U.S. Capitol. Many participants in the attack have since revealed that they were acting on what they believed to be former President Trump's orders in service of their country.

5. The mob disrupted the certification of the vote in the Electoral College. Rioters threatened to hang Vice President Mike Pence and kill the Speaker of the House, Nancy Pelosi, and they terrorized and injured scores of others, including the Plaintiff.

¹ <https://www.nytimes.com/2021/02/05/opinion/capitol-attack-cellphone-data.html>

6. Many members of Congress, including the Plaintiff, were trapped in the House chamber as plainclothes officers barricaded doors and held off the mob at gunpoint. Fearing for their lives, the Plaintiff and others masked their identities as members of Congress, texted loved ones in case the worst happened, and took shelter throughout the Capitol complex.

7. As the Plaintiff and hundreds of others—including police officers, other elected officials, and rank-and-file workers at the Capitol—were put in mortal danger, and as the seat of American Democracy was desecrated by the insurgent mob, the Defendants watched the events unfold on live television. Those with knowledge claimed that during this moment of national horror, Trump was “delighted” and was “confused about why other people on his team weren’t as excited as he was.” Others described Trump as “borderline enthusiastic” about the unfolding violence.

8. The horrific events of January 6 were a direct and foreseeable consequence of the Defendants’ unlawful actions. As such, the Defendants are responsible for the injury and destruction that followed.

I. PARTIES

Plaintiff Eric Swalwell

9. Plaintiff Eric Swalwell is beginning his fifth term as a member of the United States House of Representatives from California’s 15th Congressional District. He is a member of the House Permanent Select Committee on Intelligence, where he serves as Chair of the Intelligence Modernization and Readiness Subcommittee, as well as a member of the House Judiciary Committee. Before his election to the House in 2012, Congressman Swalwell spent seven years as a prosecutor in the Alameda County District Attorney’s office in his home state of California. In 2021, Speaker of the House Nancy Pelosi appointed Congressman Swalwell as

one of nine House impeachment managers for Donald Trump's historic second impeachment trial.

10. On January 6, 2021, Congressman Swalwell was at the Capitol performing his official duties as a member of the U.S. House of Representatives to count the Electoral College votes and certify the winner of the 2020 Presidential election.

11. Congressman Swalwell was in the House chambers when the violent mob entered the Capitol, ransacked offices, and set out to kill members of Congress and other officials. He was on the House floor the moment plainclothes officers barricaded doors and held the rioters at gunpoint to prevent them from entering the chamber.

Defendants

12. Defendants are the former President of the United States and three close associates who conspired with him and others, including the rioters who breached the Capitol on January 6, to prevent Congress from certifying President Biden's victory in the 2020 presidential election.

Defendant Donald J. Trump

13. Donald J. Trump was the 45th President of the United States. He ran for reelection in 2020 and lost. He has a lengthy history of normalizing violence through his rhetoric and social media communications. After his electoral defeat, Trump and the other Defendants conspired to undermine the election results by alleging, without evidence, that the election had been rigged and by pressuring elected officials, courts, and ultimately Congress to reject the results.

14. Trump also promoted and spoke at the January 6 rally, the culmination of the Defendants' coordinated efforts to subvert the certification vote which was funded and organized by his campaign and groups supporting his candidacy. He encouraged his followers to come to

Washington, D.C. on January 6, and he encouraged them to go to the Capitol to “fight like hell.” Trump directly incited the violence at the Capitol that followed and then watched approvingly as the building was overrun.

15. Trump did all these things solely in his personal capacity, for his own personal benefit, and to advance his personal interests as a candidate. For example, he tweeted from his personal Twitter account (@realDonaldTrump) and not from the official, White House, twitter account, and he spoke at the January 6 rally in his capacity as a losing candidate for the Presidency on the day Joseph Biden was being certified as the winning candidate and next President of the United States.

Defendant Donald J. Trump Jr.

16. Defendant Donald J. Trump Jr. is the oldest son of former President Trump and the executive vice president of the Trump Organization. Trump Jr. conspired with the other Defendants to undermine the election results by alleging, without evidence, that the election had been rigged and by pressuring elected officials, courts, and ultimately Congress to reject the results.

17. Trump Jr. also promoted and spoke at the January 6 rally. He addressed the crowd at this event and directly incited the violence at the Capitol that followed.

Defendant Rudolph Giuliani

18. Defendant Rudolph Giuliani was a close advisor and personal lawyer for former President Trump. Giuliani conspired with the other Defendants to undermine the election results by alleging, without evidence, that the election had been rigged and by pressuring elected officials, courts, and ultimately Congress to reject the results. As one of Trump’s personal attorneys, Giuliani participated in the frivolous lawsuits filed on Trump’s behalf.

19. Giuliani also promoted and spoke at the January 6 rally. Giuliani addressed the crowd at this event and directly incited the violence at the Capitol that followed.

Defendant Mo Brooks

20. Defendant Mo Brooks is a member of the United States House of Representatives from Alabama's Fifth Congressional District. Brooks—acting in his personal capacity—conspired with the other Defendants to undermine the election results by alleging, without evidence, that the election had been rigged and by pressuring elected officials, courts, and ultimately Congress to reject the results.

21. Brooks also promoted and spoke at the January 6 rally. Brooks addressed the crowd at this event and directly incited the violence at the Capitol that followed.

II. JURISDICTION AND VENUE

22. This Court has subject matter jurisdiction over this case because the Plaintiff's federal conspiracy claims arise under the laws of the United States. It has jurisdiction over the Plaintiff's state law claims because they are so closely related to the federal claims as to form part of the same case or controversy. *See* 28 U.S.C. §§ 1331, 1367; 42 U.S.C. §§ 1985, 1986.

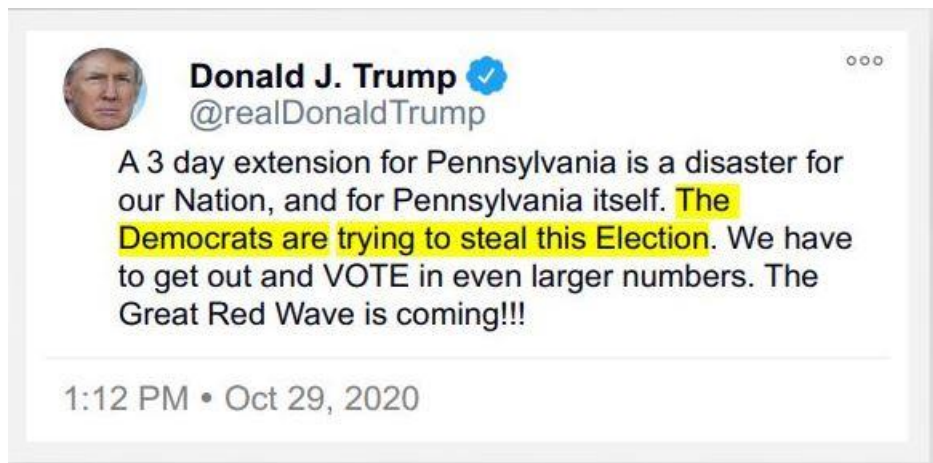
23. Venue is proper in this Court because a substantial part of the conduct giving rise to the claims in the case, including the violent attack on the Capitol the Defendants incited, occurred in the District of Columbia. *See* 28 U.S.C. § 1391(b)(2).

24. This Court has personal jurisdiction over all the Defendants because they committed these violations in the District of Columbia. *See* Fed. R. Civ. P. 4(k)(1)(A); D.C. Code § 13-423.

III. RELEVANT FACTUAL BACKGROUND

Trump's Deliberate Efforts to Undermine the Election Results

25. Months before a single poll had opened for the 2020 election, Trump and the Trump campaign began accusing Democrats of trying to “steal the election,” calling the lawful state decisions about how to conduct an election in the midst of a world-wide pandemic—supervised, where appropriate, by the courts—“the scandal of our times.” He repeatedly made such statements, right up to the days immediately preceding the election:



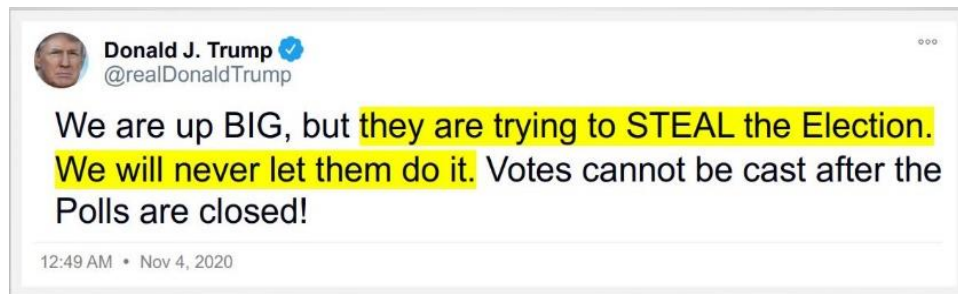
26. When election day (November 3) arrived, however, Trump said nothing of election fraud for much of the day, almost surely because he led Biden in the early returns.

27. Democrats more so than Republicans chose to vote by mail, given the starkly partisan views of the Covid-19 pandemic. Where most Republican leaders urged supporters to

vote in person, Democratic leaders sought to prioritize safety and social-distancing, encouraging people to vote by mail.² Mail-in ballots were often counted much later than in-person ballots. Of the battleground states that largely decided the 2020 election—Pennsylvania, Wisconsin, Michigan, Ohio, Georgia, Nevada, and Arizona—Pennsylvania and Wisconsin do not begin *processing* mail-in ballots until election day, and only Arizona and Nevada began *counting* mail-in ballots earlier than election day.³

28. Toward the end of the day on November 3, however, the returns moved in Biden’s direction, as most pundits and analysts had predicted, and Trump’s lead substantially dwindled. As his outlook soured over this news, and realizing that his reelection campaign was going to be unsuccessful, Trump decided to renew his claims of voter fraud.

29. At 12:49 a.m., on November 4, Trump took to Twitter to accuse unnamed individuals from attempting to steal his victory.



30. A little more than an hour later, Trump accused a “very sad group of people” of “trying to disenfranchise” the millions of people who had voted for him.⁴

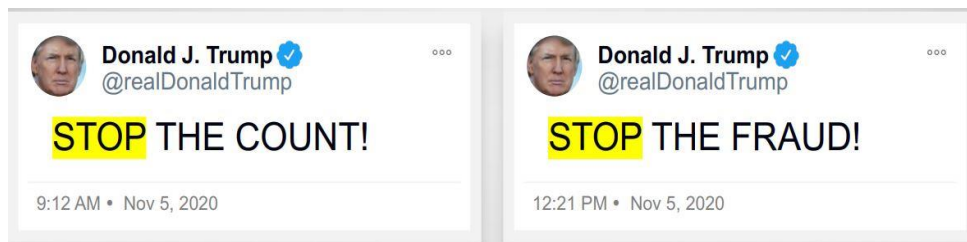
² See, e.g., <https://www.theguardian.com/us-news/2020/dec/03/democrats-mail-in-voting-2020-election-analysis>.

³ <https://www.npr.org/2020/10/23/926258497/when-will-mail-in-ballots-be-counted-see-states-processing-timelines>.

⁴ A video of Trump’s entire address can be found online at <https://www.c-span.org/video/?477710-1/president-trump-remarks-election-status>. The referenced statements appear at the 00:59 second mark.

31. Later in the day, Trump doubled down on his claims of fraud, falsely declaring victory in the battlegrounds of Pennsylvania, Georgia, North Carolina, and Michigan, even as hundreds of thousands of votes in those states were still being counted and the polls were showing an increasing advantage for Biden.⁵

32. The following morning, November 5, less than 48 hours after the polls had closed, Trump tweeted “Stop the Count” and “Stop the Fraud,” slogans frequently repeated throughout the day on January 6 prior to and during the attack on the Capitol. He sent these tweets in an effort to keep his reelection prospects alive, despite the mounting reasons to believe he had been defeated.



33. Trump gave his first prime-time speech since the election the evening of November 5. He opened his remarks to the nation with a stunning false assertion, “If you count the legal votes, I easily win. If you count the illegal votes, they can try to steal the election from us.”⁶ He echoed that sentiment on Twitter a short while later:

Donald J. Trump
@realdonaldtrump

I easily WIN the Presidency of the United States with LEGAL VOTES CAST. The OBSERVERS were not allowed, in any way, shape, or form, to do their job and therefore, votes accepted during this period must be determined to be ILLEGAL VOTES. U.S. Supreme Court should decide!

Nov 6th 2020 - 2:22:47 AM EST · Twitter for iPhone · [View on Twitter](#)

⁵ Biden eventually won three of these four states, claiming Pennsylvania, Michigan, and Georgia.

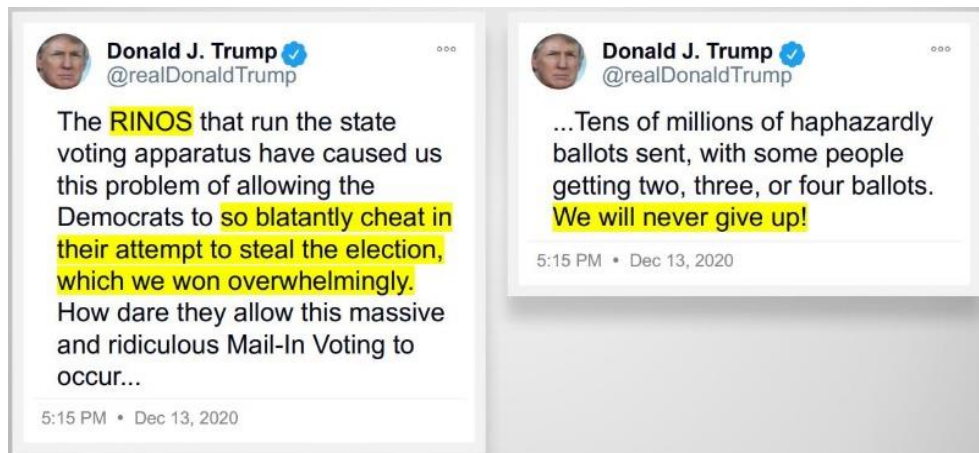
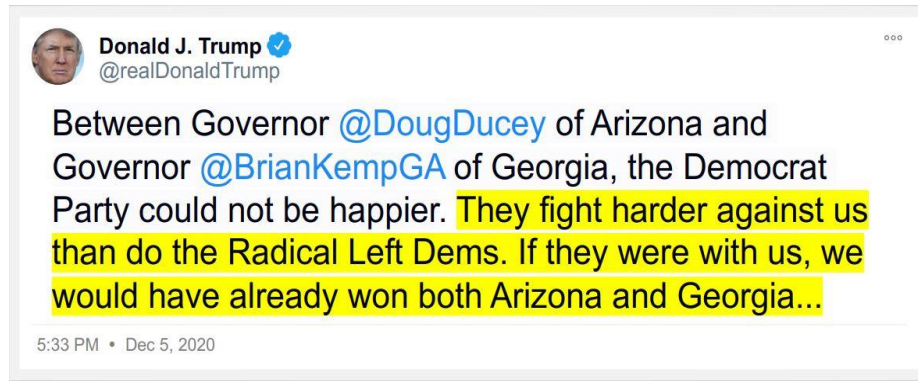
⁶ <https://www.c-span.org/video/?477858-1/president-trump-challenges-latest-election-results-claims-voter-fraud>.

34. Trump’s allegations of wrongdoing in those first days after the election sparked confrontations nationwide between his supporters and election officials:



35. Trump soon after began directing his criticisms at individual elected officials. His supporters, in turn, began targeting those officials for harassment and threats. For example, armed supporters of the former President, encouraged by him, surrounded the home of the Michigan Secretary of State, while Trump-supporting militias demanded a “citizen tribunal” at the Georgia Capitol.

36. President Biden went on to win the states of Arizona⁷ and Georgia.⁸ Yet, in the first half of December, Trump attacked the Republican governors of these states, accusing them of “fight[ing] harder against us than do the Radical Left Dems.” He lamented their lack of fealty to him, stating if these governors “were with us, we would already have won both Arizona and Georgia”:



37. Trump also attempted to pressure state electors to improperly overturn the election results in their states. He directed particular attention to officials in Michigan, Pennsylvania, and Georgia. He personally attempted to cajole these officials to overturn the election results and directed his followers to intimidate these perceived adversaries.

⁷ <https://www.archives.gov/files/ascertainment-arizona.pdf>

⁸ <https://www.archives.gov/files/electoral-college/2020/ascertainment-georgia.pdf>

Michigan

38. In November 2020, bipartisan election officials in Wayne County, Michigan unanimously certified the election results for President Biden. Trump then tried to pressure two Republican members of that board to change their minds. In response, these two officials in fact tried—unsuccessfully—to rescind their votes certifying the election results.

39. Trump next contacted Michigan Senate Majority Leader Mike Shirkey and Speaker of the Michigan House of Representatives Lee Chatfield. Trump likewise pressured them to overturn Michigan’s election results, even meeting them in person to pressure them to undo the results of the election. Those efforts, too, proved unsuccessful.

40. Undeterred, Trump falsely declared on December 5, “You know I won almost every county in Michigan, almost every district. We should have won that state very easily. We have a similar type of governor I think but I’ll let you know that in about a week.”

41. In what should have been an obvious sign of the risk inflammatory language could pose on January 6, some of Trump’s followers heard his claims as a directive to act. And they responded. A large group of armed protestors convened at the home of the Michigan Secretary of State chanting, “Stop the steal!,” “You’re a threat to our democracy!,” and “You’re a threat to a free and honest election!” The protestors made explicit demands that the Secretary overturn the state’s election results.

42. Trump’s efforts to overturn the election results in Michigan were unsuccessful.

43. There were no election irregularities in Michigan sufficient to change the final Presidential vote count in that state. Joe Biden won the Presidential vote in Michigan.⁹

⁹ <https://www.archives.gov/files/ascertainment-michigan.pdf>

Pennsylvania

44. Trump also attempted to interfere with officials in Pennsylvania. Trump contacted Pennsylvania State Senate Majority Leader Kim Ward and Pennsylvania Speaker of the House of Representatives Brian Cutler. Trump directly and falsely told Senator Ward, “There was fraud in the voting.”

45. On November 25, 2020, Trump participated by phone in a Pennsylvania State Republican Senate policy hearing and attempted to convince the state legislators that there had been massive fraud in the commonwealth’s voting. Trump spoke directly to the lawmakers, telling them, “This election has to be turned around.” He further falsely claimed that he had won Pennsylvania and other swing states “by a lot.”

46. As he had in Michigan, Trump personally met with Republican members of the Pennsylvania legislature to pressure them to overturn the commonwealth’s election results.

47. Trump’s efforts to overturn the results in Pennsylvania were unsuccessful.

48. There were no election irregularities in Pennsylvania sufficient to change the final Presidential vote count in that commonwealth. Joe Biden won the Presidential vote in Pennsylvania.¹⁰

Georgia

49. Trump went to especially extraordinary lengths to overturn the election results in Georgia, a reliably Republican stronghold for decades that Trump believed was in jeopardy. After Secretary of State Bradford Raffensperger stated his belief that the state’s election results in favor of President Biden were accurate, Trump lashed out at him. He called Raffensperger an

¹⁰ <https://www.archives.gov/files/electoral-college/2020/ascertainment-pennsylvania.pdf>

“enemy of the people” and directed at least 17 tweets at him, referring to him as a “disaster,” “obstinate,” and a “so-called ‘Republican[.]’”

50. In what should have been another warning to the Defendants about the impact of their words at the January 6 rally, some of Trump’s followers responded to the claims of fraud and Trump’s personal attacks on Raffensperger by targeting Raffensperger and his family with violent threats. His wife was told, “Your husband deserves to face a firing squad.” He himself was told, “You better not botch this recount . . . your life depends on it” and that he and his family “should be put on trial for treason and face execution.”

51. In December of 2020, Trump pressured Georgia Governor Brian Kemp to hold a special session of the legislature to appoint electors who would cast electoral votes for Trump.

52. That same month, Trump called the Chief Investigator for the Georgia Bureau of Investigations, which was conducting an audit of signatures on absentee ballots. Trump implored the investigator to “find the fraud” and told him that he would be a “national hero” if he was successful in doing so.

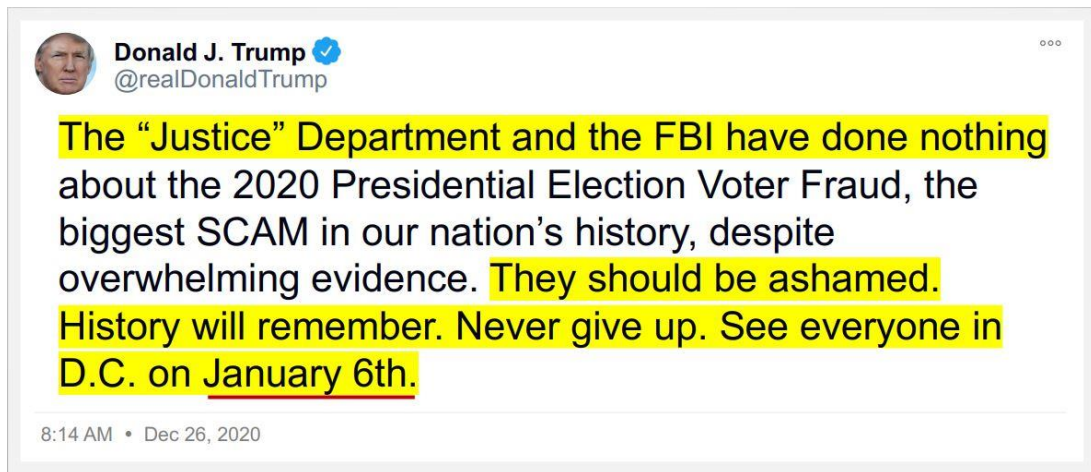
53. On January 2, 2021, just days before Congress was set to certify the Electoral College votes, President Trump initiated a conversation with Raffensperger about the alleged massive voter fraud in Georgia. The next day, Trump made many misrepresentations about that conversation to sway public opinion, including that Raffensperger had “no clue” about a number of alleged voting irregularities in the state. The media, however, obtained and released an audio recording of that call. It showed Trump browbeating Raffensperger to find enough evidence of fraud to change the state’s election result. Trump claimed that Raffensperger was aware of election fraud—telling him “you know what they did and you’re not reporting it.” Trump told

Raffensperger that he had won the state of Georgia. Trump made an explicit request to Raffensperger: “I just want to find 11,780 votes, which is one more than we have.”

54. There were no election irregularities in Georgia sufficient to change the final Presidential vote count in that state. Joe Biden won the Presidential vote in Georgia.

55. In addition to Michigan, Pennsylvania, and Georgia, Trump took aim at officials in other Republican-led jurisdictions for the same reasons.

56. Trump’s claims of widespread fraud and election-rigging were rebuked by numerous executive agencies, including the Federal Bureau of Investigation, the Department of Justice, and the Department of Homeland Security.¹¹ Trump lashed out at them as well, berating them for their refusal to address “the biggest SCAM in our nation’s history.” Trump coupled this message with a call to action on January 6:



57. On January 5, the night before the rally, Trump tweeted about the thousands of people flooding D.C. who did not want to see the country “stolen” by “Radical Left Democrats:

¹¹ <https://www.brennancenter.org/our-work/research-reports/its-official-election-was-secure>



58. Then, less than 10 minutes later, he attacked “the weak and ineffective RINO [Republican In Name Only] section of the Republican Party,” threatening that the “thousands of people pouring into D.C. ... won’t stand for a landslide election victory to be stolen”:



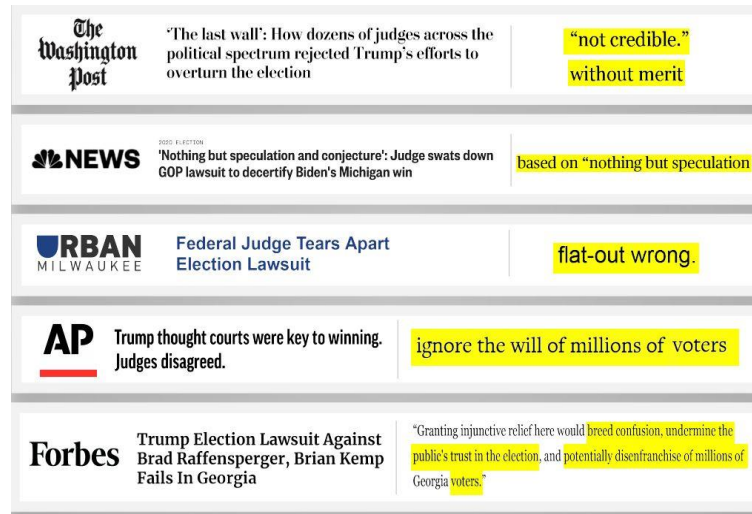
Defendants Conspire With Trump to Overturn the Election

59. The other Defendants—Mo Brooks, Rudolph Giuliani, and Donald Trump Jr.—all conspired with Trump, each other, and others to subvert the will of the people in the 2020 election. While those efforts culminated with the attack on January 6, they began long before then.

Rudolph Giuliani

60. Rudolph Giuliani spearheaded another arm of Trump’s efforts to subvert the election: the numerous challenges in the courts. He led a legal team that eventually filed 62 lawsuits seeking to undo the election results, all in key battleground states.

61. Virtually all those lawsuits were rejected outright. Judges appointed by Republicans and Democrats—including those appointed by Trump himself—determined the claims brought by Giuliani and the others were baseless. Judges derided the allegations in these suits as “without merit” and “flat-out wrong.” One judge opined that what would “undermine the public’s trust in the election” was not the alleged massive fraud Trump alleged, but the Court overturning the results of a landslide election based on no evidence of systemic wrongdoing at all:



62. In December 2020, Giuliani, who was not a government official, tried to convince acting Deputy Secretary of Homeland Security Ken Cuccinelli to have the Department of Homeland Security illegally seize voting machines. The Deputy Secretary refused to do so.

63. While he was baselessly seeking to undo the election in the courts, Giuliani was also repeatedly spreading Trump’s unsubstantiated claims of massive voter fraud through traditional and social media.

64. Focusing on the Defendants’ final means of subverting the election—blocking certification of President Biden’s victory—Giuliani advanced the argument that Vice President

Pence could unilaterally block certification of the Electoral College vote, a position almost universally rejected by legal scholars, and by Vice President Pence himself.

65. At 6:34 p.m. on January 5, Giuliani tweeted a link to a YouTube video from his show “Common Sense” entitled, “Watch this Before January 6th.” The video purported to explain why it was permissible for Vice President Pence to block certification of the Electoral College vote the next day. Giuliani tweeted a retweet of that post later that night and again the following morning, shortly before Trump spoke at the rally.

66. A little over an hour later, on January 5 at 7:44 p.m., Giuliani made clear that he would be at the rally. He also volunteered that President Trump would “be joining us” there.

67. As recounted below, Giuliani would tell the crowd at the rally the next day that it was perfectly legal for Vice President Pence to block certification of the vote—even though most experts disagreed—and he suggested that Pence’s failure to do so would be an act of cowardice, if not outright treason. He then told the rally-goers, shortly before many of them stormed the Capitol, that it was time for “trial by combat.”

Donald Trump Jr.

68. In the weeks before the January 6 rally, Donald Trump Jr. repeatedly spread his father’s baseless claims of massive, widespread voter fraud.

69. For example, on November 6, Donald Trump Jr. tweeted:



70. As early as November 18, an analysis commissioned by ABC News confirmed that “[f]alse and misleading election-related claims, already running rampant on social media in the wake of this year’s race, were given an exponential boost in exposure after they were shared by Donald Trump Jr. and Eric Trump.”¹² Trump Jr. understood this to be the case and intentionally spread the misleading claims with the intent of raising their public profile.

71. Trump Jr. did these things in an effort to overturn the 2020 Presidential election results and to aid the other Defendants’ efforts to do the same.

72. Upon information and belief, Trump Jr. continued to spread such claims through January 6. He has since deleted numerous social media posts related to the events of January 6, including all his Twitter posts prior to January 28, 2021.

73. Trump Jr. also repeatedly criticized “weak Republicans” and “radical left Democrats” as making the cover-up of this alleged massive voter fraud possible.¹³

74. On January 5, Donald Trump Jr. shared a video on Instagram with a call to “Be Brave. Do Something.”:



¹² See Catherine Sanz, “Eric Trump, Donald Trump Jr. amplified claims of election fraud, analysis shows,” ABCNews.com (Nov. 18, 2020), available at <https://abcnews.go.com/Politics/eric-trump-donald-trump-jr-amplified-claims-election/story?id=74261329>.

¹³ See <https://www.instagram.com/p/CHQANEVlj6i/?hl=en>

75. Trump Jr. did these things in an effort to overturn the 2020 Presidential election results and to aid the other Defendants' efforts to do the same.

76. The day before the rally, Trump Jr.'s girlfriend, Kimberly Guilfoyle, spoke with "Stop the Steal" organizer Ali Alexander who relayed "The president's mood is he's in fighter mode and today will determine which Republicans are going to suffer his wrath going forward."¹⁴

77. As recounted below, when Trump Jr. spoke at the rally the next day, he would again attack "radical Left Democrats" and "weak Republicans," and again claim that the election had been stolen from his father and the American people.

Mo Brooks

78. On November 5—long before any evidence of alleged widespread fraud could possibly have been obtained, but the same day that Trump addressed the nation about the alleged massive election fraud that did not exist—Brooks tweeted that he "lack[ed] faith that this was an honest election." He said that, as a House member, he would be "very hesitant to certify the results of this election if Joe Biden wins":

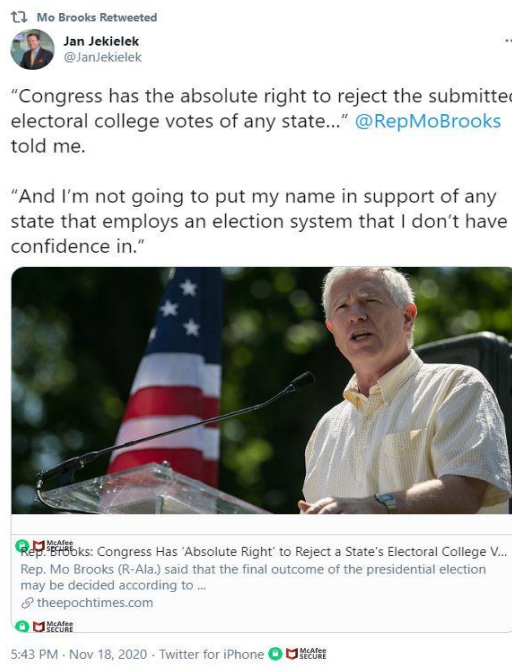


¹⁴ <https://www.mediamatters.org/january-6-insurrection/stop-steal-organizer-ali-alexanders-pre-january-6-calls-violence-weve-got>

79. Brooks separately tweeted that day, “Count Every LEGAL Vote!,” the same phrase Trump would use in his national address later that day:



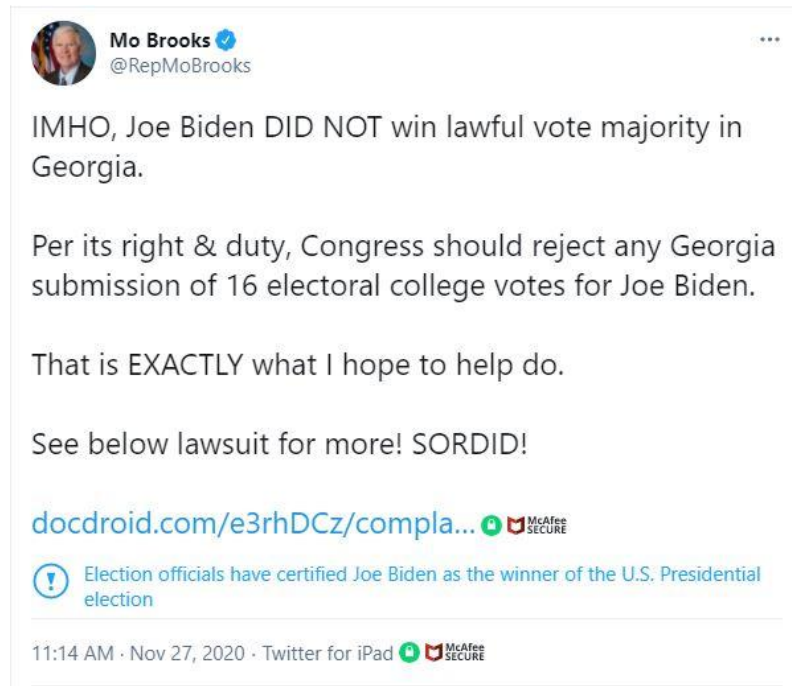
80. On November 18, Brooks previewed the Defendants’ endgame should their other efforts fail, retweeting a journalist who quoted him as saying that Congress can reject the electoral college votes “of any state”:



81. On November 19—the same day that that Trump personally pressured Michigan elected officials—Brooks reiterated that “Congress controls who becomes president.”¹⁵

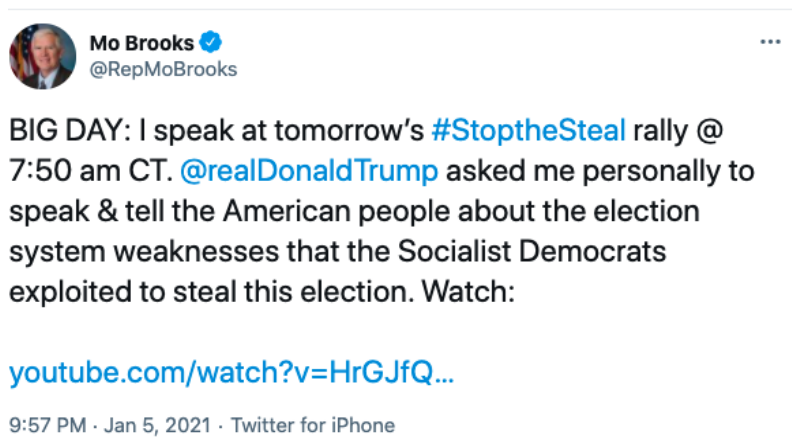
¹⁵ https://www.youtube.com/watch?v=_cdumF-u0Rw&list=PLKDM1nJ92oEVohc-GdCb6tCnJ_5iW-Zd

82. One week later, on November 27, Brooks proclaimed that “Joe Biden DID NOT win lawful vote majority in Georgia” and that Congress should reject its electoral votes:



83. Brooks did these things in an effort to overturn the 2020 Presidential election results and to aid the other Defendants’ efforts to do the same.

84. Brooks posted on Twitter that Trump personally had invited Brooks to speak on January 6 about how “Socialist Democrats” had managed to “steal this election” (Brooks identified Trump by tagging Trump’s personal Twitter account):



As recounted below, Brooks told the attendees at the rally that their country was literally being taken from them, that the scale of wrongdoing was of historical proportions, that it was time to start “kicking ass,” and that the individuals who were there that day had to be ready to perhaps sacrifice *even their lives* for their country.

85. Brooks said all these things solely in his personal capacity for his own benefit and/or personal partisan aims.

Trump’s Call to “Be There, will be wild!” Is Understood As a Call to Violence

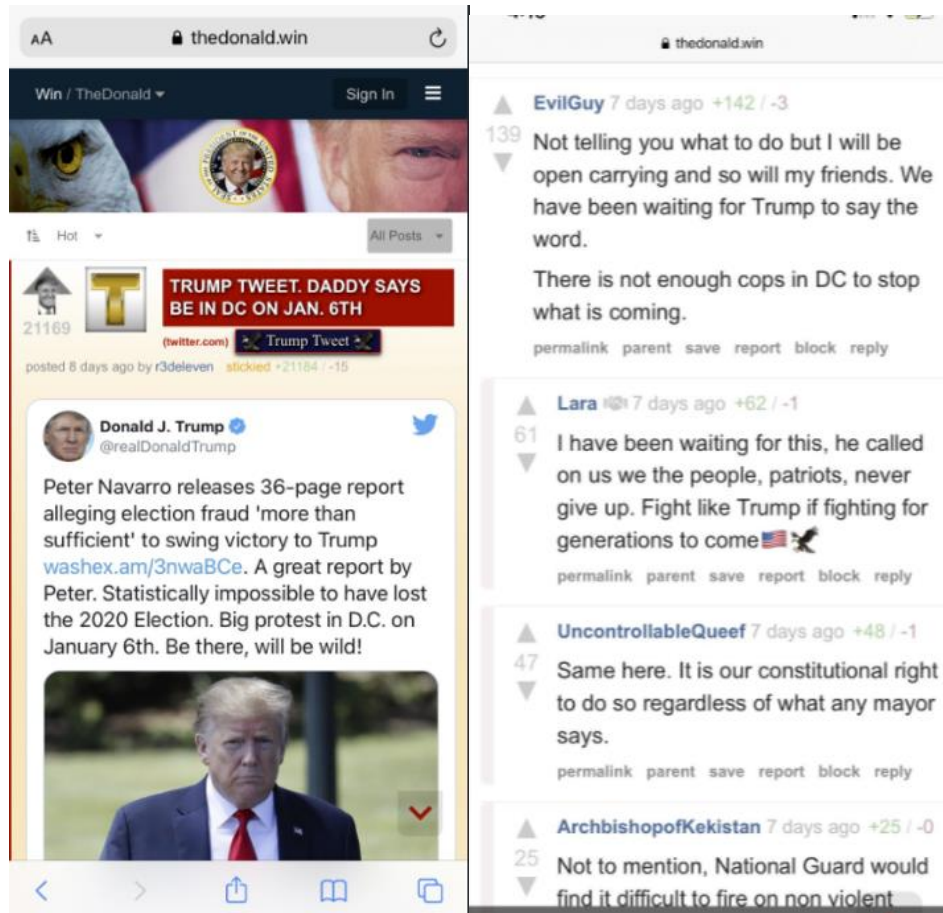
86. On December 19, 2020, after the Electoral College had voted to elect Joe Biden President, then-losing-candidate Trump promoted a “[b]ig protest on January 6.” He told his followers to “Be there, will be wild!”:



87. Particularly considering Trump’s prior directive to a white supremacist group—the Proud Boys—to “stand by,” Trump’s tweet claiming that it was “statistically impossible to have lost the 2020 Election” was accurately understood by his followers to be a signal that the country had fallen, and a call to violence in response.

88. For example, within minutes of Trump’s “be wild” tweet, it was shared on TheDonald.win with the title: “Trump Tweet. Daddy Says Be in DC on Jan 6.” One user

“EvilGuy,” said, in response to Trump’s call to action, “I will be open carrying and so will my friends. We have been waiting for Trump to say the word. There is [sic] not enough cops in DC to stop what is coming.”



89. Other responses were in a similar vein. MrMcGreenGenes wrote “Well, shit. We’ve got marching orders bois.” (“Bois” is a likely reference to the “Bugaloo Bois” a right-wing extremist group.) Buttfart88 similarly understood Trump’s tweet as “marching orders.”

MrMcGreenGenes 558 points 2 hours ago +559 / -1
Well, shit. We've got marching orders, bois.

- [Buttfart88](#) 25 points 2 hours ago +25 / -0

Trump just finally dropped the marching order at 1:00 in the morning. Holy shit lmao

NamelessKing understood Trump's tweet as a call to bring weapons to D.C. on the same day Congress was to certify the Electoral College vote:

- [NamelessKing](#) 34 points 2 hours ago +35 / -1

"Will Be Wild" is a hidden message for us to be preparedas in armed.

could also mean he's posted military in certain places while they all wait for the results to be handed down.

PepeVsCommies took this as signal to use "any means necessary":

[Protest in DC on Jan 6!!! Let's all turn up and show them they can't steal the election!!! Trump tweets: "Be there, will be wild"](#)
posted 1 hour ago by [PepeVsCommies](#) +118 / -0

WE NEED TO MAKE OUR VOICES HEARD, using any means necessary!!!

Perhaps most tellingly, SWORDofLIBERTY and justinkayz understood Trump's tweet as a call to do exactly what the rioters did—"burst into [the Capitol] by the thousands."

- [SWORDofLIBERTY](#) 2 points 9 hours ago +2 / -0

doesn't matter if they steal the election, if patriots burst into the building by the thousands and cut the heads off the hydra.

They make the wrong choice with thousands of armed pissed patriots outside, they made their choice, and you have to make yours.

- [justinkayz](#) 1 point 5 hours ago +1 / -0

Storm the People's House and retake it from the fuckin' commies

Others discussed shooting police officers and bringing weapons.

- [loveshock](#) 3 points 1 hour ago +7 / -4

Cops don't have "standing" if they are laying on the ground in a pool of their own blood.

- [BathouseBarry](#) 2 points 18 minutes ago +2 / -0

And we will be armed, and we won't leave.

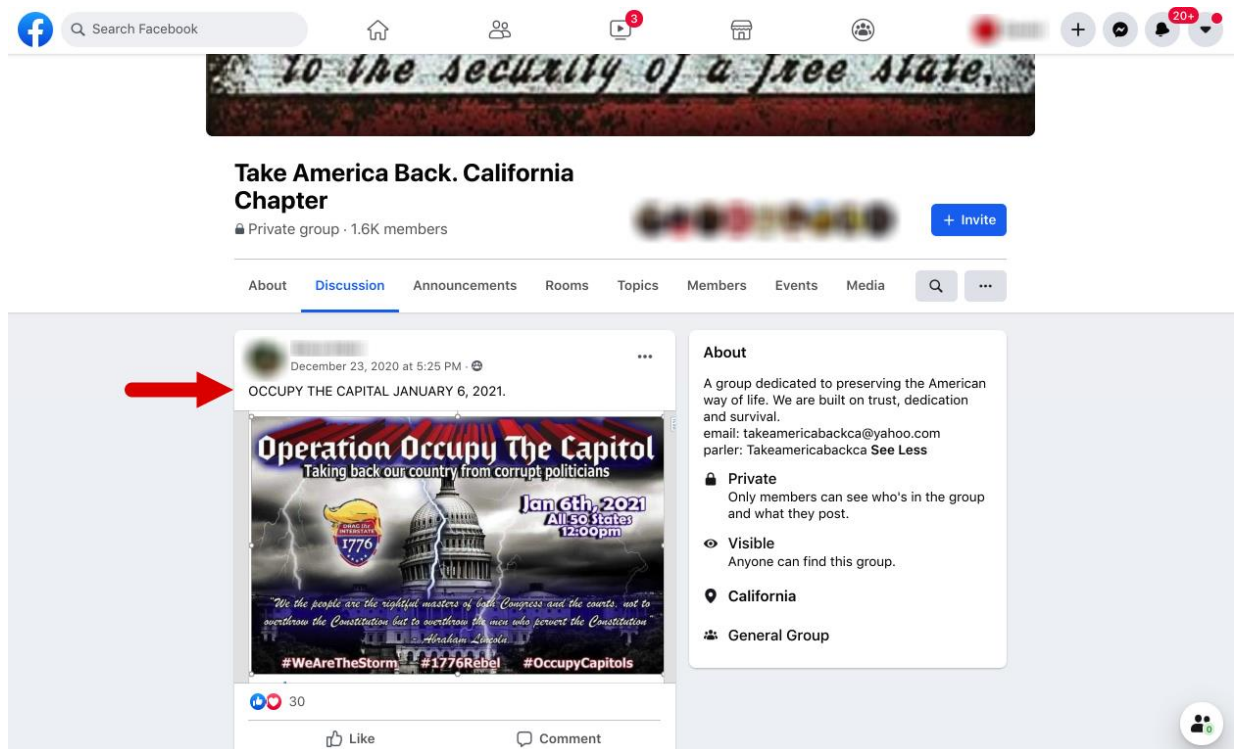
90. Trump intended his supporters to interpret his “will be wild” tweet as a call to violence, and he knew they had done just that.

91. Some of Trump’s supporters engaged with him on Twitter about their plans to be a part of his “Cavalry.”



92. Similarly, on Facebook, many planned violence on January 6 in response to Trump’s tweet. For example, one California group built on “Trust, Dedication, and Survival” promoted “Operation Occupy the Capitol” on January 6 tagging the post #wearethestorm and #1776Rebels.¹⁶

¹⁶ See generally <https://www.techtransparencyproject.org/articles/capitol-attack-was-months-making-facebook>



93. One conspiracy theorist, and Trump supporter, tweeted that he was ready to die for Trump. The Arizona Republican Party retweeted his message, asking its followers “He is [ready to die for Trump]. Are you?”¹⁷

94. In response to Trump’s tweets calling people to Washington, D.C. on January 6, militia groups also began to strategize an assault on the Capitol by sharing maps of the Capitol and coordinating supplies and outfits to wear.

95. The Three Percenters were one of these militia groups, and indeed many of its members were among those who stormed the Capitol on January 6.

¹⁷ See <https://www.washingtonpost.com/politics/2021/01/06/lets-have-trial-by-combat-how-trump-allies-egged-violent-scenes-wednesday> and https://twitter.com/AZGOP/status/1336186861891452929?ref_src=twsrc%5Etfw

96. Trump Jr. previously has showed support for the Three Percenters. In May 2019, he posted a picture on Instagram showing himself in a t-shirt with the Three Percenters logo¹⁸ prominently displayed.



¹⁸ <https://www.adl.org/resources/backgrounders/three-percenters>

Defendants Incite Violence at the Rally

97. The rally on January 6 was organized and funded by Trump’s campaign organization, Donald J. Trump for President (“the Campaign”). The Campaign paid an entity called Event Strategies to obtain the permit for the rally. The permit for the rally listed the Campaign’s director of finance operations as the “VIP Lead” for the rally.

98. At 10:00 p.m. on January 5, Trump put down his final marker as a losing candidate, declaring that Vice President Mike Pence had the authority to overturn the election results and hand him a victory:



99. Trump’s tweet was intended to convince the tens of thousands of supporters who had traveled to D.C. for the rally that Vice President Pence was uniquely situated to save Trump’s presidency.

100. By the morning of January 6, thousands of Trump supporters had flooded Washington, D.C. Many were prepared for violence and had plans to attack the Capitol. Many more were there for a political rally. The extremists who had been plotting the attack breached the Capitol as planned. The Defendants, and others, incited many of the other attendees to

violence, whipping them into a frenzy and turning them into a violent mob that participated in the attack.

101. The rally opened at 7:00 a.m. on January 6. From that time until shortly after 1:00 p.m., a series of speakers took the stage to lash out against the election results and to demand action by lawmakers from both political parties.

102. The Defendants and others spoke at the rally.

103. Amy Kremer, the head of the group Women For America First—one of the rally’s principal organizers—told the crowd that Trump “asked us to show up today, and I don’t think he’s going to be disappointed.” She repeated the lie that President Biden “did not win this election!” “We know that there was voter fraud, we absolutely know it,” she went on, “and that’s why we’re here, to stop the steal.” She spoke of the crowd’s role in apocalyptic terms: “This isn’t about stealing an election from Donald Trump, this is about stealing an election from We the People, and we are here to save the republic.” “You guys,” she implored them, “we cannot back down.” The crowd cheered in response.

104. Trump and Trump Jr., standing backstage, heard Ms. Kremer say all those things to the crowd, including that they literally were there to “save the republic” and not to back down, and heard the crowd cheer in response.

105. Mo Brooks also addressed the crowd at the rally, after Kremer had spoken. The theme of Brooks’ speech was that patriots are sometimes required to make extraordinary sacrifices for their country, and that day, January 6, was one such occasion.

106. Brooks told the crowd, just one minute into his speech, “We are great because our ancestors sacrificed their blood, their sweat, their tears, their fortunes, and sometimes their

lives.” He continued that the country faced a crisis of historical magnitude, its greatest crisis since World War II, and perhaps even the Civil War:

We are here today because America is at risk unlike it has been in decades, and perhaps centuries.

107. He told the crowd that “Socialist Democrats” were attacking their freedoms and had literally stolen an election from them, and now had to be stopped:

We are not gonna let the socialists rip the heart out of our country. We are not gonna let them continue to corrupt our elections and steal from us our God-given right to control our nation’s destiny.

108. And he told the crowd, before repeating his theme, that it was time to start “kicking ass”:

Today is the day American patriots start taking down names and kicking ass! [Crowd cheers.] Now, our ancestors sacrificed their blood, their sweat, their tears, their fortunes, and sometimes their lives, to give us, their descendants, an America that is the greatest nation in world history. So I have a question for you: Are you willing to do the same? My answer is yes. Louder! Are you willing to do what it takes to fight for America? Louder!! Will you fight for America?!

109. Brooks said all those things solely in his personal capacity for his benefit and/or his personal partisan aims.

110. Trump and Trump Jr., standing backstage, heard Brooks say all those things to the crowd, and heard the crowd cheer in response.

111. Giuliani also spoke at the rally, after Brooks and Kremer had spoken. He told the crowd, falsely, that it was “perfectly legal” for Vice President Pence unilaterally to block certification of the Electoral College votes, suggesting to the lay crowd that any failure by Vice President Pence to do so could have no legitimate constitutional basis, but instead would amount to cowardice and even treason.

112. To further foment the crowd, Giuliani confirmed the magnitude of what it would mean for certification to occur:

This has been a year in which they have invaded our freedom of speech, our freedom of religion, our freedom to move, our freedom to live. I'll be darned if they're going to take away our free and fair vote. And we're going to fight to the very end to make sure that doesn't happen.

113. Giuliani also falsely claimed, "This was the worst election in American history." "This election was stolen," he said, and "it has to be vindicated *to save our country*."

114. Giuliani, who had led Trump's string of unsuccessful efforts to block certification in courts of law, declared instead, "Let's have trial by combat." The crowd cheered.

115. Trump and Trump Jr., standing backstage, heard Giuliani say those things, and heard the crowd cheer, particularly in response to his statement advocating "trial by combat" as the way forward.

116. Donald Trump Jr. also spoke at the rally, after Giuliani, Brooks, and Kremer had spoken. Like the others, Trump Jr. falsely told the crowd that the election had been stolen from his father. In what should have been a sign of how the crowd was receiving the Defendants' claims and allegations, spontaneous chants of "Fight for Trump! Fight for Trump!" rose up as Trump Jr. lambasted the alleged "glaring inconsistencies" and "statistical impossibilities" that allegedly had made President Biden's win possible.

117. Trump Jr. also said the assembled crowd "should be a message to all the Republicans who have not been willing to actually fight. The people who did nothing to stop the steal. This gathering should send a message to them: this isn't their Republican party anymore. This is Donald Trump's Republican party."

118. Trump Jr., knowing full well how his father had attacked Vice President Pence in recent days for his intended refusal to block certification, went on to blast other Republicans who refused to fight for his father:

This is the Republican party that's not just going to roll over and die because the Democrats would like you to. That is what so many in the Republican establishment have created. That sort of mentality: Ok, we'll turn the other cheek. We'll roll over and die. We'll fold and give up. No more! So to those Republicans—many of which may be voting on things in the coming hours—you have an opportunity today. You can be a hero, or you can be a zero. And the choice is yours, but we are all watching!

119. Trump Jr. concluded by stating, “If you're gonna be the zero, and not the hero, we're coming for you, and we're gonna have a good time doing it.” The crowd cheered in response.

120. Trump, standing backstage, heard Trump Jr. say those things, and heard the crowd cheer in response.

121. Donald Trump was the final speaker at the rally. He began his remarks at approximately 12:00 p.m. and concluded around 1:15 p.m., just after the first skirmishes between insurgents and Capitol Police officers were breaking out at the Capitol.

122. In his remarks, Trump said “We took them by surprise and this year, they rigged an election. They rigged it like they've never rigged an election before.”

123. Trump continued that “Hundreds of thousands of American patriots are committed to the honesty of our elections and the integrity of our glorious Republic. All of us here today do not want to see our election victory stolen by emboldened radical left Democrats, which is what they're doing and stolen by the fake news media. That's what they've done and what they're doing. We will never give up.”

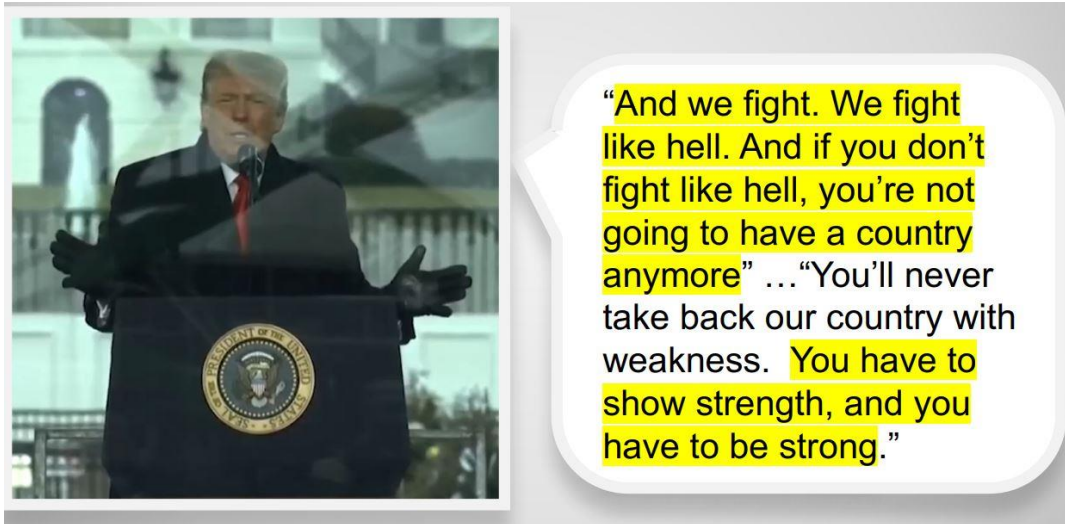
124. Trump also said “We will never concede, it doesn’t happen. You don’t concede when there’s theft involved. Our country has had enough. We will not take it anymore and that’s what this is all about. To use a favorite term that all of you people really came up with, we will stop the steal.” In referring to “the steal,” Trump meant the certification of Joseph Biden as President, which was underway at the Capitol.

125. As the crowd chanted “Fight for Trump,” Trump responded, “we will not let them silence your voices. We’re not gonna let it happen.”

126. Trump gave the crowd permission to break the rules; he told them that “[w]hen you catch somebody in a fraud, you’re allowed to go by very different rules.”

127. While Trump was speaking, at around 12:45 p.m., a pipe bomb was found at the Republican National Committee headquarters. Another was found at the Democratic National Committee headquarters about thirty minutes later.

128. Trump continued to incite the crowd. Trump concluded his speech by reminding the crowd that they’ll “never take back our country with weakness. You have to show strength, and you have to be strong.” He told the crowd to “walk down Pennsylvania Avenue. I love Pennsylvania Avenue. And we’re going to the Capitol ... But we’re going to try and give our Republicans, the weak ones because the strong ones don’t need any of our help. We’re going to try and give them the kind of pride and boldness that they need to take back our country.” The crowd cheered in response.



Donald Trump Jr., standing backstage, heard Trump say those things, and heard the crowd cheer in response.

Violence Starts at the Capitol

129. Trump and the other Defendants had put out a clear call to action, and the crowd responded. As Trump was instructing them to go to the Capitol, insurgents were already forcing their way through barricades, attempting to breach the building, while blasting Trump's speech on a bullhorn.

130. The violence escalated quickly. After Trump's speech ended, insurgents charged the hill surrounding the Capitol and began scaling the building's outer walls. Officers reported that rioters were attacking them with metal poles. Law enforcement and local leaders put out calls for help. Officers called for reinforcements as the mob pulled down the gates erected to protect the Capitol, attacked officers, and started throwing explosives.

131. At 1:34 p.m., the House Sergeant at Arms and D.C. Mayor Muriel Bowser both asked for backup.

132. At around 1:45 p.m., frenzied Trump supporters surged passed Capitol Police officers protecting the Capitol's West steps. By 1:49 p.m., the situation had gotten so volatile

that the Capitol Police requested the assistance of the National Guard. One officer declared, “We’re going to give riot warnings. We’re going to try to get compliance. But this is now effectively a riot.”

133. Meanwhile, Trump stood by, encouraging the mob to continue the violence. At the same time the mob was declared a riot, Trump tweeted his entire speech from the rally:



134. About half an hour later, at 2:12 p.m., insurgents breached the Capitol. They broke windows using riot shields and poles, climbed into the building, and opened the doors for the mob to storm the interior of the Capitol. Some of those insurgents were in helmets and full tactical gear; others carried baseball bats, Trump flags, hockey sticks, and crutches; they had flex cuffs and climbing gear; some were equipped with their own radio system; others, stun guns and explosives:



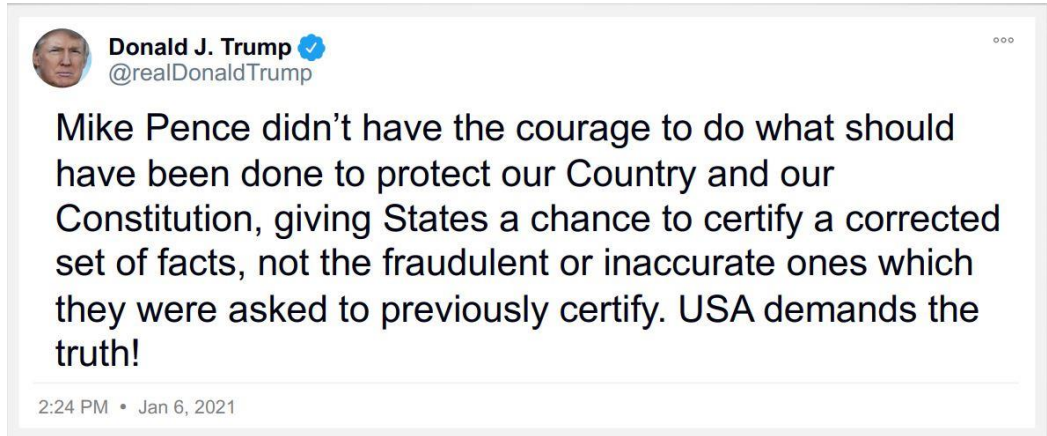
135. As the mob was running rampant through the Capitol, Secret Service ushered Vice President Pence off the Senate floor. The mob chanted, “Hang Mike Pence!” Insurgents outside the Capitol erected a noose and gallows:



136. The mob specifically targeted other elected officials as well. Armed and organized insurrectionists trained their sights on Speaker of the House Nancy Pelosi. They sought her out on the House floor and in her office—which they ransacked—terrorized her staff, and publicly declared their intent to kill her. Capitol Police officers were forced to quickly evacuate Speaker Pelosi from the House Rostrum.

137. By 2:20 p.m., Capitol Police announced that the Capitol had been breached and was on full lockdown. Members of Congress trapped inside the House, including the Plaintiff here, were instructed to put on gas masks located underneath their seats because tear gas was being deployed as a countermeasure.

138. At 2:24 p.m., almost an hour after rioters descended on the Capitol, and as they were storming the hallways in search of members, Trump sent out a tweet with the clear intent to further inflame the mayhem, and which directly imperiled his own Vice President: “Mike Pence didn’t have the courage to do what should have been done to protect our Country and our Constitution.”



139. This tweet was repeated by rioters at the Capitol on megaphones, who understood Trump’s tweet to be encouragement to further violence.

140. In response to this tweet, members of the mob continued to chant “Hang Mike Pence!” and “Mike Pence is a Bitch!” as they continued their siege.

141. At around 2:26 p.m., Trump called Senator Mike Lee’s cell phone looking for Senator Tuberville. Senator Lee handed the phone to Senator Tuberville who reported stating, “I looked at the phone and it said the White House on it, I said hello, the President said a few words. I said, ‘Mr. President they are taking our Vice President out and they want me to get off the phone and I’ve got to go.’”

142. In another phone call, House Minority Leader Kevin McCarthy begged Trump to call off the rioters, pleading with him that the rioters were all Trump supporters. In response,

Trump told McCarthy, “Well, Kevin, I guess these people are more upset about the election than you are.”

143. While the feral mob grew more violent, climbed over balconies, and erected nooses in front of the Capitol, Trump’s staff and advisors pleaded with him to address the nation and put an end to the violence. At 2:38 p.m., an hour after the first breach, Trump obliged, but stopped far short of calling off the mob or condemning the assault that was still underway:



144. At around 2:44 p.m., Ashli Babbit, an Air Force veteran and Trump supporter, was shot and killed by Capitol Police. By 3:00 p.m., the District issued notice of an emergency citywide curfew to begin at 6 p.m.

145. Meanwhile, the mob inside the Capitol shouted, “We want Trump!” The mob continued attacking officers with a variety of munitions—rocks, bottles, metal poles, bear spray, and pepper spray. Officers reported being “flanked” and “los[ing] the line.” For hours, officers were forced into hand-to-hand combat to prevent more rioters from entering the Capitol.

146. All these events were widely reported in print, television, and online media outlets, and Trump and the other Defendants were aware of this coverage.

147. At 4:17 p.m., Trump tweeted a recorded video directed to his supporters as they continued to ransack the Capitol:



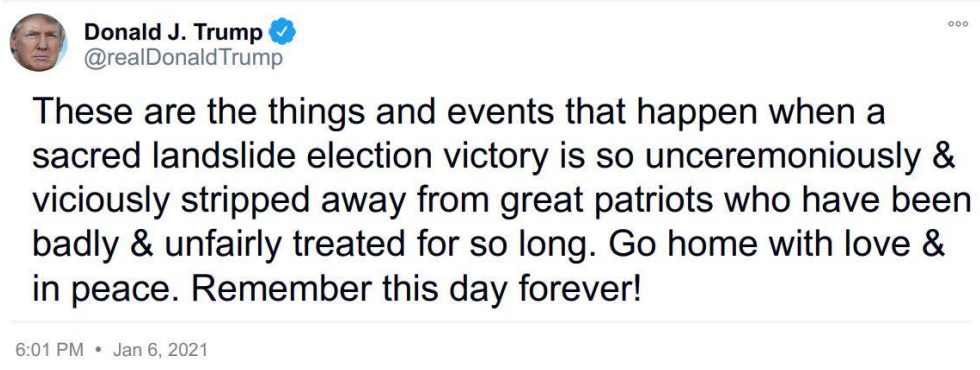
In the video, Trump told the mob, “I know your pain, I know you’re hurt,” and repeated his lies about a stolen election that had driven the insurgents to the Capitol in the first place. In the same breath he told the mob to go home, he also said, “We love you. You’re very special.”

148. Predictably, just as Trump and the other Defendants had intended, the mayhem continued. A woman was later trampled to death by rioters while the mob rushed to breach a tunnel entrance of the Capitol.

149. At around 5:40 p.m., the police finally began to clear the Capitol, and Congressional leaders announced they would proceed with the certification of the Electoral College Votes. By that time, the mob had thoroughly pillaged the premises: they had shattered windows, damaged statues, broken doors, vandalized offices, stolen laptops, shattered a mirror, desecrated the Speaker’s office, and stolen the Speaker’s lectern. In total, six people lost their lives because of the riot, 140 officers were hurt, and scores of people were left emotionally and physically injured, including the Plaintiff.

150. At 6:01 p.m., five hours after insurgents had begun their siege on the Capitol and had threatened to kill Vice President Pence and others, Trump finally released a statement that directly addressed the violence. Once again, however, the message fell well short of a forceful

condemnation or rebuke. In another recorded video, Trump said, in a chilling “I told you so” moment, that “These are the things and events that happen when a sacred landslide victory is so unceremoniously & viciously stripped away from great patriots who have been badly & unfairly treated for so long.” He then told the members of the violent mob, who continued to occupy the Capitol and terrorize Plaintiff and other members to “Go home with love & in peace. Remember this day forever!”



151. Many of the rioters cited Trump himself as the inspiration for their violent actions.¹⁹ For example, the attorney for Jacob Anthony (the “Qanon Shaman”) explained that “he came as a part of a group effort, with other ‘patriots’ from Arizona, at the request of the President that all ‘patriots’ come to D.C. on January 6, 2021.”

152. In doing all of that, Trump acted well outside the outer perimeter of his official responsibility as president in the waning days of his term in office. His words and actions in lying about massive, coordinated fraud, improperly pressuring state legislators to overturn specific state results, seeking to undo such results through largely frivolous lawsuits, and in inciting a crowd while knowing some of his supporters were willing to react to his claims with political violence, all were meant to serve his own partisan and individual aims.

¹⁹ <https://www.washingtonpost.com/politics/2021/02/09/over-over-over-arrested-rioters-say-what-spurred-them-trump/>

The Aftermath of the Riot

153. The reaction to Trump’s words and actions was swift. That night, both Twitter and Facebook suspended Trump’s accounts. Facebook removed Trump’s posts, explaining that “on balance these posts contribute to, rather than diminish, the risk of ongoing violence.” Twitter initially shut down Trump’s account for 12 hours, citing “repeated and severe violations of [its] Civic Integrity policy.”²⁰ The next day, Facebook announced it would suspend Trump’s account indefinitely. Facebook CEO Mark Zuckerberg also criticized Trump for “use of our platform to incite violent insurrection against a democratically elected government.” One day after that, on January 8, Twitter permanently suspended Trump’s account “due to the risk of further incitement of violence.”

154. In the days that followed the January 6 insurgency, other social-media platforms were shuttered, including Parler and “r/The_Donald,” a prominent community on Reddit dedicated to Trump. Their decisions also were prompted by concerns about further incitement of violence.

155. Lawmakers from both parties also condemned Trump for his role in the violence at the Capitol.

Trump Continues to Spread Dangerous Lies Even After the Events of January 6

156. For his part, Trump continues to recite the lie that the 2020 election was stolen from him in an unprecedented act of fraud, even amidst reports that some of his supporters are still intent on engaging in acts of political violence to protest the election. On February 28, in an address at the Conservative Political Action Conference, he spent 10 minutes of a 90-minute

²⁰ <https://www.cnn.com/2021/01/06/tech/twitter-lock-trump-account/index.html>

speech claiming the election was stolen and saying what should be done to make sure it does not happen again.²¹ He told the crowd such things as, “This election was rigged,” “They used COVID as a way of cheating,” and, “The level of dishonesty is not to be believed.” He said those things despite wide reporting just days earlier that supporters of his were intent on committing acts of violence in connection with another political rite—President Biden’s first State of the Union address to Congress.²²

157. President Trump’s speech made clear he intends to continue insisting that the 2020 election was a massive fraud that requires widespread reform. “We can never let this or other abuses of the 2020 election be repeated or happen again,” he said, “can never let that happen again.” And he indicated he may intend to pursue the purportedly needed reform as president: “But who knows, who knows? I may even decide to beat them for a third time. Okay? For a third time.”

158. In doing all of that, President Trump made clear he poses a risk of inciting future political violence.

Trump is Impeached For His Role in the Violence

159. On January 13, 2021, then-President Trump was impeached for the second time in his Presidency by the House of Representatives. In part, the Impeachment Resolution states:

²¹ The speech can be viewed at <https://www.c-span.org/video/?509084-1/president-trump-addresses-cpac&live>. A transcript of the speech can be found at <https://www.rev.com/blog/transcripts/donald-trump-cpac-2021-speech-transcript>.

²² See, e.g., CNN.com, “Capitol Police chief warns militia groups want to ‘blow up the Capitol’ when Biden addresss Congress” (Feb. 25, 2021), *available at* <https://www.cnn.com/2021/02/25/politics/us-capitol-attack-house-hearing-pittman-blodgett/index.html>; USA Today.com, “Feds on guard for domestic extremists targeting Biden’s address to Congress” (Feb.. 26, 2021), *available at* <https://www.usatoday.com/story/news/politics/2021/02/26/biden-address-congress-watched-domestic-extremist-threat-feds/6835780002/>.

On January 6, 2021, pursuant to the 12th Amendment to the Constitution of the United States, the Vice President of the United States, the House of Representatives, and the Senate met at the United States Capitol for a Joint Session of Congress to count the votes of the Electoral College. In the months preceding the Joint Session, President Trump repeatedly issued false statements asserting that the Presidential election results were the product of widespread fraud and should not be accepted by the American people or certified by State or Federal officials. Shortly before the Joint Session commenced, President Trump, addressed a crowd at the Ellipse in Washington, D.C. There, he reiterated false claims that “we won this election, and we won it by a landslide.” He also willfully made statements that, in context, encouraged – and foreseeably resulted in – lawless action at the Capitol, such as: “if you don’t fight like hell you’re not going to have a country any more.” Thus incited by President Trump, members of the crowd he had addressed, in an attempt to, among other objectives, interfere with the Joint Session’s solemn constitutional duty to certify the results of the 2020 Presidential election, unlawfully breached and vandalized the Capitol, injured and killed law enforcement personnel, menaced Members of Congress, the Vice President, and Congressional personnel, and engaged in other violent, deadly, destructive and seditious acts.

160. The Impeachment Resolution was delivered to the United States Senate on January 25, 2021.

161. Trial in the Senate began on February 9, 2021 and concluded four days later, on February 13. Shortly after closing arguments, the Senate voted to acquit.

162. Although Senate Minority Leader Mitch McConnell and other Republican Senators had voted for acquittal, they were unequivocal that Trump’s actions were clearly unacceptable.

163. In a particularly sharp rebuke, Senator McConnell said of Trump’s conduct:

There’s no question, none, that President Trump is practically and morally responsible for provoking the events of the day.

The people who stormed this building believed they were acting on the wishes and instructions of their president, and having that belief was a foreseeable consequence of the growing crescendo of false statements, conspiracy theories and

reckless hyperbole which the defeated president kept shouting into the largest megaphone on planet Earth.

He did not do his job. He didn't take steps so federal law could be faithfully executed and order restored. No. Instead, according to public reports, he watched television happily – happily – as the chaos unfolded. Even after it was clear to any reasonable observer that Vice President Pence was in serious danger.²³

164. McConnell continued:

President Trump is still liable for everything he did while he was in office, as an ordinary citizen, unless the statute of limitations has run, still liable for everything he did while in office, didn't get away with anything yet – yet.

We have a criminal justice system in this country. We have civil litigation. And former presidents are not immune from being held accountable by either one.

165. Another prominent Republican Senator, John Thune (R-SD), the Senate Republican whip, when asked how Trump should be held accountable, said “One way, obviously, would be in a court of law.”²⁴ This suit follows.

IV. **CLAIMS FOR RELIEF**

COUNT 1 **Conspiracy to Violate Civil Rights (Interference with Official Duties)** **42 U.S.C. § 1985(1)** **(Against all Defendants)**

166. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

167. A violation of 42 U.S.C. § 1985(1) occurs when two or more persons conspire to do any one or more of the following:

²³ <https://www.npr.org/sections/trump-impeachment-trial-live-updates/2021/02/13/967701180/after-vote-mcconnell-torched-trump-as-practically-and-morally-responsible-for-ri>

²⁴ <https://www.cnn.com/2021/01/29/politics/senate-republicans-trump-impeachment-capitol-riot/index.html>

- a. “prevent by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States”;
- b. “[prevent an official by force, intimidation, or threat] from discharging any duties thereof”;
- c. “induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed”;
- d. “injure [an official] in [their] person or property on account of [their] lawful discharge of the duties of [their] office, or while engaged in the lawful discharge thereof”; and/or
- e. “injure [an official’s] property so as to molest, interrupt, hinder, or impede [them] in the discharge of [their] official duties.”

168. As described more fully in this Complaint, the Defendants, by force, intimidation, or threat, agreed and conspired with one another to undertake a course of action to prevent President Joseph Biden and Vice President Kamala Harris from being certified as the winners of the 2020 presidential election and from accepting and/or holding their respective offices.

169. As described more fully in this Complaint, the Defendants, by force, intimidation, or threat, agreed and conspired among themselves and with others to prevent members of Congress, including the Plaintiff, and Vice President Mike Pence from counting the Electoral College Votes and certifying President Biden and Vice President Harris as the winners of the 2020 presidential election.

170. As described more fully in this Complaint, the Defendants, by force, intimidation, or threat, agreed and conspired among themselves and with others to induce members of Congress, including the Plaintiff, and Vice President Pence to leave the United States Capitol grounds, or some part thereof, including the Senate and House chambers, while they were performing their official duties as required by the 12th Amendment to the United States Constitution and other federal law.

171. As described more fully in this Complaint, the Defendants among themselves and with others agreed and conspired to injure members of Congress, including the Plaintiff, and Vice President Pence, while they were engaged in the lawful discharge of their duties to count the Electoral College votes and certify the winners of the 2020 presidential election.

172. As described more fully in this Complaint, the Defendants among themselves and others, conspired to injure the property of members of Congress, including the Plaintiff, to interrupt, hinder, and impede the performance of their official duties to count the Electoral College votes and certify the winners of the 2020 presidential election.

173. As described more fully in this Complaint, the Defendants made public statements knowingly designed to undermine public confidence in the election. Such statements included falsely claiming that the election had been “rigged” and that fraudulent voting had been widespread enough to affect the outcome. These statements were intended to have the effect, and did have the effect, of communicating strategies for accomplishing the aims of the Defendants’ illegal conspiracy to other members of the conspiracy, including the persons who took violent action on January 6, 2021.

174. As described more fully in this Complaint, the Defendants also encouraged, directed, and incited others to confront state and local officials about the Defendants’ false

claims of election-rigging and fraud. The purpose of this conduct was to build public support for these claims. These statements were intended to have the effect, and did have the effect, of communicating strategies for accomplishing the aims of the Defendants' illegal conspiracy to other members of the conspiracy, including the persons who took violent action on January 6, 2021.

175. As described more fully in this Complaint, the Defendants promoted, supported, and endorsed a rally near the White House on January 6, 2021, the very same day the Plaintiff and other lawmakers participated in a joint session of Congress to count and certify the Electoral College votes from the 2020 presidential election.

176. Among other purposes, the purpose of the rally was to gather a crowd in an effort to incite them to disrupt the certification of the Electoral College votes by Congress, including the Plaintiff, and to deny President Biden and Vice President Harris their respective offices.

177. Donald Trump tweeted to his supporters that the January 6 rally "will be wild!" and in fact tens of thousands of his supporters made the trip to the District to participate in the event. Many of those supporters understood Trump's tweet to be a call to violent action to stop members of Congress from certifying the Electoral College vote. Trump's tweets were, in essence, an offer to join a conspiracy to disrupt members of Congress from performing their duties. By answering his call, the co-conspirators, including the other Defendants here, indicated their agreement to his unlawful conspiracy to disrupt Congress and deny office to President Biden and Vice President Harris.

178. Donald Trump Jr. addressed the large crowd at the January 6 rally. He said that the Republican party was now "Donald Trump's Republican party" and it was "not just going to roll over and die." He also told Republicans "if you're gonna be the zero, and not the hero,

we're coming for you, and we're gonna have a good time doing it." Trump Jr. intended these words as a threat of violence or intimidation to coerce members of Congress to disregard the election results. Each of the other Defendants was aware of Trump Jr.'s remarks and endorsed and supported them as part of, and in furtherance of, the Conspiracy.

179. Mo Brooks addressed the large crowd at the January 6 rally. He said "America is at risk unlike it has been in decades, and perhaps centuries." He told the crowd to start "kicking ass," and he spoke with reverence, at a purportedly peaceful demonstration, of how "our ancestors sacrificed their blood, sweat, their tears, their fortunes, *and sometimes their lives,*" before shouting at the crowd "Are you willing to do the same?!" Brooks intended these words as a threat of violence or intimidation to block the certification vote from even occurring and/or to coerce members of Congress to disregard the results of the election. Each of the other Defendants was aware of Brooks' remarks and endorsed and supported them as part of, and in furtherance of, the Conspiracy.

180. Rudolph Giuliani addressed the large crowd at the January 6 rally. He repeated the demonstrably false claim that Vice President Pence had the unilateral power to block certification of the Electoral College votes. He also said they would "fight to the very end to make sure" the election was not stolen, before stating "Let's have trial by combat." Giuliani intended these words as a threat of violence or intimidation to coerce members of Congress to disregard the results of the election. Each of the other Defendants was aware of Giuliani's remarks and endorsed and supported them as part of, and in furtherance of, the Conspiracy.

181. Donald Trump addressed the large crowd at the January 6 rally. He said "they rigged an election. They rigged it like they've never rigged an election before." He said "We will never concede, it doesn't happen. You don't concede when there's theft involved. Our

country has had enough. We will not take it anymore and that’s what this is all about.” Right before turning the crowd loose on the Capitol, Trump exclaimed, “You’ll never take back our country with weakness. You have to show strength, and you have to be strong.” Trump intended these words as a threat of violence or intimidation to coerce members of Congress to disregard the results of the election. Each of the other Defendants was aware of Trump’s remarks and endorsed and supported them as part of, and in furtherance of, the Conspiracy.

182. Each of the Defendants was aware of each other’s incendiary remarks at the rally—and other, similar statements—and endorsed and supported them as part of, and in furtherance of, the Conspiracy.

183. Under § 1985, any “party so injured or deprived” as a result of acts committed in furtherance of the conspiracy “may have an action for the recovery of damages occasioned by such injury or deprivation against any one or more of the conspirators.”

184. The Plaintiff here is a “party so injured or deprived” by acts committed by the Defendants in furtherance of the conspiracy.

COUNT 2
Neglect to Prevent Interference with Civil Rights
42 U.S.C. § 1986
(Against all Defendants)

185. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

186. It is a violation of 42 U.S.C. § 1986 for any person with “knowledge that any of the wrongs conspired [under § 1985] to be done ... are about to be committed,” and, while having “power to prevent or aid in preventing the commission of same,” “neglects or refuses to do so.”

187. No later than January 6, 2021, as described more fully in this Complaint, the Defendants, by force, intimidation, or threat, conspired to prevent President Joseph Biden and Vice President Kamala Harris from being certified as the winners of the 2020 presidential election and from accepting and/or holding their respective offices.

188. As such, the Defendants knew that wrongs conspired to be done were about to be committed—namely, by the Defendants themselves and their supporters.

189. The Defendants commanded the attendance of tens of thousands of individuals at the rally in the District on January 6, 2021 for the purpose of coercing members of Congress to disregard the election results, and further incited thousands to violently storm the Capitol building shortly thereafter.

190. Moreover, when it was clear that rioters had stormed the Capitol, and Congress was unable to certify the results of the Electoral College vote, the Defendants had the power to stop the rioters but refused and, instead, encouraged them.

191. The power to intentionally provoke the wrongs at issue *a fortiori* includes the power to prevent or aid in preventing the same, and the Defendants chose not to do so in violation of 42 U.S.C. § 1986.

COUNT 3
Negligence *Per Se*
(Violation of D.C. Code §§ 22-1322 – Incitement to Riot)
(Against all Defendants)

192. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

193. D.C. Code § 22-1322 makes it a criminal offense to “willfully incite[] or urge[] other persons to engage in a riot.” D.C. Code § 22-1322(b). The statute defines a “riot” as “a public disturbance involving an assemblage of 5 or more persons which by tumultuous and

violent conduct or the threat thereof creates grave danger of damage or injury to property or persons.” D.C. Code § 22-1322(a).

194. Section 22-1322, on its face, is a statute designed to promote public safety.

195. Under District of Columbia law, statutes designed to promote public safety can establish a standard of care for a tort claim, such that their violation can amount to negligence *per se*.

196. The Defendants violated that statute through their willful conduct by, among other things:

- a. insisting for several weeks that the country was no longer a functioning republic, but instead was literally being seized in a massive, coordinated act of fraud;
- b. repeating those same falsehoods to the assembled crowd on January 6;
- c. then—while knowing the propensity of some of Trump’s supporters to engage in political violence—saying the following highly inflammatory things, among others:
 - i. it was time to “start taking down names and kicking ass,” they must be willing to sacrifice “their blood, their sweat,” and maybe even “their lives”;
 - ii. “the fight begins today”;
 - iii. it was time for “trial by combat”;
 - iv. “we’re coming for you”;
 - v. “you’re allowed to go by very different rules”; and
 - vi. “you have to show strength.”

197. The Defendants, in short, convinced the mob that something was occurring that— if actually true—might indeed justify violence to some, and then sent that mob to the Capitol with violence-laced calls for immediate action.

198. Trump further demonstrated his willfulness in inciting the riot by refusing to call it off for hours as it wreaked havoc, even telling Representative Kevin McCarthy that the rioters’ actions proved they simply cared more about the election than he did. When Trump did finally address the mob, he did so intentionally in highly equivocal language that largely praised them and blamed the riot on the alleged election fraud.

199. As described, the Plaintiff was harmed by the rioting mob the Defendants incited.

200. The Defendants are therefore liable to the Plaintiff for negligence *per se*, and for all damages arising therefrom.

COUNT 4
Negligence *Per Se*
(Violation of D.C. Code § 22-1321(a)(2) – Disorderly Conduct)
(Against all Defendants)

201. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

202. D.C. Code § 1321 makes it a misdemeanor to “incite or provoke violence where there is a likelihood that such violence will ensue.” D.C. Code § 22-1321(a)(2).

203. Section 22-1321, like Section 22-1322, is a statute designed to promote public safety.

204. Under District of Columbia law, statutes designed to promote public safety can establish a standard of care for a tort claim, such that their violation can amount to negligence *per se*.

205. For all the reasons identified in Count 3, the Defendants violated D.C. Code § 22-1321.

206. The harms that resulted from the Defendants' violation is precisely the kind of harm that Section 22-1322 is designed to prevent.

207. The Defendants are therefore liable to the Plaintiff for negligence *per se*, and for all damages arising therefrom.

COUNT 5
Bias-related Crimes
(Inciting Assault, Inciting to Riot, Disorderly Conduct and Terrorism)
D.C. Code §§ 22-404, 22-1805, 22-1321, 22-1322(c), 22-3152, 22-3153, 22-3704
(Against all Defendants)

208. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

209. D.C. Code § 22-3704 provides a “civil cause of action” for victims of bias-motivated crimes, “[i]rrespective of any criminal prosecution or the result of a criminal prosecution” of those crimes. D.C. Code § 22-3704(a). Among the biases that qualify is “the actual or perceived . . . political affiliation of a victim.” *Id.* “Political affiliation” under the statute extends beyond party and includes an individual’s stance for or against specific political figures.

210. The Defendants and the rioters plainly were motivated by the Plaintiff’s political affiliation as a political opponent of Donald Trump. The Defendants repeatedly directed their attacks at “Socialist Democrats,” as well as “weak-kneed Republicans” and “RINOs.” The crowd that gathered on January 6 repeatedly cheered these attacks, and the rioters who breached the Capitol specifically sought out certain prominent Democrats and at least one prominent Republican, Vice President Pence, whom Trump had repeatedly called out by name.

211. This bias was demonstrated by the following statements, among many others:
- d. Trump Jr.: “The people who did nothing to stop the steal. This gathering should send a message to them: this isn’t their Republican party anymore. This is Donald Trump’s Republican party.”
 - e. Trump: “All of us here today do not want to see our election victory stolen by emboldened radical-left Democrats, which is what they're doing.”
 - f. Trump: “For years, Democrats have gotten away with election fraud and weak Republicans. And that’s what they are. There's so many weak Republicans.”
 - g. Trump: “They're weak Republicans, they’re pathetic Republicans and that’s what happens.”
 - h. Trump: “If this happened to the Democrats, there’d be hell all over the country going on. There’d be hell all over the country. But just remember this: You’re stronger, you’re smarter, you’ve got more going than anybody. And they try and demean everybody having to do with us. And you’re the real people, you’re the people that built this nation. You’re not the people that tore down our nation.
 - i. Trump: “The weak Republicans, and that’s it. I really believe it. I think I’m going to use the term, the weak Republicans. You’ve got a lot of them. And you got a lot of great ones. But you got a lot of weak ones. They’ve turned a blind eye, even as Democrats enacted policies that chipped away our jobs, weakened our military, threw open our borders and put America last.
 - j. Trump: “They also want to indoctrinate your children in school by teaching them things that aren’t so. They want to indoctrinate your children. It’s all

part of the comprehensive assault on our democracy, and the American people are finally standing up and saying no. This crowd is, again, a testament to it.”

k. Trump: “So I hope Mike has the courage to do what he has to do. And I hope he doesn’t listen to the RINOs and the stupid people that he’s listening to.”

212. The Defendants’ conduct violated multiple D.C. criminal statutes.

213. D.C. Code § 22-404 criminalizes assault and behavior that “threatens another in a menacing manner.” As described in Count 3, D.C. Code § 22-1322 criminalizes inciting a riot. And as described in Count 4, D.C. Code § 22-1321 criminalizes disorderly conduct.

214. Under D.C. Code § 22-1805, “inciting, . . . aiding or abetting the principal offender” of any criminal offense makes one criminally liable as if they too were a principal offender.

215. As described in Counts 3, 4, and 8, the Defendants are directly responsible for, and additionally are responsible for aiding and abetting, the violence that occurred at the Capitol on January 6, which actions amount to incitement to riot, disorderly conduct, and assault.

216. The Defendants’ actions also violated D.C.’s Anti-Terrorism Act. That act criminalizes acts of terrorism, including providing or soliciting material support or resources for acts of terrorism. D.C. Code § 22-3153. The statute further defines an “act of terrorism” as a “specified offense” intended to, among other things, “influence the policy or conduct of a unit of government by intimidation or coercion.” D.C. Code § 22-3152(1).

217. “Specified offense[s]” under the Anti-Terrorism Act include D.C. Code §§ 22-2101 (Murder in the first degree); 22-2106 (Murder of law enforcement officer or public safety employee); 22-2103 (Murder in the second degree); 22-2105 (Manslaughter); 22-2001 (Kidnapping and conspiracy to kidnap); 22-401 (Assault with intent to kill only); 22-406

(Mayhem or maliciously disfiguring); 22-301 (Arson); and 22-303 (Malicious burning, destruction, or injury of another's property, if the property is valued at \$500,000 or more). D.C. Code § 22-3152(8)(A)-(J).

218. A "specified offense" for purposes of the Anti-Terrorism Act also includes "an attempt or conspiracy to commit any of" the above offenses. D.C. Code § 22-3152(8)(K).

219. The Defendants violated the Anti-Terrorism Act on January 6. They told the crowd—as they had been saying for weeks—that the presidency was literally being stolen from them, then suggested they "start taking names and kicking ass," that they engage in "trial by combat," and that they play by "very different rules" before sending them to march on the Capitol. The Defendants did this for the purpose of "influenc[ing] the policy or conduct of a unit of government," *i.e.*, Congress.

220. For all these reasons, the Defendants are liable to the Plaintiff for violating D.C. Code § 22-3704, and for all damages arising therefrom.

COUNT 6
Intentional Infliction of Emotional Distress
(Against all Defendants)

221. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

222. In claiming for weeks that President Biden's victory was in fact the largest act of fraud in American history; in seeing that some of Trump's supporters were willing to engage in violence in response to such claims; and in using highly inflammatory language in repeating the false claims of fraud at the rally before sending the crowd to the Capitol, the Defendants engaged in conduct so outrageous in character, and so extreme in degree, as to go beyond all

possible bounds of decency. That fact is almost universally recognized in the widespread, bipartisan condemnation of Trump's words and actions that day.

223. The riot that erupted in direct response to the Defendants' actions caused severe emotional distress to the Plaintiff.

224. Plaintiff Eric Swalwell was inside the Capitol complex at all relevant times and was in the House chamber attempting to certify the results of the 2020 Presidential election when the violent mob breached the Capitol. The Plaintiff heard the mob pound on the chamber doors and smash glass in an effort to get inside. He watched as Capitol Police officers drew their weapons, barricaded entrances, and ordered the Plaintiff and other members of Congress to seek shelter, put on gas masks, and take cover in case there was gunfire. The Plaintiff prepared himself for possible hand-to-hand combat as he took off his jacket and tie and searched for makeshift instruments of self-defense. He listened in shock as the House Chaplain—a veteran of war herself—began praying for the members from the Rostrum.

225. As the Plaintiff watched this horror unfold, he texted with his wife in what he felt could be his last moments, telling her "I love you very much. And our babies."

226. As a result of this, the Plaintiff suffered severe emotional distress.

227. After telling them for weeks that their country was literally being taken from them and knowing the propensity of some of Trump's supporters to engage in violence, the Defendants made the highly inflammatory remarks described above. Defendants intentionally, or at a minimum recklessly, caused the severe emotional distress suffered by the Plaintiff in connection with the January 6 attack. Statements by Republican and Democratic officials alike—and by several individuals arrested for their roles in the riot—all have recognized the

direct link between statements made by the Defendants at the rally and the mob's decision to breach the Capitol.

228. The Defendants are furthermore vicariously liable for the severe emotional distress caused by the rioters' actions that day. The Defendants, with the rioters, jointly sought to prevent the lawful certification of President Biden's Electoral College victory. The Defendants furthermore encouraged the rioters to do so through violent means. Trump's refusal to condemn those acts for several hours, and then to do so equivocally while still expressing support and praise—which the other Defendants knew of and agreed to support—is further evidence of their agreement to block certification by any means.

229. For those same reasons, the Defendants also are liable to the Plaintiff for aiding and abetting the rioters' acts of intentional infliction of emotional distress.

230. For all these reasons, the Defendants are liable to the Plaintiff for intentional infliction of emotional distress and for all damages arising therefrom.

COUNT 7
Negligent Infliction of Emotional Distress
(Against all Defendants)

231. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

232. In claiming for weeks that President Biden's victory was in fact the largest act of fraud in American history; in seeing that some of Trump's supporters were willing to engage in violence in response to such claims; and in using highly inflammatory language in repeating the false claims of fraud at the rally before sending the crowd to the Capitol, the Defendants at a minimum acted negligently.

233. As described in this Complaint, the Plaintiff here was well within the zone of danger created by the Defendants' actions. Congressman Swalwell was on the House floor when the mob reached the doors to the chamber, and he watched in horror as Capitol Police officers barricaded doors, held off the mob at gunpoint, and ordered the Plaintiff and others to put on gas masks and seek shelter from tear gas and potential gunfire.

234. As described earlier in the Complaint, the Defendants' actions caused the Plaintiff to suffer severe emotional distress.

235. For the same reasons identified in Count 7, the Defendants are furthermore vicariously liable for, and aided and abetted, the rioters' negligent infliction of emotional distress upon the Plaintiff.

236. For all these reasons, the Defendants are liable to the Plaintiff for negligent infliction of emotional distress and for all damages arising therefrom.

COUNT 8
Aiding and Abetting Common-Law Assault
(Against all Defendants)

237. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

238. On January 6, 2021, a mob of individuals, incited by the Defendants, stormed the Capitol.

239. The Plaintiff was inside the Capitol as the mob gathered outside. The mob attacked law enforcement officers protecting the entrance and intentionally and unlawfully forced its way inside the building.

240. Many individuals in the mob either carried weapons or used objects such as poles and fire extinguishers as weapons before and after entering the building. Some individuals in the mob also carried restraints such as plastic handcuffs and rope.

241. The mob also unlawfully and intentionally entered non-public areas of the Capitol building, including the members' private offices. Members of the mob damaged and vandalized personal and public property and stole documents, electronics, and other items from some members' offices.

242. As the mob made its way through the Capitol looking for Members, participants threatened to kill numerous individuals, including, but not limited to, Vice President Mike Pence and Speaker of the House Nancy Pelosi. The mob terrorized and injured scores of people inside and outside of the Capitol, including the Plaintiff.

243. As described previously in the Complaint, the Plaintiff was harmed by the rioting mob the Defendants incited.

244. The mob's intentional and unlawful entry into the Capitol, and the words and actions of its participants before and after entry, caused the Plaintiff to fear imminent physical harm.

245. The Plaintiff in fact suffered harm because of the assault.

246. The Defendants aided and abetted each other and the mob of individuals that stormed the Capitol and assaulted the Plaintiff.

247. The Defendants were aware that their actions prior to and on January 6, 2021 promoted and encouraged the mob to storm the Capitol and assault the Plaintiff and others.

248. Before directing the mob to the Capitol, the Defendants instructed them to "fight like hell," "start taking down names and kicking ass," and that it was time for "trial by combat."

249. The Defendants intended these words to be taken literally.

250. For several hours after the mob had stormed the Capitol, the Defendants refused to communicate anything to the mob that might discourage continued unlawful action.

251. The Defendants knowingly and substantially assisted in the assault that was perpetrated upon the Plaintiff. The Defendants riled up the crowd and directed and encouraged the mob to attack the Capitol and seek out members of Congress and assault them.

252. For all these reasons, the Defendants are liable to the Plaintiff for assault and for all damages arising therefrom.

COUNT 9
Negligence
(Against all Defendants)

253. The Plaintiff re-alleges and incorporates by reference each and every paragraph of this Complaint as if set forth here in full.

254. The Defendants' actions prior to and on January 6 promoted and encouraged the mob to storm the Capitol and assault the Plaintiff.

255. In directing a crowd of thousands to march on the Capitol—particularly considering their violence-laden commands—the Defendants owed a duty of care to the Plaintiff and to everyone in the Capitol to exercise reasonable care in directing the mob's actions.

256. Given the magnitude of wrongdoing the Defendants had alleged was about to occur, and the violent reaction of some Trump supporters on multiple prior occasions in response to the very same claims, it was reasonably foreseeable to the Defendants that members of the crowd might act violently if sufficiently inflamed that day and insufficiently instructed to remain peaceful and law-abiding.

257. In (1) repeating their claims that what was about to occur was a fraud of historical magnitude, (2) blaming the fraud on the Plaintiff and other similarly-situated officials, and then (3) sending the crowd off with exhortations to “fight like hell,” to “start taking down names and kicking ass,” to have “trial by combat,” and to play by “very different rules,” all for the literal purpose of “sav[ing] the republic,” the Defendants breached the duty of care they owed to the Plaintiff and others.

258. The harm suffered by the Plaintiff was reasonably foreseeable given the Defendants’ statements on January 6, considering the magnitude of the wrong they had said for weeks was happening and their knowledge of past violent reactions in response to the same message.

259. As described in this Complaint, the Plaintiff suffered harm as a result of the events of January 6.

260. The injury to the Plaintiff was proximately caused by the Defendants’ breach of their duty of care.

261. For all these reasons, the Defendants are liable to the Plaintiff for negligence and for all damages arising therefrom.

V.
PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests this Court to enter a judgment in his favor and grant relief against the Defendants as follows:

- (1) Order the Defendants to pay actual money damages to the Plaintiff in an amount to be determined at trial;
- (2) Order the Defendants to pay punitive damages to the Plaintiff in an amount to be determined at trial;

- (3) Declare that the Defendants violated the law as set forth above;
- (4) Order the Defendants to provide written notice to the Plaintiff no less than 7 days before any rally or other public event in Washington, D.C., on a day when significant election or election certification activity is taking place, and when the rally is planned to have more than 50 people in attendance, to allow the Plaintiff to determine whether to seek relief from the Court to prevent further violence or disruption to the proper functioning of the federal government;
- (5) Award the Plaintiff reasonable attorneys' fees and costs for his investigation and prosecution of this action; and
- (6) Grant any such additional relief as the Court deems just and proper.

VI.
JURY DEMAND

The Plaintiff demands a trial by jury by the maximum number of jurors permitted by law.

Dated: March 5, 2021

Respectfully submitted,



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