

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

RUBY FREEMAN

and

WANDREA MOSS,

Plaintiffs,

v.

HERRING NETWORKS, INC., d/b/a ONE
AMERICA NEWS NETWORK
101 Constitution Ave. NW
Washington, DC 20001,

CHARLES HERRING
17353 Circa Oriente
Rancho Santa Fe, CA 92067,

ROBERT HERRING
4289 Rancho Las Brisas Trail
San Diego, CA 92130,

CHANEL RION
3211 Cherry Hill Lane NW
Washington, DC 20007,

and

RUDOLPH W. GIULIANI
45 East 66th Street, Apt. 10W
New York, NY 10065,

Defendants.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Ruby Freeman and Wandrea Moss, through their attorneys, bring this complaint against Defendants Herring Networks, Inc., d/b/a One America News Network, Charles Herring, Robert Herring, Chanel Rion, and Rudolph W. Giuliani (collectively, “Defendants”).

INTRODUCTION

1. The conduct of free and fair elections in the United States relies upon the service of nonpartisan election workers. For most of American history, these ordinary citizens have received thanks for their efforts, even from those candidates who have come up short. In the 2020 federal election, however, that venerable tradition was decimated by anti-democratic actors desperate for scapegoats whom they could blame for election results that they refused to accept.

2. Plaintiffs Ruby Freeman and Wandrea “Shaye” Moss, through no fault of their own, are among those scapegoats. They served as official election workers in Georgia during the 2020 federal election. Like countless other election workers, they share a patriotic commitment to a free and fair democratic process.

3. As a result of their vital service, Ms. Freeman and Ms. Moss have become the objects of vitriol, threats, and harassment. They found themselves in this unenviable position not based on anything they did, but instead because of a campaign of malicious lies designed to accuse them of interfering with a fair and impartial election, which is precisely what each of them swore an oath to protect.

4. Defendants in this action—One America News Network (“OAN”), its owners Robert Herring and Charles Herring, its employee Chanel Rion, and its frequent guest, Rudolph Giuliani—bear responsibility for the partisan character assassination of Ms. Freeman and Ms. Moss. Defendants have engaged in a concerted effort to accuse Ms. Freeman and Ms. Moss, by name, of committing ballot fraud in order to alter the outcome of the 2020 presidential election in

Georgia. Specifically, Defendants worked together to publish false statements accusing Ms. Freeman and Ms. Moss of committing election fraud by, among other things:

- engaging in a criminal conspiracy, along with others, to illegally exclude observers during the counting of ballots “under false pretenses” so that they could engage in election fraud;
- criminally and/or fraudulently introducing “suitcases” of illegal ballots into the ballot-counting process;
- criminally and/or fraudulently counting the same ballots multiple times in order to swing the results of the election;
- surreptitiously passing around flash drives that were not supposed to be placed in Dominion voting machines; and
- committing other crimes, including participating in something that amounted to the “crime of the century.”

5. OAN bills itself as a legitimate news organization and markets itself to its viewers as “Your Credible Source for National & International News.”¹ But OAN does not attempt to perform the functions of an objective news organization. As a former senior news producer who worked at OAN from September 2016 until April 2021 recently explained, the company’s “news coverage decisions are based on a business model, not a journalistic model,” and any report that “increased OAN’s visibility was acceptable and, therefore, broadcast whether or not it was factual.”²

6. OAN sought to brand itself as the “Trump Station” upon the election of then-President Donald Trump and focused on making him the “star of the show” for the duration of his

¹ *One America News Network*, OAN, <https://dzm0ugdauank9.cloudfront.net/wp-content/uploads/2021/11/OAN-opt.pdf> (last visited Dec. 18, 2021).

² Decl. of Martin Gologan ¶¶ 4–5, *Coomer v. Donald J. Trump for President, Inc.*, No. 2020cv034319 (Colo. Dist. Ct. May 20, 2021), available at <http://cdn.cnn.com/cnn/2021/images/10/06/declaration.of.marty.gologan.in.coomer.case.2021-09-17.20-00-52.exhibit.r...pdf>.

Administration.³ In the aftermath of the 2020 presidential election, when Trump claimed the election was stolen, the network “continued to air pieces after the election to support this narrative,”⁴ regardless of whether those pieces contained supporting facts, and well after those claims were debunked. As the former senior news producer testified, “I know for a fact that we aired false stories,” including stories about election fraud in the aftermath of the 2020 election that “OAN ran . . . with reckless disregard for the truth.”⁵

7. With knowledge that the claims against Ms. Freeman and Ms. Moss were not based in fact, OAN has spent the past year accusing them of engaging in the illegal act of election fraud, along with other false allegations. As part of that campaign, OAN repeatedly turned to Giuliani, a member of former President Trump’s campaign team and one of the central orchestrators of the conspiracy theory that the 2020 election was rigged.

8. On December 3, 2020, the Trump campaign published an edited video from a grainy security camera that showed unidentified persons (including individuals later identified as Ms. Freeman and Ms. Moss) counting ballots. The Trump campaign and Giuliani used that video to fabricate the lies that Ms. Freeman and Ms. Moss were illegally counting ballots. Giuliani amplified the video by posting about it on social media and directing his followers to watch it multiple times over the next two days. OAN, its hosts, and its staff leveraged Giuliani’s unsupported factual assertions and almost immediately published them to millions of its viewers and readers, subsequently adding Ms. Freeman’s and Ms. Moss’s names and leveling additional accusations of criminal fraud against them.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

9. Within 24 hours of Giuliani and the Trump campaign's original publication of these lies on December 3, 2020, Georgia election officials publicly and definitively debunked the claims about Ms. Freeman and Ms. Moss through a detailed explanation of what the misinterpreted video did not show: no suitcases; no illegal ballot counting; no election fraud. A full hand recount of Georgia's election results had already confirmed the election results, and by December 7, so would the recount requested by the Trump campaign. Through December and January, Georgia's Republican election officials continued to explain to the public, again and again, that thorough reviews had disproven Defendants' false claims and proven that no illegal ballot counting had occurred.

10. Defendants knew about and recklessly disregarded Georgia election officials' clear refutation of Giuliani's claims. Even after the claims about Ms. Freeman and Ms. Moss had been publicly discredited, Defendants continued to repeat and republish the false and defamatory statements, including to this day: Giuliani appeared on OAN on December 10, 2021, to reprise his lies. With no concern for the truth or the consequences of their willful conduct, Defendants baselessly portrayed Plaintiffs as traitors who participated in a carefully planned conspiracy to steal the presidential election in Georgia.

11. All of the accusations Defendants have advanced regarding Ms. Freeman and Ms. Moss committing election fraud are false, and because the statements accused them of criminal conduct, they are defamatory *per se*. Ms. Freeman and/or Ms. Moss did not, at any time, ever: conspire to clear poll watchers from the room where they were counting ballots, produce secret "suitcases" full of illegal ballots, or illegally count ballots multiple times. There is not, and has never been, any basis in the video for making such statements.

12. Defendants' lies had instant and profound consequences. Both Ms. Freeman and Ms. Moss received an immediate onslaught of violent and racist threats and harassment. Their personal and professional reputations have been destroyed. To this day, Ms. Freeman and Ms. Moss fear for their physical safety and have suffered a devastating emotional toll.

13. At the height of Defendants' campaign of disinformation, Ms. Freeman, at the recommendation of the FBI, fled her home and did not return for two months. On January 6, 2021, a crowd on foot and in vehicles surrounded Ms. Freeman's house. Ms. Freeman was forced to shutter her online business when social media became impossible to navigate.

14. Ms. Moss has suffered personal and professional consequences in her ongoing work on Fulton County elections. On at least two occasions, strangers showed up at her grandmother's home, and attempted to push into the house in order to make a "citizens' arrest." Fulton County elections' general email address would forward incoming emails to Ms. Moss and many of her colleagues, filling her workplace with harassing messages.

15. As a result of Defendants' ongoing campaign, both women are afraid to live normal lives. Ms. Freeman is fearful when she hears her name called in public; Ms. Moss now fears risking even a visit to the grocery store and must get her groceries delivered instead. Defendants have inflicted, and continue to inflict, severe and ongoing emotional and economic damage on both Plaintiffs.

16. The targeting of America's election workers—whose service to our system of government places them in the crosshairs of those who seek to undermine it—imposes a devastating human cost on those individuals and their families. It also undermines the principle that citizens can and overwhelmingly do participate in national elections with impartiality and integrity. Deliberate efforts to spread disinformation about America's election workers undermine

the integrity of American elections, discourage public participation in the electoral process, and accordingly, threaten democracy.

PARTIES

17. **Plaintiff Ruby Freeman** worked as a temporary election worker with the Fulton County Registration and Elections Department during the 2020 general election to assist in the electoral process of counting votes that would eventually determine the delegates Georgia sent to Washington, D.C., to certify the presidential election. Her responsibilities included verifying signatures on absentee ballots and preparing absentee ballots for counting and processing. She is a citizen of Georgia.

18. **Plaintiff Wandrea “Shaye” Moss** supervised Fulton County’s absentee ballot operation during the 2020 general election. She has worked for the Fulton County Registration and Elections Department since 2012. Ms. Moss’s current position with the County is as a Registration Officer, and her responsibilities include processing voter applications and assisting voters in person and over the phone. She is a citizen of Georgia.

19. **Defendant Herring Networks, Inc., d/b/a One America News Network (“OAN”)** is a for-profit company wholly owned by Herring Networks, Inc., which is wholly owned by the Herring family (including Defendants Robert and Charles Herring (collectively, “Herrings”)). In 2013, OAN’s operations were launched in Washington, D.C. in partnership with the Washington Times, and its initial broadcasts took place in the District. Today, “OAN is broadcast in all 50 states and is carried by numerous major cable providers and additional other television programming distributors across the United States. OAN also distributes its

programming on video streaming platforms in the United States and globally.”⁶ OAN also publishes content on OANN.com, on its company and individual personalities’ social media accounts, on video-sharing platforms including, for example, YouTube and Rumble, and through the subscription streaming service KlowdTV. OAN represents that it “has its primary production operations in California and Washington, DC.”⁷ Its D.C. production operation has been located at 101 Constitution Avenue, Northwest, in Washington, D.C., since at least 2014⁸ and employs numerous individuals. The network has been “growing” its D.C. operations, and, as of this filing, it is currently hiring for multiple positions in D.C.⁹ In the past, OAN has sought to enhance its brand recognition in Washington, D.C., including by serving as a corporate sponsor of the Conservative Political Action Conference. On information and belief, OAN films, produces, and broadcasts multiple shows and segments from its Washington, D.C., studio, including “Weekly Briefing” on OAN, which airs weekdays at 2 PM Eastern Time. OAN filmed, produced, broadcast, and/or otherwise published segments and statements about Plaintiffs through OAN’s Washington, D.C., office. On information and belief, OAN derives substantial revenues from its commercial operations in the District.

⁶ Declaration of Charles Herring ¶ 2, *Coomer v. Donald J. Trump for President, Inc.*, No. 2020cv034319 (Colo. Dist. Ct. Apr. 30, 2021), available at <http://cdn.cnn.com/cnn/2021/images/10/06/herring.and.oan.depo.and.exhibits.07-30-21.redacted.2021-09-17.19-52-12.exhibit.i-1...pdf>.

⁷ *About One America News Network*, OAN, <https://www.oann.com/about/> (last visited Dec. 17, 2021).

⁸ See Herring Networks, Inc., *One America News Network Relocates Washington, D.C. Bureau*, Cision PR Newswire (June 5, 2014), <https://www.prnewswire.com/news-releases/one-america-news-network-relocates-washington-dc-bureau-262007801.html>.

⁹ *Careers*, OAN, <https://www.oann.com/careers/> (last visited Dec. 22, 2021).

20. **Defendant Charles Herring** is the President of OAN. Charles Herring's LinkedIn profile identifies him as currently employed by OAN in Washington, D.C.¹⁰ Mr. Herring regularly transacts business, and has engaged in a persistent course of conduct, in the District, including by regularly traveling to OAN's Washington, D.C., office as part of his oversight and control of OAN's D.C. operations.¹¹ With Defendant Robert Herring, Charles Herring both regularly sends instructions to and receives information from the Washington office as part of the Herrings' close oversight and editorial supervision of the work done by its staff there, particularly regarding "H stories," the name the OAN news director gave to stories the Herrings personally directed be run.¹²

21. **Defendant Robert Herring** is the CEO of OAN and the father of OAN's President, Defendant Charles Herring. He has, and regularly exercises, absolute editorial control over OAN's publications.¹³ With Defendant Charles Herring, Mr. Herring has regularly transacted business,

¹⁰ Charles Herring, LinkedIn, <https://www.linkedin.com/in/charlesherring> (last visited Dec. 22, 2021).

¹¹ Dep. of Charles Herring at 50:16–25, *Coomer v. Donald J. Trump for President, Inc.*, No. 2020cv034319 (Colo. Dist. Ct. July 30, 2021), available at <http://cdn.cnn.com/cnn/2021/images/10/06/herring.and.oan.depo.and.exhibits.07-30-21.redacted.2021-09-17.19-52-12.exhibit.i-1...pdf>.

¹² *Id.*; Decl. of Charles Herring ¶¶ 4–6, *Coomer v. Donald J. Trump for President, Inc.*, No. 2020cv034319 (Colo. Dist. Ct. Apr. 30, 2021), available at <http://cdn.cnn.com/cnn/2021/images/10/06/herring.and.oan.depo.and.exhibits.07-30-21.redacted.2021-09-17.19-52-12.exhibit.i-1...pdf>; Decl. of Martin Golingán ¶¶ 5, 11, *Coomer v. Donald J. Trump for President, Inc.*, No. 2020cv034319 (Colo. Dist. Ct. May 20, 2021), available at <http://cdn.cnn.com/cnn/2021/images/10/06/declaration.of.marty.golingan.in.coomer.case.2021-09-17.20-00-52.exhibit.r...pdf>; Press Relations, *One America News Cable News Network Announces Debut in Collaboration with The Washington Times*, Wash. Times (May 30, 2013), <https://www.washingtontimes.com/blog/marketing/2013/may/30/one-america-news-cable-news-network-announces-debu/>.

¹³ Andrew McCormick, *One America News Was Desperate for Trump's Approval. Here's How It Got It*, Colum. Journalism Rev. (May 27, 2020), https://www.cjr.org/the_profile/one-america-news-oan-trump-herring.php; see Jean Guerrero, Opinion, *Column: How San Diego Incubates White Extremism with One America News*, L.A. Times (July 22, 2021),

and has engaged in a persistent course of conduct, in the District, including through his oversight and control of OAN's Washington, D.C. office.

22. **Defendant Chanel Rion** is the Chief White House Correspondent for OAN. She is a Washington, D.C., resident and works in and operates out of OAN's Washington, D.C., office, as evidenced by the geotag on Rion's Twitter account.¹⁴ On information and belief, that account is controlled, at least in part by OAN, as evidenced by Chanel Rion's name on the account, listed as "Chanel Rion OAN" and the fact that @OANN is tagged in the biography. Rion also operates the website ChanelRion.com.

23. **Defendant Rudolph W. Giuliani** is a former politician and government official who has become a podcast and radio show host, a media figure, and (at times) the personal attorney to Donald Trump. He is domiciled in New York but has engaged in a persistent course of conduct in the District relating to the statements at issue, and on information and belief, made certain of the defamatory statements described below from Washington, D.C.

JURISDICTION AND VENUE

24. This Court has original jurisdiction over this action and Defendants pursuant to 28 U.S.C. § 1332(a)(1), as the matter in controversy exceeds \$75,000 exclusive of interests and costs and is between citizens of different states.

25. This Court may exercise personal jurisdiction over OAN pursuant to § 13-334 of the District of Columbia Code because OAN is a foreign corporation that has a continuing corporate presence in the forum state directed at advancing the corporation's objectives.

<https://www.latimes.com/opinion/story/2021-07-22/one-america-news-network-politics-san-diego-trump>.

¹⁴ Chanel Rion OAN (@ChanelRion), Twitter, <https://twitter.com/chanelrion> (last visited Dec. 22, 2021).

26. Alternatively, this Court may also exercise personal jurisdiction over OAN pursuant to § 13-423 of the District of Columbia Code because (i) OAN transacted business within the District of Columbia, including by maintaining and operating an media production office in the District of Columbia; producing, reviewing, editing, and broadcasting programming from within the District of Columbia, including some or all of the programming featuring defamatory statements at issue in this case; employing D.C. residents who made some of the defamatory statements in the District of Columbia; and offering services to, broadcasting to, and maintaining television and digital platform subscribers in the District of Columbia; (ii) OAN caused tortious injury by acts committed within the District of Columbia, including and specifically by making false and defamatory statements about Ms. Freeman and Ms. Moss on broadcasts from and within the District of Columbia; and (iii) OAN caused tortious injury by acts committed outside the District of Columbia while regularly doing business within, engaging in persistent conduct within, and deriving substantial revenues from services rendered within the District of Columbia.

27. This Court may exercise personal jurisdiction over Charles Herring pursuant to § 13-423 of the District of Columbia Code because Charles Herring (i) on information and belief, based upon his LinkedIn profile, is employed in the District of Columbia; (ii) transacted business within the District of Columbia, including supervising and exercising editorial control over broadcasting from within the District of Columbia and supervising and directing OAN staff working in the District of Columbia; (iii) caused tortious injury by acts committed within the District of Columbia, including and specifically by knowingly participating in the publishing of false and defamatory statements about Plaintiffs on broadcasts within the District of Columbia, including while supervising and exercising editorial control while present in the District of Columbia; and (iv) caused tortious injury by acts committed outside the District of Columbia while

regularly doing business within, engaging in persistent conduct within, and deriving substantial revenue from services rendered within the District of Columbia.

28. This Court may exercise personal jurisdiction over Robert Herring pursuant to § 13-423 of the District of Columbia Code because Robert Herring (i) transacted business within the District of Columbia, including supervising and exercising editorial control over broadcasting from within the District of Columbia, and supervising and directing OAN staff working in the District of Columbia; (ii) caused tortious injury by acts committed within the District of Columbia, including and specifically by knowingly participating in the publishing of false and defamatory statements about Plaintiffs on broadcasts within the District of Columbia, including while supervising and exercising editorial control while present in the District of Columbia; and (iii) caused tortious injury by acts committed outside the District of Columbia while regularly doing business within, engaging in persistent conduct within, and deriving substantial revenue from services rendered within the District of Columbia.

29. This Court may exercise personal jurisdiction over Chanel Rion pursuant to § 13-422 of the District of Columbia Code because Rion is a resident of the District of Columbia.

30. Alternatively, this Court may exercise personal jurisdiction over Chanel Rion pursuant to § 13-423 because she: (i) transacted business within the District of Columbia, including broadcasting from within the District of Columbia; (ii) caused tortious injury by acts committed within the District of Columbia, including and specifically by making or endorsing false and defamatory statements about Plaintiffs on broadcasts within the District of Columbia; and (iii) caused tortious injury by acts committed outside the District of Columbia while regularly doing business within, engaging in persistent conduct within, and deriving substantial revenue from services rendered within the District of Columbia.

31. This Court may exercise personal jurisdiction over Rudolph Giuliani pursuant to § 13-423 of the District of Columbia Code because he: (i) transacted business within the District of Columbia, including by demanding \$20,000 per day to represent Donald J. Trump in his efforts to overturn the 2020 election and by selling advertisements that were featured in his defamatory broadcasts about Plaintiffs; (ii) is licensed to practice law in the District of Columbia; (iii) caused tortious injury by acts committed within the District of Columbia, including, on information and belief, by making false and defamatory statements about Plaintiffs from within the District of Columbia, and/or, on information and belief, directly to individuals within the District of Columbia; and (iv) caused tortious injury by acts committed outside the District of Columbia while regularly doing business within, engaging in persistent conduct within, and deriving substantial revenue from services rendered within the District of Columbia.

32. Alternatively, this Court has personal jurisdiction over all Defendants pursuant to D.C. Code § 13-423(a) because Defendants committed acts in the District of Columbia that caused tortious injury to Plaintiffs within the District of Columbia. Defendant OAN filmed, produced, and broadcast defamatory content about Plaintiffs in the District of Columbia. Defendant Chanel Rion is based in the District and, on information and belief, produced, published, and/or endorsed defamatory statements about Plaintiffs in the District. Defendant Giuliani made defamatory statements that were produced and published in the District of Columbia. Based on the declaration of an individual who worked as a senior news producer at OAN from January 2017 until April

2021 and exhibits thereto,¹⁵ as well as public reporting,¹⁶ Defendants Robert Herring and Charles Herring exercise absolute and direct editorial decision-making over OAN's content. On information and belief, Robert Herring and Charles Herring exercised control over and participated in, encouraged, and/or made, the decision to publish OAN's and Giuliani's defamatory statements about Plaintiffs, including those produced and published in D.C. The publication of defamatory content within D.C. constitutes overt acts that furthered Defendants' common scheme. Further, the publication of defamatory content about Plaintiffs, both from within and without the District, was directed, in part, to legislators, officials, and constituents in the District for the purpose of preventing the transfer of power from former President Trump to President Biden and, thereafter, causing power to be transferred back to former President Trump. As a result, Plaintiffs suffered tortious injury in the District of Columbia by virtue of the publication of defamatory content in the District.

33. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the events giving rise to this action occurred in the District of Columbia.

BACKGROUND

34. Liability in this case is predicated on a series of defamatory statements Defendants published starting on December 23, 2020, which are described in detail below. This background

¹⁵ Declaration of Martin Gologan, *Coomer v. Donald J. Trump for President, Inc.*, No. 2020cv034319 (Colo. Dist. Ct. May 20, 2021), available at <http://cdn.cnn.com/cnn/2021/images/10/06/declaration.of.marty.gologan.in.coomer.case.2021-09-17.20-00-52.exhibit.r...pdf>.

¹⁶ Andrew McCormick, *One America News Was Desperate for Trump's Approval. Here's How It Got It*, Colum. Journalism Rev. (May 27, 2020), https://www.cjr.org/the_profile/one-america-news-oan-trump-herring.php; Marc Fisher, *An Inside Look at One America News, the Insurgent TV Network Taking 'Pro-Trump' to New Heights*, Wash. Post (July 5, 2017), https://www.washingtonpost.com/lifestyle/style/an-inside-look-at-one-america-news-the-insurgent-tv-network-taking-pro-trump-to-new-heights/2017/07/05/7475f0a4-4fa2-11e7-91eb-9611861a988f_story.html.

section provides facts about the parties and the events in the weeks leading up to those statements to explain the context in which those defamatory statements were published.

A. OAN Publishes Content That Supports Its Partisan Advocacy To Millions Of Viewers And Readers.

35. OAN markets itself as a “news” organization,¹⁷ but is committed to disseminating a rigid and predictable form of partisan advocacy it believes is good for business. In support of this advocacy, OAN regularly spreads false information. One study found that OAN was the third leading purveyor of false information about the 2020 presidential election on YouTube.¹⁸

36. A former senior news producer who worked at OAN from September 2016 until April 2021 recently attested under oath that OAN is not run like a news organization and does not adhere to professional newsgathering practices (note that “Hs” refers to the Herrings, including Robert and Charles):

Based on my experience at OAN, management’s news coverage decisions are based on a business model, not a journalistic model. The theory was that any news report that increased OAN’s visibility was acceptable and, therefore, broadcast whether or not it was factual. Unlike most news organizations where reporters, producers, and newsroom managers work together to develop news content and network/station owners and sales and operations staff take a hands-off approach, content and editorial decisions came from the top down at OAN. The stories the Hs wanted to run were run. These were referred to by the OAN news director as “H stories.” Thus, despite being part of the ownership of OAN, Charles Herring was directly involved in making decisions on what news stories to run and who would run them.

[] The Hs’ decision-making on on-air content became very reliant on viewer feedback as the 2020 Presidential election neared. OAN has a web-based feedback link to solicit viewer feedback and opinions. Whatever the viewers liked, the management told

¹⁷ E.g., *One America News Network*, OAN, <https://dzm0ugdauank9.cloudfront.net/wp-content/uploads/2021/11/OAN-opt.pdf> (last visited Dec. 18, 2021).

¹⁸ Election Integrity Partnership, *The Long Fuse: Misinformation and the 2020 Election* 191 (2021), <https://stacks.stanford.edu/file/druid:tr171zs0069/EIP-Final-Report.pdf>.

production to “run more of that.” There was a caving to the mob mentality where the OAN news plan was to reinforce the viewpoint of the viewer to increase viewership and challenge Fox News and Newsmax for conservative content viewers. To be clear, this was a top-down directive.¹⁹

37. According to Charles Herring himself, the fact-checking process at OAN “includes management review.”²⁰

38. Robert Herring’s direct editorial control over OAN is evidenced by, among many things, his December 16, 2020, tweet explaining why OAN would not recognize then-President-elect Biden’s victory²¹:



39. According to the former producer, OAN has a particular interest in cultivating its image as “the Trump Station” and, as a result, has chosen to echo and republish former President Trump’s claims that the 2020 presidential election was stolen, long after those claims have been proven false:

¹⁹ Declaration of Martin Gologan ¶¶ 5–6, *Coomer v. Donald J. Trump for President, Inc.*, No. 2020cv034319 (Colo. Dist. Ct. May 20, 2021), available at <http://cdn.cnn.com/cnn/2021/images/10/06/declaration.of.marty.gologan.in.coomer.case.2021-09-17.20-00-52.exhibit.r...pdf>.

²⁰ Jean Guerrero, Opinion, *Column: How San Diego Incubates White Extremism with One America News*, L.A. Times (July 22, 2021), <https://www.latimes.com/opinion/story/2021-07-22/one-america-news-network-politics-san-diego-trump>.

²¹ Robert Herring (@RobHerring), Twitter (Dec. 16, 2020, 9:49 AM), <https://twitter.com/robherring/status/1339266480429416448>.

OAN was considered a pro-Trump station during the lead-up to the 2020 Presidential election. OAN covered Trump rallies in full and to my knowledge was the only station doing that after a while. OAN soon became the “Trump Station.” That is the brand that OAN wanted to take on. The Hs’ directive was to “Run Trump in everything that we do.” For four years of Trump’s administration, OAN would cover Trump daily and write about the public’s reaction. Former President Trump was the star of the show and we would write everything around that. When former President Trump said that the election was stolen, the viewer feedback was incredible. As a result, OAN continued to air pieces after the election to support this narrative.²²

40. The former OAN senior producer testified that, “Based on my experience at OAN, I know for a fact that we aired false stories.” That includes stories about the election in the aftermath of the 2020 election, which “OAN ran . . . with reckless disregard for the truth.”²³

41. OAN creates, amplifies, and delivers content to a massive national audience.

42. In 2019, OAN claimed that it had 35 million subscribers and that its total viewers at any given time could range from “about 150,000 to upwards of half a million.”²⁴ Public reports suggest that OAN’s content is available to “about a quarter of the estimated 121 million TV households in the United States.”²⁵ While neither Nielsen nor Comscore release OAN’s viewership

²² Declaration of Martin Gologan ¶ 9, *Coomer v. Donald J. Trump for President, Inc.*, No. 2020cv034319 (Colo. Dist. Ct. May 20, 2021), available at <http://cdn.cnn.com/cnn/2021/images/10/06/declaration.of.marty.gologan.in.coomer.case.2021-09-17.20-00-52.exhibit.r...pdf>.

²³ *Id.*

²⁴ David Smith, *Trump Has a New Favourite News Network – and It’s More Rightwing than Fox*, Guardian (June 15, 2019), <https://www.theguardian.com/tv-and-radio/2019/jun/15/oan-oann-fox-news-donald-trump>.

²⁵ John Shiffman, *How AT&T Helped Build Far-Right One America News*, Reuters (Oct. 6, 2021), <https://www.reuters.com/investigates/special-report/usa-oneamerica-att/>.

metrics, OAN claims it is rated fourth behind Fox, CNN, and MSNBC, and ahead of CNBC, the BBC, and Newsmax.²⁶

43. The reach of OAN grew significantly during the 2020 election cycle. For example, downloads of the OAN app reached record highs in November 2020 and spiked again in January 2021. Further, research by the German Marshall Fund, a nonpartisan policy organization, found that interactions with OAN’s Facebook content more than doubled from the third to fourth quarters of 2020, rising from 942,000 to 2.8 million.²⁷

44. In the immediate aftermath of the 2020 election, Charles Herring claimed that OAN “perform[ed] in the TOP 10 of all national cable channels (all genres)” for at least five weeks in a row, behind only Fox News, CNN, and MSNBC²⁸:



45. As of this filing, more than 1,500,000 users follow OAN’s Facebook page, while nearly as many (*i.e.*, more than 1,400,000) users “like” the page.²⁹ As of this filing, roughly

²⁶ *Id.*

²⁷ Adrienne Goldstein, *Social Media Engagement with Deceptive Sites Reached Record Highs in 2020*, German Marshall Fund (Jan. 27, 2021), <https://www.gmfus.org/news/social-media-engagement-deceptive-sites-reached-record-highs-2020>.

²⁸ Charles Herring (@CharlesHerring), Twitter (Dec. 10, 2020, 10:17 AM), <https://twitter.com/CharlesPHerring/status/1337099084759371776>.

²⁹ OAN (@OneAmericaNewsNetwork), Facebook, <https://www.facebook.com/OneAmericaNewsNetwork/> (last visited Dec. 22, 2021).

1,440,000 people subscribe to its YouTube channel, and its videos regularly garner tens of thousands of views, with its most popular videos receiving millions of views.³⁰

46. It has been reported that OAN generates tens of millions of dollars in revenue, and that one five-year deal with AT&T netted Robert Herring and/or OAN \$57 million dollars in fees.³¹ Defendant Herring, OAN's CEO, reportedly testified that, in 2019, he was offered \$250 million dollars for the company.³²

47. Beginning in the spring of 2020 and continuing until the 2020 election, Donald Trump repeatedly claimed there would be widespread fraud in the 2020 presidential election,³³ and OAN, in keeping with its efforts to garner views from President Trump's supporters, gave considerable airtime to this narrative ahead of the 2020 election.³⁴

³⁰ OAN (@1americanews), YouTube, <https://www.youtube.com/c/oann> (last visited Dec. 22, 2021).

³¹ John Shiffman, *How AT&T Helped Build Far-Right One America News*, Reuters (Oct. 6, 2021), <https://www.reuters.com/investigates/special-report/usa-oneamerica-att/>.

³² *Id.*

³³ See, e.g., Salvador Rizzo, *Trump's Fusillade of Falsehoods on Mail Voting*, Wash. Post (Sep. 11, 2020), <https://www.washingtonpost.com/politics/2020/09/11/trumps-fusillade-falsehoods-mail-voting/>; Eugene Kiely & Rem Rieder, *Trump's Repeated False Attacks on Mail-In Ballots*, FactCheck.org (Sep. 25, 2020), <https://www.factcheck.org/2020/09/trumps-repeated-false-attacks-on-mail-in-ballots/>; Eugene Kiely et al., *The President's Trumped-Up Claims of Voter Fraud*, FactCheck.org (July 30, 2020), <https://www.factcheck.org/2020/07/the-presidents-trumped-up-claims-of-voter-fraud/>.

³⁴ See, e.g., OAN (@OANN), Twitter (Apr. 30, 2020, 7:12 PM), <https://twitter.com/OANN/status/1256043706081177601>; OAN (@OANN), Twitter (Sep. 10, 2020, 10:24 AM), <https://twitter.com/OANN/status/1304108563023847424>; OAN (@OANN), Twitter (Oct. 14, 2020, 6:12 PM), <https://twitter.com/OANN/status/1316547475168129024>; OAN (@OANN), Twitter (Oct. 21, 2020, 10:30 AM), <https://twitter.com/OANN/status/1318967952704561153>.

B. Plaintiffs Serve As Election Workers In The 2020 Election In Fulton County, Georgia.

48. In the lead-up to Election Day 2020, Georgia “emerged as one of the nation’s biggest electoral battlegrounds in the race for the White House.”³⁵

49. The voting process in Georgia began on September 15, 2020, when local officials began mailing out absentee ballots.³⁶ Voters could cast early voting ballots in person from October 12, 2020 until October 30, 2020, and they could vote by mail until Election Day, on November 3, 2020.³⁷ All told, more than 4 million Georgians cast ballots during early voting or via absentee ballot in the 2020 election.³⁸ On Election Day, when another 975,540 people cast votes,³⁹ Georgia Secretary of State Brad Raffensperger observed, “We are having a successful election in Georgia today.”⁴⁰

50. In Fulton County, absentee ballots were counted in State Farm Arena.

³⁵ Greg Bluestein, *Election Day Arrives: 5 Factors That Will Decide Georgia’s 2020 Race*, Atlanta J.-Const. (Nov. 3, 2020), <https://ajc.com/politics/election-day-arrives-5-factors-that-will-decide-georgias-2020-race/5K5HAAJJGBHDLB6KWTHQ7ODRE/>; see also *id.* (noting how “tantalizingly close” Democrats came to winning a statewide official in 2018).

³⁶ Ga. Sec’y of State, 2020 State Elections and Voter Registration Calendar, https://sos.ga.gov/admin/uploads/2020_Short_Calendar.pdf (last visited Dec. 22, 2021).

³⁷ Claire Simms et al., *Voting in Georgia 2020: Registering to Vote, Absentee Ballots, and More*, Fox 5 Atlanta (Oct. 28, 2020), <https://www.fox5atlanta.com/news/georgia-voter-guide-2020-general-election>.

³⁸ November 3, 2020 General Election, *President of the United States*, Ga. Sec’y of State, <https://results.enr.clarityelections.com/GA/105369/web.264614/#/detail/5000> (last visited Dec. 22, 2021).

³⁹ *Id.*

⁴⁰ Kate Brumback & Sudhin Thanawala, *Despite A Few Hiccups, Voting in Georgia Goes Smoothly*, Associated Press, Nov. 3, 2020, <https://apnews.com/article/election-2020-virus-outbreak-primary-elections-georgia-elections-ce8204935e991f740c94d6bc464481cf>.

51. Plaintiff Wandrea Moss had worked on elections in Fulton County since 2012, and had been tabulating ballots in every election throughout that period. In 2020, she was assigned to focus on the tabulation of absentee ballots.

52. Plaintiff Ruby Freeman had signed up to be a temporary worker for the November 2020 election. She was asked to join the work at State Farm Arena.

53. On November 3, 2020, an overflowing urinal at State Farm Arena led to a brief voluntary evacuation of the affected area.⁴¹ According to a press release issued at the time:

At approximately 6:07 a.m., the staff at State Farm Arena notified Fulton County Registration & Elections of a water leak affecting the room where absentee ballots were being tabulated. The State Farm Arena team acted swiftly to remediate the issue. Within 2 hours, repairs were complete. No ballots were damaged, nor was any equipment affected. There was a brief delay in tabulating absentee ballots while the repairs were being conducted.⁴²

54. The *Atlanta Journal-Constitution* reported on November 3 that a pipe break had caused a water leak at the ballot processing site and specifically noted that no ballots were damaged.⁴³

⁴¹ Decl. of Frances Watson ¶¶ 4–6, *Pearson v. Kemp*, Civ. No. 1:20-cv-04809-TCB (N.D. Ga. Dec. 6, 2020), ECF No. 72-1, available at <https://s3.documentcloud.org/documents/20420664/frances-watson-affidavit.pdf> (stating that the Secretary of State’s Office launched an investigation that “revealed that the incident initially reported as a water leak late in the evening on November 3rd was actually a urinal that had overflowed early in the morning of November 3rd” and confirming that this leak “did not affect the counting of votes by Fulton County later that evening”); see also *Georgia Election: Donald Trump’s Phone Call Fact-checked*, BBC (Jan. 4, 2021), <https://www.bbc.com/news/election-us-2020-55529230>.

⁴² Press Release, State Farm Arena, Statement Regarding Absentee Ballot Tabulation at State Farm Arena (Nov. 3, 2020), available at <https://www.statefarmarena.com/news/detail/statement-regarding-absentee-ballot-tabulation-at-state-farm-arena>.

⁴³ Ben Brasch, *Fulton County Election Results Delayed After Pipe Bursts in Room with Ballots*, Atlanta J.-Const. (Nov. 3, 2020), <https://www.ajc.com/news/atlanta-news/fulton-election-results-delayed-after-pipe-bursts-in-room-with-ballots/4T3KPQV7PBEX3JVAIGJBNBSVJY/>.

55. On November 13, 2020, NBC, ABC, CBS, and CNN declared Joe Biden the projected winner of Georgia,⁴⁴ followed by Fox News and the Associated Press on November 19, 2020.⁴⁵

56. From November 11 through November 19, 2020, county election officials carried out a risk-limiting audit, which included a full manual tally of all votes cast, and confirmed Biden had won Georgia's election: "Audit boards from all 159 Georgia counties examined 41[,]881 batches, hand-sorting and counting each ballot as part of the process, which was the largest hand count of ballots in United States history."⁴⁶ According to the audit, "no individual county showed a variation in margin larger than 0.73%." Moreover, "103 of the 159 counties showed a margin variation of less than 0.05%."⁴⁷ It concluded that "the correct winner was reported."⁴⁸

57. On November 20, 2020, Secretary of State Raffensperger certified Biden's victory.⁴⁹ That same day, Republican governor Brian Kemp certified Georgia's election results.⁵⁰

⁴⁴ *AP: Trump Wins North Carolina but Georgia Too Close to Call*, ABC10.com (Nov. 13, 2020), <https://www.abc10.com/article/news/politics/elections/trump-wins-north-carolina-election-georgia-biden/507-1459be8a-f5f9-4346-907c-c72ea0ada13d>.

⁴⁵ *FOX News, AP calls Georgia for Biden As State Finalized Hand Recount Audit*, FOX 5 Atlanta (Nov. 20, 2020), <https://www.fox5atlanta.com/news/ap-calls-georgia-for-biden-as-state-finalized-hand-recount-audit>.

⁴⁶ Ga. Sec'y of State, *Risk-Limiting Audit Report: Georgia Presidential Contest, November 2020* (Nov. 19, 2020), https://sos.ga.gov/admin/uploads/11.19_20_Risk_Limiting_Audit_Report_Memo_1.pdf.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Kate Brumback, *Georgia Officials Certify Election Results Showing Biden Win*, Associated Press (Nov. 20, 2020), <https://apnews.com/article/georgia-certify-election-joe-biden-ea8f867d740f3d7d42d0a55c1aef9e69>.

⁵⁰ *Id.*

58. President Trump requested a recount, which was conducted using scanners that read and tallied the votes.⁵¹ The recount was the third tally of votes in the Georgia presidential race and the third tally to conclude that Joe Biden won the election.⁵² On December 7, 2020, Georgia officials recertified Biden's victory of the state's 16 electoral votes.⁵³

C. Giuliani And Trump's Legal Team Initiate The Lie That Election Workers Illegally Instructed Observers To Leave And Counted Thousands Of Fraudulent Ballots Unobserved.

59. On December 3, 2020, Donald Trump's legal team—including Defendant Giuliani—testified before the Georgia Senate, alleging that fraud and misconduct had occurred during Georgia's November 2020 election.⁵⁴

60. At the hearing, a lawyer assisting the Trump campaign published snippets of surveillance video of the absentee and military vote count at State Farm Arena.⁵⁵ This edited footage from the surveillance video will hereafter be called the "Trump Edited Video." While the Trump Edited Video played, the campaign surrogate claimed that Republican observers had been asked to leave the arena in contravention of Georgia law and that, once they were gone, Plaintiffs and other election workers produced and counted 18,000 hidden, fraudulent ballots—more than

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Beau Evans, *Georgia Senate Panel Hosts Trump Attorney Giuliani As Election Officials Dispute Fraud Claims*, Augusta Chron. (Dec. 3, 2020), <https://www.augustachronicle.com/story/news/2020/12/03/georgia-senate-panel-probing-election-hosts-trump-attorney-giuliani/3818365001/>.

⁵⁵ 11Alive, *Second Georgia Senate Election Hearing*, YouTube (Dec. 3, 2020), <https://www.youtube.com/watch?v=hRCXUNOwOjw> (showing Trump campaign volunteer Jacki Pick's commentary on the surveillance footage from 33:27 to 50:26).

the margin of victory in the presidential race.⁵⁶ The surrogate referred to “suitcases of ballots [stored] under a table, under a tablecloth;” identified the election workers in the room as “the lady in purple,” “two women in yellow,” and “the lady with the blond braids also, who told everyone to leave;” and stated that “one of them had the name Ruby across her shirt somewhere.”⁵⁷

D. OAN And Giuliani Amplify The Initial Lie.

61. Immediately after the December 3, 2020, hearing, OAN latched onto the narrative, covering and replaying the Trump Edited Video.⁵⁸

62. The Trump campaign promptly amplified and republished OAN’s coverage⁵⁹ and distributed a video excerpt repeatedly on Twitter that same day⁶⁰:

⁵⁶ Angelo Fichera, *Video Doesn’t Show ‘Suitcases’ of Illegal Ballots in Georgia*, FactCheck.org (Dec. 7, 2020), <https://www.factcheck.org/2020/12/video-doesnt-show-suitcases-of-illegal-ballots-in-georgia/>. For video of the hearing, see also 11Alive, *Second Georgia Senate Election Hearing*, YouTube (Dec. 3, 2020), <https://www.youtube.com/watch?v=hRCXUNOwOjw>.

⁵⁷ 11Alive, *Second Georgia Senate Election Hearing*, YouTube (Dec. 3, 2020), <https://www.youtube.com/watch?v=hRCXUNOwOjw>.

⁵⁸ OAN, *Giuliani, Trump Legal Team Testify in GA. Full 12/3/20*, YouTube (Dec. 4, 2020), <https://www.youtube.com/watch?v=3wObE1JCQMg/>.

⁵⁹ Donald J. Trump, *Video from GA Shows Suitcases Filled with Ballots Pulled from under a Table after Poll Workers Left*, YouTube (Dec. 3, 2020), https://www.youtube.com/watch?v=nVP_60Hm4P8/.

⁶⁰ Team Trump (@TeamTrump), Twitter (Dec. 3, 2020, 10:32 AM), *available at* https://web.archive.org/web/20201205090637mp_/https://twitter.com/TeamTrump/status/1334566301205925889 (last visited Dec. 22, 2021); Team Trump (@TeamTrump), Twitter (Dec. 3, 2020, 10:44 AM), *available at* <https://web.archive.org/web/20201205130311/https://twitter.com/TeamTrump/status/1334569329334083586> (last visited Dec. 22, 2021). The Team Trump (@TeamTrump) account is no longer accessible on Twitter.



63. Rion retweeted the Trump Campaign's tweet.⁶¹

64. On December 3 and 4, 2020, Giuliani broadcast the lie on his Twitter account,⁶² and OAN's Christina Bobb shared one of Giuliani's tweets.⁶³

⁶¹ Chanel Rion OAN (@ChanelRion), Twitter (Dec. 4), *available at* <https://web.archive.org/web/20201206215737/https://twitter.com/ChanelRion> (last visited Dec. 22, 2021).

⁶² Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 3, 2020, 1:48 PM), <https://twitter.com/RudyGiuliani/status/1334585372932763648>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 3, 2020, 10:14 PM), <https://twitter.com/RudyGiuliani/status/1334712590300311553>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 4, 2020, 9:12 AM), <https://twitter.com/rudygiuliani/status/1334878351970938883>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 4, 2020, 5:03 PM), <https://twitter.com/RudyGiuliani/status/1334996848977784833>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 4, 2020, 6:23 PM), <https://twitter.com/RudyGiuliani/status/1335016923986350080>.

⁶³ Christina Bobb (@christina_bobb), Twitter (Dec. 4, 2020), *available at* https://twitter.com/christina_bobb/with_replies/

E. The Lie Was Promptly And Authoritatively Refuted.

65. Both the Georgia Secretary of State (who is a Republican and endorsed former President Trump during the 2020 campaign) and the Georgia Bureau of Investigation immediately investigated Defendants claims. They reviewed the security videotape in its entirety, interviewed all witnesses who were present at the time of the alleged misconduct, and found no evidence whatsoever to substantiate any of the claims.⁶⁴

66. At 5:41 a.m. on December 4, 2020, the Voting Implementation Manager for the State of Georgia, Gabriel Sterling, refuted the false claims of election fraud on Twitter: “The 90 second video of election workers at State Farm arena, purporting to show fraud was watched in its entirety (hours) by @GaSecofState investigators. Shows normal ballot processing. Here is the fact check on it.”⁶⁵

67. Mr. Sterling’s tweet shared a link to a fact check published by Lead Stories, a fact-checking website that identifies false or misleading stories. It demonstrated that the Trump Edited Video did not show suitcases full of ballots being pulled from under a table, and that poll watchers were not told to leave.⁶⁶ The fact check quotes Georgia election officials explaining that the containers in the video contained ballots that were processed for counting earlier in the night, that

⁶⁴ See Response of the Georgia Secretary of State to the Court’s Order of September 20, 2021, *Favorito v. Wan*, Civ. No. 2020CV343938 (Fulton Cnty. Ga. Super. Ct. Oct. 12, 2021), <https://www.gpb.org/news/2021/10/12/election-investigators-havent-found-evidence-of-counterfeit-ballots-in-georgia/>.

⁶⁵ Gabriel Sterling (@GabrielSterling), Twitter (Dec. 4, 2020, 5:41 AM), <https://twitter.com/GabrielSterling/status/1334825233610633217>.

⁶⁶ Alan Duke & Hallie Golden, *Fact Check: Video from Georgia Does Not Show Suitcases Filled with Ballots Suspiciously Pulled from Under a Table; Poll Watchers Were Not Told to Leave*, Lead Stories (Dec. 3, 2020), <https://leadstories.com/hoax-alert/2020/12/fact-check-video-from-ga-does-not-show-suitcases-filled-with-ballots-pulled-from-under-a-table-after-poll-workers-dismissed.html>.

the vote count data and voter verifications negated the claim that thousands of fraudulent ballots had been introduced into the count, and that it was not illegal for election workers to count ballots in the observers' absence.⁶⁷

68. On December 4, 2020, Georgia Public Broadcasting published its own article fact-checking the election fraud claims made during the Georgia Senate hearing on the previous day. The article directly refuted the Trump legal team's claims concerning the contents of the Trump Edited Video. It reported that the video showed a normal tabulation process, which both state and county officials had verified. It also reported that no observers had been asked to leave, but Republican monitors and the press did leave when some election employees stopped their work for the night. And it clarified that Georgia law does not require poll monitors to be present for the ballot-counting process.⁶⁸

69. Also on December 4, 2020, Mr. Sterling joined Newsmax for a roughly 17-minute segment and, again, explained why the video did not show any fraud:

Unlike watching 90 seconds of it like we saw in the Senate hearing yesterday, we've had our investigators watch all many several hours of it yesterday. And what essentially happened is—and we knew about this, part of this, on election night itself—around 10:15/10:20, there's two groups of people in this room that are working. There are cutters—the people who are opening the envelopes—and then there's the people who are scanning, which is the ones we see on the video.

⁶⁷ *Id.*; see Angelo Fichera, *Video Doesn't Show 'Suitcases' of Illegal Ballots in Georgia*, FactCheck.org (Dec. 4, 2020), <https://www.factcheck.org/2020/12/video-doesnt-show-suitcases-of-illegal-ballots-in-georgia/>.

⁶⁸ Stephen Fowler, *Fact Checking Rudy Giuliani's Grandiose Georgia Election Fraud Claim*, Georgia Public Broadcasting (Dec. 4, 2020, 8:27 AM), <https://www.gpb.org/news/2020/12/04/fact-checking-rudy-giulianis-grandiose-georgia-election-fraud-claim>.

And let's keep a few other things in mind. I've been in this room. It's really obvious there's video cameras everywhere, so they know they're being watched on that front.

So what happened was, when the cutters were—they were, once they were done, they were, they was like, “Okay, we're done, time to go home,” and the media started packing up. And then the monitors kept packing up.

Now the one thing we have is a he said, she said, where the officials there said, “We didn't tell anybody that they had to leave.” The people who left—the Republican monitor said, “we were told we had to leave.” And we have no audio from those videotapes to ascertain the absolute truth. That's what is he said she said on that front.

But when you watch the video, the process—those aren't suitcases. Those are regular absentee carriers used in dozens of counties across the state. That's how they bring those in. Nothing was brought in without the monitors there, so everything was there. There was nothing new brought in. We didn't see somebody wheeling stuff into the room; we saw stuff that was already in the room that the monitors already saw brought in.

And then you saw the processes they're doing. Essentially what happened, the elections director called the absentee coordinator that's saying we're not shutting down. Tell them they gotta go get back to work because the counting people thought they were also getting to go home. So they were kind of disappointed. So you see him on his phone. He walks over to them, they kind of shrug their shoulders like, “crap, we got to go back to work again.” So, so they started doing that, and then we found out that the monitors weren't there anymore. So, we called their elections directors, and we called our state elections board monitor, who we have placed in Fulton County under a consent decree that we had ordered because of their screw-ups in the June election, and yes, there was 82 minutes where there wasn't a person there. But we have all the videotape that we are literally looking at right now.

We have to ask ourselves in that period of time, I think it was about three to five thousand votes that were scanned, and did this elections crew of, you know, medium-paid, tired elections workers suddenly become the Ocean's Eleven crew as part of a theft of an election? Or is it more likely they were tired and irritated?

You see when the SEB monitor gets there, and when the investigator gets there, the armed investigator, they keep doing the

exact same thing they were doing. They don't even pay him any mind because it's just—they're doing their regular processes.

And the problem we have is people don't understand this, and when people whip people's emotions up, it goes back to the issue I was talking about before of threats being against these thousands of workers across the country.⁶⁹

70. On December 4, 2020, PolitiFact—a nonprofit website that checks the accuracy of claims made by elected officials and others—published another fact check of the claim repeatedly made by Defendants that video footage from Georgia showed suitcases filled with ballots being illegally counted after election monitors were told to leave. The PolitiFact article confirmed the conclusions of Lead Stories and Georgia Public Broadcasting that the claim was plainly false. It featured a statement from Fulton County Registration and Elections Director Richard Barron, who confirmed that no announcement was made telling people to leave. Rather, certain staff members left as their work was finished. Mr. Barron himself told the workers scanning the ballots to keep working. Mr. Barron also confirmed that it was normal to keep containers under the tables near the scanners.⁷⁰

71. On December 5, 2020, OAN and Giuliani continued to publish and amplify the lie.⁷¹

⁶⁹ Monkey Savant, *Gabriel Sterling & Chad Robichaux on Newsmax Discuss the GA Ballot Fraud Situation 12/04/20*, YouTube (Dec. 4, 2020), <https://www.youtube.com/watch?v=o6k2zRRPx4I>.

⁷⁰ Bill McCarthy, *No, Georgia Election Workers Didn't Kick Out Observers and Illegally Count 'Suitcases' of Ballots*, PolitiFact (Dec. 4, 2020), <https://www.politifact.com/factchecks/2020/dec/04/facebook-posts/no-georgia-election-workers-didnt-kick-out-observe/>.

⁷¹ OAN, *President Trump's Legal Team Presents Evidence of Alleged Voter Fraud in Ga.*, YouTube (Dec. 5, 2020), <https://www.youtube.com/watch?v=JNmSY3QyPXU>; OAN, *Georgia Senate Hearing Shares Surveillance Footage Revealing Potential Ballot Stuffing*, Rumble (Dec. 5, 2020), <https://rumble.com/vbm3dl-georgia-senate-hearing-shares-surveillance-footage-revealing-potential-ball.html>; OAN (@OANN), Twitter (Dec. 5, 2020, 11:31 AM), <https://twitter.com/OANN/status/1335275633144811520>; Rudy W. Giuliani (@RudyGiuliani),

72. On December 6, 2020, Georgia Governor Brian Kemp filed in federal court a sworn affidavit from Frances Watson, chief investigator for the Georgia Secretary of State, further refuting these lies.⁷² Gov. Kemp filed this affidavit in *Pearson v. Kemp*, Civ. No. 1:20-cv-04809-TCB (N.D. Ga.), in response to claims by a group of presidential electors for Trump of widespread election-related misconduct. The affidavit detailed the results of an investigation by Ms. Watson into the alleged events at State Farm Arena. Ms. Watson attested that her investigative team interviewed witnesses and reviewed the entire security footage. Her investigation found that (i) observers and members of the press were *not* told to leave, but exited the room after seeing a group of workers responsible for opening envelopes leave; and (ii) no ballots were brought in from an unknown location and hidden under a table. She also stated that the video showed opened but uncounted ballots being placed in boxes and stored under the table, and later showed the boxes being opened so the workers could scan the ballots when the counting resumed later that night.

73. The Watson affidavit's submission and its content were widely reported in the press on December 6 and 7, 2020.⁷³

Twitter (Dec. 5, 2020, 12:49 PM), <https://twitter.com/RudyGiuliani/status/1335295193625600000>.

⁷² Decl. of Frances Watson, *Pearson v. Kemp*, Civ. No. 1:20-cv-04809-TCB (N.D. Ga. Dec. 6, 2020), ECF No. 72-1, available at <https://s3.documentcloud.org/documents/20420664/frances-watson-affidavit.pdf>.

⁷³ See, e.g., Daniel Chaitin, *Chief Georgia Investigator: No 'Mystery Ballots' Seen in Security Video*, Wash. Examiner (Dec. 6, 2020), <https://www.washingtonexaminer.com/news/chief-georgia-investigator-no-mystery-ballots-seen-in-security-video>; Ronn Blitzer, *No 'Mystery Ballots' Hidden under Table in Fulton County, Georgia Investigator Swears in Affidavit*, Fox News (Dec. 7, 2020), <https://www.foxnews.com/politics/fulton-county-georgia-no-mystery-ballots-under-table-investigator-affidavit>; Peter Weber, *Georgia's Top Election Investigator Debunks a Vote Fraud Conspiracy Involving 'Suitcases' of Ballots, a Urinal*, Yahoo News (Dec. 7, 2020), <https://news.yahoo.com/georgias-top-election-investigator-debunks-115236191.html>.

74. On December 7, 2020, Georgia Secretary of State Brad Raffensperger held a widely covered press conference to announce that Georgia was re-certifying the results of the 2020 election.⁷⁴ After announcing the recertification, Secretary Raffensperger introduced Mr. Sterling, who once more refuted the lies about the Trump Edited Video that OAN and Giuliani were continuing to spread. He yet again confirmed that the surveillance video showed that the containers taken from under a table held valid, uncounted ballots that had been stored by workers who thought they were leaving for the night. After realizing that they were staying, the workers unpacked the ballots from the containers and resumed scanning them.⁷⁵

75. Mr. Sterling then specifically refuted the claim that Plaintiffs had illegally scanned the same ballots multiple times:

Sterling: Is there any other disinformation I missed over the weekend guys? . . .

Reporter: The one I keep hearing over and over, is a woman scanning ballots over and over and over again. Can you explain whether the machines can count a ballot three times?

Sterling: Well if it, if it counted it five times, guess what, it would have shown up in the hand count. Because if you do the same batch, let's say—I don't even know how many there were, a hundred, two hundred, whatever it was—and let's say you do it three times, they would have been 600 off on that on the hand count. They weren't. I mean, it's just, as I've said, and y'all have heard me say it before, it's a ridiculous game of whack-a-mole.⁷⁶

⁷⁴ *Georgia Final 2020 Presidential Recount Results*, C-SPAN (Dec. 7, 2020), <https://www.c-span.org/video/?507078-1/georgia-final-2020-presidential-recount-results>.

⁷⁵ *Id.*

⁷⁶ *Id.*

76. Sterling's press conference and his refutation of the lie that Plaintiffs illegally scanned ballots multiple times were widely reported.⁷⁷

77. As described more fully below, Defendants learned of the numerous, authoritative refutations of the lies about Plaintiffs in real time. Nevertheless, they continued to publish lies about Plaintiffs on December 10 and 14, 2020, including on OAN's *Weekly Briefing*, which is filmed, produced, and broadcast in D.C.⁷⁸

78. No later than December 30, 2020, Secure the Vote, a website maintained by the office of the Georgia Secretary of State, provided a detailed video timeline to fact check the claims about what is depicted in the Trump Edited Video,⁷⁹ and Secure the Vote subsequently added descriptions to the video timeline, documenting the events from November 3, 2020, actually shown on the video, including⁸⁰:

5:22 AM	Workers arrive at State Farm Arena and discover a water leak. They immediately move tables and ballots away from the leak to prevent any water damage.
6:30 AM	Workers can be seen moving tables, but not tampering with ballots.
7:11 AM	Workers are seen vacuuming and drying the floors.
8:22 AM	Workers begin rearranging the room to its original layout. They move tables and ballot containers. The table under which a "suitcase" full

⁷⁷ See, e.g., Nick Corasaniti, *Top Georgia Election Official Debunks 'Ridiculous' Claims about Election Fraud*, N.Y. Times (Dec. 7, 2020), <https://www.nytimes.com/2020/12/07/technology/suitcases-ballots-georgia-election.html>.

⁷⁸ OAN, *Christina Bobb: Why Republicans Are Staying Quiet*, Rumble (Dec. 14, 2020), <https://rumble.com/vbvk1r-christina-bobb-why-republicans-are-staying-quiet.html>; see also Stephen Fowler, *At Georgia House Hearing, Republicans' Baseless Claims of Voting Fraud Persist*, Ga. Pub. Broadcasting (Dec. 10, 2020, 11:25 AM), <https://www.gpb.org/news/2020/12/10/at-georgia-house-hearing-republicans-baseless-claims-of-voting-fraud-persist>.

⁷⁹ *Fact Check*, Secure the Vote, <https://securevotega.com/factcheck/> (last visited Dec. 22, 2021).

⁸⁰ *State Farm Arena*, Secure the Vote, <https://securevotega.com/fact-check/> (last visited Dec. 22, 2021).

	of ballots was allegedly stashed is moved, revealing nothing hidden there.
9:57 PM	Poll workers prepare to stop work for the night and empty ballot containers are brought into the room. Workers then fill the containers with uncounted ballots.
10:06 PM	Poll workers store the containers with uncounted ballots under the table for the night while there are still many people in the room.
11:02 PM	After the Secretary of State ⁸¹ told poll workers they should continue working through the night, they remove the containers with uncounted ballots from underneath the table and resume their counting.

F. Trump’s January 2, 2021, Call Prompts Additional Fact Checks.

79. On January 2, 2021, President Trump placed a telephone call to Georgia Secretary of State Raffensperger, during which President Trump made a number of false allegations about Ms. Freeman, including calling her “a vote scammer, a professional vote scammer and hustler,” and asserting, “we’re so far ahead of these numbers, even the phony ballots of Ruby Freeman—known scammer.”⁸²

80. On January 4, 2021, Georgia election officials held yet another press conference to refute the already-debunked election fraud allegations that President Trump raised in his call with Mr. Raffensperger.⁸³ Mr. Sterling once again described the events that occurred on Election Day

⁸¹ The Voting Implementation Manager for the State of Georgia, Gabriel Sterling, reported that Georgia’s Secretary of State Brad Raffensperger ordered election workers to continue counting ballots through the night. Maggie Astor, *A Georgia Election Official Debunked Trump’s Claims of Voter Fraud, Point by Point*, N.Y. Times (Jan. 4, 2021), <https://www.nytimes.com/2021/01/04/us/politics/trump-georgia-election-fraud.html>.

⁸² *Trump’s Georgia Call: Listen to the Audio and Read a Full Transcript*, Wall St. J. (Jan. 3, 2021), <https://www.wsj.com/articles/listen-to-the-full-trump-ga-call-11609713527>.

⁸³ 11Alive, *Georgia Senate Runoffs | Secretary of State’s Office Addresses Election Day, Claims*, YouTube (Jan. 4, 2021), <https://www.youtube.com/watch?v=K7lDlqJ66fU&t=740s>.

at State Farm Arena, explained how they represented entirely normal ballot processing, and directed listeners to the Georgia Secretary of State's website for a detailed timeline matched to the surveillance footage.⁸⁴ Sterling reiterated for the assembled reporters the actual series of events:

Late in the evening, after the water main break had been fixed, election workers prepared to go home for the night and followed standard procedures to store ballots securely: placing them in containers and affixing numbered seals. But when Mr. Raffensperger found out that they were closing up shop, he ordered them to continue counting through the night—so the workers retrieved the containers and resumed counting ballots.⁸⁵

81. Mr. Sterling expressed his great frustration that the Trump legal team “had the entire tape” revealing these facts, and nevertheless “intentionally misled the State Senate, the voters and the people of the United States about this.”⁸⁶

82. PolitiFact published a fact-check article about the Raffensperger call that same day, finding that the events described by Mr. Sterling lined up with previous reports from PolitiFact and other fact-checkers. This article repeated PolitiFact's earlier assessment that the arena surveillance video showed no wrongdoing and provided no evidence of election fraud. It rated former President Trump's claim that Georgia election workers pulled 18,000 ballots from suitcases and counted them for President Biden as “Pants on Fire!” false.⁸⁷

⁸⁴ *Fact Check*, Secure the Vote, <https://securevotega.com/fact-check/> (last accessed Nov. 7, 2021).

⁸⁵ Maggie Astor, *A Georgia Election Official Debunked Trump's Claims of Voter Fraud, Point by Point*, N.Y. Times (Jan. 4, 2021), <https://www.nytimes.com/2021/01/04/us/politics/trump-georgia-election-fraud.html>.

⁸⁶ *Id.*

⁸⁷ Bill McCarthy, *Trump Rehashes Debunked Claim About 'Suitcases' of Ballots in Georgia Phone Call*, PolitiFact (Jan. 4, 2021), <https://www.politifact.com/factchecks/2021/jan/04/donald-trump/trump-rehashes-debunked-claim-about-suitcases-ball/>.

G. Relevant Facts Were Established By December 7, 2020.

83. In sum, after the Trump campaign, Giuliani, and OAN published and re-published the lies about Plaintiffs beginning on December 3, the Georgia Secretary of State and Georgia Bureau of Investigation immediately investigated those claims. Coupled with independent fact checks and the public results of the hand recount of all ballots in Fulton County, the following facts were established as of December 7, 2020:

- a) the water leak reported at State Farm Arena on November 3 turned out to be an overflowing urinal;
- b) the flooding did not affect the counting of votes;
- c) no announcement was made telling monitors, members of the press, or others to leave on election night;
- d) no ballots were brought into the arena from an unknown location;
- e) the supposed “suitcases” of illegal ballots were not suitcases, but regular ballot containers filled with valid, uncounted ballots;
- f) those ballots were not “hidden,” but stored, and no one tampered with those ballots;
- g) there was no evidence that Plaintiffs illegally scanned ballots multiple times (because they did not)—if anyone had done so, there would have been a significant discrepancy between results of the hand count and the results on election night, and there was no such discrepancy;
- h) the ballot processing in the Trump Edited Video was, in fact, entirely normal ballot processing; and
- i) no one, let alone Plaintiffs, committed election fraud in Fulton County that altered the results of the election, and there was no conspiracy to commit such fraud.

84. These facts were widely and repeatedly reported and, as described below, Defendants were plainly aware of them as of December 7, 2020.

85. Moreover, these facts were widely reported again in the aftermath of President Trump’s January 2, 2021, call with Secretary Raffensperger.

* * *

86. Defendants' lies were outlandish to begin with. But even assuming that they genuinely believed the truth of their claims about Ms. Freeman and Ms. Moss when they initially published those claims on December 3, 4, 5, and 6, 2020, those claims were authoritatively disproven by December 7, 2020, at the latest, and they knew it.

87. Notwithstanding the immediate, authoritative, and repeated fact checks, and Defendants' awareness of those fact checks, Defendants have spent the last year defaming Plaintiffs as described below.

THE ACTIONABLE DEFAMATORY STATEMENTS

A. Defendants Repeatedly Defamed Plaintiffs.

December 23, 2020, Pearson Sharp Segment on OAN

88. On or about December 23, 2020, OAN published video clips of Ms. Freeman and Ms. Moss using the headline: "Poll Worker in Fulton County, Ga. Caught on Camera Scanning Same Stack of Ballots Multiple Times." OAN's Pearson Sharp identified Ms. Freeman and Ms. Moss by name, published images of them, and defamed them, stating:

OAN has reported on the evidence of election-tampering in Georgia, including video from the State Farm Arena tabulation Center in Fulton County, where President Trump was up by over 110,000 votes on election night. But when the rest of the building was evacuated after reports of a burst pipe, which turned out to be false, **four poll workers remained behind, including one woman named Ruby Freeman. After pulling out hidden boxes stuffed with ballots, footage analyzed by *Gateway Pundit*, reveals Freeman apparently scanning the same stack of ballots over and over again. Surveillance cameras show these poll workers watched and waited until the GOP observers and reporters had left the room before they resumed scanning their ballots.** These four workers then continued counting uninterrupted for over three hours, until sometime after 1:00 in the morning. **During this time, Ruby Freeman, as seen here in this video, repeatedly scanned the same batch of ballots at least three times, which is highly**

illegal, and it's all captured on tape. Freeman was working with her daughter, Wandrea Moss, who was also her elections supervisor, and was also caught on camera as one of the four workers who remained behind after election monitors were forced to leave the building.⁸⁸

As demonstrated by the video itself, and as confirmed by the investigation performed by Georgia election officials prior to December 23, nearly every factual statement within this paragraph is false. Yet the video remains available on OAN's channels today.

89. In the clip, Pearson evidenced his and OAN's awareness that "Georgia's officials have made serious efforts to dismiss the evidence presented on these videos." Despite this, Pearson falsely represented that "so far there has been no explanation for why Ruby Freeman scanned the same ballots multiple times, nor why they remained behind while the rest of the building was evacuated."

December 23, 2020, OAN Tweet and Facebook Post

90. On the same day, OAN published a tweet stating, "Poll worker in Fulton County, Ga. caught on camera scanning the same stack of ballots multiple times," with a red arrow pointing to an image of Ms. Freeman, with the notation, "Ruby Loads Up THE SAME STACK Of Ballots to Be Counted FOR THE THIRD TIME!"⁸⁹:

⁸⁸ OAN, *Poll Worker in Fulton County, Ga. Caught on Camera Scanning Same Stack of Ballots Multiple Times*, Rumble (Dec. 23, 2020), <https://rumble.com/vc4lnz-poll-worker-in-fulton-county-ga-caught-on-camera-scanning-same-stack-of-ba.html>.

⁸⁹ OAN (@OANN), Twitter (Dec. 23, 2020, 12:20 AM), <https://twitter.com/OANN/status/1341795795872276481>.



They posted the same to Facebook⁹⁰ and both the Facebook post and tweet linked to the OAN video clip on Rumble.com.

December 23, 2020, Episode of Giuliani's Common Sense

91. On the December 23, 2020 edition of his podcast and show, *Rudy Giuliani's Common Sense*, Giuliani identified Ms. Freeman by name as someone with “a history of voter fraud participation” and further defamed her as follows:

There's a video recording in Fulton County, Georgia, of what is obviously, without any doubt, the theft of votes. You have to be a naive child or a completely dishonest partisan not to realize that **the observers are being thrown out of the room. A phony excuse of a water main break was used. They still were thrown out of the room, didn't want to leave. Once they were all left and a last**

⁹⁰ OAN, *One America News Network*, Facebook (Dec. 23, 2020, 11:20 AM), <https://www.facebook.com/OneAmericaNewsNetwork/posts/2366483960163373>.

check was done around the hall, the workers for Atlanta—for Fulton County—the five or six, one of whom has a history of voter fraud participation, Ruby Freeman, uh, they scurry under these desks. Hardly where you would keep ballots, right? And they start taking ballots out and then put them on a wheelbarrow sort of thing and wheel them around. And you can see the ballots don't really look like, like absentee ballots that are in envelopes; they look more like pristine pieces of paper. And then they're given out and very quickly are being counted, counted, counted, counted, there are times in which it appears that they were being counted more than one time—three, four, five, six, seven times, eight times. . . . **[I]t's quite clear no matter who they're doing it for, they're cheating. It looks like a bank heist.**⁹¹

92. Giuliani and OAN amplified the episode on social media. OAN's social media post about the December 23 episode of *Common Sense* linked to an article from the OAN Newsroom.⁹²

93. That episode remains available on Giuliani's website.⁹³

⁹¹ Rudy Giuliani's *Common Sense*, *Christmas Is Not Canceled, It's Vital This Year* | Rudy Giuliani | Ep. 96, Rumble (Mar. 22, 2021), <https://rumble.com/vex94h-christmas-is-not-canceled-its-vital-this-year-rudy-giuliani-ep.-96.html>; Rudy Giuliani, *Christmas Is Not Canceled, It's Vital This Year* | Rudy Giuliani | Ep. 96, RudyGiulianics.com (Dec. 23, 2020), <https://rudygiulianics.com/episode/christmas-is-not-canceled-its-vital-this-year-rudy-giuliani-ep-96/>.

⁹² Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 23, 2020, 10:12 PM), <https://twitter.com/RudyGiuliani/status/1341960025321795584>; OAN, One America News Network, Facebook (Dec. 25, 2020), <https://www.facebook.com/OneAmericaNewsNetwork/posts/2369482053196897>. The link from OAN's Facebook page takes one to a page that has now been taken down. But an archived version of that page (with the same link) is available at: *Giuliani: New Developments in Election Fraud Case Coming Up*, OAN (Dec. 25, 2020), available at <https://web.archive.org/web/20210107032502/https://www.oann.com/giuliani-new-developments-in-election-fraud-case-coming-up/> (last visited Dec. 22, 2021).

⁹³ Rudy Giuliani, *Christmas Is Not Canceled, It's Vital This Year* | Rudy Giuliani | Ep. 96, RudyGiulianics.com (Dec. 23, 2020), <https://rudygiulianics.com/episode/christmas-is-not-canceled-its-vital-this-year-rudy-giuliani-ep-96/>.

December 25, 2020, Episode of Giuliani's Common Sense

94. Two days later, on his Christmas Day episode of *Common Sense*, which had 1.3 million views on YouTube as of February 22, 2021,⁹⁴ Giuliani repeated the same defamatory claims and again identified Ms. Freeman by name:

Live from Fulton County, let's watch the Democrats steal the election! And there you see it. **Ruby Freeman and her crew getting everybody out of the center, creating a false story that there was a—that there was a water main break. No water main break. They get everybody out. They wait, they wait, they wait. They check, they check, they check, like they're gonna do a heist, and all of a sudden the crooks sprang into action.** They go under a desk covered like a casket, and they start pulling ballots out. Tremendous numbers of ballots. And they bring them over to one counting stand, all the way over here, another counting stand, another—and they keep looking around to make sure there's nobody in the room! . . . Every once in a while, you look closely, you can them doing this—one ballot [gestures scanning a ballot multiple times]. You know what that does? That takes Biden and multiplies it by 5.

. . .

[J]ust look at the tape. That accounts for anywhere from 40 to 80,000 votes. The number then when we look at it on, was like 138,000 for Biden and 2,000 for Trump. Take those out of their numbers—Trump won Georgia honestly. We want honest votes here.⁹⁵

95. That episode remains available on Giuliani's website, and he amplified it on social media.⁹⁶

⁹⁴ Rudy W. Giuliani, *Who Will Be Our President? The Current State of Our Country* | Rudy Giuliani | Ep. 97, YouTube (Dec. 25, 2020), available at <https://web.archive.org/web/20210222171952/https://www.youtube.com/watch?v=NAzCECx8XeE&t=1141s> (last visited Dec. 22, 2021).

⁹⁵ *Id.*; Rudy Giuliani's Common Sense, *Who Will Be Our President? The Current State of Our Country* | Rudy Giuliani | Ep. 97, Rumble (Mar. 22, 2021), <https://rumble.com/vex8gv-who-will-be-our-president-the-current-state-of-our-country-rudy-giuliani-ep.html>.

⁹⁶ Rudy Giuliani, *Who Will Be Our President? The Current State of Our Country* | Rudy Giuliani | Ep. 97, RudyGiulianics.com (Dec. 25, 2020), <https://rudygiulianics.com/episode/Who-Will-Be-Our-President-The-Current-State-of-Our-Country-rudy-giuliani-ep-97/>; Rudy Giuliani, *Who Will*

December 30, 2020, Interview Between Chanel Rion and Rudy Giuliani

96. On December 30, 2020, OAN aired an interview of Defendant Giuliani conducted by Chanel Rion, an OAN staffer based in Washington, D.C. OAN anchor Keely Prosser introduced the segment, saying, “Top Trump campaign attorney Rudy Giuliani says victory is on the horizon as he breaks down voter fraud in key swing states ahead of January 6.”⁹⁷

97. In the segment, Rion asks Giuliani, “Talk about Georgia for a second. How important is Georgia right now?” With the Trump Edited Video depicting Ms. Freeman and Ms. Moss playing on screen as he spoke, Giuliani responded:

There are five or six states that can make the difference here and that have the evidence already have the evidence that shows that the Biden people stole the election, and not only that, they have the evidence that shows that Trump actually had more votes. Georgia is maybe the easiest to demonstrate because it’s on video. **During that videotape, that we can all see right in front of our eyes, we can see them stealing the votes. We can see them throwing out the people. We can see them counting it four and five times.** We also have the statistics during that period of time, **120,000 votes for Biden, couple hundred votes for Trump, no observers, makes it totally illegal.** That alone changes the election. That alone means that if you get rid of those illegal votes, Trump wins Georgia by 40 or 50 thousand votes. . . . Georgia has the one video tape, I consider it like the Zapruder film was to the Kennedy assassination, this film will live for a hundred years. **For a hundred years, this film will show that the, the 2020 presidential election, there was an attempt to steal it.**⁹⁸

Be Our President? The Current State of Our Country | Rudy Giuliani | Ep. 97, RudyGiulianics.com (Dec. 25, 2020), available at <https://rudygiulianics.com/category/2020-podcasts/> (last visited Dec. 22, 2021); Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 25, 2020, 3:47 PM), <https://twitter.com/RudyGiuliani/status/1342618055654875138>.

⁹⁷ OAN, *Exclusive: OAN’s Chanel Rion Talks Election Fight with Rudy Giuliani*, Rumble (Dec. 30, 2020), <https://rumble.com/vcahxx-exclusive-oans-chanel-rion-talks-election-fight-with-rudy-giuliani.html>.

⁹⁸ *Id.*

98. Rion endorsed these claims, stating, “It seems that the Georgia legislators are very much on board with having looked at the evidence you and your team presented, having watched the videos, looked at the data, they’re onboard, they want to do something about this. But we have an obstacle.”⁹⁹

99. In response to that statement from Rion, Giuliani doubled down on his assertion that the video depicted fraud:

I’ve heard Democratic senators get on television and say it’s espionage to say that it was fraud. You’re not gonna tell me that. **I see, I can see the fraud, it’s in front of my eyes. What am I supposed to do, close my eyes and make believe that in Fulton County, Georgia, when they closed the doors, and they got rid of the public, and they started triple counting ballots and it ends up being 120,000 for, for Biden and 3,000 for Trump? They weren’t cheating? Am I stupid?**¹⁰⁰

100. The video was promoted on OAN’s Twitter account on the day it aired.¹⁰¹ OAN’s posts on its Facebook page from December 31, 2020, to January 3, 2021, also indicate that OAN re-aired Rion’s interview with Giuliani in part or in full on January 2 and/or January 3, 2021.¹⁰²

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ OAN (@OANN), Twitter (Dec. 30, 2020, 12:24 PM), <https://twitter.com/OANN/status/1344348634041577472>.

¹⁰² OAN, *One America News Network*, Facebook (Dec. 31, 2020, 12:50 PM), <https://www.facebook.com/OneAmericaNewsNetwork/posts/2375835429228226>; OAN, *One America News Network*, Facebook (Dec. 31, 2020, 12:51 PM), <https://www.facebook.com/watch/?v=794031337846609>; OAN, *One America News Network*, Facebook (Jan. 2, 2021, 8:49 AM), <https://www.facebook.com/OneAmericaNewsNetwork/posts/2378068149004954>; OAN, *One America News Network*, Facebook (Jan. 2, 2021, 9:16 PM), <https://www.facebook.com/OneAmericaNewsNetwork/posts/2378579968953772>; OAN, *One America News Network*, Facebook (Jan. 3, 2021, 10:01 PM), <https://www.facebook.com/OneAmericaNewsNetwork/posts/2379766285501807>.

December 30, 2020, Episode of Giuliani's Common Sense

101. The December 30, 2020 episode of *Common Sense* again reprised Giuliani's lies about ballot counting in Fulton County on election night. Giuliani said:

[T]he Fulton County vote counting [videotape], which in and of itself **proves that Georgia was stolen by, uh, Joe Biden and by the Democrats. That one video proves it.**

...

[T]he first thing that the election workers do . . . is they, um, move out the observers. . . . [T]hey make sure there's no one around, they make sure the doors are locked so nobody else can come in, and then at a certain point they look around again, and they go under a table covered by a black, like a black blanket, and they start pulling out ballots. Now we begin with, why are ballots under a table? And then they start distributing those ballots for counting to three or four different areas where there are counting machines. And you can see it's done very hurriedly; it's done in a way suggesting that they are nervous about what they're doing, and by the way, even if these ballots were legitimate ballots, which I doubt they are, this would be entirely illegal. And every one of those ballots would be declared null and void because each one of these ballots is being counted in violation of the law of Georgia that in fact there must be the public present when ballots are being counted [I]t looks an awful lot like a bank heist, doesn't it?¹⁰³

102. The video recording of the podcast episode then played the Trump Edited Video of Ms. Freeman and Ms. Moss as Giuliani narrated. He said: "[The videotape is] just this one piece of evidence. So don't tell me there wasn't fraud in this election. And don't tell me I can't use the word 'fraud'"¹⁰⁴

¹⁰³ Rudy Giuliani's *Common Sense*, *I Can't Say This on National Television* | Rudy Giuliani | Ep. 98, Rumble (Mar. 22, 2021), <https://rumble.com/vex72l-i-cant-say-this-on-national-television-rudy-giuliani-ep.-98.html>; Rudy Giuliani, *I Can't Say This on National Television* | Rudy Giuliani | Ep. 98, RudyGiulianics.com (Dec. 30, 2020), <https://rudygiulianics.com/episode/i-cant-say-this-on-national-television-rudy-giuliani-ep.-98/>.

¹⁰⁴ *Id.*

103. That episode, which Giuliani amplified on social media, remains available on Giuliani's website.¹⁰⁵

January 18, 2021, Episode of OAN's In Focus with Stephanie Hamill

104. On January 18, 2021, OAN's program *In Focus with Stephanie Hamill* aired an interview with Giuliani where he repeated the false claims that Ms. Freeman and Ms. Moss were part of an election fraud scheme:

I mean, they pretty much censored it while it was going on, so they would love to turn the page on it. I mean, **I get banned from any of the big tech things when I say that not only was there voter fraud, I have evidence of it, I've seen it, I have a motion picture of it. I can show you the voter fraud in living color. It was done in Fulton County, Georgia, it was well over 30,000 ballots were stolen. They were attributed to Biden instead of Trump. Had they been caught and held to account for it, Trump would have won Georgia.**¹⁰⁶

April 3, 2021, Pearson Sharp Segment on OAN

105. On or about April 3, 2021, OAN published a segment in which it displayed a *Gateway Pundit* article titled, **"What's Up, Ruby? ... BREAKING: Crooked Operative Filmed Pulling Out Suitcases of Ballots in Georgia IS IDENTIFIED,"**¹⁰⁷ along with a still frame from

¹⁰⁵ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 30, 2020, 6:02 PM), <https://twitter.com/RudyGiuliani/status/1344433821891100672>; Rudy Giuliani, *I Can't Say This on National Television | Rudy Giuliani | Ep. 98*, RudyGiulianics.com (Dec. 30, 2020), <https://rudugiulianics.com/episode/i-cant-say-this-on-national-television-rudy-giuliani-ep.-98/>; Rudy Giuliani, *I Can't Say This On National Television | Rudy Giuliani | Ep. 98*, RudyGiulianics.com (Dec. 30, 2020), <https://rudugiulianics.com/category/2020-podcasts/>.

¹⁰⁶ See OAN, *1/18/2021 - Rudy Giuliani, Rep. Marjorie Taylor Greene, Brandon Tatum, Anna Paulina Luna & Peter Roff*, Spotify (Jan. 19, 2021), <https://open.spotify.com/episode/3UEoi1HGKJxOGluM4TqYCi?si>.

¹⁰⁷ Jim Hoft, *What's Up, Ruby? ... Breaking: Crooked Operative Filmed Pulling Out Suitcases of Ballots in Georgia Is Identified*, *Gateway Pundit* (Dec. 3, 2020), <https://www.thegatewaypundit.com/2020/12/ruby-breaking-crooked-democrat-filmed-pulling-suitcases-ballots-georgia-identified/>.

the Trump Edited Video with a red arrow pointing to Ms. Freeman and identifying her as “Ruby”¹⁰⁸:



106. While the article was displayed and the footage played, OAN reporter Pearson Sharp stated: “One of the most contentious counties in the state, Fulton County, saw massive controversy after **Republican poll watchers were sent home following false reports of a broken water pipe, while a handful of hardcore Biden supporters, like Ruby Freeman, remained behind to ‘count ballots’ without anyone to observe them.**”

¹⁰⁸ OAN, *Georgia Counties Fail to Provide Required Chain of Custody Records for 400K Mail-In Ballots*, Rumble (Apr. 3, 2021), <https://rumble.com/vfcf67-ga.-counties-fail-to-provide-required-chain-of-custody-records-for-400k-mai.html>.

107. OAN amplified this story through social media,¹⁰⁹ and the video of the segment remains available on OAN's channels today.¹¹⁰

May 27, 2021, Episode of OAN's The Real Story with Natalie Harp

108. On or about May 27, 2021, on OAN's *The Real Story with Natalie Harp*, OAN host Natalie Harp responded to a statement by Secretary Raffensperger about election mismanagement in Fulton County by stating: "Oh and now you know that Fulton County has a longstanding history of election mismanagement? A longstanding history? What about recent history? That happened under your watch, and **we have the tapes to prove it.**" OAN then published video footage of Plaintiffs, with the lawyer who was assisting the Trump campaign on December 3's narration, repeating the lies that Ms. Moss ("the lady with the blond braids") "cleared the place out under the pretense that, 'we're going to stop counting,'" and, along with Ms. Freeman, pulled "four suitcases come out from underneath the table" that Ms. Moss had earlier placed¹¹¹:

¹⁰⁹ See, e.g., OAN (@OANN), Twitter (Apr. 3, 2021, 8:36 PM), <https://twitter.com/OANN/status/1378552130361991173>.

¹¹⁰ OAN, *Georgia Counties Fail to Provide Required Chain of Custody Records for 400K Mail-In Ballots*, Rumble (Apr. 3, 2021), <https://rumble.com/vfcf67-ga.-counties-fail-to-provide-required-chain-of-custody-records-for-400k-mai.html>.

¹¹¹ OAN, *The Real Story - OAN Fulton County Audit with Rep. Jody Hice*, Rumble (May 27, 2021), <https://rumble.com/vhp803-the-real-story-oan-fulton-county-audit-with-rep.-jody-hice.html>.



109. With the chyron “Exposing Election-changing Amounts of Fraud in GA” displayed, Harp then stated:

And what did you do about that, Brad Raffensperger? That’s right, absolutely nothing. No, **we can’t even mention Ruby Freeman’s name, let alone ask for an investigation into her role in the fraud because you’re too busy calling for investigations into President Trump. Why? Because he had the courage to say what you and so many RINOS were afraid to: Stacey Abrams and co. rigged this election.**

110. That video remains available on OAN’s channels today.¹¹²

June 14, 2021, Episode of OAN’s The Real Story with Natalie Harp

111. On or about June 14, 2021, Harp interviewed Giuliani on OAN’s *The Real Story with Natalie Harp* during an edition dedicated to discussing “every red state that went blue, due to election-changing amounts of fraud.”¹¹³ During that interview, Giuliani stated:

Giuliani: **But for sure there was fraud, you can’t say there wasn’t fraud. . . . The law of Georgia is that the ballots have to be counted in public. They deliberately threw people out and counted the ballots in private, and**

¹¹² *Id.*

¹¹³ OAN, *The Real Story - OAN Uncovering the Crime of the Century with Rudy Giuliani*, Rumble (June 14, 2021), <https://rumble.com/vijlq1-the-real-story-oan-uncovering-the-crime-of-the-century-with-rudy-giuliani.html>.

there's videotape of it. That wasn't enough. I don't know what you've got to do to prove it. **They committed the crimes on video. You can see them do it. They lied about it. Then you can see these same people handing off flash drives to each other.**

. . .

Harp: There's so much to talk about. Georgia, especially, because, Georgia, **we saw the tapes.** We knew what was going on, based on the ballot drops that were happening in other states. **But in Georgia, we all saw those suitcases being wheeled out from under the tables.** We hear about the water leak. "There was a leak." How much do you see that as the defining moment because President Trump was still winning Georgia Tuesday, Wednesday, Thursday—it wasn't 'til Friday that then they found enough votes that Biden won?

Giuliani: Well, **I think Georgia is, uh, in terms of proof, the clearest proof.** In terms of scope of fraud, Pennsylvania is probably the biggest, **but, uh, in terms of proof, Georgia has every kind of proof you could possibly imagine.** I mean, the explanation for that videotape is absurd because you can see them—you can see them throw the people out. And the law specifically says you can't count in private, so they threw the people out. They used this phony excuse that there was going to be some kind of a water main break. It was not. There was no water main break, and then after the people were out—and you can just watch the way they're doing it. I mean, I've watched bank robberies. I mean, this, this looked like a bank robbery. They were doing it surreptitiously. And, uh, handing 'em off, and doing it quickly, and occasionally you can see them multiple count a vote. Now you take the two women who ran that, there are other tapes of them earlier in the day, handing off—handing off small, hard drives and flash drives, those flash drives were used to put in the machines—the machines that supposedly weren't, uh, accessible by internet, all of which were accessible by internet. So these women have gotten away scot-free. No one's even questioned them. I mean, you have to look at that videotape and say, at least there should be an investigation, and they should be put under oath as to what they were doing. . . .

Republicans, Democrats, reporters, and everyone else. **You see them unceremoniously ushered out. And then you see the woman check out the whole place to make sure there's nobody there and that's when they get the ballots from under the table, and that's when they start counting the ballots under the table.**¹¹⁴

112. OAN then began to play the Trump Edited Video of Ms. Freeman and Ms. Moss on election night:

Harp: **We're running the footage right now, Mr. Mayor, as you're talking, we're running the footage right next to you so everybody can see what's going on. Take a look at that footage because it's not being played anywhere else.**

Giuliani: Yeah. And now all that was dismissed without a single person being questioned by law enforcement. Without a single person having to go under oath. So they allege the phony secretary of state and they all like, well, there were people around somewhere. Well, I don't see them. Why don't you produce them and put them under oath? Why doesn't the D.A. open an investigation, except for the fact that the D.A. is in a crooked Democratic county? Another thing your listeners should understand, Natalie, is they did this in crooked Democratic cities. Not everywhere. **This was a very, very well planned, executed, fraud.**

Harp: **Coordinated! According to the *Time* magazine, this was coordinated.**¹¹⁵

...

Harp: And they even, when they leaked the president's phone call [with Georgia Secretary of State Brad Raffensperger], they were bleeping out Ruby Freeman's name because they're trying to protect her identity. Meanwhile, they'll open a criminal investigation against President Trump, **but no one**

¹¹⁴ *Id.*

¹¹⁵ Harp appears to be referring to a February 4, 2021, *Time* magazine article discussed in an earlier segment of the same edition of *The Real Story*, which does not suggest that there was coordinated fraud. See Molly Ball, *The Secret History of the Shadow Campaign that Saved the 2020 Election*, *Time* (Feb. 4, 2021), <https://time.com/5936036/secret-2020-election-campaign/>.

looked into the people there in Fulton County *that are on tape showing what they were doing with the ballots. What is it, do you think? What is the corruption so deep?* We've never heard of these types before. Raffensperger, of course, you have the governor there, Brian Kemp. But what is so deep that made them be so corrupt?

Giuliani: I don't know.

. . .

Giuliani: We're now living in a censored country, a, uh, country. The things I said to you I couldn't say on any, any network television in America. Wouldn't be printed in *The Wall*, even in *The Wall Street Journal*. Why is that? What can't I have an opinion on the election?

Harp: **And you have facts to back up that opinion, too.**¹¹⁶

113. That video remains available on OAN's channels today, with a description that begins: "Can you believe it? It's been just over seven months since election night 2020 when President Trump decisively won in a landslide."¹¹⁷ OAN and Harp both promoted the video on social media.¹¹⁸

June 21, 2021, Episode of OAN's The Real Story with Natalie Harp

114. On or about June 21, 2021, OAN's *The Real Story with Natalie Harp* began with "breaking news coming out of Fulton County, Georgia, as finally we are learning exactly what was

¹¹⁶ OAN, *The Real Story - OAN Uncovering the Crime of the Century with Rudy Giuliani*, Rumble (June 14, 2021), <https://rumble.com/vijlq1-the-real-story-oan-uncovering-the-crime-of-the-century-with-rudy-giuliani.html>.

¹¹⁷ *Id.*

¹¹⁸ OAN (@OANN), Twitter (June 15, 2021, 11:37 AM), <https://twitter.com/OANN/status/1404870632714620928>; Natalie Harp (@nataliejharp), Twitter (June 15, 2021, 12:50 PM), <https://twitter.com/NatalieJHarp/status/1404888944911683585>.

going on before and after the explosive ballots-in-suitcases tapes” and stated about the election workers in Fulton County:

**They weren’t finished by 10 or 11 PM, were they. No thanks to elections supervisor Shaye Freeman Moss—you know—Ruby Freeman’s daughter. And how could we ever forget Ruby Freeman, the lady in the purple shirt wheeling out suitcases from under tables? How nice to make it a mother-daughter “re-
cheat.”**¹¹⁹

115. As Harp made these statements, OAN showed surveillance footage depicting Ms. Freeman’s image circled in red:



116. Harp then stated: “the Fulton County elections were in great hands, right, for there is just nothing to see here? At least that’s according to Secretary of State Brad Raffensperger’s contractor Carter Jones, who even **after spending almost 270 hours as an eyewitness to the crime of the century, is saying there really was no dishonesty, fraud, or intentional malfeasance, just systemic mismanagement. Riiight.**”¹²⁰ She continued: “Now we know, when Brad Raffensperger declared that Georgia’s voting system has never been more secure or trustworthy, he was fully aware it wasn’t, as **he knowingly aided and abetted key perpetrators in the crime of the century.** But thank God there is nothing hidden that will not be disclosed. And

¹¹⁹ OAN, *The Real Story - OAN Ballots in Suitcases with Phill Kline*, Rumble (June 21, 2021), <https://rumble.com/viulv5-the-real-story-oan-ballots-in-suitcases-with-phill-kline.html>.

¹²⁰ *Id.*

nothing concealed that will not be known or brought into the open. And that is the real story,” at which point the program began displaying a chyron that read “The Real Story on the Crime of the Century.”¹²¹

117. Harp went on to claim there were “a lot of types of fraud here. There was no one there to see how many double-scanned ballots actually was going on during these midnight hours.”¹²²

118. That video, amplified on social media by Harp, remains available on OAN’s channels today.¹²³

June 22, 2021, Episode of OAN’s The Real Story with Natalie Harp

119. During *The Real Story with Natalie Harp* on or about June 22, 2021, Harp replayed an excerpted audio copy of *The Washington Post*’s recording of a January 2, 2021 call between Donald Trump and Secretary Raffensperger (joined by his office’s general counsel, Ryan Germany). Harp noted that “every time you hear a bleep, that’s *The Washington Post* bleeping out Ruby Freeman’s name” before publishing the audio recording that contained defamatory statements about Ms. Freeman:

Trump: **You know that every single ballot she did went to Biden. You know that, right?** Do you know that, by the way, Brad? **Every single ballot that she did through the machines at early, early in the morning went to Biden.** Did you know that, Ryan?

Germany: That’s not accurate, Mr. President.

Trump: Huh. What is accurate?

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*; Natalie Harp (@nataliejharp), Twitter (June 21, 2021, 2:44 PM), <https://twitter.com/NatalieJHarp/status/1407092005042233346>.

Germany: The numbers that we are showing are accurate.

Trump: No, about [Ruby Freeman], about, about, early in the morning, Ryan. **When the woman took, you know, when the whole gang took the stuff out of the, from under the table**, right? Do you know, do you know who those ballots, do you know who they were made out to, do you know who they were voting for?

Germany: No, not specifically.

Trump: Did you ever check?

Germany: We, we did what I described to you earlier—

Trump: No no no—did you ever check the ballots that were scanned by [Ruby Freeman], **known, a known political operative, balloteer?** Did you ever check who those votes were for?

Germany: We looked into that situation that you described.

Trump: **No, they were 100 percent for Biden. 100 percent. There wasn't a Trump vote in the whole group.** Why don't you want to find this, Ryan? What's wrong with you? I heard your lawyer is very difficult, actually, but I'm sure you're a good lawyer. You have a nice last name. But, but I'm just curious, why wouldn't, why do you keep fighting this thing? It just doesn't make sense.¹²⁴

120. With a photo of Ms. Freeman circled in red on screen, Harp stated that Mr. Germany “was made fully aware of what Ruby Freeman was up to on election night, and into the next day” based upon the picture, which Harp claimed showed: “scanning—actually **double and triple scanning was taking place. And guess who was in the background of that photo? You guessed it, the lady in purple, Ruby Freeman.**”¹²⁵

¹²⁴ OAN, *The Real Story - OAN The Voting Dead with Liz Harrington*, Rumble (June 22, 2021), <https://rumble.com/viwbvn-the-real-story-oan-the-voting-dead-with-liz-harrington.html>.

¹²⁵ *Id.*



121. That video, which both OAN and Harp amplified on social media, remains available on OAN’s channels today.¹²⁶

July 23, 2021, Episode of The Real Story with Natalie Harp

122. On or about July 23, 2021, OAN’s *The Real Story with Natalie Harp* featured an interview with Giuliani. Harp asked Giuliani for his reaction to the late former U.S. Senator Bob Dole’s statement that, with respect to alleged election fraud during the 2020 presidential election, “there’s nothing to see here.” With the chyron “The Real Story on the 2020 Presidential Election Scam” displayed, Giuliani claimed that there were people “pushed away, and all of a sudden these ballots were brought in, and they all were Biden.”¹²⁷ He continued:

Giuliani: **How about the videotape that I have where they’re shoving the thing into the machine three and four times so they can be recounted by the same two women that earlier in the day were passing around hard drives or flash drives that supposedly can’t be used in Dominion machines, but can.**

¹²⁶ *Id.*; OAN (@OANN), Twitter (June 22, 2021, 4:27 PM), <https://twitter.com/OANN/status/1407480405024931843>; Natalie Harp (@nataliejharp), Twitter (June 22, 2021, 4:24 PM), <https://twitter.com/NatalieJHarp/status/1407479627795234818>.

¹²⁷ OAN, *The Real Story—OAN Exposing Disinformation with Rudy Giuliani*, Rumble (July 23, 2021), <https://rumble.com/vk8s9p-the-real-story-oan-exposing-disinformation-with-rudy-giuliani.html>.

Harp: **Right. We have this proof.**

Giuliani: I know we've lost the spin war, but we haven't lost the truth war. **I have the truth.**

Harp: **Right.**

123. That video remains available on OAN's channels today.¹²⁸ Harp amplified the video on social media.¹²⁹

August 7, 2021, OAN Tweet About Scott Wheeler Segment

124. On or about August 7, 2021, OAN reporter Scott Wheeler presented *One America News Investigates: Georgia's Catastrophic Election Failure, with Scott Wheeler*.¹³⁰ Wheeler claimed that nine months after the 2020 election, "the evidence for election fraud [in Georgia] is becoming more abundant." He said: "According to election law, ballots are to be controlled at all times after it's filled out. It turns out that in the 2020 election, that law was ignored." Wheeler stated that "Vote-counting systems in places like Georgia were overwhelmed and unable to produce accurate counts, let alone ensure that fake ballots didn't affect the outcome of the election."

125. OAN promoted the program on social media, including by posting a video clip on its Twitter account of the Fulton County surveillance footage, including of Ms. Freeman and Ms. Moss, with Wheeler's voiceover: "America's watching Fulton County, Georgia, where election

¹²⁸ *Id.*; *The Real Story—Exposing Disinformation with Rudy Giuliani*, OAN (July 28, 2021), <https://www.oann.com/the-real-story-exposing-disinformation-with-rudy-giuliani/>.

¹²⁹ Natalie Harp, *The Real Story with Natalie Harp*, Facebook (July 23, 2021), <https://www.facebook.com/groups/therealstory/permalink/4275430929209703/>; Natalie Harp (@nataliejharp), Twitter (July 24, 2021, 3:29 PM), <https://twitter.com/NatalieJHarp/status/1419062149616267266>.

¹³⁰ OAN, *OAN Investigates - Georgia's Catastrophic Election Failure*, Rumble (Aug. 10, 2021), <https://rumble.com/vkz931-oan-investigates-georgias-catastrophic-election-failure.html>.

workers and videotape reveal indisputable evidence of vote fraud. . . . These new revelations coming out of Georgia are piercing the thinly-veiled cover-up.”¹³¹

126. The video remains published online today.¹³²

December 10, 2021, Episode of OAN’s The Real Story with Natalie Harp

127. On December 10, 2021—more than a year after Giuliani and OAN first began spreading these lies and after they were thoroughly and authoritatively debunked—Harp again hosted Giuliani on OAN’s *The Real Story with Natalie Harp*. In that interview, Giuliani said:

The situation in Georgia, uh, **that videotape is about as clear evidence of stealing votes as I’ve ever seen.** And it was mischaracterized by the Secretary of State, the crooked Governor Kemp, uh, the Democrats—I mean, they’re all in league together. . . . In any event, **you’ve got a tape in, in, in Georgia that’s crystal clear, it looks like a, it looks like a bank robbery, my goodness.** And, uh this [Pennsylvania tape] is very, very clear. There are about ten others. **There’s no doubt that people stole votes in that election for Biden, and the numbers are—I would say—way beyond what was necessary to switch the vote in about four states.** But they certainly are extremely significant and can’t be ignored. **When people cheat in elections on some kind of substantial scale,** how do you know in advance without investigating whether it affects the election or not? Right?

128. That video remains available on OAN’s channels today.¹³³

¹³¹ OAN (@OANN), Twitter (Aug. 4, 2021, 12:57 PM), <https://twitter.com/OANN/status/1423010167021473792>. Note that this promotional video clip is not featured in *One America News Investigates: Georgia’s Catastrophic Election Failure, with Scott Wheeler* itself.

¹³² OAN, *OAN Investigates - Georgia’s Catastrophic Election Failure*, Rumble (Aug. 10, 2021), <https://rumble.com/vkz931-oan-investigates-georgias-catastrophic-election-failure.html>.

¹³³ OAN, *The Real Story - OAN Pennsylvania Shenanigans with Rudy Giuliani*, Rumble (Dec. 11, 2021), <https://rumble.com/vqk34g-the-real-story-oan-pennsylvania-shenanigans-with-rudy-giuliani.html>.

Additional Defamatory Statements

129. On information and belief, in addition to publishing his defamatory claims on his podcast, website, social media, and on OAN, Giuliani also published defamatory claims about Plaintiffs directly to Donald Trump, members of the Trump Campaign, and other individuals in Washington, D.C., both while Giuliani was in the District and from outside the District.

130. As noted above, Giuliani served as personal attorney to Donald Trump during the relevant time period.

131. In that role, he helped the Trump Campaign formulate its legal strategy in the aftermath of the 2020 presidential election, participated directly in some of its lawsuits, represented the Trump Campaign in hearings before multiple state legislatures, hosted press conferences, and made media appearances—including on OAN—on behalf of former President Trump and the Trump Campaign.

132. He participated in the December 3, 2020, hearing in Georgia with lawyers assisting the Trump Campaign, where the lies about Plaintiffs originated.

133. Giuliani also joined the January 2, 2021, call between Trump, Georgia Secretary of State Raffensperger, and others, in which Trump used Ms. Freeman’s name no less than 19 times, reiterating Defendants’ false claims and referring to her as “a vote scammer, a professional vote scammer and hustler,” “known scammer,” “known political operative,” and “ballotteer.”¹³⁴

¹³⁴ *Trump’s Georgia Call: Listen to the Audio and Read a Full Transcript*, Wall St. J. (Jan. 3, 2021), <https://www.wsj.com/articles/listen-to-the-full-trump-ga-call-11609713527>; see Allie Bice et al., *Trump’s Pressure on Georgia Election Officials Raises Legal Questions*, Politico (Jan. 3, 2021), <https://www.politico.com/news/2021/01/03/trump-georgia-election-454122> .

134. During that week, reports indicate that Giuliani led the Trump Campaign's "war room," which was located at the Willard Hotel.¹³⁵

135. Giuliani also joined Trump for the Trump Campaign's January 6 rally, which preceded the storming of the Capitol.¹³⁶ During that rally, Trump reprised the lies about Plaintiffs:

In Fulton County, Republican poll watchers were ejected, in some cases, physically from the room under the false pretense of a pipe burst. Water main burst, everybody leave. Which we now know was a total lie.

Then election officials pull boxes, Democrats, and suitcases of ballots out from under a table. You all saw it on television, totally fraudulent. And illegally scanned them for nearly two hours, totally unsupervised. Tens of thousands of votes. This act coincided with a mysterious vote dump of up to 100,000 votes for Joe Biden, almost none for Trump. Oh, that sounds fair. That was at 1:34 AM.¹³⁷

B. Defendants Published Their Statements About Plaintiffs With Knowledge Of Their Falsity Or Reckless Disregard For Their Truth.

136. Defendants knew that their statements about Ms. Freeman and Ms. Moss were not true or published them with reckless disregard for their truth.

137. Indeed, Defendants learned of the authoritative and immediate fact-checks of their lies in real time.

¹³⁵ Jacqueline Alemany et al., *Ahead of Jan. 6, Willard Hotel in Downtown D.C. Was a Trump Team 'Command Center' for Effort to Deny Biden the Presidency*, Wash. Post (Oct. 23, 2021), https://www.washingtonpost.com/investigations/willard-trump-eastman-giuliani-bannon/2021/10/23/c45bd2d4-3281-11ec-9241-aad8e48f01ff_story.html.

¹³⁶ Allison Durkee, *Giuliani Claims His Call for 'Trial By Combat' on Jan. 6 Shouldn't Have Been Taken Literally as Legal Woes Mount*, Forbes (May 18, 2021), <https://www.forbes.com/sites/alisondurkee/2021/05/18/giuliani-claims-his-call-for-trial-by-combat-on-jan-6-shouldnt-have-been-taken-literally-as-legal-woes-mount/?sh=584c417c1410>.

¹³⁷ Brian Naylor, *Read Trump's Jan. 6 Speech, a Key Part of Impeachment Trial*, NPR (Feb. 10, 2021), <https://www.npr.org/2021/02/10/966396848/read-trumps-jan-6-speech-a-key-part-of-impeachment-trial>.

138. For instance, on December 7, 2020, Giuliani evidenced his awareness of the ongoing fact checks, tweeting a link to a story referencing some of those fact checks¹³⁸:

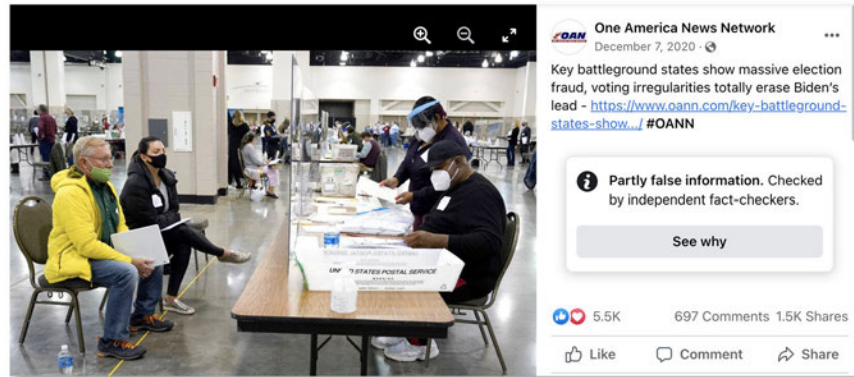


139. Similarly, on December 7, 2020, OAN ran a segment titled, “Key Battleground States Show Massive Fraud,” repeating the lie.¹³⁹ OAN amplified the December 7, 2020, segment on their social media channels, including on Facebook¹⁴⁰:

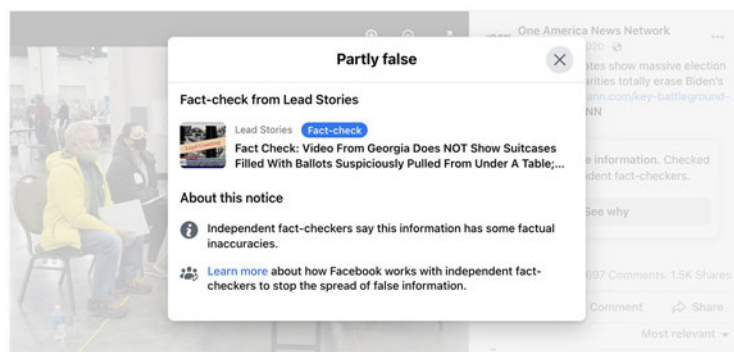
¹³⁸ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 8, 2020, 7:36 AM), <https://twitter.com/RudyGiuliani/status/1336318757346701314>; see also Molly Hemingway, *No, the Georgia Vote-Counting Video Was Not 'Debunked.' Not Even Close*, Federalist (Dec. 7, 2020), <https://thefederalist.com/2020/12/07/no-the-georgia-vote-counting-video-was-not-debunked-not-even-close/>.

¹³⁹ OAN, *Key Battleground States Show Massive Election Fraud*, Rumble (Dec. 7, 2020), <https://rumble.com/vbnh3b-key-battleground-states-show-massive-election-fraud.html>.

¹⁴⁰ OAN, *One America News Network*, Facebook (Dec. 7, 2020), <https://www.facebook.com/OneAmericaNewsNetwork/photos/a.220199348125189/2348897591922010/>.

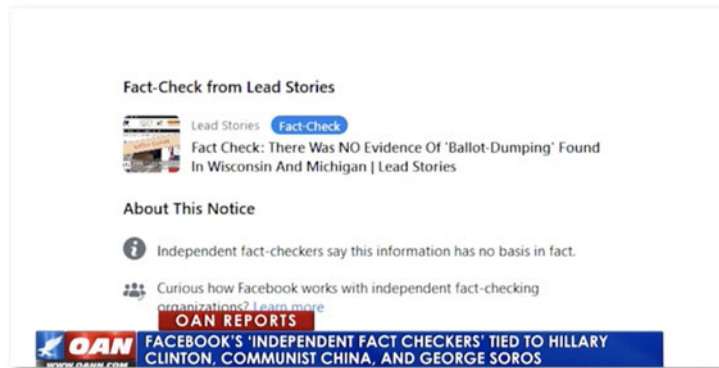


140. Based on a review of the comments on OAN’s December 7, 2020, Facebook post, the post was quickly fact-checked by Facebook, which labeled the post as “partly false” and specifically linked to the Lead Stories fact check described above¹⁴¹:



¹⁴¹ OAN, *One America News Network*, Facebook (Dec. 7, 2020, 11:51 AM), <https://www.facebook.com/OneAmericaNewsNetwork/photos/a.220199348125189/2348897591922010/>; *see also, e.g.*, [Facebook User], *One America News Network*, Facebook (Dec. 7, 2020, 9:55 PM), https://www.facebook.com/OneAmericaNewsNetwork/posts/2349002271911542?comment_id=2349529758525460; [Facebook User], *One America News Network*, Facebook (Dec. 8, 2020, 2:09 PM), https://www.facebook.com/OneAmericaNewsNetwork/posts/2349002271911542?comment_id=2350243645120738; [Facebook User], *One America News Network*, Facebook (Dec. 8, 2020, 3:19 PM), https://www.facebook.com/OneAmericaNewsNetwork/posts/2349002271911542?comment_id=2350306798447756; [Facebook User], *One America News Network*, Facebook (Dec. 8, 2020, 9:23 PM), https://www.facebook.com/OneAmericaNewsNetwork/posts/2349002271911542?comment_id=2350637668414669.

141. Rather than correct or retract its December 7, 2020, story or other stories fact checked by Lead Stories, OAN produced and ran a segment by Sharp about a week later, claiming that Lead Stories is biased based on its alleged ties to, among others, the “Communist Chinese government.”¹⁴²



142. On December 9, 2020, OAN and OAN’s Christina Bobb published a segment titled, “Trump Will Get His Second Term,” which again defamed Plaintiffs.¹⁴³ On information and belief, the video was initially posted to YouTube. According to Bobb, OAN “removed [the video] voluntarily to comply with YouTube’s new policy” prohibiting “content alleging that widespread fraud or errors changed the outcome of a historical US Presidential election.”¹⁴⁴ OAN re-posted the video to Rumble, and Bobb tweeted to explain the move and direct viewers to Rumble¹⁴⁵:

¹⁴² OAN, *Facebook’s Independent Fact Checkers Tied to Hillary Clinton, Communist China and George Soros*, Rumble (Dec. 13, 2020), <https://rumble.com/vbv0nz-facebook-independent-fact-checkers-tied-to-hillary-clinton-communist-china.html>.

¹⁴³ OAN, *Christina Bobb: Trump Will Get His Second Term*, Rumble (Dec. 9, 2020), <https://rumble.com/vbpi97-christina-bobb-trump-will-get-his-second-term.html>.

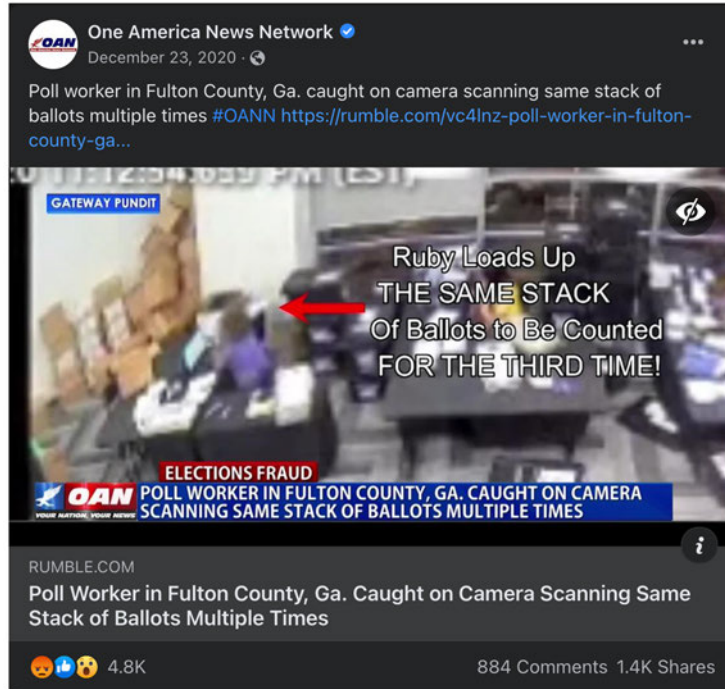
¹⁴⁴ Christina Bobb (@christina_bobb), Twitter (Dec. 9, 2020, 10:33 AM), https://twitter.com/christina_bobb/status/1336725596450263043.

¹⁴⁵ *Id.*

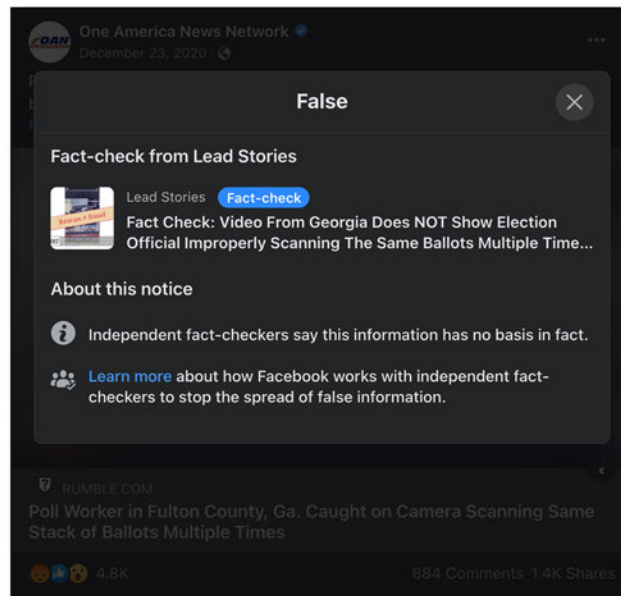


143. On December 23, 2020, OAN shared the December 23, 2020, Pearson Sharp segment described above on Facebook. OAN posted a link on Facebook to the video clip on Rumble.com, stating, **“Poll worker in Fulton County, Ga. caught on camera scanning same stack of ballots multiple times,”** with a red arrow pointing to an image of Ms. Freeman, with the notation, **“Ruby Loads Up THE SAME STACK Of Ballots to Be Counted FOR THE THIRD TIME!”**¹⁴⁶.

¹⁴⁶ OAN, *One America News Network*, Facebook (Dec. 23, 2020, 11:20 AM), <https://www.facebook.com/OneAmericaNewsNetwork/posts/2366483960163373>.



144. On information and belief, OAN’s December 23, 2020, Facebook post was quickly fact-checked by Facebook, which labelled the post as “false” and specifically linked to the Lead Stories fact-check described above¹⁴⁷:



¹⁴⁷ *Id.*

145. In sum, Defendants were aware of the numerous statements by Georgia officials disproving the portrayal of misconduct that had been advanced by the Trump campaign, and they also knew that multiple fact-checking organizations had confirmed the facts as presented by the Georgia officials.

146. Defendants' awareness of those fact checks is further evidenced by: Facebook's fact checks of OAN and its hosts' statements, which linked to specific fact checks; Pearson Sharp's statement on his December 23, 2020, OAN segment that "Georgia's officials have made serious efforts to dismiss the evidence on these videos;" and Giuliani's December 7, 2020, tweet specifically responding to various fact checks and saying that "The Georgia Voting-Counting Video Was Not 'De-Bunked.' Not Even Close!!" Giuliani further recognized, in his June 14, 2021, interview on OAN's *The Real Story with Natalie Harp* in which he again defamed Plaintiffs, that he "couldn't say on any, any network television in America" what he said on OAN, and that *The Wall Street Journal* would not print his comments about election fraud. Defendants disregarded the reliable sources refuting their claims, as well as other indications of falsity, and had no credible basis for the false allegations they continued to make.

147. On information and belief, at no point in publishing their many stories about Ms. Freeman and Ms. Moss did Defendants attempt to contact Plaintiffs to obtain their account of the events being reported. Nor did Defendants contact for corroboration other obvious available sources, and they specifically avoided contacting sources who had evidence to disprove their lies.

148. Defendants ignored the truth because they had decided in advance to disseminate a story that would continue to attract OAN's audience by promoting their preferred candidate, Donald Trump—that widespread election fraud would taint the 2020 presidential election. As noted above, even before the vote counting began, Defendants cultivated this narrative.

149. Defendants advanced this predetermined fictitious storyline in the face of the facts because it was financially advantageous to do so. They were motivated to publish lies about Plaintiffs because lying about the election results was more profitable than reporting the truth. Relatedly, on information and belief, the OAN Defendants adhered to the Trump campaign's own claims in the face of facts in order to attract viewers away from other channels, including Newsmax and Fox News.

150. Defendants consciously avoided the truth in order to profit from the repeated publication of scandalous material. Defendants' publications about voter fraud throughout the 2020 election cycle increased their viewership, reach, and engagement. Their broadcasts about voter fraud, in particular, performed well, and it earned increased advertising revenue by publishing and republishing such well-performing falsehoods about Plaintiffs.

151. Defendants additionally hoped that repeating their preconceived narrative would affect the outcome of the presidential election. In particular, Defendants directed their broadcasts to state and federal legislators within and without the District of Columbia, as well as their constituents, and to state and federal officials within and without the District with the goal of pressuring those legislators and officials to refuse to certify electors for President-elect Biden, decertify electors for President-elect Biden, unlawfully certify electors for Trump, recognize only those electors for Trump, and/or to refuse to recognize electors for President-elect Biden.

C. Defendants Caused Substantial Reputational Harm With Their False Statements About Ms. Freeman And Ms. Moss That Constitute Defamation *Per Se*.

152. Defendants' statements claim and/or imply that, among other things, (i) Ms. Freeman and Ms. Moss engaged in a criminal conspiracy, along with others, to illegally exclude observers during the counting of ballots "under false pretenses" so that they could engage in

election fraud; (ii) Ms. Freeman and Ms. Moss criminally and/or fraudulently introduced “suitcases” of illegal ballots into the ballot-counting process; (iii) Ms. Freeman and Ms. Moss fraudulently counted the same ballots multiple times; (iv) Ms. Freeman and Ms. Moss were involved in surreptitiously passing around flash drives that were not supposed to be placed in Dominion voting machines; and (v) that Ms. Freeman and Ms. Moss committed crimes and other fraud. These claims are false and constitute defamation *per se*.

153. Given the nature of Plaintiffs’ employment with the Registration and Elections Department of Fulton County, Defendants’ claims that Ms. Freeman and Ms. Moss participated in a conspiracy to fraudulently overturn a democratic election would tend to injure them in their trade, office, or profession: A reputation for integrity is a requirement for workers in a profession whose responsibility is to accurately and legitimately tabulate and report elections results while maintaining public confidence in elections.

154. Defendants also stated that Ms. Freeman and Ms. Moss participated in criminal activity punishable by law. Defendants equated both Ms. Freeman and Ms. Moss to “bank robber[s]” and claimed that they were “stealing votes” and “cheating,” as well as that they, in fact, altered the outcome of the 2020 presidential election.

155. Published on what OAN claims is the fourth largest cable channel in the country, Defendants’ stories did cause and continue to cause substantial reputational harm to Ms. Freeman and Ms. Moss.

156. Defendants are directly responsible for the reputational harm that Ms. Freeman and Ms. Moss experienced. Though the initial claims by the Trump campaign team were based only on short selections of the Trump Edited Video and did not name any individual Fulton County election workers, OAN and Giuliani were some of the first and only outlets and commenters to

specifically name Ms. Freeman and Ms. Moss, and they have continued to do so for more than a year.

157. Searches of transcripts from Fox News channel programs, for example, suggest that Fox News and its hosts *never* named Ms. Freeman and Ms. Moss.

D. Defendants' Failure To Retract Following Plaintiff's Cease And Desist Letter.

158. In an effort to attempt to mitigate the harm caused by the publication of the false statements in Defendants' stories, Plaintiffs sent Defendants a letter demanding that they retract and take down the numerous defamatory statements they have published and continue to publish about Ms. Freeman and Ms. Moss.

159. As of the date of this filing, Defendants have not responded to that letter.

THE IMPACT OF DEFENDANTS' LIES

160. Defendants repeatedly published the full names of Ms. Freeman and Ms. Moss, in addition to numerous images of Ms. Freeman and Ms. Moss. In so doing, Defendants were fully aware of, or recklessly indifferent to, the fact that their viewers and readers would target Ms. Freeman and Ms. Moss in response to their stories.

161. On December 1, 2020—*before* Defendants began to defame Ms. Freeman and Ms. Moss, Georgia Voting Implementation Manager Sterling had made clear what he believed were the likely consequences of the continued attacks on Georgia's election system. "Someone's going to get hurt, someone's going to get shot, someone's going to get killed," he had stated in a news conference.¹⁴⁸

¹⁴⁸ Stephen Fowler, 'Someone's Going To Get Killed': Ga. Official Blasts GOP Silence On Election Threats, NPR (Dec. 1, 2020), <https://www.npr.org/sections/biden-transition-updates/2020/12/01/940961602/someones-going-to-get-killed-ga-official-blasts-gop-silence-on-election-threats>.

162. Defendants pressed forward in spite of that and other warnings and, in doing so, directly contributed to Ms. Freeman and Ms. Moss receiving—almost immediately—an onslaught of extremely violent and graphic threats and dangerous harassment.

A. Defendants’ Conduct Has Harmed Ms. Freeman.

163. As Defendants’ false accusations began to spread across the internet, Ms. Freeman received at least 420 emails and 75 text messages, including one that read, “We know where you live, we coming to get you.”

164. Ms. Freeman sought intervention from the local police; a local officer answered more than 20 harassing calls on Ms. Freeman’s cell phone. Despite these efforts, Ms. Freeman was ultimately forced to change her phone number and email address.

165. On multiple occasions, strangers camped out at Ms. Freeman’s home and/or knocked on her door. When Ms. Freeman was not home or would not answer the door, these strangers would sometimes also harass her neighbors. Strangers were coming to her home so frequently that the local police agreed to add her address to their patrols of the area.

166. During this time, numerous pizza deliveries showed up at her home that she and her family had never ordered. This is an often-chronicled result of being “doxxed”—the term for when strangers post and share a target’s personal information as a means to organize a coordinated harassment campaign.

167. Christmas cards were mailed to Ms. Freeman’s address with messages like, “Ruby please report to the FBI and tell them you committed voter fraud. If not you will be sorry,” and “You deserve to go to jail, you worthless piece of shit whore.”

168. The level of harassment Ms. Freeman received at her home led the FBI to conclude that she would not be safe in her home beginning on January 6, 2021, the date of former President

Trump's rally and the subsequent insurrection at the U.S. Capitol, and continuing at least through Inauguration Day, January 20, 2021.

169. On January 6, 2021, a crowd surrounded Ms. Freeman's house, some on foot, some in vehicles, others equipped with a bullhorn. Fortunately, Ms. Freeman had followed the FBI's advice and had temporarily relocated from her home. She was not able to return for two months.

170. Since returning home, Ms. Freeman has had to install eleven cameras and three motion sensors in an effort to safeguard her own home.

171. Ms. Freeman was also forced to deactivate the social media pages for herself and her business, Lady Ruby's Unique Treasures, a pop-up clothing boutique. Though she has long been a local entrepreneur, she was forced to shutter her business when she was unable to attend public events or conduct online marketing through social media.

172. The reputational impacts of Defendants' lies continue to be felt across Ms. Freeman's social and professional networks. After being publicly accused of crimes, she has lost friendships.

173. When people recognize her in public and call out her name, Ms. Freeman is fearful. Her experiences over the months since Defendants' defamation campaign began have taught Ms. Freeman to be distrustful of strangers and concerned for her safety.

174. To this day, Ms. Freeman continues to receive threatening communications.

B. Defendants' Conduct Has Harmed Ms. Moss.

175. The day after Defendants' campaign of falsehoods began, Ms. Moss's then fourteen-year-old son informed her that numerous calls were coming into Ms. Moss's old phone, which he was using at the time. When he answered the calls, he was bombarded with racial slurs

and threats of violence. One caller stated that her son “should hang alongside [his] nigger momma.”

176. These harassing calls continued for months.

177. Defendants’ defamation also caused Ms. Moss to suffer an onslaught of online harassment. She received dozens of messages through Facebook, LinkedIn, and Pinterest, many of which threatened violence. These messages did not merely suggest Ms. Moss lose her job but insisted that she deserved to die and would be killed in retribution for her “treason.” She has since deleted her Pinterest and LinkedIn accounts.

178. Because Ms. Moss had previously lived with her grandmother, it was her grandmother’s address that harassers found and exploited. As they did with Ms. Freeman, these harassers repeatedly sent unwanted pizzas to Ms. Moss’s grandmother’s house.

179. On at least two occasions, strangers showed up at her grandmother’s home and attempted to push into the house in order to make a “citizens’ arrest.” On these occasions, Ms. Moss’s grandmother, who is in her mid-seventies, called her in a panic, confused and scared for her safety.

180. The impacts of Defendants’ lies also followed Ms. Moss at work. The general email addresses used by the public to contact the Fulton County elections offices would forward incoming emails to Ms. Moss and many of her colleagues. As a result, Ms. Moss and her colleagues received, directly in their work inboxes, harassing emails sent to those public email addresses.

181. Inspired by the demonstrably false conspiracy theory pushed by Defendants, people have also protested about Ms. Moss outside of her Fulton County workplace, demanding she be fired from her job.

182. This whirlwind of negative attention around Ms. Moss has left her feeling fearful in an office where she has worked since 2012. Before the 2020 general election, she generally enjoyed the parts of her job that allowed her to work with and assist the public. Now, even when she is assisting constituents over the phone, she begins to sweat and feel anxious if they ask her name. She is afraid that when people hear her name, they will think she is a fraud and a cheater.

183. Like her mother, Ms. Moss is now fearful whenever people recognize her in public. As a result, Ms. Moss has largely retreated from social and public life. She has gone as far as to avoid the grocery store, opting to have groceries delivered in order to avoid it. She feels trapped by the unshakable fear that there are unknown people after her who want her dead.

184. Over the last year, Ms. Moss has suffered from disrupted sleep and has gained fifty pounds as a result of the stress caused by Defendants' campaign of lies.

185. The onslaught of threats that Plaintiffs have experienced and the necessary measures they have been forced to take to protect themselves are the direct result of Defendants' defamatory conduct. Plaintiffs have and will continue to experience serious and severe emotional distress as a result. The harm Defendants have caused to Plaintiffs' reputations, privacy, safety, and earnings, and other pecuniary loss, is immense.

FIRST CLAIM
(Defamation/Defamation *Per Se* Against All Defendants)

186. Plaintiffs incorporate and re-allege all paragraphs preceding and following as if fully set forth herein.

187. Plaintiffs are private figures.

188. Defendants published a series of false and defamatory statements of fact about Ms. Freeman and Ms. Moss, including by and through their agents making the statements themselves; and by republishing the statements on OAN's and Giuliani's websites and social media accounts,

and the social media accounts of their agents, as detailed extensively above. These false statements include those pleaded above in ¶¶ 88–128, which set forth the particular words and statements used in the publications. The false implications were intentionally made through the false statements, by other statements that were misleading due to material omissions, by presenting misleading juxtapositions of statements, and when taking into account the context of each publication. The false implications were also made through the disinformation campaign as a whole.

189. The defamatory meanings of Defendants’ false statements and implied statements of facts are apparent from the face of the publications, refer to Ms. Freeman and Ms. Moss by name, often are accompanied by images of Ms. Freeman and/or Ms. Moss, and/or are understood to be about them.

190. The statements authored and published by Defendants about Ms. Freeman and Ms. Moss are reasonably understood to state or imply that they:

- a) engaged in a criminal conspiracy, along with others, to illegally exclude observers during the counting of ballots “under false pretenses” so that they could engage in election fraud;
- b) criminally and/or fraudulently introduced “suitcases” of illegal ballots into the ballot counting process;
- c) criminally and/or fraudulently counted the same ballots multiple times;
- d) surreptitiously passed around flash drives that were not supposed to be placed in Dominion voting machines; and/or
- e) committed crimes and other fraud.

191. Each of these statements and implications is false and defamatory, as detailed above.

192. Each of these statements were viewed, read, or listened to by thousands, and likely millions, of individuals.

193. Each of these false statements was published with actual malice, *i.e.*, with knowledge of its falsity or with reckless disregard as to its truth. At a minimum, Defendants acted negligently—that is, without an ordinary degree of care in assessing or investigating the truth of the statement prior to publication.

194. Defendants failed to contact and question obvious available sources for corroboration; disregarded reliable sources refuting their claims; had no credible basis for the false allegations made; and published their allegations in a manner to create false inferences.

195. Defendants had both financial and political motives for promulgating lies about Plaintiffs.

196. Defendants did not neutrally report the allegations about Ms. Freeman and Ms. Moss that were advanced by members of the Trump campaign (including Giuliani) and promptly disproven by Georgia election officials. Nor did they acknowledge, or host guests who presented, the actual facts. Rather, they endorsed and adopted the false allegations as their own, publishing and republishing them for months with full knowledge of their falsity or reckless disregard for their truth.

197. Defendants had no applicable privilege or legal authorization to make these false and defamatory statements, or if they did, they abused it.

198. Defendants repeated and embellished the false accusations without ever attempting to verify them and invented and published defamatory lies about Ms. Freeman and Ms. Moss without once seeking comment from them.

199. Defendants' defamatory statements were inherently improbable to begin with and have only become more improbable over time. Further, Defendants continued to make defamatory statements even after they had actual knowledge of the falsity of their narrative.

200. Defendants have never retracted their defamatory statements and those statements remain published on their websites, social media, and other channels to this day. Even after Plaintiffs specifically requested that Defendants retract their defamatory statements, Defendants took no action, further evidencing their actual malice.

201. Defendants' statements and implications about Ms. Freeman and Ms. Moss constitute defamation *per se* in that they damaged them in their trade, office, or profession and claimed that they participated in criminal activity punishable by law and labeled them a "robber" and a "cheat."

202. Defendants acted with willful misconduct, malice, fraud, wantonness, oppression, and/or entire want of care which would raise the presumption of conscious indifference to consequences, and they specifically intended to cause Ms. Freeman and Ms. Moss harm.

203. Defendants' statements damaged Ms. Freeman's and Ms. Moss's reputations in the general public, in their professions, in their church communities, in their neighborhood, and with friends, relatives, and neighbors.

204. As a direct and proximate result of Defendants' conduct, Ms. Freeman and Ms. Moss have suffered significant general, actual, consequential, and special damages including, without limitation, impairment of reputation and standing in the community, personal humiliation, mental anguish and suffering, emotional distress, stress, anxiety, lost earnings, and other pecuniary loss. Among other things, Ms. Freeman has lost income.

SECOND CLAIM
(Intentional Infliction of Emotional Distress Against All Defendants)

205. Plaintiffs incorporate and re-allege all paragraphs preceding and following as if fully set forth herein.

206. Defendants' months-long campaign of false and defamatory accusations directed specifically at Ms. Freeman and Ms. Moss was malicious, wanton, and intentional.

207. Defendants carried out their campaign with actual malice as they either knew that their accusations were false or published them with reckless disregard for their truth.

208. Defendants' wrongful conduct was extreme and outrageous, and it was calculated to cause harm to Ms. Freeman and Ms. Moss.

209. Defendants' wrongful conduct is so outrageous in character and so extreme in degree that it is beyond all possible bounds of decency and is to be regarded as atrocious and utterly intolerable in a civilized community.

210. Defendants acted with willful misconduct, malice, fraud, wantonness, oppression, and/or entire want of care which would raise the presumption of conscious indifference to consequences, and they specifically intended to cause Ms. Freeman and Ms. Moss harm.

211. Defendants' wrongful conduct had its intended effect. All aspects of Plaintiffs' lives have been altered as a result of Defendants' actions, including such simple things as where to live, how to go out in public, and when to see family and friends. This result was entirely foreseeable. Defendants' conduct is so outrageous in character and extreme in degree as to be beyond all bounds of decency. It should be regarded as atrocious and determined intolerable in a civilized community.

212. Defendants' wrongful conduct has inflicted severe emotional distress on Plaintiffs. They have suffered mental reactions including fright and fear for their safety, horror and

helplessness in the face of the intense hatred directed at them by Defendants and by their viewers, listeners, and readers, anger, anxiety, sleeplessness, shame and humiliation. The emotional distress Defendants caused to be inflicted on Ms. Freeman and Ms. Moss was so severe that no reasonable person could be expected to endure it.

213. Defendants' wrongful conduct caused physical manifestations of harm to Plaintiffs including weight gain, disrupted sleep, and anxiety attacks, as well as mental anguish, requiring them to seek treatment for the mental anguish resulting directly from the severe emotional trauma inflicted by Defendants.

214. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered significant general, actual, incidental, and special damages including, without limitation, emotional distress, overwhelming stress and anxiety, lost earnings, and other pecuniary loss.

THIRD CLAIM
(Civil Conspiracy for All Alleged Torts Against All Defendants)

215. Plaintiffs incorporate and re-allege all paragraphs preceding and following as if fully set forth herein.

216. All Defendants agreed to intentionally and maliciously participate in a civil conspiracy among themselves, and with other individuals, the purpose of which was to commit the torts of Defamation, Defamation *Per Se*, and Intentional Infliction of Emotional Distress.

217. Throughout the course of the conspiracy, Defendants, acting in concert, coordinated in furtherance of the common scheme.

218. Each Defendant is jointly and severally liable for the torts of the other members of the conspiracy which were committed in furtherance of the conspiracy.

219. All Defendants agreed to launch a campaign to defame Plaintiffs, as evidenced by the decision to repeatedly book, plan, film, produce, and publish segments on the topic of election

“fraud” in Georgia which focused on Defendants’ false claims about Plaintiffs. Defendants further planned—in advance—to run the Trump Edited Video of Ms. Freeman and Ms. Moss and coordinating graphics including, for example, red circles and arrows identifying Ms. Freeman by image and name.

220. As a result of Defendants’ conspiracy, Plaintiffs suffered professional, reputation, and emotional harm. These torts caused the damages outlined in the previous causes of action.

FOURTH CLAIM
(Aiding and Abetting for All Alleged Torts Against All Defendants)

221. Plaintiffs incorporate and re-allege all paragraphs preceding and following as if fully set forth herein.

222. Defendants OAN, Charles Herring, Robert Herring, and Chanel Rion aided and abetted Defendant Giuliani in committing tortious acts, including Defamation, Defamation *Per Se*, and Intentional Infliction of Emotional Distress, by, among other things, providing him with the means, platform, and network.

223. Defendants OAN, Charles Herring, Robert Herring, and Chanel Rion knowingly and with full awareness substantially aided Defendant Giuliani’s wrongful conduct.

224. Defendants OAN, Charles Herring, Robert Herring, and Chanel Rion intentionally helped create, or participated in the creation of, content about Plaintiffs to share, and provided a platform upon which to share this and other content, to assist Defendant Giuliani in committing tortious acts, including Defamation, Defamation *Per Se*, and Intentional Infliction of Emotional Distress.

225. Defendant Giuliani aided and abetted Defendants OAN, Charles Herring, Robert Herring, and Chanel Rion in committing tortious acts, including Defamation, Defamation *Per Se*, and Intentional Infliction of Emotional Distress, by, among other things, repeatedly publishing

defamatory statements about Plaintiffs, as detailed above, on Defendants OAN, Charles Herring, and Robert Herring's platforms and networks, and elsewhere, including with Chanel Rion.

226. Defendant Giuliani knowingly and with full awareness substantially aided OAN, Charles Herring, Robert Herring, and Chanel Rion's wrongful conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants for each of the causes of action raised herein. Plaintiffs respectfully request a judgment in their favor and against Defendants for:

- A. Nominal damages;
- B. Compensatory damages, including general, actual, consequential, and special damages, in an amount to be determined at trial;
- C. Punitive damages;
- D. Reasonable and necessary attorneys' fees;
- E. Reasonable and necessary costs of the suit;
- F. Prejudgment and post-judgment interest at the highest lawful rates;
- G. Declarative relief stating that the statements authored and published by Defendants identified within this complaint, individually and collectively, were and are false;
- H. Injunctive relief enjoining Defendants to remove their false and defamatory statements about Plaintiffs from any website and/or social media accounts under their control; and
- I. Such other and further relief as this Court deems just and appropriate.

Dated: December 23, 2021

Respectfully submitted,

By: /s/ Michael J. Gottlieb

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**Pro hac vice application forthcoming*

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