



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

US DOMINION, INC., DOMINION
VOTING SYSTEMS, INC., and
DOMINION VOTING SYSTEMS
CORPORATION,

Plaintiffs,

v.

FOX NEWS NETWORK, LLC,

Defendant.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

1. Fox, one of the most powerful media companies in the United States, gave life to a manufactured storyline about election fraud that cast a then-little-known voting machine company called Dominion as the villain. After the November 3, 2020 Presidential Election, viewers began fleeing Fox in favor of media outlets endorsing the lie that massive fraud caused President Trump to lose the election. They saw Fox as insufficiently supportive of President Trump, including because Fox was the first network to declare that President Trump lost Arizona. So Fox set out to lure viewers back—including President Trump himself—by intentionally and falsely blaming Dominion for President Trump’s loss by rigging the election.

2. Fox endorsed, repeated, and broadcast a series of verifiably false yet devastating lies about Dominion. These outlandish, defamatory, and far-fetched fictions included Fox falsely claiming that: (1) Dominion committed election fraud by rigging the 2020 Presidential Election; (2) Dominion's software and algorithms manipulated vote counts in the 2020 Presidential Election; (3) Dominion is owned by a company founded in Venezuela to rig elections for the dictator Hugo Chávez; and (4) Dominion paid kickbacks to government officials who used its machines in the 2020 Presidential Election.

3. Fox recklessly disregarded the truth. Indeed, Fox knew these statements about Dominion were lies. Specifically, Fox knew the vote tallies from Dominion machines could easily be confirmed by independent audits and hand recounts of paper ballots, as has been done repeatedly since the election. Fox also knew that these lies were being rebutted by an increasingly long list of bipartisan election officials, election security experts, judges, then-Attorney General Bill Barr, then-United States Director of the Cybersecurity and Infrastructure Security Agency Chris Krebs, Election Assistance Commissioner Ben Hovland, Republican Georgia Governor Brian Kemp, Republican Georgia Secretary of State Brad Raffensperger, and Republican former Colorado Secretary of State Wayne Williams, to name a few—not to mention some within Fox itself.

4. Fox likewise knew there was no evidence whatsoever to support the Venezuela or “kickbacks” claims, the latter of which was obviously manufactured whole-cloth in an effort to discredit Republicans who undermined the false election-rigging claim by verifying the vote counts from Dominion machines. Yet even after Fox was put on specific written notice of the facts, it stuck to the inherently improbable and demonstrably false preconceived narrative and continued broadcasting the lies of facially unreliable sources—which were embraced by Fox’s own on-air personalities—because the lies were good for Fox’s business.

5. Fox took a small flame and turned it into a forest fire. As the dominant media company among those viewers dissatisfied with the election results, Fox gave these fictions a prominence they otherwise would never have achieved. With Fox’s global platform, an audience of hundreds of millions, and the inevitable and extensive republication and dissemination of the falsehoods through social media, these lies deeply damaged Dominion’s once-thriving business. Dominion is a voting machine company that was founded in 2002 in John Poulos’s basement. Poulos’s objective of accurate, transparent, and accessible elections motivated him to create Dominion. He went on to build what was, until recently, one of the fastest-growing technology companies in North America. While Dominion was known within the voting machine industry and supplied machines in 28 states, it was little known to the public at large.

6. These lies transformed Dominion into a household name. As a result of Fox's orchestrated defamatory campaign, Dominion's employees, from its software engineers to its founder and Chief Executive Officer, have been repeatedly harassed. Some have even received death threats. And of course, Dominion's business has suffered enormous and irreparable economic harm.

7. The truth matters. Lies have consequences. Fox sold a false story of election fraud in order to serve its own commercial purposes, severely injuring Dominion in the process. If this case does not rise to the level of defamation by a broadcaster, then nothing does. Dominion brings this lawsuit to set the record straight, to vindicate its rights, and to recover damages for the devastating economic harm done to its business.

PARTIES AND RELEVANT NON-PARTIES

8. Plaintiff US Dominion, Inc. is a for-profit Delaware corporation with its principal place of business in Denver, Colorado.

9. Plaintiff Dominion Voting Systems, Inc. is a for-profit Delaware corporation with its principal place of business in Denver, Colorado, and has maintained an office in New York since July 2009. It is a wholly owned subsidiary of US Dominion, Inc.

10. Plaintiff Dominion Voting Systems Corporation is a for-profit Ontario corporation with its principal place of business in Toronto, Ontario. It is a wholly

owned subsidiary of US Dominion, Inc. (US Dominion, Inc., Dominion Voting Systems, Inc., and Dominion Voting Systems Corporation are collectively referred to as “Dominion.”)

11. Defendant Fox News Network, LLC (“Fox”) has overseen the most watched cable news network in America for five years running. The company was formed and is organized under the laws of Delaware and has its principal place of business in New York. It is wholly owned by Fox Corporation, a Delaware corporation also headquartered in New York. Fox operates the Fox News Channel, the Fox Business Channel, Fox News Radio, and Fox News Digital, which includes the fox.com, foxnews.com, and foxbusiness.com websites, Fox’s social media accounts, and Fox’s digital subscription services, such as Fox Nation, which it refers to collectively as “Fox News Media.” The Fox News and Fox Business Channels are available in over 80 million American households,¹ and Fox boasts that Fox News Media reaches 200 million people each month.² Fox News also simulcasts its broadcasts, including through SiriusXM. In 2020, the Fox News Channel averaged over 3.5 million viewers during its primetime evening news programming and nearly

¹ Fox Annual Report (2020), <https://investor.foxcorporation.com/static-files/3cfbceb7-b29f-408a-9666-7affafe3cfd0>.

² *Fox News Digital Surpasses New York Times and Washington Post in Every Performance Metric* (Mar. 17, 2021), Fox News, <http://press.foxnews.com/2021/03/fox-news-digital-surpasses-new-york-times-and-washington-post-in-every-key-performance-metric/>.

2 million daytime viewers, while Fox News Digital reported that its “digital network earned **24 billion** multiplatform views” and “**54 billion** total multiplatform minutes.”³ Fox repeatedly published defamatory falsehoods about Dominion, including by broadcasting and rebroadcasting the defamatory falsehoods of its on-air personalities Maria Bartiromo, Tucker Carlson, Lou Dobbs, Sean Hannity, Jeanine Pirro, and their chosen guests, as well as by republishing those falsehoods across Fox’s websites, social media accounts, and subscription service platforms. Republication of these falsehoods through digital media, including social media platforms such as Twitter, Facebook, and Instagram, reached tens if not hundreds of millions of viewers in excess of Fox’s television audience through followers of its social media accounts and through the further republication of the falsehoods by those followers. In December 2020, for instance, Fox noted that, as a result of its election coverage, it had reached more than 100 million unique visitors through its digital platforms, including 51 million Facebook users and 23 million Instagram users.⁴

³ *Fox News Digital Network Delivers Record Year*, Fox News (Jan. 25, 2021), <http://press.foxnews.com/2021/01/fox-news-digital-network-delivers-record-year> (emphases added unless otherwise noted).

⁴ *Fox News Digital Scores Best November In its History*, Fox News (Dec. 22, 2020), <http://press.foxnews.com/2020/12/fox-news-digital-scores-best-november-in-its-history/>.

12. Maria Bartiromo is a Fox News and Fox Business personality who hosts *Mornings with Maria* weekday mornings from 6:00 a.m. to 9:00 a.m. on Fox Business and the Sunday weekly program *Sunday Morning Futures with Maria Bartiromo* on Fox News. Fox promotes *Mornings with Maria* as the “number one pre-market business news program in cable,” and boasts that *Sunday Morning Futures* “routinely ranks as the highest rated show on Sundays in cable news.”⁵ At all relevant times, Bartiromo has been an agent for Fox. In September 2019, Bartiromo struck a new multi-year deal with Fox⁶ worth a reported \$10 million per year.⁷ At all relevant times, Fox broadcast *Mornings with Maria* and *Sunday Morning Futures* from its New York headquarters. Fox operates and exercises control over the Twitter accounts for *Mornings with Maria* (@MorningsMaria), *Sunday Morning Futures* (@SundayFutures), and @MariaBartiromo, which is evidenced by the fact that the @MariaBartiromo account’s profile lists and tags the accounts for *Mornings with Maria* and *Sunday Morning Futures*, as well as

⁵ *Id.*

⁶ Brian Steinberg, *Maria Bartiromo Renews Pact With Fox News Media*, Variety (Sept. 18, 2019), <https://variety.com/2019/tv/news/maria-bartiromo-fox-news-contract-1203340895/>.

⁷ Brian O’Connell, *Who Are the Highest-Paid News Actors?*, TheStreet (Feb. 14, 2020), <https://www.thestreet.com/.amp/lifestyle/highest-paid-news-anchors-15062420>.

@FoxBusiness and @FoxNews,⁸ and the fact that tweets are posted to the @MariaBartiromo account during live broadcasts (when Bartiromo could not post herself).⁹ Fox frequently republishes shows and segments from *Mornings with Maria* and *Sunday Morning Futures* on the @MorningsMaria, @SundayFutures, and most often, @MariaBartiromo Twitter accounts. After Bartiromo's shows featured defamatory falsehoods about Dominion, Fox continued to promote her shows and gave her increased responsibilities. As of the filing of this complaint, she has been named—and has served as—a temporary host to a new 7:00 p.m. primetime show on Fox News.

13. Tucker Carlson is a Fox News personality and the host of Fox's *Tucker Carlson Tonight*.¹⁰ At all relevant times, Carlson has been an agent for Fox. As of August 19, 2020, he had several years left on his Fox contract,¹¹ which was valued at \$10 million per year.¹² Carlson holds Fox News's premier 8:00 p.m. primetime

⁸ Maria Bartiromo (@MariaBartiromo), Twitter (last visited Mar. 25, 2021), <https://twitter.com/MariaBartiromo>.

⁹ See, e.g., Maria Bartiromo (@MariaBartiromo), Twitter (Dec. 1, 2020, 6:46 am), <https://twitter.com/MariaBartiromo/status/1333739169823256577>.

¹⁰ *Tucker Carlson*, Fox News, <https://www.foxnews.com/person/c/tucker-carlson>.

¹¹ Brian Steinberg, *Tucker Carlson Sees 'Never-Ending Assault' on His Fox News Show. Critics See Racism*, Variety (Aug. 19, 2020), <https://variety.com/2020/tv/news/tucker-carlson-fox-news-trump-liberal-duckworth-1234734035/>.

¹² Brian Stelter, *As Tucker Carlson Justifies Violence, Fox News Is Paying Him \$10 Million a Year*, CNN Business (Aug. 27, 2020),

weekday slot, and *Tucker Carlson Tonight* was the second-most-watched cable news program in 2020.¹³ Fox operates and controls the @tuckercarlson tonight Instagram account, which is described in the account's profile as "[t]he official Instagram page for Tucker Carlson Tonight on Fox News. 8 PM EST."¹⁴ Fox frequently republishes shows and segments from *Tucker Carlson Tonight* on the @tuckercarlson tonight Instagram account.

14. Lou Dobbs is a Fox Business personality who hosted *Lou Dobbs Tonight*, which Fox described as "the #1 news program on business television."¹⁵ At all relevant times, Dobbs has been an agent for Fox, and even after Fox cancelled *Lou Dobbs Tonight* on February 5, 2021, Dobbs remains under contract with Fox.¹⁶ At all relevant times, Fox broadcast *Lou Dobbs Tonight* from its New York headquarters. While Fox aired false statements about Dominion on *Lou Dobbs*

<https://www.cnn.com/2020/08/27/media/fox-news-pays-10m-tucker-carlson/index.html>.

¹³ Mark Joyella, Sean Hannity, *Tucker Carlson Set Records As Fox News Makes History In 2020 Cable News Ratings*, Forbes (Dec. 16, 2020), <https://www.forbes.com/sites/markjoyella/2020/12/16/fox-news-shatters-record-for-most-watched-year-in-cable-news-history/?sh=6aaa38551643>.

¹⁴ Tucker Carlson Tonight (@tuckercarlson tonight), Instagram (last visited Mar. 25, 2021), <https://www.instagram.com/tuckercarlson tonight/?hl=en>.

¹⁵ Lou Dobbs, Fox Business, <https://web.archive.org/web/20210202180157/https://www.foxbusiness.com/person/d/lou-dobbs>; see also Fox Annual Report (2020), <https://investor.foxcorporation.com/static-files/3cfbceb7-b29f-408a-9666-7affafe3cfd0>.

¹⁶ Zeeshan Aleem, *Fox Business Abruptly Canceled Lou Dobbs Tonight*, Vox (Feb. 6, 2021), <https://www.vox.com/2021/2/6/22269780/lou-dobbs-cancel-fox-business-news>.

Tonight, Dobbs promoted—with Fox’s approval—his book about President Trump, *The Trump Century*, and encouraged viewers to visit loudobbsshop.com to purchase Dobbs-themed clothing and accessories. Until at least February 5, 2021, Fox operated and exercised control over the Instagram account @loudobbstonight, the Facebook account “Lou Dobbs” (which links to the @loudobbstonight Instagram account), and the Twitter account, @LouDobbs, as the official social media accounts for the Fox show *Lou Dobbs Tonight*, as evidenced by the fact that the @LouDobbs Twitter account’s description was, until February 5, 2021, “Lou Dobbs Tonight, Fox Business Network, 5, 7 & 10 PM/ET,”¹⁷ and the fact that tweets were posted to the account during live broadcasts (when Dobbs could not post himself).¹⁸ Fox frequently republished shows and segments from *Lou Dobbs Tonight* on the @loudobbstonight Instagram, “Lou Dobbs” Facebook, and @LouDobbs Twitter accounts.

15. Sean Hannity is a Fox News personality, “one of the most prominent and influential conservative voices in the country,” and the host of Fox’s *Hannity*.¹⁹ *Hannity* holds Fox News’s coveted 9:00 p.m. primetime weekday slot, and was the

¹⁷ Lou Dobbs (@LouDobbs), Twitter (Jan. 31, 2021), <https://web.archive.org/web/20210131165537/https://twitter.com/LouDobbs>.

¹⁸ See, e.g., Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:51 pm), <https://twitter.com/LouDobbs/status/1337168084541575171> (Ex. 1).

¹⁹ *Sean Hannity*, Fox News, <https://www.foxnews.com/person/h/sean-hannity>.

most-watched cable news program in 2017, 2018, 2019, and 2020.²⁰ At all relevant times, Hannity has been an agent for Fox. He is Fox's highest-paid star, with a contract worth between \$25 million²¹ and \$40 million²² per year. At all relevant times, Fox broadcast *Hannity* from its New York headquarters.

16. Jeanine Pirro is a Fox News personality who hosts *Justice w/ Judge Jeanine*. At all relevant times, Pirro has been an agent for Fox. She has a long-term contract with Fox.²³ At all relevant times, Fox broadcast *Justice w/ Judge Jeanine* from its New York headquarters. Fox operates and exercises control over the Twitter account, @JudgeJeanine,²⁴ and the "Judge Jeanine Pirro" Facebook account,²⁵ which

²⁰ Mark Joyella, *Sean Hannity, Tucker Carlson Set Records As Fox News Makes History In 2020 Cable News Ratings*, Forbes (Dec. 16, 2020), <https://www.forbes.com/sites/markjoyella/2020/12/16/fox-news-shatters-record-for-most-watched-year-in-cable-news-history/?sh=6aaa38551643>.

²¹ Harriet Alexander, *Republican Party Spends Nearly \$1 Million to Make Fox News' Sean Hannity a Best Seller*, Independent (Oct. 23, 2020), <https://www.independent.co.uk/news/world/americas/us-politics/republican-party-buys-sean-hannity-book-one-million-dollars-bestseller-b1255608.html>.

²² Brian O'Connell, *Who Are the Highest-Paid News Actors?*, TheStreet (Feb. 14, 2020), <https://www.thestreet.com/.amp/lifestyle/highest-paid-news-anchors-15062420>.

²³ Jeremy Barr, *Jeanine Pirro Opens Up About Fox Suspension and Trump on Her Book Tour*, The Hollywood Reporter (Sept. 12, 2019), <https://www.hollywoodreporter.com/news/jeanine-pirro-opens-up-fox-news-suspension-trump-her-book-tour-1238980>.

²⁴ Jeanine Pirro (@JudgeJeanine), Twitter (last visited Mar. 9, 2021), <https://twitter.com/JudgeJeanine>.

²⁵ Judge Jeanine Pirro, Facebook (last visited Mar. 9, 2021), <https://www.facebook.com/judgejeaninepirro>.

is evidenced by the fact that tweets and Facebook posts are posted to the accounts during live broadcasts (when Pirro could not post herself).²⁶ Fox frequently republishes shows and segments from *Justice w/ Judge Jeanine* on the “Judge Jeanine Pirro” Facebook and @JudgeJeanine Twitter accounts.

17. Sidney Powell is an attorney and the author of a self-published book that purports to be a seminal work in “exposing ‘the Deep State.’”²⁷ Powell briefly pursued spurious litigation challenging the 2020 Presidential Election beginning on November 25, 2020, but her cases had all been summarily dismissed by federal judges by December 9, 2020. Fox repeatedly hosted Powell on its programming in the weeks and months following the 2020 Presidential Election to promote falsehoods about Dominion.

18. Rudolph Giuliani is the former mayor of New York City who has more recently found work as a YouTube podcast host, a radio show host, and an attorney to President Donald Trump and the Trump Campaign. Giuliani never signed any

²⁶ See, e.g., Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 14, 2020, 9:15 pm), <https://twitter.com/JudgeJeanine/status/1327797216329617409>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 17, 2020, 9:49 am), <https://twitter.com/JudgeJeanine/status/1328711979163324416> (Ex. 2); Jeanine Pirro, *Opening Statement*, Facebook (Nov. 21, 2020), <https://www.facebook.com/judgejeaninepirro/videos/3424348634350374>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 21, 2020, 9:15 pm), <https://twitter.com/JudgeJeanine/status/1330333931028115456>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 21, 2020, 9:16 pm), <https://twitter.com/JudgeJeanine/status/1330334182732484611> (Ex. 3).

²⁷ Sidney Powell, <https://www.sidneypowell.com/shop> (last visited Mar. 12, 2021).

complaint concerning the 2020 election—whether for the Trump Campaign or anyone else—that contained any allegations about Dominion. Fox repeatedly hosted Giuliani on its programming in the weeks following the 2020 Presidential Election to promote falsehoods about Dominion.

19. Mike Lindell is the founder and CEO of My Pillow, Inc. (“MyPillow”), one of Fox’s biggest sponsors. In the first three quarters of 2020, MyPillow spent more than \$62 million on TV ads, with nearly 99% of it going to cable channels like Fox News.²⁸ In the first half of 2020, MyPillow ads made up about 37.8% of the advertising revenue for *Tucker Carlson Tonight* and 15% of the advertising revenue for *Hannity*.²⁹ After Fox stopped putting Powell and Giuliani on the air, Tucker Carlson and Fox knowingly broadcast lies about Dominion to a global audience by inviting Lindell on *Tucker Carlson Tonight*, where they knew he would repeat those lies in response to questions about why he had been banned from Twitter.

²⁸ Tiffany Hsu, *As Corporate America Flees Trump, MyPillow’s C.E.O. Stands by Him*, N.Y. Times (Jan. 12, 2021), <https://www.nytimes.com/2021/01/12/business/media/mypillow-mike-lindell-trump.html>.

²⁹ Haley Victory Smith, *Thirty-Eight Percent of Tucker Carlson’s Advertising Came from MyPillow in 2020, Data Firm Estimates*, Wash. Examiner (July 7, 2020), <https://www.washingtonexaminer.com/news/thirty-eight-percent-of-tucker-carlsons-advertising-came-from-mypillow-in-2020-data-firm-estimates>.

FACTUAL ALLEGATIONS

The Early 2000s:

John Poulos Founds and Builds a Technology Company That Allows Local Election Officials to Easily Audit Paper Ballots

20. In 2002, Dominion CEO John Poulos had an idea that he thought could help people with vision impairments vote independently on paper ballots, so he founded a business out of his basement in Toronto and incorporated it under Ontario law as Dominion Voting Systems Corporation. From the beginning, Dominion's objective has been accurate, transparent, and accessible elections.

21. As it grew, Dominion developed technology to solve many of the technical and voter-intent issues that came to light as a result of the 2000 election. Its systems are certified under standards promulgated by the U.S. Election Assistance Commission ("EAC"), reviewed and tested by independent testing laboratories accredited by the EAC, and were designed to be auditable and include a paper ballot backup to verify results.

22. Dominion Voting Systems Corporation procured its first U.S. contract in July 2009—to provide voting machine technology to over 50 counties in the state of New York. After procuring that contract, Dominion Voting Systems Corporation established a New York office, hired 20 employees, and by the end of July, incorporated a subsidiary company, Dominion Voting Systems, Inc., in Delaware. Poulos voluntarily worked with the Committee on Foreign Investment in

the United States (“CFIUS”) to ensure it knew who he was and who was invested in Dominion. For the next several years, Dominion’s systems were manufactured in the State of New York.

23. In June 2010, Dominion relocated its headquarters to Denver, Colorado. Dominion continues to maintain an office and significant operations in New York to this day, and the State of New York remains Dominion’s longest-standing and second most valuable customer (behind Georgia).

24. Today, Dominion’s business is organized as US Dominion, Inc. and its two wholly owned subsidiaries, Dominion Voting Systems, Inc. and Dominion Voting Systems Corporation (collectively, “Dominion”).

25. Dominion contracts with state and local governments to provide its voting systems and services in a majority of states across the country. Those contracts typically have multi-year terms and range in value from tens of thousands of dollars to over a hundred million dollars, depending on the jurisdiction and scope of the contract. Given the nature of the U.S. election system and the voting services industry, Dominion’s contracts have historically been long-term with high renewal rates. As of the 2020 election, Dominion had contracts to provide voting machine technology in over 28 states including, for example, the more than 50 counties in New York.

***The Lead-Up to the November 3, 2020 Election:
Fox Promotes President Trump's False Fraud Narrative***

26. For 19 years, Fox News has been the #1 rated cable news network and the go-to cable news network for American conservatives.³⁰ As Fox describes itself,

FOX News Channel (FNC) is a 24-hour all-encompassing news service delivering breaking news as well as political and business news. The number one network in cable, FNC has been the most watched television news channel for 19 consecutive years. According to a 2020 Brand Keys Consumer Loyalty Engagement Index report, FOX News is the top brand in the country for morning and evening news coverage. A 2019 Suffolk University poll also named FOX News as the most trusted source for television news or commentary, while a 2019 Brand Keys Emotion Engagement Analysis survey found that FOX News was the most trusted cable news brand. Owned by FOX Corp, FNC is available in nearly 90 million homes and dominates the cable news landscape, routinely notching the top ten programs in the genre.³¹

27. In addition to distribution through its television networks, Fox distributes its news content through digital media, including through the Fox News Mobile App, which has approximately 7.5 million users, and through Twitter, Facebook, and Instagram accounts that generate tens of millions of unique visitors each month. Tens of millions of people regularly view Fox news content through

³⁰ Mark Joyella, *'We Passed CNN ... And Never Looked Back': Fox News Hits 18 Years At #1*, Forbes (Jan. 28, 2020), <https://www.forbes.com/sites/markjoyella/2020/01/28/fox-news-celebrates-18-years-as-number-one-network-in-cable-news/?sh=fc6dccc1e997>.

³¹ Corporate Information, Fox News (last visited Mar. 24, 2021), <http://press.foxnews.com/>.

those and other digital media platforms, such as YouTube, TikTok, and Tubi. Fox recently announced that it has been “the most engaged news brand on social media” for 78 consecutive months, “with over 51 million Facebook and 20 million Instagram interactions.”³² Fox claims that the total audience for its news content exceeds 200 million people each month.³³

28. In the months leading up to the 2020 election, President Trump drew a line in the sand: either he would win or the election would be fraudulently stolen from him. His supporters must either agree with him or face his wrath. In his own words: “the only way we’re gonna lose this election is if the election is rigged”³⁴ and there “is massive fraud.”³⁵

29. At the same time, news organizations—including Fox—widely reported that election officials were expecting record-shattering mail-in voting because of concerns over the ongoing coronavirus pandemic. News organizations—again including Fox—also reported that this mail-in voting was widely expected to

³² *Fox News Digital Surpasses New York Times and Washington Post in Every Performance Metric*, Fox News (Mar. 17, 2021), <http://press.foxnews.com/2021/03/fox-news-digital-surpasses-new-york-times-and-washington-post-in-every-key-performance-metric/>.

³³ *Id.*

³⁴ Morgan Chalfant, *President Donald Trump, Trump Campaign Rally at Oshkosh, WI*, The Hill (Aug. 17, 2020), <https://thehill.com/homenews/administration/512424-trump-the-only-way-we-are-going-to-lose-this-election-is-if-the>.

³⁵ *President Donald Trump, Trump Campaign Rally at Allentown, PA*, YouTube (Oct. 26, 2020), <https://www.youtube.com/watch?v=Rt6nCZRKChE>.

be much more heavily weighted in favor of Democrats than the overall electorate, in significant part because prominent Republicans, including President Trump, were consistently encouraging supporters to avoid voting by mail and instead vote in person on Election Day.

30. Not surprisingly, given these trends, the head of the Fox News Decision Desk correctly predicted that “on election night, we may be looking at states where it seems that President Trump is in the lead, but there’s still 20 or 30 percent of the vote outstanding ... so we’re not [going to be] able to make the call in those states.”³⁶ He correctly recognized—and Fox widely and repeatedly reported before the election—that this would occur because President Trump had criticized mail-in voting and encouraged Republicans to vote in person whereas Democrats had encouraged their supporters to vote by mail.³⁷ In fact, Maria Bartiromo discussed this very phenomenon with President Trump in an October 11, 2020 interview, with President Trump lamenting that mail-in votes would likely be counted “two weeks after the vote comes in,” and stating that “Republicans are going out to vote—they

³⁶ Caleb Parke, *Head of Fox News Decision Desk: Why Results in Swing States Likely Won’t Be Known on Election Night*, Fox News (Aug. 11, 2020), <https://www.foxnews.com/politics/election-trump-biden-when-will-results-known>.

³⁷ *Id.*

don't want to do the [mail-in] ballot thing, they don't trust it. Republicans are going out to vote.”³⁸

31. In other words, well before any false claim that Dominion machines had switched votes, Fox understood the phenomenon the country would later experience come the first week of November: early vote tallies would lean in favor of then-President Trump, whereas later vote tallies would favor now-President Biden.

32. Despite this knowledge, Fox spent considerable airtime before the election searching for and discussing voter fraud that might occur during the election. As one Fox employee stated at the time about one such endeavor, “it feels like [] an attempt to push more baseless conspiracy theories and scare the viewers into thinking the election is being ‘stolen.’ It isn’t.”³⁹ In other words, even prior to any claim about Dominion, Fox News already had a preconceived storyline and was on the lookout for “baseless conspiracy theories.”

***November 3-6, 2020:
Fox Accurately Reports the Results of the Election***

33. As precincts began counting on Election Day, the phenomenon that Fox itself had repeatedly predicted came true. Early reports indicated that in-person

³⁸ *Trump Talks Mail-in Voting on ‘Sunday Morning Futures,’* Fox News (Oct. 11, 2020), <https://www.facebook.com/watch/?v=739651310242554>.

votes favored President Trump, but President Trump's lead in key swing states disappeared when Democratic-leaning mail-in ballots, as well as Election Day ballots from large Democratic-leaning population centers, were counted.

34. Shortly before midnight on Election Day, Fox projected that President Trump had lost Arizona.⁴⁰ Fox called Arizona after its statistical model projected that President Trump would not be able to prevail.

35. President Trump began "fuming" when he learned that Fox had called Arizona,⁴¹ and his son-in-law Jared Kushner called Fox founder and Chairman Rupert Murdoch to complain.

36. Less than thirty minutes after Fox had called Arizona, President Trump's political advisor Jason Miller likewise attacked Fox on Twitter, writing: "@FoxNews is a complete outlier in calling Arizona, and other media outlets should not follow suit. There are still 1M+ Election Day votes out there waiting to be counted – we pushed our people to vote on Election Day, but now Fox News is trying to invalidate their votes!"⁴²

⁴⁰ Jeremy Barr, *Why These Fox News Loyalists Have Changed the Channel to Newsmax*, Wash. Post (Dec. 27, 2020), <https://www.washingtonpost.com/media/2020/12/27/fox-news-viewers-switch-to-newsmax/>.

⁴¹ Annie Karni & Maggie Haberman, *Fox's Arizona Call for Biden Flipped the Mood at Trump Headquarters*, N.Y. Times (Nov. 4, 2020), <https://www.nytimes.com/2020/11/04/us/politics/trump-fox-news-arizona.html>.

⁴² Jason Miller (@JasonMillerinDC), Twitter (Nov. 3, 2020, 11:47 pm), <https://twitter.com/JasonMillerinDC/status/1323849305917186050>.



37. Republican National Committee spokesperson Liz Harrington similarly attacked Fox on Twitter: “Call GA, NC, and TX, you HACKS! Retract AZ!”⁴³



38. In an effort to mitigate the immediate and intense backlash the Arizona call caused with its viewers—including President Trump—Fox had the head of its Decision Desk go on air to explain why Fox made the call:

I’m sorry, the President is not going to be able to take over and win enough votes to eliminate that 7-point lead that the former

⁴³ Liz Harrington (@realLizUSA), Twitter (Nov. 3, 2020, 11:52 pm), <https://twitter.com/realLizUSA/status/1323850485699432450>.

Vice President has. ... I'm sorry, we're not wrong in this particular case.⁴⁴

39. Fox was right: Trump lost Arizona.

40. Many supporters of then-President Trump, however, rejected this pronouncement, instead latching on to false claims about fraud. Reuters reported on November 5 that within 24 hours of formation, the Facebook group “Stop the Steal” already had amassed over 325,000 members: “Facebook Group Pushing False Claim of Stolen U.S. Election Rapidly Gains 325,000 Members.”⁴⁵

41. Also on November 5, *The Wall Street Journal*—commonly owned by the Murdoch family with Fox—reported on these developments: Facebook “announced temporary measures to limit the spread of false and possibly dangerous content late on Thursday, hours after it took down the ‘Stop the Steal’ group that was organizing protests of vote counts around the country.”⁴⁶ The article also noted that President Trump’s own Cybersecurity & Infrastructure Security Agency

⁴⁴ Stephanie K. Baer (@skbaer), Twitter (Nov. 4, 2020, 12:57 am), <https://twitter.com/skbaer/status/1323867043523776512>.

⁴⁵ Elizabeth Culliford & Raphael Satter, *Facebook group pushing false claim of stolen U.S. election rapidly gains 325, 000 members*, Reuters (Nov. 5, 2020), <https://www.reuters.com/article/ctech-us-usa-election-social-media-stopt-idCAKBN27L2DA-OCATC>.

⁴⁶ Jeff Horwitz, Sam Schechner, & Deepa Seetharaman, *Facebook Imposes Limits on Election Content, Bans ‘Stop the Steal’ Group*, *The Wall Street Journal* (Nov. 5, 2020), <https://www.wsj.com/articles/facebook-takes-down-group-organizing-protests-of-vote-counting-11604603908>.

(“CISA”)—the federal agency overseeing online security for the elections and led at the time by Trump appointee Chris Krebs—“tweeted earlier Thursday about the robust safeguards in place to ensure a fair and accurate election.”⁴⁷

42. Three days after the election, on November 6, 2020, President Trump went on the attack, complaining that his “big lead” had disappeared “miraculously.”⁴⁸

43. At this early point, Fox had not yet made Dominion the focus of conversation. Nevertheless, the tone and tenor was clear: supporters of President Trump—and President Trump himself—were looking for a scapegoat. And as the days and weeks that followed made clear, Fox was happy to oblige.

November 7-12, 2020:

Fox Experiences the Consequences of Accurately Reporting on the 2020 Presidential Election, Choosing to Intentionally Disregard the Known Facts And Defaming Dominion in an Effort to Win Back Viewers

44. On November 7, 2020, Fox projected that President Trump had lost the 2020 U.S. Presidential Election.

45. By the next morning—November 8—Fox began connecting Dominion with the false election fraud narrative. Specifically, Fox and Maria Bartiromo

⁴⁷ *Id.*

⁴⁸ Morgan Phillips, *Trump Decries Lead that ‘Miraculously’ Disappeared, Urges Biden Not to ‘Wrongfully Claim’ White House*, Fox News (Nov. 6, 2020), <https://www.foxnews.com/politics/trump-initial-lead-miraculously-disappeared-urges-biden-not-to-wrongfully-claim-white-house>.

invited Sidney Powell on the *Sunday Morning Futures* show. Powell declared that there was “a massive and coordinated effort to steal this election from We the People of the United States of America, to delegitimize and destroy votes for Donald Trump, to manufacture votes for Joe Biden.”

46. And who was responsible, according to this Fox broadcast? None other than Dominion. Bartiromo asked Powell: “Sidney, we talked about the Dominion software. I know that there were voting irregularities. Tell me about that.” And Powell responded: “That’s putting it mildly. . . . That is where the fraud took place, where they were flipping votes in the computer system or adding votes that did not exist. . . . That’s when they had to stop the vote count and go in and replace votes for Biden and take away Trump votes.”

47. Conveniently for Powell, Bartiromo, and Fox’s false election fraud storyline, Dominion machines were in 28 States across the country—including many of the contested battlegrounds. Casting Dominion as the perpetrator of the fraud provided a way to explain why President Trump lost in so many States.

48. Bartiromo knew at the time these claims were false, or recklessly disregarded the truth. Indeed, Bartiromo had previously reported in October that President Trump’s lead would fade not because of fraud but because mail-in and absentee ballots would be counted later than in-person ballots. Yet, her November 8 interview gave Fox’s stamp of approval to the message that it was acceptable to

falsely accuse Dominion of election fraud. The interview also illustrated starkly that, if given the opportunity to do so, Powell would make provably false statements about Dominion. And yet, despite Fox's knowledge that Powell would state malicious lies about Dominion, Fox continued to invite her as a guest.

49. Still fuming from Fox's call of Arizona and believing that Fox was not sufficiently loyal to him, President Trump directed his anger at Fox.

50. The night of November 9, President Trump tweeted a series of stories from Fox rival Newsmax related to false claims of election fraud.⁴⁹ Later that night—at 12:18 a.m. on November 10—President Trump tweeted a story from Breitbart News entitled, “Bret Baier Deletes Tweet that Exposed Exploding Backlash Against Fox News.”⁵⁰ This story explained that Fox's Bret Baier had to

⁴⁹ Donald J. Trump (@realDonaldTrump), Twitter (Nov. 9, 2020, 7:23 pm), *previously available at* <https://twitter.com/realdonaldtrump/status/1325957192214831105>; Donald J. Trump (@realDonaldTrump), Twitter (Nov. 9, 2020, 8:01 pm), *previously available at* <https://twitter.com/realdonaldtrump/status/1325966661942435841>; Donald J. Trump (@realDonaldTrump), Twitter (Nov. 9, 2020, 8:03 pm), *previously available at* <https://twitter.com/realdonaldtrump/status/1325967220757966852>; Donald J. Trump (@realDonaldTrump), Twitter (Nov. 9, 2020, 8:03 pm), *previously available at* <https://twitter.com/realdonaldtrump/status/1325967327611981829> (an archive of all of President Trump's tweets can be found here: Trump Twitter Archive, <https://www.thetrumparchive.com/> (last visited Mar. 25, 2021)).

⁵⁰ Donald J. Trump (@realDonaldTrump), Twitter (Nov. 10, 2020, 12:10 am), *previously available at* <https://twitter.com/realDonaldTrump/status/1326031379151327232>.

delete a tweet due to the “withering responses” the “innocuous tweet” had received.⁵¹ The story led with the observation that the “backlash against the disgraced cable news network has exploded.”⁵² As Breitbart explained, “the deletion is just more proof that Fox News is in real trouble and feels besieged. The backlash is so fierce, so grassroots, so overwhelming, Baier is forced to wishcast it all away with the cowardly deletion of a tweet — as though that somehow means it didn’t happen.”⁵³

51. On November 12, President Trump sent a flurry of tweets vilifying Fox and encouraging viewers to switch to other networks.⁵⁴ After a morning segment aired on Fox’s America’s Newsroom concluding that “nothing filed, any challenge

⁵¹ John Nolte, *Nolte: Bret Bair Deletes Tweet That Exposed Exploding Backlash Against Fox News*, Breitbart (Nov. 9, 2020), <https://www.breitbart.com/the-media/2020/11/09/bret-baier-deletes-tweet-exposed-exploding-backlash-fox-news/>.

⁵² *Id.*

⁵³ John Nolte, *Nolte: Bret Bair Deletes Tweet That Exposed Exploding Backlash Against Fox News*, Breitbart (Nov. 9, 2020), <https://www.breitbart.com/the-media/2020/11/09/bret-baier-deletes-tweet-exposed-exploding-backlash-fox-news/>.

⁵⁴ Donald J. Trump (@realDonaldTrump), Twitter (Nov. 12, 2020), *previously available at* <https://twitter.com/realdonaldtrump/status/1326912449610657792>; Donald J. Trump (@realDonaldTrump), Twitter (Nov. 12, 2020), *previously available at* <https://twitter.com/realdonaldtrump/status/1326911917886238720>; Donald J. Trump (@realDonaldTrump), Twitter (Nov. 12, 2020), *previously available at* <https://twitter.com/realdonaldtrump/status/1326911102777692162>; Donald J. Trump (@realDonaldTrump), Twitter (Nov. 12, 2020), *previously available at* <https://twitter.com/realdonaldtrump/status/1326911092933746699>; Donald J. Trump (@realDonaldTrump), Twitter (Nov. 12, 2020), *previously available at* <https://twitter.com/realdonaldtrump/status/1326910731237928962>; Donald J. Trump (@realDonaldTrump), Twitter (Nov. 12, 2020), *previously available at* <https://twitter.com/realdonaldtrump/status/1326909956994568194>.

so far, appears likely to overturn the results in any state,”⁵⁵ President Trump tweeted “@FoxNews daytime ratings have completely collapsed. Weekend daytime even WORSE. Very sad to watch this happen, but they forgot what made them successful, what got them there. They forgot the Golden Goose. The biggest difference between the 2016 Election, and 2020, was @FoxNews!”⁵⁶

52. President Trump also declared: “#foxnews is dead.”⁵⁷



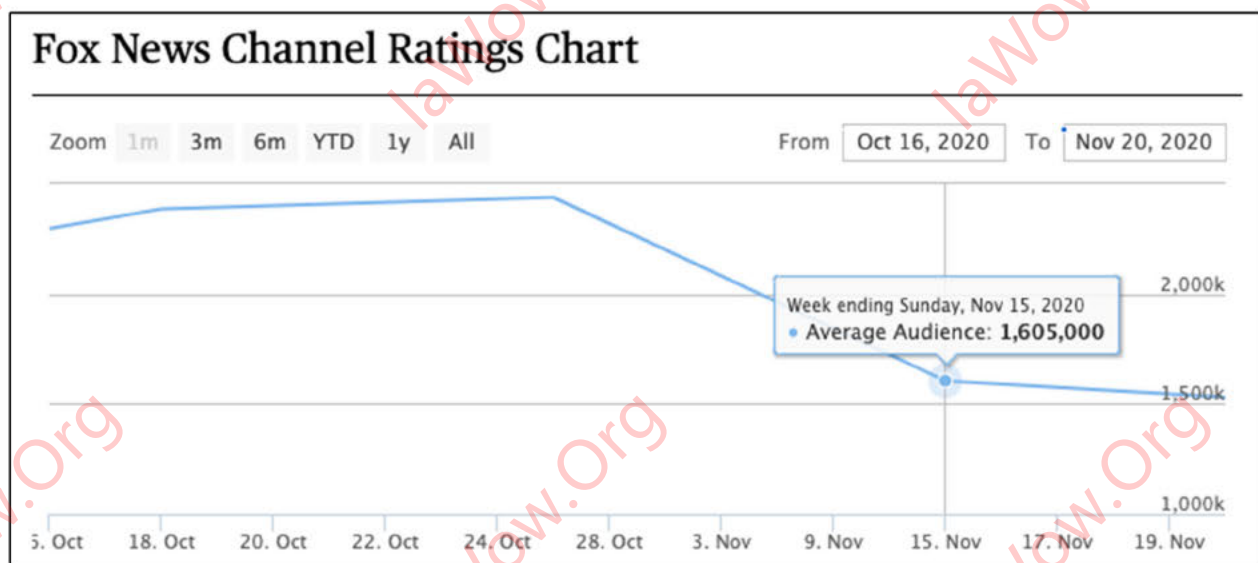
53. Fox understood the critical importance of maintaining the support and endorsement of President Trump. President Trump had made clear that he expected networks he viewed as favorable to him to embrace the false election fraud narrative. Fox was well aware of the ramifications of what could occur if it lost President Trump’s support. Indeed, Fox had seen the vilification of its own on-air personalities when President Trump attacked them.

⁵⁶ Donald J. Trump (@realDonaldTrump), Twitter (Nov. 12, 2020), *previously available at* <https://twitter.com/realdonaldtrump/status/1326920264203046915>.

⁵⁷ Donald J. Trump (@realDonaldTrump), Twitter (Nov. 12, 2020), *previously available at* <https://twitter.com/realdonaldtrump/status/1326910770194632704>.

54. President Trump's attacks on Fox had a swift impact. By the end of the day on November 12, 2020, Fox Corporation's stock had tumbled 6%, with financial analysts attributing the decline to President Trump's "support for [Fox's] rival right-leaning news networks Newsmax and OANN."⁵⁸

55. Just a few days later, by November 15, 2020, Fox's average daytime audience had plummeted from 2.439 million in the days before the election, to just above 1.6 million in the days following the election, a 34% decrease. Fox's prime time audience fell by 37%, from 5.346 million to 3.463 million.⁵⁹



⁵⁸ Matthew Fox, *Fox Corp. Tumbles 6% as Trump Retweets Support for Rival Networks Newsmax and OANN*, Business Insider (Nov. 12, 2020), <https://markets.businessinsider.com/news/stocks/fox-stock-price-president-trump-retweets-support-for-rival-networks-2020-11-1029798530>.

⁵⁹ Fox News Channel (FNC) Nielsen Ratings, <https://ctv.kwayisi.org/networks/fox/>.

56. In that same period between mid-October and mid-November, Newsmax's daytime audience increased nearly six-fold from 57,000 to 329,000, while its prime time audience more than tripled from 129,000 to 412,000.⁶⁰

57. In the face of intense backlash and viewers beginning to flee to rival networks, Fox understood that it needed to embrace and amplify the lies that had begun to circulate about Dominion.

58. Even though the lies about Dominion were inherently implausible and verifiably false when first made, Fox elevated and lent credibility to these lies on the airwaves of Fox, which in turn fueled the recirculation of those lies through digital and social media. And Fox continued to promote, endorse, and republish the falsehoods for weeks on the airwaves and its digital platforms, even after more and more paper ballot recounts and sources across the political spectrum had repeatedly disproven the lies about Dominion.

59. To fan the flames, Fox turned to Sidney Powell and Rudy Giuliani, neither of whom were official White House spokespeople and both of whom were promoting a baseless defamatory campaign against Dominion, claiming that the election had been stolen by vote-flipping algorithms in Dominion machines that had been created in Venezuela to rig elections for Hugo Chávez. As Fox well knew,

⁶⁰ *Newsmax TV Ratings*, CableRankings, <https://ctv.kwayisi.org/networks/nmax/> (last visited Mar. 25, 2021).

Powell and Giuliani were facially unreliable sources and their claims were ludicrous, inherently improbable, and technologically impossible. Powell was and is such an obviously unreliable source—and her claims about Dominion were so inherently improbable and outlandish—that those very same lies resulted in Tucker Carlson publicly mocking her for failing to produce evidence to support them. In private, Lou Dobbs himself “raised questions about Powell’s claims to others.”⁶¹ As one Republican official stated, “It’s an insane story.”⁶² Even the Trump Campaign publicly distanced itself from her, with Trump loyalist Chris Christie calling her claims a “national embarrassment,” and Republican senators calling the White House to say she seemed “unhinged.” Indeed, at the White House itself, officials stated that Powell’s claims were “nonsense.”⁶³ Those close to Trump said that Powell’s theories were “crazy” and the White House Counsel “furiously pushed

⁶¹ Seung Min Kim, Josh Dawsey & Toluse Olorunnipa, *Republicans plunge into open battle over attempts to overturn Trump’s loss to Biden*, Wash. Post (Dec. 22, 2020), https://www.washingtonpost.com/politics/trump-republicans-election-fight/2020/12/22/fa0c2744-446b-11eb-b0e4-0f182923a025_story.html.

⁶² Phillip Rucker, Ashley Parker, Josh Dawsey & Amy Gardner, *20 days of fantasy and failure: Inside Trump’s quest to overturn the election*, Wash. Post (Nov. 28, 2020), https://www.washingtonpost.com/politics/trump-election-overturn/2020/11/28/34f45226-2f47-11eb-96c2-aac3f162215d_story.html.

⁶³ Toluse Olorunnipa, Josh Dawsey, Rosalind S. Helderman & Emma Brown, *Trump’s assembles a ragtag crew of conspiracy-minded allies in flailing bid to reverse election loss*, Wash. Post (Dec. 21, 2020), https://www.washingtonpost.com/politics/trump-assembles-a-ragtag-crew-of-conspiracy-minded-allies-in-flailing-bid-to-reverse-election-loss/2020/12/21/d7674cd2-43b2-11eb-b0e4-0f182923a025_story.html.

back” on any notion that Powell could be trusted.⁶⁴ And Giuliani, according to President Trump’s own legal team, “seemed ‘deranged.’”⁶⁵

60. In addition, as Fox well knew, the alleged Venezuela-Chávez connection was based on the verifiably false claim that Dominion is owned by Smartmatic—a completely separate company that competes against and does not own Dominion, as was readily apparent from information in the public domain since well before the November 3, 2020 election.⁶⁶

61. Yet, with Fox’s ratings in freefall and Fox viewers fleeing to Newsmax and OAN at then-President Trump’s behest, Fox, through its most prominent on-air personalities, cynically exploited these lies to lure viewers back. For example, from November 8-12, 2020, Maria Bartiromo and Lou Dobbs repeatedly hosted Powell and Giuliani on their Fox programs *where they also endorsed and repeated their guests’ lies about Dominion*.

⁶⁴ Seung Min Kim, Josh Dawsey & Toluse Olorunnipa, *Republicans plunge into open battle over attempts to overturn Trump’s loss to Biden*, Wash. Post (Dec. 22, 2020), https://www.washingtonpost.com/politics/trump-republicans-election-fight/2020/12/22/fa0c2744-446b-11eb-b0e4-0f182923a025_story.html.

⁶⁵ Phillip Rucker, Ashley Parker, Josh Dawsey & Amy Gardner, *20 days of fantasy and failure: Inside Trump’s quest to overturn the election*, Wash. Post (Nov. 28, 2020), https://www.washingtonpost.com/politics/trump-election-overturn/2020/11/28/34f45226-2f47-11eb-96c2-aac3f162215d_story.html.

⁶⁶ Georgia Secretary of State, *Elections Security Is Our Top Priority: Security-Focused Tech Company, Dominion Voting to Implement New Verified Paper Ballot System*, <https://sos.ga.gov/securevoting/>.

62. Before hosting Powell and Giuliani, Fox and its on-air talent Bartiromo and Dobbs at a minimum recklessly disregarded the fact—and indeed knew—that voters had used paper ballots that could be recounted by hand, and that Dominion was not owned by Smartmatic, rendering the fantasy of a vote-flipping-machine made for a deceased Venezuelan dictator nonsensical and verifiably false.

63. Despite all this, Fox, through its on-air talent, misrepresented alleged “dumps” of Biden votes and prompted Powell to falsely attribute those so-called “dumps” to “algorithms and the Dominion software” that “flip[ped] votes in the computer system or add[ed] votes that did not exist.”⁶⁷ Again, Fox at a minimum recklessly disregarded the fact—and indeed knew—that Powell was unreliable and that those claims were false. In truth, Fox knew why the so-called “dumps” of Biden votes had occurred: President Trump himself had previously told Bartiromo on Fox’s airwaves that he was encouraging Republicans to vote in-person rather than by mail, such that later-counted mail-in ballots would lean heavily for Biden. And large metropolitan areas in several of the key swing states historically had taken longer to tabulate results. Yet Bartiromo deliberately omitted these facts during her interviews of Powell, so as not to undermine the false narrative that the “dumps” of Biden votes were evidence of vote-flipping algorithms in Dominion machines.

⁶⁷ *Sunday Morning Futures with Maria Bartiromo*, Fox News (Nov. 8, 2020), https://archive.org/details/FOXNEWSW_20201108_150000_Sunday_Morning_Futures_With_Maria_Bartiromo/start/2501/end/2561 (Ex. 4).

November 12-15:

***Dominion Sends Fox the Facts Further Disproving the Falsehoods,
But Fox Sticks with Its Lies for the Ratings***

64. By November 12, 2020, CISA confirmed that there was “no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.”⁶⁸ This widely-reported public announcement from the Trump Administration’s own experts on election security removed any conceivable remaining doubt and disproved the election-rigging lies about Dominion.

65. Also on November 12, 2020, Dominion began circulating a regular email titled “SETTING THE RECORD STRAIGHT: FACTS & RUMORS.”⁶⁹ The emails were complete with links to independent sources disproving the false claims being made about the company, including:

- CISA’s November 12 statement that there was “no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised”;⁷⁰

⁶⁸ Cybersecurity & Infrastructure Security Agency, *Joint Statement From Elections Infrastructure Government Coordinating Council & The Election Infrastructure Sector Coordinating Executive Committees* (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

⁶⁹ Dominion maintained a distribution list of those who received these and other emails from Dominion. As soon as a new individual was added to the distribution list, that individual received all emails that had been previously sent to the list.

⁷⁰ Cybersecurity & Infrastructure Security Agency, *Joint Statement From Elections Infrastructure Government Coordinating Council & The Election Infrastructure Sector Coordinating Executive Committees* (Nov. 12, 2020),

- A link to the Michigan Secretary of State’s website “which debunks false or erroneous claims about voting in Detroit, as well as a user-error incident in Antrim County”;⁷¹
- A link to the Georgia Secretary of State’s website with the statement from Republican Secretary of State Brad Raffensperger that “every legal vote was cast and accurately counted” in Georgia;⁷² and
- Links to the EAC and CISA websites noting that all U.S. voting systems, including Dominion’s, “must provide assurance that they work accurately and reliably” under EAC “and state certification and testing requirements.”⁷³

66. Dominion sent the “SETTING THE RECORD STRAIGHT” emails to Fox’s reporters and producers, including those who oversaw and managed content for Fox shows *Lou Dobbs Tonight*, *Sunday Morning Futures*, *Mornings with Maria*, *Justice w/ Judge Jeanine*, *Hannity*, and numerous other Fox shows, on November 12, 2020 and again on November 13 and 14, 2020, along with additional facts disproving the lies being promoted by Fox.⁷⁴

<https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

⁷¹ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 12, 2020) (Ex. 5); Secretary of State Jocelyn Benson, *Fact Checks*, https://www.michigan.gov/sos/0,4670,7-127-1633_100423_102534_102535---,00.html.

⁷² Georgia Secretary of State, *With 8,197 Votes Out, Officials Focused on Getting it Right*, https://sos.ga.gov/index.php/elections/with_8197_votes_out_officials_focused_on_getting_it_right.

⁷³ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 12, 2020) (Ex. 5).

⁷⁴ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 12, 13, & 14, 2020) (Ex. 5).

67. Similarly, EAC Commissioner and Trump appointee Ben Hovland notified Fox that:

The reality is that this was ***the most secure election we've ever had*** and it was one of the most well run elections we've ever had. ... [A]nd this is about facts, this is about truth, this is about respecting our democracy, respecting elections, and focusing on what has really occurred. The American people made their voice heard. And when we spread conspiracy theories and we don't back those up with facts, it has an impact.⁷⁵

68. Professor J. Alex Halderman, the Director of the University of Michigan's Center for Computer Security & Society, also told Fox explicitly, "There is absolutely no evidence, none, that Dominion Voting Machines changed any votes in this election."⁷⁶

69. On the morning of November 15, one of Dominion's representatives sent Bartiromo an email explaining and admonishing that "There has been a LOT of misinformation out there about Dominion Voting Systems, and a lot of it coming from Rudy."⁷⁷ The email attached and referenced Dominion's November 14

⁷⁵ Eric Shawn, *Cuba, China, Venezuela ...and those Dominion voting machines*, Fox News (Nov. 14, 2020), https://video.foxnews.com/v/video-embed.html?video_id=6209856840001.

⁷⁶ *Id.*

⁷⁷ Email from T. Fratto to M. Bartiromo (Nov. 15, 2020, 9:09am) (Ex. 6).

“SETTING THE RECORD STRAIGHT” email,⁷⁸ which included the same facts from the earlier emails, along with the following additional facts:

- OAN had retracted a story about “the deletion of 2.7 million pro-Trump votes” nationwide;⁷⁹
- A link to the Associated Press’s November 12, 2020 Fact Check reporting as *false* the claim that Dominion “deleted” Trump votes or “switched” votes from Trump to Biden, including a statement by Open Source Election Technology (OSET) Institute voting technology expert Eddie Perez that there was no “systemic issue related to problems with Dominion software that would affect the tabulation of results” that he was aware of;⁸⁰
- A link to a release from Edison Research President Larry Rosin stating that the firm had never created any report or made any statements about “anomalies in the voting data,” and declaring that “There is no evidence to support claims of widespread voter fraud”;⁸¹ and
- The fact that “Dominion is a nonpartisan US company that is not owned by Smartmatic.”⁸²

70. Intentionally disregarding, among other known facts, the true explanation of why President Trump’s early “leads” had disappeared, CISA’s

⁷⁸ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 14, 2020) (Ex. 5).

⁷⁹ OAN Newsroom, *Report: Millions Of Votes Lost Through Dominion System Glitches*, One America News Network (Nov. 12, 2020), previously available at <https://www.oann.com/report-millions-of-votes-lost-through-dominion/>.

⁸⁰ Ali Swenson & Amanda Seitz, *AP FACT CHECK: Trump Tweets a Tall Tale of ‘Deleted’ Votes*, Associated Press (Nov. 12, 2020), <https://apnews.com/article/fact-check-trump-tweets-tall-tale-votes-13c104367924b8192b4fcec334f7806>.

⁸¹ Alec Dent, *Did Edison Research Find That Dominion Deleted Trump Votes or Switched Votes to Biden?*, The Dispatch (Nov. 12, 2020), <https://factcheck.thedispatch.com/p/did-edison-research-find-that-states>.

⁸² *Did Edison Research Find That Dominion Deleted Trump Votes or Switched Votes to Biden? No*, The Dispatch (Nov. 12, 2020), <https://factcheck.thedispatch.com/p/did-edison-research-find-that-states>.

findings, and the fact that paper ballots obviously cannot be changed by a computer “algorithm” or in a cyber-attack, not to mention all the facts and evidence from the numerous independent sources that Dominion had sent directly to Fox and its hosts, reporters, producers, and content managers, Fox continued to promote the known lies on its most prominent and widely viewed broadcasts and on Fox’s websites, social media accounts, and subscription service platforms. Lou Dobbs, Maria Bartiromo, and Sean Hannity also continued hosting Powell and Giuliani, giving them a platform to widely disseminate and repeat their lies about Dominion to a national (and, indeed, a global) audience, and embracing those lies as their own by endorsing and repeating them.

71. Indeed, on November 12, Dobbs declared: “It’s stunning. And they’re private firms and very little is known about their ownership, beyond what you’re saying [the lies Giuliani had just told] about Dominion.” He also declared that “the states as you well know now, they have no ability to audit meaningfully the votes that are cast.” Fox knew that both of these statements were completely false, or at minimum recklessly disregarded the truth.

72. Following up a few days later, Fox published the following false statement to the @loudobbs Twitter account:⁸³

⁸³ Lou Dobbs (@LouDobbs), Twitter (Nov. 14, 2020, 11:27 am), <https://twitter.com/loudobbs/status/1327649331789385728> (Ex. 7).



73. Bartiromo also continued promoting lies even though she had been specifically notified that independent fact-checkers, government officials, and election security experts (to name just a few) had debunked the lies about Dominion, even though she had actual knowledge that Georgia was conducting a hand recount of every paper ballot, and even though she had personally received the November 14 “SETTING THE RECORD STRAIGHT” document from Dominion that cited to independent sources disproving the lies about Dominion.

74. Why lie? Because consistent with Fox's objectives, lying about Dominion was good for business and telling the truth risked its future. Fox had seen—and would continue to see—the ramifications of not endorsing this false election fraud narrative. While Fox's *overall* ratings were in freefall, Bartiromo's programs flourished. Her November 15 show—which featured herself, Giuliani, and Powell promoting lies about Dominion, now including the additional false accusation that Dominion gave “kickbacks” to Georgia's Republican Governor and Secretary of State in exchange for its contract to provide voting machines to the state—ranked second among all cable news shows that day, attracting over 2 million viewers.⁸⁴ Fox, through the @MariaBartiromo account, followed up by tweeting that Bartiromo would “keep investigating,” signaling to viewers interested in hearing more about this false fraud narrative that they should continue to tune in to her show.

75. The false accusation that Dominion had bribed Georgia officials—a claim for which Powell never offered a shred of evidence—was manufactured out of whole cloth in order to discredit Georgia Republicans after they publicly rebutted Powell's and her allies' false claims attacking Dominion and Georgia's elections results—claims that Fox had repeatedly published and republished as its own. Of course, the Georgia Secretary of State website includes voluminous public records

⁸⁴ Maria Bartiromo (@MariaBartiromo), Twitter (Nov. 17, 2020, 8:47 pm), <https://twitter.com/MariaBartiromo/status/1328877470536359938>.

showing that Dominion won the Georgia contract after scoring the highest in a competitive bid process where it competed *against Smartmatic* and Election Systems & Software (“ES&S”) for the contract.⁸⁵ Nevertheless, Fox endorsed Powell’s false claims on the November 15 broadcast accusing Dominion of bribing government officials, while also further amplifying the other lies Fox had by this time repeatedly broadcast about the company’s ownership: “[S]o much news on the software that was used on the voting machines on election night. There is much to understand about Smartmatic, which owns Dominion Voting Systems.”⁸⁶

November 16-19, 2020:

Fox Continues to Peddle Falsehoods in the Face of Election Security Experts, Independent Audits, Hand Recounts of Paper Ballots, and Readily Available Public Documents Disproving the Lies About Dominion

76. After being ignored by Bartiromo, a Dominion representative reached out to Fox’s CEO Suzanne Scott and President and Executive Editor Jay Wallace to address Fox’s false statements about Dominion. Both Scott and Wallace responded, and on November 17, 2020, Wallace spoke with Dominion’s representative and was expressly informed of the voluminous facts rebutting Fox’s false claims.

⁸⁵ Georgia Secretary of State, *Elections Security Is Our Top Priority: Security-Focused Tech Company, Dominion Voting to Implement New Verified Paper Ballot System* <https://sos.ga.gov/securevoting/>.

⁸⁶ *Fox and Friends Sunday*, Media Matters for America (Nov. 15, 2020), <https://www.mediamatters.org/media/391956> (Ex. 9).

77. Dominion also continued sending new and updated versions of the “SETTING THE RECORD STRAIGHT” emails to Fox, including over 90 of its reporters, producers, and anchors—including Bartiromo and Hannity—on November 16, 17, 19, and 20.⁸⁷

78. Separate and apart from the information being provided directly by Dominion, on November 16, 2020, fifty-nine specialists in election security publicly and forcefully rebutted the lies about Dominion, explaining that they “have never claimed that technical vulnerabilities have actually been exploited to alter the outcome of any US election.”⁸⁸ They further explained that “*no credible evidence* has been put forth that supports a conclusion that the 2020 election outcome in any state has been altered through technical compromise.”⁸⁹

79. That same day, Dobbs again hosted Powell on his show, where he knowingly gave her a platform to falsely claim that Smartmatic had been created in Venezuela for the purpose of rigging elections for Hugo Chávez and that “Smartmatic owns Dominion.”⁹⁰ As Dobbs and Fox knew—including from the

⁸⁷ See SETTING THE RECORD STRAIGHT: FACTS & RUMORS emails (Ex. 5).

⁸⁸ See Tony Adams et al., *Scientists Say No Credible Evidence of Computer Fraud in the 2020 Election Outcome, But Policymakers Must Work with Experts to Improve Confidence*, Matt Blaze (Nov. 16, 2020), <https://www.mattblaze.org/papers/election2020.pdf>.

⁸⁹ *Id.*

⁹⁰ *Lou Dobbs Tonight*, Fox Business (Nov. 16, 2020), https://archive.org/details/FBC_20201116_220000_Lou_Dobbs_Tonight/start/504/

information and substantial documentation cited in the “SETTING THE RECORD STRAIGHT” emails that Dominion had sent to Dobbs’s producers and which, upon information and belief, his producers shared with him—that accusation is demonstrably false. Yet despite the fact that Dobbs and Fox at a minimum recklessly disregarded the fact—and indeed knew—that these outlandish accusations were false, Fox not only published those claims to its live audience, it chose to republish them on its websites and social media accounts, including Dobbs’s Twitter feed, after the live broadcast had run.⁹¹

80. On November 17, 2020, the Republican chairman of the Maricopa County Board of Supervisors reported that in Arizona, there was no evidence of voter fraud, “the evidence overwhelmingly shows” the results were accurate, and the Dominion equipment “met mandatory requirements during logic and accuracy testing before the Presidential Preference Election, the Primary Election and the General Election.” The Chairman also stated that “after each of these 2020 elections, ***the hand count audit showed the machines generated an accurate count.***”⁹²

[end/564](#); Lou Dobbs, *Sidney Powell*, Facebook (Nov. 16, 2020), <https://www.facebook.com/115777632950/videos/1625726320970976>; Lou Dobbs (@LouDobbs), Twitter (Nov. 16, 2020, 5:45 pm), <https://twitter.com/LouDobbs/status/1328469195550576645> (Ex. 8).

⁹¹ *Id.*

⁹² 12 News, *Republican Maricopa County Chairman Says ‘No Evidence of Fraud or Misconduct’ in Presidential Election*, Fox 61 (Nov. 17, 2020), <https://www.fox61.com/article/news/politics/elections/maricopa-county-chairman->

81. Also on November 17, *The Wall Street Journal* reported that “Dominion Voting Systems Corp., a little-known voting-machine supplier that has come under criticism from President Trump, was a linchpin in the 2020 election that federal and state officials praise as being free from tampering.”⁹³ The article continued: “A phalanx of federal agencies, state officials across the country overseeing elections and voting-equipment vendors said last week that ‘there’s no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.’”⁹⁴

82. The Editorial Board for *The Wall Street Journal* also published a piece that same day that refuted false claims about Dominion and stated, “there’s no good evidence of voting problems that would come close to” calling into question Biden’s

[says-no-evidence-of-fraud-or-misconduct-in-presidential-election/75-6aba1803-850a-460f-8f86-b185a41f4708](https://www.wsj.com/articles/says-no-evidence-of-fraud-or-misconduct-in-presidential-election/75-6aba1803-850a-460f-8f86-b185a41f4708); Letter from Clint Hickman to Maricopa County Voters (Nov. 17, 2020), <https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters>.

⁹³ Alexa Corse, *Voting Machine Supplier Criticized by Trump in Spotlight on Election Integrity*, *Wall Street Journal* (Nov. 17, 2020), https://www.wsj.com/articles/voting-machine-supplier-criticized-by-trump-in-spotlight-on-election-integrity-11605624361?mod=searchresults_pos17&page=2.

⁹⁴ *Id.*

leads in the swing states.⁹⁵ Dominion sent a link to that article to Bartiromo, Hannity, and 60 other Fox producers, anchors, and content managers.⁹⁶

83. *The Wall Street Journal* is owned by News Corp., where Rupert Murdoch is the Executive Chairman and Lachlan Murdoch is the Co-Chairman. Both Murdochs would have seen both the editorial and the article in the *Wall Street Journal* on November 17—especially on such a high-profile and sensitive subject that was the talk of the Fox media empire. Yet even though they are in charge of Fox, they intentionally disregarded the facts in their own newspaper and did nothing to stop Fox’s dissemination of lies about Dominion.

84. On November 19, 2020, Georgia completed its **100% hand audit recount of all the ballots** cast in Georgia in the 2020 election. Following that statewide 100% hand audit recount, Georgia’s Republican Secretary of State Brad Raffensperger reported that “Georgia’s historic first statewide audit reaffirmed that

⁹⁵ The Editorial Board, *Rage Against the Voting Machine*, *The Wall Street Journal* (Nov. 17, 2020), <https://www.wsj.com/articles/rage-against-the-voting-machine-11605656036>.

⁹⁶ “WSJ Editorial Board Debunks Dominion Rumors” Email (Nov. 17, 2020) (Ex. 5).

the state's new secure paper ballot voting system accurately counted and reported results."⁹⁷ As a result of the 100% hand audit, Fox called Georgia for Biden.⁹⁸

85. Intentionally disregarding the explanations of CISA and election security experts, as well as the fact that Arizona's audit and Georgia's hand recount of paper ballots had confirmed the accuracy of the vote tallies by Dominion machines—all of which were communicated directly to Hannity, Hannity's producers, and Dobbs's producers—Dobbs and Hannity again brought Giuliani and Powell on the Fox airwaves to falsely claim again that Dominion had rigged the election by changing votes in its machines.⁹⁹ Dobbs even previewed and endorsed

⁹⁷ Georgia Secretary of State, *Historic First Statewide Audit of Paper Ballots Upholds Result of Presidential Race*, https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race#:~:text=2020%20Qualifying%20Packet-.Historic%20First%20Statewide%20Audit%20of%20Paper%20Ballots%20Upholds%20Result%20of,machine%20tally%20of%20votes%20cast.

⁹⁸ Digital Team, *Fox News, AP Calls Georgia for Biden as State Finalized Hand Recount Audit*, Fox 5 (Nov. 19, 2020), <https://www.fox5atlanta.com/news/ap-calls-georgia-for-biden-as-state-finalized-hand-recount-audit>.

⁹⁹ Lou Dobbs Tonight, Fox Business (Nov. 16, 2020), https://archive.org/details/FBC_20201116_220000_Lou_Dobbs_Tonight/start/504/end/564; Lou Dobbs, *Sidney Powell*, Facebook (Nov. 16, 2020), <https://www.facebook.com/115777632950/videos/1625726320970976>; Lou Dobbs (@LouDobbs), Twitter (Nov. 16, 2020, 5:45 pm), <https://twitter.com/LouDobbs/status/1328469195550576645> (Ex. 8); *Trump's Legal Team Still in Evidence Collection Process or Election Challenges*, Fox Business (Nov. 19, 2020), <https://video.foxbusiness.com/v/6211050624001#sp=show-clips>; Lou Dobbs, *Sidney Powell*, Facebook (Nov. 19, 2020), <https://www.facebook.com/watch/?v=880692419336775>; Lou Dobbs (@LouDobbs), Twitter (Nov. 19, 2020, 5:32 pm),

why Powell was coming back on the show: to “provid[e] more details on how Dominion voting machines and Smartmatic software were used to help Joe Biden.”

**November 20-21, 2020:
Dominion Demands That Fox Retract Its False Statements,
But Fox Refuses and Doubles Down**

86. On November 20, 2020, Dominion sent a retraction demand letter to Fox.¹⁰⁰ In that letter, Dominion once again put Fox on formal written notice of facts—which Fox already knew from some of its own reporters, Dominion’s “SETTING THE RECORD STRAIGHT” emails, and documents in the public domain—that demonstrated that the claims Fox had been broadcasting, publishing, rebroadcasting, and republishing about Dominion were false, including:

- Dominion’s voting systems are designed and certified by the federal government, and all of its vote tallies are 100% auditable.¹⁰¹
- Election officials in Arizona released a letter explaining that “The evidence overwhelmingly shows the system used in Maricopa County is accurate and provided voters with a reliable election ... The Dominion tabulation met mandatory requirements during logic and accuracy testing ... [a]nd

<https://twitter.com/LouDobbs/status/1329553227046588417>; Lou Dobbs (@LouDobbs), Twitter (Nov. 19, 2020, 4:55 pm), <https://twitter.com/LouDobbs/status/1329543810867671044>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 19, 2020), <https://www.instagram.com/p/CHyLMiTBGIs/> (Ex 10); *Hannity*, Fox News (Nov. 19, 2020), https://archive.org/details/FOXNEWSW_20201120_020000_Hannity/start/1680/end/1740.

¹⁰⁰ Letter from Dominion to Fox News General Counsel Lily Claffee (Nov. 20, 2020) (Ex. 11) (“Dominion’s First Retraction Demand Letter”).

¹⁰¹ SETTING THE RECORD STRAIGHT: FACTS & RUMORS emails (Ex. 5).

- after [the] 2020 elections, the hand count audit showed the machines generated an accurate count.”¹⁰²
- On November 9, 2020, the Michigan Secretary of State had declared that the errors in Antrim County, Michigan were the result of user error, and she explained further that Dominion’s “equipment and software did not malfunction and all ballots were properly tabulated.”¹⁰³
 - Dominion is an American company with no ties to Venezuela. Dominion is not owned by Smartmatic nor does it have any financial or collaborative relationship with Smartmatic, and in fact, Smartmatic had filed two separate lawsuits against Dominion more than 10 years ago.¹⁰⁴
 - Votes are counted and reported by municipal, county and state election officials—not by Dominion or any other election technology company. Dominion equipment is used by municipal, county and state officials to tabulate ballots. All vote tallies are 100% auditable. Dominion’s voting systems are designed and certified by the U.S. government to be closed and do not rely on network connectivity.¹⁰⁵
 - Dominion’s source code is subject to review by independent third-party labs that test for, among other things, accuracy and security as part of the federal and state certification process.¹⁰⁶

¹⁰² Letter from Clint Hickman to Maricopa County Voters (Nov. 17, 2020), <https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters>.

¹⁰³ Michigan Secretary of State Jocelyn Benson, *False Claims from Ronna McDaniel Have No Merit* (Nov. 6, 2020), <https://www.michigan.gov/sos/0,4670,7-127-93094-544676--,00.html>.

¹⁰⁴ Dominion’s First Retraction Demand Letter (Ex. 11); Ali Swenson, *Smartmatic Does Not Own Dominion Voting Systems*, Associated Press (Nov. 17, 2020), <https://apnews.com/article/fact-checking-afs:Content:9740535009>.

¹⁰⁵ Dominion’s First Retraction Demand Letter; Jude Joffe-Block, *False Reports Claim Election Servers Were Seized in Germany*, Associated Press (Nov. 15, 2020), <https://apnews.com/article/fact-checking-9754011363>.

¹⁰⁶ See, e.g., *How the U.S. Election Assistance Commission Facilitates Fair and Secure Elections*, EAC, <https://www.eac.gov/news/2020/12/03/how-us-election-assistance-commission-facilitates-fair-and-secure-elections/> (“Before voting

- No software updates were made on the eve of the 2020 presidential election.
- Georgia Republican Secretary of State Brad Raffensperger declared that “Georgia’s historic first statewide audit reaffirmed that the state’s new secure paper ballot voting system accurately counted and reported results.”¹⁰⁷
- Congresswoman Carolyn Maloney’s 2006 letter on election integrity made no reference whatsoever to Dominion.¹⁰⁸

87. Fox received but never responded to Dominion’s November 20, 2020

letter.

machines and election management systems are used in elections, the systems undergo rigorous hardware and software testing by laboratories accredited by the EAC and the National Institutes of Standards and Technology (NIST). The testing encompasses security, accuracy, functionality, accessibility, usability, and privacy based on requirements in the EAC’s Voluntary Voting System Guidelines (VVSG)’’); *Frequently Asked Questions*, EAC, <https://www.eac.gov/voting-equipment/frequently-asked-questions> (“the test labs will examine the source code to ensure compliance with the voluntary voting system guidelines’’); *Testing & Certification Program Manual, Version 2.0*, EAC (May 31, 2015), https://www.eac.gov/sites/default/files/eac_assets/1/28/Cert%20Manual%207%208%2015%20FINAL.pdf (the VSTL [Voting System Test Laboratory] must complete the source code review of the software delivered from the manufacturer for compliance with the VVSG [Voluntary Voting System Guidelines]’’).

¹⁰⁷ Dominion’s First Retraction Demand Letter; Georgia Secretary of State, *Historic First Statewide Audit of Paper Ballots Upholds Result of Presidential Race* (Nov. 19, 2020), https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race.

¹⁰⁸ Letter from Congresswoman Maloney to Henry M. Paulson (Oct. 6, 2006), Complaint at Ex. 24, *Pearson v. Kemp*, No. 1:20-cv-04809 (N.D. Ga. Nov. 25, 2020) [Dkt. 1-24].

88. That same day, Rupert Murdoch's *The Wall Street Journal* once again stated that the accusations against Dominion were false and that the Georgia recount had confirmed the accuracy of Dominion's machines.¹⁰⁹

89. On November 21, 2020, the day after Fox received Dominion's letter, Fox went right back on the attack against Dominion, with Pirro repeating and amplifying Giuliani's never-made-in-litigation claims that Dominion was an "organized criminal enterprise" "started in Venezuela with Cuban money" that could and did "flip[] votes" "with the assistance of Smartmatic software," thus creating the "stunning" ballot "dump[s]" in the early morning of November 4 that "fill[ed] in" votes for Biden. In order to drive home the lies about Dominion, Pirro rhetorically asked, "why was there an overnight popping of the vote tabulation that cannot be explained for Biden?"¹¹⁰

90. In addition to the facts outlined in Dominion's "SETTING THE RECORD STRAIGHT" emails that had been sent directly to over 90 producers and other content managers at Fox (including Bartiromo, Hannity, Carlson, and

¹⁰⁹ The Editorial Board, *Georgia Certifies: Donald Trump Lost*, Wall Street Journal (Nov. 20, 2020), <https://www.wsj.com/articles/georgia-certifies-donald-trump-lost-11605915757?page=2>.

¹¹⁰ Jeanine Pirro, *Opening Statement*, Facebook (Nov. 21, 2020), <https://www.facebook.com/judgejeaninepirro/videos/3424348634350374>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 21, 2020, 9:15 pm), <https://twitter.com/JudgeJeanine/status/1330333931028115456>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 21, 2020, 9:16pm), <https://twitter.com/JudgeJeanine/status/1330334182732484611> (Ex. 3).

producers and content managers for Fox's programs hosted by Bartiromo, Pirro, Dobbs, Hannity, and Carlson) and Dominion's November 20 retraction demand letter, Fox and Pirro knew—from Pirro's own pre-election reporting—the answer to her intentionally misleading rhetorical question: the later-counted mail-in ballots leaned heavily for Biden because Pirro, other Fox personalities, and President Trump himself had disparaged mail-in voting and encouraged Republicans to vote in person on Election Day instead.¹¹¹ Fox and Pirro also knew, as a former assistant district attorney and judge, that the fact that Giuliani was not willing to make those claims about Dominion in any of his election cases cast serious doubt on whether he actually believed them—and strongly indicated that they were baseless. Yet rather than fairly reporting on the Trump Campaign's litigation by reporting what was *actually* alleged—and not alleged—in those cases, Fox and Pirro intentionally and deliberately hid the stark disparity between what Giuliani was saying in court and what he was saying on Fox. Fox and Pirro deliberately concealed that disparity to avoid undermining the false preconceived narrative that they were endorsing.

¹¹¹ *Jeanine Pirro details issues with voting by mail*, Fox News (Apr. 21, 2020), <https://video.foxnews.com/v/6151133455001#sp=show-clips>.

November 22-26, 2020

***Prominent Republicans and the Trump Campaign Disavow Sidney Powell,
Calling Her Evidence-Less Accusations a “National Embarrassment,”
Yet Fox Continues to Peddle Her Lies About Dominion***

91. On November 22, 2020, on ABC News’s *This Week*, Trump ally Chris Christie gave an interview in which he called out Powell and Giuliani and stated that “If you’ve got the evidence of fraud, present it. ... The conduct of the President’s legal team has been a national embarrassment. ... If you’re unwilling to come forward and present the evidence, it must mean the evidence doesn’t exist.”¹¹²

92. Around that time, Republican senators called the White House, warning that Powell seemed “unhinged” and that the Trump Campaign should distance itself from her.¹¹³

93. On November 22, 2020, the Trump Campaign itself disavowed Powell by issuing the following statement: “Sidney Powell is practicing law on her own.

¹¹² Paul Kane & Felicia Sonmez, *Chris Christie Calls the Conduct of Trump’s Legal Team a ‘National Embarrassment,’* Wash. Post (Nov. 22, 2020), https://www.washingtonpost.com/politics/republicans-christie-trump-concede/2020/11/22/05c280e6-2cda-11eb-bae0-50bb17126614_story.html.

¹¹³ Aaron C. Davis, Josh Dawsey, Emma Brown & Jon Swaine, *For Trump Advocate Sidney Powell, A Playbook Steeped in Conspiracy Theories*, Wash. Post (Nov. 28, 2020), https://www.washingtonpost.com/investigations/sidney-powell-trump-kraken-lawsuit/2020/11/28/344d0b12-2e78-11eb-96c2-aac3f162215d_story.html.

She is not a member of the Trump Legal Team. She is also not a lawyer for the President in his personal capacity.”¹¹⁴

94. On November 24, Dominion sent an email to more than 90 Fox reporters, producers, and anchors, including Bartiromo, Hannity, Carlson, and producers and other content managers for *Lou Dobbs Tonight*, *Sunday Morning Futures*, *Mornings with Maria*, *Justice w/ Judge Jeanine*, *Hannity*, and *Tucker Carlson Tonight*. The email outlined statements—with links—made by conservative leaders over the last 24 hours debunking the false claims about Dominion: former DHS Deputy Assistant Secretary under George W. Bush, Paul Rosenzweig; former Assistant United States Attorney for the Southern District of New York under Rudy Giuliani, Andrew McCarthy; and Republican Ohio Senator and co-chair of Trump’s Ohio campaign, Rob Portman.¹¹⁵

95. Intentionally disregarding the explanations of CISA, election security experts, independent audits and hand recounts of paper ballots, publicly available documents about Dominion’s origins, and Dominion’s emails and letter putting Fox on specific written notice of the facts—and despite the fact that prominent Republicans and the Trump Campaign itself had publicly disavowed Powell—on

¹¹⁴ Maggie Haberman & Alan Feuer, *Trump Team Disavows Lawyer Who Peddled Conspiracy Theories on Voting*, N.Y. Times (Nov. 22, 2020), <https://www.nytimes.com/2020/11/22/us/politics/sidney-powell-trump.html>.

¹¹⁵ November 24, 2020 Email, Conservative leaders’ comments on election fraud (Ex. 5).

November 24 and 25, 2020, Fox again hosted Powell and Giuliani on its most-watched shows, where its on-air talent endorsed their false claims that Dominion had been created in Venezuela to rig elections for Hugo Chávez, and had rigged the 2020 U.S. election with vote-changing software.¹¹⁶

96. On November 26, 2020, Dominion sent another email to more than 90 Fox reporters, producers, anchors, hosts, and content managers with the same sets of facts from the earlier “SETTING THE RECORD STRAIGHT” emails, as well as additional specific facts debunking claims that Dominion had rigged the election in Pennsylvania, including that Dominion serves only 14 of Pennsylvania’s 67 counties, that Trump exceeded his 2016 vote percentage in 11 of those 14 counties, that Trump won 12 of those 14 counties, and that “*Dominion doesn’t operate in Philadelphia County, Allegheny County, or other highly contested districts.*”¹¹⁷

¹¹⁶ Lou Dobbs Tonight, Fox Business (Nov. 24, 2020), https://archive.org/details/FBC_20201124_220000_Lou_Dobbs_Tonight/start/1080/end/1140; Lou Dobbs (@LouDobbs), Twitter (Nov. 24, 2020, 5:37 pm), <https://twitter.com/LouDobbs/status/1331366325629968386>; Lou Dobbs, Sidney Powell Breaking News, Facebook (Nov. 24, 2020), <https://www.facebook.com/115777632950/videos/381418186402867>; Lou Dobbs Tonight (@loudobbs tonight), Instagram (Nov. 24, 2020), https://www.instagram.com/p/CH_ZbqTBHSE/ (Ex. 13); Lou Dobbs (@LouDobbs), Twitter (Nov. 25, 2020, 6:17 pm), <https://twitter.com/loudobbs/status/1331738732228173825>.

¹¹⁷ November 26, 2020 Email, FACT SHEET: Dominion Voting Systems in Pennsylvania (Ex. 5).

**November 29-30, 2020:
Fox's Strategy Pays Off Big Time**

97. Fox's pandering to the baseless narrative that Dominion rigged the election paid off big time. Its victim, however, was Dominion, not to mention the truth. On November 29, 2020, after almost an entire month of endorsing and promoting the lie that Dominion had stolen the election from President Trump, President Trump—who just weeks before had lambasted Fox for accurately reporting that he lost the election—agreed to appear for an exclusive interview on *Sunday Morning Futures with Maria Bartiromo*, his first interview since he lost the election.

98. Bartiromo's November 29, 2020 show—in which she endorsed the lie that Dominion rigged the election, calling it “disgusting” and “corrupt[]”—was a blockbuster: It was the #1 cable news show that day. On Twitter, Fox, through the @MariaBartiromo account, promoted the show and tagged @realdonaldtrump, sending out the tweet to Trump's more than 88 million followers.¹¹⁸

99. At the same time, on November 29 and November 30, 2020, Dominion sent fact sheets to more than 90 Fox reporters, producers, content managers, hosts, and anchors, including Hannity and his producers. The fact sheets included external

¹¹⁸ Maria Bartiromo (@MariaBartiromo), Twitter (Dec. 2, 2020, 11:28 am), <https://twitter.com/MariaBartiromo/status/1334172646003650560>.

links to independent websites disproving claims that Dominion had rigged the election in Arizona and Michigan.¹¹⁹

100. On November 30, 2020, the day after President Trump appeared on Bartiromo's show, Fox hosted Powell on its flagship *Hannity* program. As Fox expected, intended, and foresaw, Powell repeated her falsehoods, falsely stating that Dominion machines "ran an algorithm that shaved off votes from Trump and awarded them to Biden. And they used the machines to trash large batches of votes that should have been awarded to President Trump. And they used the machines to inject and add massive quantities of votes for Mr. Biden."¹²⁰ *Hannity* did not correct Powell or notify his millions of viewers that he and his show's producers had seen direct evidence disproving those false claims.

101. Meanwhile, Fox continued beating the drum via Dobbs, who that same day explained: "We have, across almost every state, whether it's Dominion, whatever the company – voting machine company is, no one knows their ownership, has no idea what's going on in those servers, has no understanding of the software,

¹¹⁹ November 29, 2020 Email, FACT SHEET: Dominion Voting Systems in Arizona (Ex. 5); November 30, 2020 Email, FACT SHEET: Dominion Voting Systems in Michigan (Ex. 5).

¹²⁰ *Hannity*, Fox News (Nov. 30, 2020), https://archive.org/details/FOXNEWSW_20201201_020000_Hannity/start/1939/end/1999 (Ex. 14).

because it's 'proprietary.' It is the most ludicrous, irresponsible, and rancid system imaginable in the world's only superpower."¹²¹

Early December 2020:

President Trump's Allies Continue to Publicly Acknowledge That No Evidence of Voting Machine Fraud Has Been Produced by Powell or Anyone Else, But Fox Continues Promoting Lies About Dominion

102. On December 1, 2020, Trump appointee and then-U.S. Attorney General Bill Barr stated: "There's been one assertion that would be systemic fraud and that would be the claim that machines were programmed essentially to skew the election results. And the DHS and DOJ have looked into that, and so far, we haven't seen anything to substantiate that."¹²²

103. Meanwhile, Dominion sent another fact sheet—this time specifically debunking claims that Dominion rigged the election in Georgia—to more than 90 Fox reporters, producers, content managers, hosts, and anchors; the fact sheet detailed the independent audits, hand recounts, and other measures taken by

¹²¹ Lou Dobbs, *Sidney Powell*, Facebook (Nov. 30, 2020), <https://www.facebook.com/watch/?v=830918901055891>; Lou Dobbs (@LouDobbs), Twitter (Nov. 30, 2020, 6:03 pm), <https://twitter.com/LouDobbs/status/1333547266032984064>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 30, 2020), <https://www.instagram.com/p/CIO6-KVBKb8/> (Ex. 15).

¹²² Michael Balsamo, *Disputing Trump, Barr Says No Widespread Election Fraud*, Associated Press (Dec. 1, 2020), <https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

Georgia's Republican administration that had verified that Dominion had accurately tabulated votes in Georgia's 2020 election.¹²³

104. Nevertheless, for more than a week after that, Fox continued to deliberately provide Powell and Giuliani a platform on Fox to tell lies about Dominion. Far from challenging those (now repeatedly and affirmatively debunked) lies, Fox continued to endorse them.¹²⁴

¹²³ December 3, 2020 Email, FACT SHEET: Dominion Voting Systems in Georgia (Ex. 5).

¹²⁴ See Lou Dobbs, *Sidney Powell*, Facebook (Nov. 30, 2020), <https://www.facebook.com/watch/?v=830918901055891>; Lou Dobbs (@LouDobbs), Twitter (Nov. 30, 2020, 6:03 pm), <https://twitter.com/LouDobbs/status/1333547266032984064>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 30, 2020), <https://www.instagram.com/p/CIO6-KVBKb8/> (Ex. 15); Maria Bartiromo (@MariaBartiromo), Twitter (Dec. 2, 2020, 10:30 am), <https://twitter.com/MariaBartiromo/status/1334158033107251200>; Jeanine Pirro (@JudgeJeanine), Twitter (Dec. 5, 2020, 7:46 pm), <https://twitter.com/JudgeJeanine/status/1335385208137322496> (full show available at <https://www.dailymotion.com/video/x7xwv8j>); Maria Bartiromo (@MariaBartiromo), Twitter (Dec. 6, 2020, 12:15 pm), <https://twitter.com/MariaBartiromo/status/1335633879894548487>; *Giuliani Says Invalid Ballots in Wisconsin Would Overturn Election if Overturned*, Fox News, (Dec. 6, 2020), https://video.foxnews.com/v/6214493209001/?playlist_id=3386055101001#sp=show-clips; Lou Dobbs (@LouDobbs), Twitter (Dec. 7, 2020, 6:02 pm), <https://twitter.com/LouDobbs/status/1336083595354656771>; Maria Bartiromo (@MariaBartiromo) Twitter, (Dec. 13, 2020, 12:51 pm), <https://twitter.com/MariaBartiromo/status/1338179815942262784/>; *Gen. Michael Flynn on Trump Legal Team's Election Challenges*, Fox News (Dec. 13, 2020), https://video.foxnews.com/v/6215990609001?playlist_id=3386055101001#sp=show-clips.

105. And throughout this timeframe, Fox continued pushing a fraud narrative that was now inextricably linked to Dominion through Fox's prior false statements. One analysis found, for example, that "[i]n the two-week period after Fox News declared Joe Biden the president-elect, the network questioned the results of the election or pushed conspiracy theories about it at least 774 times."¹²⁵ Fox had already linked Dominion with the false claims of fraud and as a key part of the fictitious story that the election was "rigged." As Fox itself reported during this mid-December timeframe, "Seventy percent of Republicans think the election was rigged because of voter fraud."¹²⁶

106. The next day, Fox scheduled Powell to appear on *Lou Dobbs Tonight*. Dobbs provided Powell with a powerful platform to continue to peddle the false claims that Fox knew had been conclusively disproven and rejected by election security experts, President Trump's appointees, prominent Republicans, and government officials.

107. At 4:56 p.m. on December 10, 2020, Fox, through the @LouDobbs account, tweeted a promotion for the December 10 *Lou Dobbs Tonight* show later

¹²⁵ Tyler Monroe, Rob Savillo & Lis Power, *Fox News has cast doubt on or pushed conspiracy theories about the election results nearly 600 times*, Media Matters for America (Nov. 18, 2020), <https://www.mediamatters.org/fox-news/fox-news-has-cast-doubt-or-pushed-conspiracy-theories-about-election-results-nearly-600>.

¹²⁶ *The Next Revolution with Steve Hamilton*, Fox News (Dec. 14, 2020), https://archive.org/details/FOXNEWSW_20201214_050000_The_Next_Revolution_With_Steve_Hilton/start/60/end/120.

that evening. The tweet stated, “The 2020 Election is a cyber Pearl Harbor. The leftwing establishment have aligned their forces to overthrow the United States government #MAGA #AmericaFirst #Dobbs.”

108. Embedded in the tweet was a two-page type-written document that said:

We have a warning to the mainstream media: you have purposely sided with the *forces that are trying to overthrow the US system*. These four people and their collaborators *executed an electoral 9-11 against the United States*, with the cooperation and collusion of the media and the Democrat Party and China. *It is a cyber Pearl Harbor*. We have identified, roles, and background of *Dominion*. Smartmatic people. This will turn into a massive RICO filing. It is Smartmatic, *Dominion Voting Systems*, Sequoia, SGO. ... *We have technical presentations that prove there is an embedded controller in every Dominion machine*. ... We have the architecture and systems, that show how the machines can be *controlled from external sources, via the internet*, in violation of voting standards, Federal law, state laws, and contracts.¹²⁷

¹²⁷ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 4:56 pm), <https://twitter.com/LouDobbs/status/1337154346795012098> (Ex. 16).



Lou Dobbs ✓
@LouDobbs

The 2020 Election is a cyber Pearl Harbor:

The leftwing establishment have aligned their forces to overthrow the United States government #MAGA #AmericaFirst #Dobbs

People need to get familiar with four names:

Two political leaders

Jorge Rodriguez – he's the Communications Minister of Venezuela, and he's been the Cubans' main representative in Venezuela since the days of Chavez. He goes on TV down there daily to mock us. We have evidence that he has been the political leader of the election-stealing project, the "CEO" of it.

Khalil Majid Mazoub – He is a Venezuelan of Lebanese origin, who is the right hand and business front man of Jorge Rodriguez. He has been the effective "COO" of the election project, under Chavez and Maduro. Khalil is a liaison with Hezbollah.

Two technical experts

Gustavo Reyes Zumeta – he is an American born Venezuelan, who came up with the idea, and designed and created the programs. He also worked as the founder and consultant, in addition to other business ventures.

Antonio Mujica – CEO of Smartmatic. He is the face of the company now.

We now have contracts, program details, incriminating information and history.

We have a warning to the mainstream media: you have purposely sided with the forces that are trying to overthrow the US system. These four people and their collaborators executed an electoral 9-11 against the United States, with the cooperation and collusion of the media and the Democrat Party and China. It is a cyber Pearl Harbor.

We have identities, roles, and background of Dominion, Smartmatic people. This will turn into a massive RICO filing. It is Smartmatic, Dominion Voting Systems, Sequoia, SGO. If you come forward now to cooperate with law enforcement, you will be better off.

Cuba and Venezuela aligned with George Soros, the Chinese Communist Party, the Democrat party, and the American media against the will of the people of the US.

We have evidence linking all these companies together in legal documents, ownership structures, and sales of the companies. We already uncovered a Chinese investment of \$400,000,000 into Dominion, just 4 weeks before the election.

We now have corporate documents, the names of shareholders and amount of stock they own, their schedules and calendars, their messages to and from one another.

We have technical presentations that prove there is an embedded controller in every Dominion machine, that allows an election supervisor to move votes from one candidate to another. You've seen the video out of Georgia that's been on Twitter the last two days, with a woman demonstrating that capability.

We have the architecture and systems, that show how the machines can be controlled from external sources, via the internet, in violation of voting standards. Federal law, state laws, and contracts.

We have proof that a current county election supervisor is a former senior executive of Dominion Voting Systems. This is a county that had significant voting anomalies in the 2020 election. The implications of that for law enforcement actions are clear.

4:56 PM · Dec 10, 2020 · Twitter for iPhone

6,002 Retweets 1,260 Quote Tweets 16.8K Likes



109. The document tweeted out from the official *Lou Dobbs Tonight* Twitter account had no markings on it beyond the typewritten statements accusing Dominion of perpetrating an “electoral 9-11” and “cyber Pearl Harbor” on the United States to steal the election from President Trump. And the document had no indication of having originated from any source other than Fox and Dobbs themselves.

110. Just over two hours after Fox tweeted this two-page diatribe falsely accusing Dominion of cyber terrorism, Fox aired the advertised segment in which Dobbs, aided by Powell, directly promoted the false accusations tweeted out before the show. Dobbs leadingly asked Powell how Dominion rigged the election and how Dominion engaged in a “coordinated effort to actually bring down this President by ending his second term before it could begin”—embedding and publishing in his question the false “fact” that Dominion had engaged in a “coordinated effort to actually bring down this President by ending his second term before it could begin.” Dobbs concluded the segment by falsely claiming that “we have tremendous evidence already” to support Fox’s and Powell’s lies about Dominion—even though he knew there was none—and by inviting Powell “to put forward on this broadcast whatever evidence you have.” Powell promised to get Dobbs that “stunning”

evidence that same night.¹²⁸ Of course, Powell never provided any evidence because no such evidence exists.

111. Less than a week later, on December 16, 2020, Bartiromo announced on her show, *Mornings with Maria*, that she was told by an “intel source” that “President Trump did in fact win the election.” Fox and Bartiromo provided no details about this supposed “intel source” nor the basis for the absurd claim, which she knew had already been disproven by hand recounts of paper ballots and rebutted by Trump appointees, election security experts, and bipartisan and nonpartisan election officials.¹²⁹

***Late December 2020:
Dominion Sends A Second Retraction Demand Letter to Fox
After Fox Fails to Retract Its False Claims About Dominion***

112. From December 18-20, 2020, Fox aired a three-minute pre-recorded statement on its shows hosted by Dobbs, Bartiromo, and Pirro: the statement

¹²⁸ *Sidney Powell raises questions about security of voting machines*, Fox Business (Dec. 10, 2020), <https://video.foxbusiness.com/v/6215520845001/#sp=show-clips>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:51 pm), <https://twitter.com/LouDobbs/status/1337168084541575171>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:52 pm), <https://twitter.com/LouDobbs/status/1337168397398921217>; Lou Dobbs, *Sidney Powell*, Facebook (Dec. 10, 2020), <https://www.facebook.com/watch/?v=681543625896199>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo0kAqB6Bq/>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo02XjhDIM/> (Ex. 1).

¹²⁹ Mike Sington (@MikeSington), Twitter (Dec. 16, 2020, 2:09 pm), <https://twitter.com/MikeSington/status/1339286624278986752>.

purported to (but did not actually) walk back some of the claims they had made about Dominion's *competitor*, Smartmatic, and featured a guest saying that it was *his* understanding that Dominion and Smartmatic are two separate companies. In plain contrast to its reporting on the lies about Dominion, Fox's on-air talent did not embrace their guest's statements as their own, nor did the guest's statements retract any of the lies Fox had been endorsing and broadcasting about Dominion for the last month and a half, notwithstanding the overwhelming evidence and sources that Fox's statements about Dominion were false.

113. Having received no response to its November 20 retraction demand letter, on December 22, Dominion sent a second retraction demand letter to Fox that again detailed facts and evidence in the public domain demonstrating the falsity of Fox's claims about Dominion. That letter again explained facts and evidence demonstrating that—and why—the people (including Powell and Giuliani) peddling the lies were entirely unreliable sources.¹³⁰ With that letter, Dominion referenced the publicly available and widely disseminated retraction demand letter that it had sent to Powell on December 16, which detailed additional facts and evidence debunking her lies and proving that Powell lied about having specific evidence that did not exist.

¹³⁰ Letter from Dominion to Fox News General Counsel Lily Claffee (Dec. 22, 2020) (Ex. 23) ("Dominion's Second Retraction Demand Letter").

114. Almost two months after he had begun promoting the falsehood that Dominion had stolen the election, Dobbs made an astonishing admission: despite his best efforts to make the facts conform to his preconceived narrative, he had not been able to find any evidence to support the lies that he had relentlessly promoted and was continuing to promote. On January 4, 2021, Lou Dobbs stated, “we’re 8 weeks from the election and *we still don’t have verifiable tangible support* for the crimes that everyone knows were committed. That is, defrauding other citizens who voted with fraudulent votes ... *we have had a devil of a time finding actual proof.*”¹³¹ Despite knowing that there was no proof, Dobbs then concluded his segment by saying “the fact of the matter is that this President is looking at the prospect of having this election stolen from him.”¹³²

***Fox Knows That Dominion Machines Did Not Flip Votes,
As Evidenced by the Fact That It Does Not Make That Claim
When Republicans Win Elections***

115. As further evidence that Fox knew that Dominion machines do not flip votes, Fox only endorsed that claim when it supported the narrative that the election had been stolen from President Trump. By contrast, when a Republican won an election where votes were counted using Dominion machines, including the

¹³¹ Lou Dobbs Tonight, Fox Business (Jan. 4, 2021), https://archive.org/details/FBC_20210104_220000_Lou_Dobbs_Tonight; Matt Wilstein (@mattwilstein), Twitter (Jan. 4, 2021, 7:00 pm), <https://twitter.com/mattwilstein/status/1346245027932979200>.

¹³² *Id.*

numerous down-ballot races at issue in the 2020 Election, Fox took the opposite approach.

116. For example: after a Republican won the race for New York's 22nd Congressional District, the Democrat challenged the results and asked questions about the Dominion machines that had been used in the race.¹³³ Fox covered the race extensively. Indeed, Fox had the Republican candidate on its programs at least four different times to complain about the Democrat's challenge of the results.¹³⁴ Not a single Fox show or host—including Bartiromo, who interviewed the Republican candidate on February 4, 2021—ever endorsed, promoted, agreed with, or even suggested the potential that the Dominion machine tabulations were incorrect or that Dominion machines had some malicious vote-flipping “algorithm” or had been hacked in the race that the Republican had won.

117. In fact, on February 4, the Republican candidate told Bartiromo that the Democrat's protest about Dominion's machines working improperly was “frivolous” and a “desperate measure.” Instead of responding that Dominion machines flipped votes to rig elections (an assertion Bartiromo had repeatedly made and endorsed when the losing candidate had been President Trump), Bartiromo

¹³³ *Mornings with Maria*, Fox Business (Feb. 4, 2021), https://archive.org/details/FBC_20210204_110000_Mornings_With_Maria_Bartiromo/start/2858/end/2918.

¹³⁴ *Id.*

applauded the Republican's efforts "fighting" back against the Democrat's protest. On February 6, the Republican candidate was declared the winner and Fox applauded her victory. That coverage similarly contained no mention of Dominion or its voting machines.¹³⁵

The Lies About Dominion Go Viral

118. Fox did not just broadcast its false and defamatory statements about Dominion on the air on its Fox News and Fox Business channels. It also, as a matter of practice, posted and republished its broadcasts across its multiple platforms via its Fox News Digital enterprise—which is comprised of the fox.com, foxnews.com, and foxbusiness.com websites, its social media accounts, the Fox Nation subscription service, and its mobile apps.

119. In 2020, Fox had over **80 million subscribers** to its Fox News and Fox Business channels in the United States, and an average daily audience of over **3.5 million** for just its Fox News Channel.¹³⁶ And for November 2020 alone, Fox also boasted that Fox News had over **2.7 billion views**, visitors to their platforms

¹³⁵ Roman Chiarello, *NY Rep.-Elect Claudia Tenney Reacts to Win in Final Disputed House Race*, Fox News (Feb. 6, 2021), <https://www.foxnews.com/politics/new-york-claudia-tenney-win-disputed-house-race>.

¹³⁶ Mark Joyella, *'Hannity' Has Highest-Rated Quarter Ever As Fox News Makes TV History In 3Q Ratings*, Forbes (Sept. 29, 2020), <https://www.forbes.com/sites/markjoyella/2020/09/29/hannity-has-highest-rated-quarter-in-history-as-fox-news-beats-broadcast-networks-a-tv-first/?sh=39447fd1f93>.

viewed content for over **5 billion minutes**, and the platforms had over **134 million unique visitors**.¹³⁷ Indeed, “[l]ifted by its election and post-election coverage,” Fox declared that it had turned the ship around, achieving its “**highest month in history**” in terms of both multiplatform views and multiplatform minutes, and that it continued to reach “200 million people each month” through its Fox News Media distribution channels.¹³⁸

120. Trump’s November 29, 2020 appearance on *Sunday Morning Futures* was broadcast live to 2.35 million Fox viewers¹³⁹ and later republished by Fox across Twitter and Fox’s websites and digital platforms.¹⁴⁰ Similarly, the @LouDobbs December 10 tweets and *Lou Dobbs Tonight* episode—including the two-page typewritten memorandum accusing Dominion of a “cyber Pearl Harbor” and rigging the 2020 election—was republished by Fox to the over 2 million Twitter followers of @LouDobbs and on Fox’s digital platforms.¹⁴¹ And Fox, through the

¹³⁷ *Fox News Digital Scores Best November in Its History*, Business Wire (Dec. 22, 2020), <https://www.businesswire.com/news/home/20201222005476/en/FOX-News-Digital-Scores-Best-November-in-Its-History>.

¹³⁸ *Id.*

¹³⁹ RoadMN (@RoadMN), Twitter (Dec. 2, 2020, 11:23 am), <https://twitter.com/RoadMN/status/1334171330808262657/photo/1>.

¹⁴⁰ *President Trump Joins ‘Sunday Morning Futures,’* Fox News (Nov. 29, 2020), <https://video.foxnews.com/v/6212917383001#sp=show-clips>.

¹⁴¹ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 4:56 pm), <https://twitter.com/LouDobbs/status/1337154346795012098> (Ex. 16); *Sidney Powell raises questions about security of voting machines*, Fox Business (Dec. 10, 2020), <https://video.foxbusiness.com/v/6215520845001/#sp=show->

@LouDobbs and @MariaBartiromo Twitter accounts, routinely tagged Trump in tweets with Fox's broadcasts, ensuring that Trump's more than 88 million followers viewed them.¹⁴²

121. After Fox had broadcast defamatory falsehoods into millions of homes and posted those falsehoods on its websites and social media accounts, the lies went viral as people tweeted, retweeted, and raged that Dominion had stolen their votes. And that was completely foreseeable to—and intended by—Fox.

122. While the “mainstream media” and prominent Trump appointees and allies like Bill Barr, Chris Krebs, Ben Hovland, Brad Raffensperger, Brian Kemp, Chris Christie, and others knew and publicly confirmed that the concerted

[clips](https://twitter.com/LouDobbs/status/1337168084541575171); Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:51 pm), <https://twitter.com/LouDobbs/status/1337168084541575171>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:52 pm), <https://twitter.com/LouDobbs/status/1337168397398921217>; Lou Dobbs, *Sidney Powell*, Facebook (Dec. 10, 2020), <https://www.facebook.com/watch/?v=681543625896199>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo0kAqB6Bq/>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo02XjhD1M/> (Ex. 1).

¹⁴² See, e.g., Maria Bartiromo (@MariaBartiromo), Twitter (Dec. 2, 2020, 11:28 am), <https://twitter.com/MariaBartiromo/status/1334172646003650560>; Lou Dobbs, *Sidney Powell*, Facebook (Nov. 30, 2020), <https://www.facebook.com/watch/?v=830918901055891>; Lou Dobbs (@LouDobbs), Twitter (Nov. 30, 2020, 6:03 pm), <https://twitter.com/LouDobbs/status/1333547266032984064>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 30, 2020), <https://www.instagram.com/p/CIO6-KVBKb8/> (Ex. 15).

disinformation campaign was just that, Fox—the dominant voice in conservative media—relentlessly continued its attacks on the integrity of Dominion and the 2020 election. These lies, spread on Fox’s unparalleled platform, deceived millions of people. In the days after Fox first broadcast the false claim that an algorithm in Dominion machines had flipped votes away from Trump, 81% of Trump voters believed that fraud had influenced the election outcome.¹⁴³

123. While little lies that flare up on social media often die with the next news cycle, the lies about Dominion were different. Pushed relentlessly, the lies about Dominion became a rallying cry to try to overturn the election. The harm to Dominion from the lies told by Fox is unprecedented and irreparable because of how fervently millions of people believed them—and continue to believe them—as a result of Fox’s publication, republication, and promotion of those lies.

124. These lies did not simply harm Dominion. They harmed democracy. They harmed the idea of credible elections. They harmed a once-unshakeable faith in democratic and peaceful transfers of power. They harmed the foundational idea, as stated in the Declaration of Independence, that our country derives its “just powers” from “the consent of the governed.” This lawsuit is about accountability.

¹⁴³ Candice Jaimungal, *Three-Quarters of Voters Think Fraud Occurred During the Election*, YouGov (Nov. 12, 2020), <https://today.yougov.com/topics/politics/articles-reports/2020/11/12/voters-think-fraud-occurred-during-election> (poll available at <https://docs.cdn.yougov.com/9j7sr0my95/econTabReport.pdf>).

125. Indeed, some Fox viewers believed the lies about Dominion with such devotion that they took the fight from social media to the United States Capitol and at rallies across the country to #StopTheSteal, inflicting violence, terror, and death along the way. One of the intruders—Eric Gavelek Munchel—made his way to the Senate chamber clad in military-style clothing and holding the type of zip ties that can be used as handcuffs in hostage situations.



126. Munchel had previously posted a photograph of himself with a shotgun, an American flag, and the Fox Business Channel on his television in the background. Fox Business had repeatedly broadcast the lie that Dominion had stolen the election.



127. Dominion itself was featured at these rallies:¹⁴⁴

¹⁴⁴ Jim Mimiaga & Anthony Nicotera, *Montezuma County Patriots rally in Cortez to condemn election results*, The Durango Herald (Jan. 6, 2021), <https://durangoherald.com/articles/359582>.



128. Fox's promotion and endorsement of these lies about Dominion led its viewers to conclude that these baseless and false conspiracy theories were true. Fox fanned the flames, and did not care what else burned down in the process as it spread these malicious falsehoods about Dominion.

While the Country Suffered, Fox Benefitted

129. While the lies about Dominion were bad for America and Dominion, they were fantastic for Fox. To highlight just a few examples:

130. After Fox's Jeanine Pirro promoted the lie that Trump had actually won the election, her ex-husband received an eleventh-hour pardon from soon-to-be-former-President Trump.¹⁴⁵

131. In the month following the election, as Lou Dobbs repeatedly promoted and endorsed the falsehoods about Dominion, his ratings shot up almost 27%.¹⁴⁶

132. During that same period, *Sunday Morning Futures with Maria Bartiromo* became the #1 cable news program on Sundays and *Mornings with Maria* saw ratings increase 23%.¹⁴⁷ And two weeks after the storming of the Capitol, Fox announced that Maria Bartiromo was being given the opportunity to replace Martha MacCallum and anchor Fox's coveted 7:00 p.m. weekday primetime slot.¹⁴⁸

¹⁴⁵ Dan Mangan, *Trump Issues Last-Second Pardon to Fox News Host Jeanine Pirro's Tax Cheat Ex-Husband Al*, CNBC (Jan. 20, 2021), <https://www.cnbc.com/2021/01/20/trump-pardons-judge-jeanines-ex-husband-al-pirro.html>.

¹⁴⁶ See *Lou Dobbs Tonight Ratings, Cable Rankings*, <https://ctv.kwayisi.org/networks/fbn/lou-dobbs-tonight/>.

¹⁴⁷ See Maria Bartiromo (@MariaBartiromo), Twitter (Dec. 2, 2020, 11:28 am), <https://twitter.com/MariaBartiromo/status/1334172646003650560>; *Mornings with Maria Ratings, Cable Rankings*, <https://ctv.kwayisi.org/networks/fbn/mornings-with-maria/>.

¹⁴⁸ Jeremy Barr, *At Fox News, A Post-Election Shake-Up Brings More Opinion at the Expense of News*, Wash. Post (Jan. 18, 2021), <https://www.washingtonpost.com/media/2021/01/18/fox-news-shakeup-news-opinion/>.

133. After nearly a month of Fox relentlessly promoting lies about Dominion, Fox Corporation's stock had rebounded to its pre-election value.¹⁴⁹ Fox Corporation's Chief Financial Officer stated on December 8 that Fox's "ratings momentum has been extraordinary. It is feeding absolutely into advertising strength, and so we would expect to have a record advertising year at Fox News."¹⁵⁰ On March 4, 2021, Lachlan Murdoch, the Executive Chairman and Chief Executive Officer of Fox Corporation, stated that "the margins in our businesses, particularly obviously in Fox News" are "industry-leading."¹⁵¹ Fox has re-established itself as the dominant media source within its territory.

134. In February 2021, Fox News's CEO Suzanne Scott was rewarded with a multi-year contract extension.¹⁵² Even Lou Dobbs, whose show was pulled in the days after Smartmatic filed its own lawsuit, remains under contract with full salary. Fox has denied any connection between the termination of his show and his repeated lies about Dominion. Fox remains unrepentant for its behavior.

¹⁴⁹ Fox Corp., Business Insider, <https://markets.businessinsider.com/stocks/foxa-stock>.

¹⁵⁰ Transcript of Steve Tomsic at 2, Fox Corp (Dec. 8, 2020), <https://investor.foxcorporation.com/static-files/ae329369-a122-44e8-96a8-2344f064d422>.

¹⁵¹ Transcript of Lachlan Murdoch at Fox Corp.'s 'Investor Day' at 2, Fox Corp. (Mar. 4, 2021), <https://investor.foxcorporation.com/static-files/96a7dbad-e517-4bb7-af38-aeb1e83d2a20>.

¹⁵² Dade Hayes, Fox News Media CEO Suzanne Scott Signs Multi-Year Contract Extension, Deadline (Feb. 9, 2021), <https://deadline.com/2021/02/fox-news-suzanne-scott-renews-contract-1234690236/>.

135. As Fox rewarded those who promulgated the lies, it punished those who told the facts. In January 2021, Fox fired the editor who made the decision to call Arizona for Biden, and the Washington bureau chief who oversaw the Arizona call resigned.

***Fox's Tucker Carlson Joins the Chorus By
Knowingly Broadcasting Falsehoods About Dominion
In Exchange for Ad Dollars***

136. Early on, Fox's Tucker Carlson had recognized that his colleagues were peddling a damaging lie. Shortly after Election Day, while his colleagues were hosting Sidney Powell and Rudy Giuliani and endorsing their false claims of fraud by Dominion, Carlson acknowledged that "false claims of fraud can be every bit as destructive as the fraud itself" and that there was not enough fraud "to alter the election results. We should be honest and tell you that."¹⁵³ Over a week later, Carlson publicly called out Powell for failing to produce any evidence to support her claims about Dominion.¹⁵⁴

137. Powell, of course, never produced the evidence Carlson had demanded, and neither did anyone else. Instead, as Fox, Carlson, and Fox's other television hosts and personalities were well aware in the weeks following the election, the

¹⁵³ Tucker Carlson (@TuckerCarlson), Twitter (Nov. 9, 2020, 9:10pm), <https://twitter.com/TuckerCarlson/status/1325984111434096642>.

¹⁵⁴ Tucker Carlson, *Time for Sidney Powell to Show Us Her Evidence*, Fox News (Nov. 19, 2020), <https://www.foxnews.com/opinion/tucker-carlson-rudy-giuliani-sidney-powell-election-fraud>.

opposite happened: independent audits and hand recounts of paper ballots conclusively disproved the claim that the vote tallies in Dominion machines had been manipulated, and the lies about Dominion were rejected by Trump appointees, election security experts, local election officials, and courts.

138. Despite the evidence, one of Fox's biggest sponsors—MyPillow CEO Mike Lindell—began relentlessly promoting lies about Dominion at Trump rallies, on rival networks, and on social media. On January 26, 2021, he was banned from Twitter for doing so.¹⁵⁵

139. Fox and Carlson are no fools: they knew that interviewing Lindell about his Twitter ban would prompt Lindell to repeat the lies about Dominion to explain why he had been banned in the first place. But Fox and Carlson also knew that MyPillow was Carlson's biggest sponsor, had generated millions of dollars of ad revenue for Fox, and, if denied a platform for his lies, could decide to stop sponsoring Fox, cutting off millions of dollars in revenue.

140. So, on January 26, 2021, Fox and Tucker Carlson knowingly broadcast the Dominion falsehoods to millions of viewers by inviting Lindell on *Tucker Carlson Tonight* to discuss his Twitter ban. With a fawning introduction and

¹⁵⁵ Brakkton Booker, *My Pillow CEO Mike Lindell Permanently Suspended From Twitter*, NPR (Jan. 26, 2021), <https://www.npr.org/2021/01/26/960679189/my-pillow-ceo-mike-lindell-permanently-suspended-from-twitter>.

credulous coverage, Carlson endorsed Lindell's lie that he "found" the "machine fraud" and "ha[s] all the evidence"—which, of course, Lindell did not produce on the show because no such evidence exists.¹⁵⁶ In stark contrast to how Carlson had responded to Powell's failure to produce evidence, Carlson gave his biggest sponsor an unchallenged platform to spout his lies, did not demand any evidence, and did not point out to viewers that Lindell had not produced the "evidence" he claimed to have. In addition, Lindell falsely claimed that Dominion had "hired hit groups, bots and trolls" to "cancel" him. Carlson—without asking for any evidence for that false claim or otherwise fact-checking it—unquestioningly accepted and endorsed his biggest sponsor's lies as Fox broadcast them to millions of viewers.

Fox Corporation's Direct Involvement in the Defamatory Scheme

141. Fox News is "the profit center of Rupert Murdoch's American media empire."¹⁵⁷ Indeed, in Fox Corporation's most recent financial statement, Fox's cable network programming was responsible for *all* of Fox Corporation's profits—and then some. In the last three months of 2020, the "segment" Earnings Before Interest, Taxes, Depreciation, and Amortization ("EBITDA") for Fox's cable

¹⁵⁶ Tucker Carlson Tonight (@tuckercarlsonstontnight), Instagram (Jan. 26, 2021), <https://www.instagram.com/p/CKh8s1FBKMA/> (Ex. 17).

¹⁵⁷ Rachel Abrams & Michael M. Grynbaum, *Fox News Fires a Key Player in Its Election Night Coverage*, N.Y. Times (Jan. 19, 2021), <https://www.nytimes.com/2021/01/19/business/media/fox-news-chris-stirewalt-trump.html>.

network programming was \$571 million. The rest of Fox Corporation lost \$266 million for a total EBITDA of \$305 million across the entire corporation.¹⁵⁸

142. The Murdoch family plays a central and public role in the management and oversight of Fox News. In addition to Lachlan Murdoch's role as CEO, Rupert Murdoch is the Chairman of Fox Corporation.¹⁵⁹ Both Lachlan and Rupert Murdoch, as Fox Corporation executives, are listed as part of the "Fox News Executive Staff."¹⁶⁰

143. On December 8, 2020, after a month of promulgating the lie that Dominion rigged the election, Fox Corporation Chief Financial Officer Steve Tomsic stated that "Fox News specifically has had a great run."¹⁶¹ Indeed, Tomsic acknowledged that Fox Corporation has set up additional revenue streams through

¹⁵⁸ *Fox Reports Second Quarter Fiscal 2021 Net Income of \$230 Million, Earnings Per Share of \$.37, Revenues of \$4.09 billion, an increase of 8% at 2, Fox Corp.* (Feb. 9, 2021), <https://investor.foxcorporation.com/static-files/129c48a1-e762-4cc4-9fc3-c06f2b40c511>.

¹⁵⁹ *Id.*

¹⁶⁰ *Corporate Information*, Fox News (last visited Mar. 19, 2021), <http://press.foxnews.com/>.

¹⁶¹ *Transcript of Steve Tomsic*, Fox Corp (Dec. 8, 2020), <https://investor.foxcorporation.com/static-files/ae329369-a122-44e8-96a8-2344f064d422>.

Fox Nation and elsewhere “to super-serve the Fox News dedicated fans,” and has identified this “super-fan” group as “a much bigger opportunity” for the company.¹⁶²

144. President Trump’s support of Fox has been central to Fox maintaining its dominance. Rupert Murdoch allied himself with President Trump early in Trump’s 2016 campaign, despite holding President Trump in relatively low esteem.¹⁶³ Reports surfaced that President Trump’s son-in-law and White House adviser Jared Kushner helped broker a peace between Murdoch and Trump during Trump’s 2016 campaign.¹⁶⁴ President Trump began chatting with Murdoch by phone,¹⁶⁵ as often as daily¹⁶⁶—calls which continued into Trump’s presidency.¹⁶⁷ The

¹⁶² Transcript of Steve Tomsic Presentation to Deutsche Bank at 12, Fox Corp. (Mar. 9, 2021), <https://investor.foxcorporation.com/static-files/18d5cced-6c68-413e-8d46-f5c7f3232d67>.

¹⁶³ David Folkenflik, *With Trump’s Loss, Murdoch’s Fox News Faces Wrath And Tough Choices*, NPR (Nov. 7, 2020), <https://www.npr.org/2020/11/07/932203022/as-trumps-chances-fade-murdoch-s-fox-news-faces-wrath-and-tough-choices>.

¹⁶⁴ Tom Kludt, *Frenemies with benefits: A brief history of the Trump-Murdoch relationship*, CNN Business (Jan. 17, 2020), <https://money.cnn.com/2018/01/17/media/rupert-murdoch-donald-trump/index.html>.

¹⁶⁵ *Id.*

¹⁶⁶ Jane Mayer, *The Making of the Fox News White House*, The New Yorker (Nov. 3, 2019), <https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house>.

¹⁶⁷ Tom Kludt, *Frenemies with benefits: A brief history of the Trump-Murdoch relationship*, CNN Business (Jan. 17, 2020), <https://money.cnn.com/2018/01/17/media/rupert-murdoch-donald-trump/index.html>.

relationship between President Trump and Fox was mutually beneficial. Trump received support from a network with a huge following among his base. And Fox received the support of the President of the United States—“something [Murdoch] had been after for years as well.”¹⁶⁸ Murdoch obtained “direct access to the person at the very top of the pyramid. ... The person in the Oval Office.”¹⁶⁹

145. During Trump’s presidency, Murdoch relied on this direct access to the President to obtain favorable business outcomes for his media empire, including Fox News and Fox Business. For example, in June 2018, after only six months of deliberation, the Trump Administration approved Fox’s bid to sell most of its entertainment assets to Disney for seventy-one billion dollars.¹⁷⁰ Murdoch reportedly had a hand in Trump’s nominee to lead the FCC as well.¹⁷¹ As Murdoch himself put it, “it’s useful to have a friend who’s the President, particularly if there

¹⁶⁸ *Id.*

¹⁶⁹ Tom Kludt, *Frenemies with benefits: A brief history of the Trump-Murdoch relationship*, CNN Business (Jan. 17, 2020), <https://money.cnn.com/2018/01/17/media/rupert-murdoch-donald-trump/index.html>.

¹⁷⁰ Jane Mayer, *The Making of the Fox News White House*, The New Yorker (Nov. 3, 2019), <https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house>.

¹⁷¹ Tom Kludt, *Frenemies with benefits: A brief history of the Trump-Murdoch relationship*, CNN Business (Jan. 17, 2020), <https://money.cnn.com/2018/01/17/media/rupert-murdoch-donald-trump/index.html>.

are close regulatory calls, and a President who is untroubled by the rules and norms in that regard.”¹⁷²

146. In exchange for President Trump’s ear and his public support of Fox, Murdoch offered the support of his media outlets and on-air personalities. “Fox Corp.’s most-high-profile division is Fox News, which is in a symbiotic relationship with the president of the United States.”¹⁷³ Over the course of Trump’s presidency, Fox and the Murdoch family remained among President Trump’s strongest sources of support.¹⁷⁴ Murdoch also honored President Trump’s requests regarding the programming on Fox. For example, Ann Coulter complained to President Trump during his presidency that Fox was no longer inviting her to appear on air. President

¹⁷² Jane Mayer, *The Making of the Fox News White House*, The New Yorker (Nov. 3, 2019), <https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house>.

¹⁷³ Sarah Ellison, *Lachlan Murdoch takes control o Fox Corp. But how will he deal with President Trump?*, Wash. Post (Mar. 20, 2021), https://www.washingtonpost.com/lifestyle/style/lachlan-murdoch-takes-control-of-fox-corp-but-how-will-he-deal-with-president-trump/2019/03/20/abbb43d6-40ee-11e9-a0d3-1210e58a94cf_story.html.

¹⁷⁴ David Folkenflik, *With Trump’s Loss, Murdoch’s Fox News Faces Wrath And Tough Choices*, NPR (Nov. 7, 2020), <https://www.npr.org/2020/11/07/932203022/as-trumps-chances-fade-murdoch-s-fox-news-faces-wrath-and-tough-choices>.

Trump asked, “Do you want me to call Murdoch and tell him to put you on?” Coulter was reportedly invited to reappear on Fox “within twelve hours.”¹⁷⁵

147. Given this history, it is not surprising that although Rupert Murdoch did not believe President Trump’s election fraud claims, he nevertheless encouraged on-air personalities to perpetuate these baseless claims.¹⁷⁶ Fox Corp. Executive Chairman and CEO Lachlan Murdoch acknowledged that “our audience was disappointed with the election results.”¹⁷⁷ And when Fox ratings dipped after the election, Rupert Murdoch stepped in “to call the shots directly,” according to a number of reports.¹⁷⁸

148. The Murdochs and Fox have perpetuated these false claims of election fraud despite multiple reports that the Murdochs themselves do not believe the

¹⁷⁵ Jane Mayer, *The Making of the Fox News White House*, *The New Yorker* (Nov. 3, 2019), <https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house>.

¹⁷⁶ Peter Kafka, *Fox News’s election fraud pandering may be its most dangerous lie yet*, *Vox* (Nov. 13, 2020), <https://www.vox.com/recode/21563312/fox-news-trump-election-fraud-murdoch-hannity-carlson-ingraham>.

¹⁷⁷ *Transcript of Lachlan Murdoch at Fox Corp.’s ‘Investor Day’* at 4-5, Fox Corp. (Mar. 4, 2021), <https://investor.foxcorporation.com/static-files/96a7dbad-e517-4bb7-af38-aeb1e83d2a20>.

¹⁷⁸ Margaret Sullivan, *Fox News is a hazard to our democracy. It’s time to take the fight to the Murdochs. Here’s how.*, *Wash. Post* (Jan. 24, 2021), https://www.washingtonpost.com/lifestyle/media/fox-news-is-a-hazard-to-our-democracy-its-time-to-take-the-fight-to-the-murdochs-heres-how/2021/01/22/1821f186-5cbe-11eb-b8bd-ee36b1cd18bf_story.html.

claims.¹⁷⁹ Nevertheless, Fox continued to broadcast those lies to tens of millions of viewers.

Dominion Has Suffered Enormous Harm

149. Fox's own Tucker Carlson acknowledged that the accusations made on Fox against Dominion amount to ***"the single greatest crime in American history."***¹⁸⁰

150. As a result of the false accusations broadcast by Fox into millions of American homes, Dominion has suffered unprecedented harm and its employees' lives have been put in danger.

151. After watching Fox broadcasts, countless Twitter users believed and began spreading Fox's defamatory falsehoods about Dominion across social media.

152. For example, one person tweeted:

They didn't vote for Biden that was voter fraud and it's the subject of Hand recounts, Vote audit, lawsuits and that may be countrywide. On Maria Bartiromo show this morning Dominion is being exposed to having ties to dark money from Venezuela and Cuba."¹⁸¹

¹⁷⁹ Peter Kafka, *Fox News's election fraud pandering may be its most dangerous lie yet*, Vox (Nov. 13, 2020), <https://www.vox.com/recode/21563312/fox-news-trump-election-fraud-murdoch-hannity-carlson-ingraham>.

¹⁸⁰ Tucker Carlson, *Time for Sidney Powell to Show Us Her Evidence*, Fox News (Nov. 19, 2020), <https://www.foxnews.com/opinion/tucker-carlson-rudy-giuliani-sidney-powell-election-fraud>.

¹⁸¹ Cesibear (@cesibear1), Twitter (Nov. 13, 2020, 9:18 am), <https://twitter.com/cesibear1/status/1327254572725907457>.



153. Another person wrote to California Congressman Devin Nunes and stated:

Our voting machines are owned by Canada The Dominion company has a parent company called Softmatic, developers are from Venezuela. ... This is a TOTAL STOLEN ELECTION. SOURCE: Rudy Giuliani on Lou Dobbs.¹⁸²



¹⁸² Kim Melody (@u2cldknow), Twitter (Nov. 13, 2020, 8:54 pm), <https://twitter.com/u2cldknow/status/1327429703414607874>.

154. After watching Fox's *Justice w/ Judge Jeanine* on November 14, 2020, which peddled defamatory statements about Dominion, one person tweeted:

GOP DEALS IN FACTS ... AND JUDGE PIRRO IS SUCH EMBODIMENT OF INTEGRITY ... devilocrats and lucifers msm and dominion voter fraud will not see the light of day in TRUMP'S WHITE HOUSE.¹⁸³



155. Following Fox's Trump interview on Bartiromo's show, one person wrote:

#SCOTUS must RULE! Maria Bartiromo

@realDonaldTrump over 74MILLION Voted for

¹⁸³ Clive Lion (@CliveLion), Twitter (Nov. 16, 2020, 11:12 am), <https://twitter.com/CliveLion/status/1328370411806056449>.

#TRUMP WE'RE the VICTIMS! MASSIVE #ElectionFraud
#Voterfraud #Dominion swing states w/ #Trump Winning-
UNCONSTITUTIONALLY coordinated HAULT
Refused2REPORT vote COUNT in FEDERAL ELECTION to
#StealTheVotes¹⁸⁴



156. Another Twitter user quoted Fox's November 30 episode of *Lou Dobbs*

Tonight:

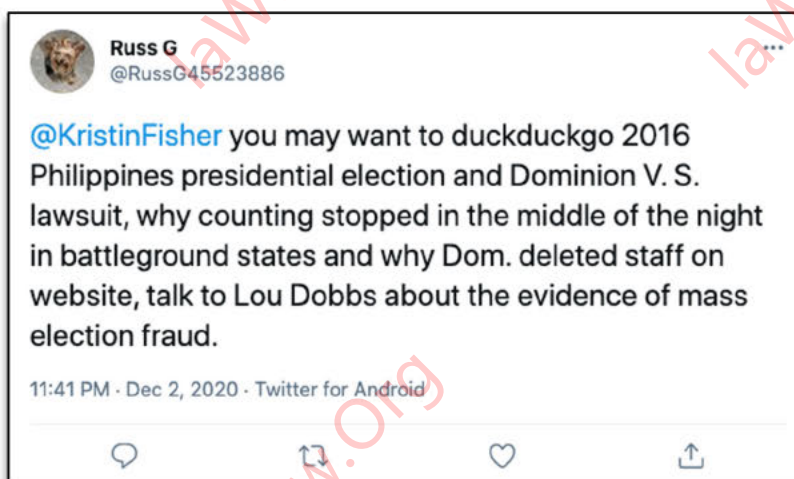
Obvious fraud corrupt election, eye witnesses, computer science experts, tech experts testifying about corrupt dominion voting machines and smartmatic software, a 12th grader can see what's going on, the only thing transparent about this election is the fraud, to quote Lou Dobbs.¹⁸⁵

¹⁸⁴ Irish Girl (@twiggyoh), Twitter (Nov. 29, 2020, 11:04 am), <https://twitter.com/twiggyoh/status/1333079323444654081>.

¹⁸⁵ Denise (@denise4re), Twitter (Nov. 30, 2020, 10:34 am), <https://twitter.com/denise4re/status/1333615466988802050>.



157. Another person tweeted to Fox correspondent Kristin Fisher that she should “talk to Lou Dobbs about the evidence of mass election fraud.”¹⁸⁶

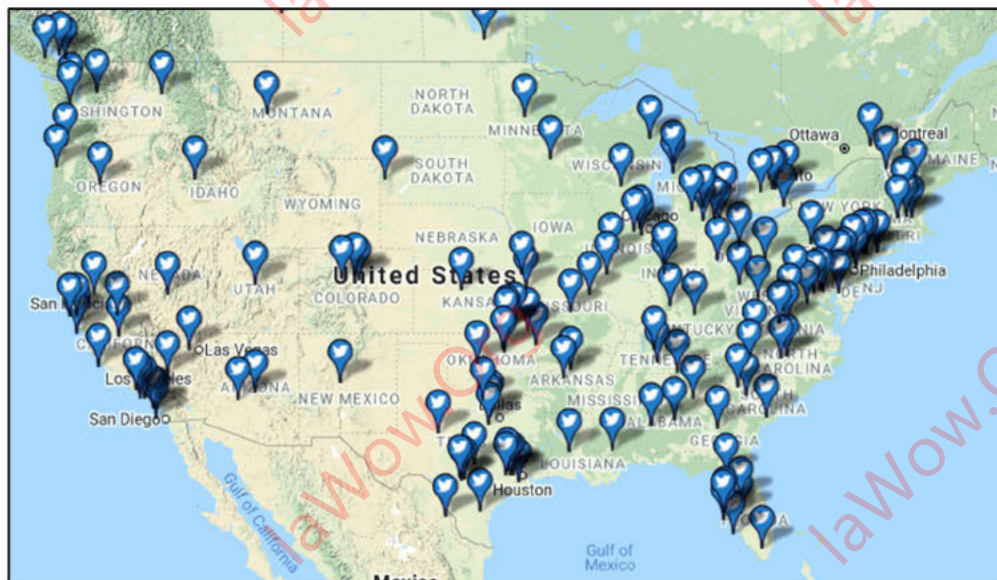


158. Over a *three-hour period* on December 21, 2020, the terms “dominion” and “fraud” were tweeted out together by more than **2,200** users with over **8.75 million** total followers.

¹⁸⁶ Russ G. (@RussG45523886), Twitter (Dec. 2, 2020, 11:41 pm), <https://twitter.com/RussG45523886/status/1334357036713250817>.



159. Those over 2,200 Twitter users were located across the United States and in 17 countries around the world.



160. Dominion continues to be inextricably connected to fraud on the most important platform of all: the internet. For example, in January 2021, Google searches for “dominion voting fraud” yielded over 8.4 million results; 1.9 million results for “dominion manipulate vote”; and over 18.9 million results for “who

manufactures dominion voting machines.” And even in late March 2021—almost six months after the November 2020 election—a Google search for “boycott dominion fraud” yields over 3.2 million results.

161. As a result of Fox’s viral disinformation campaign against Dominion, the company and its employees have been targeted and have received death threats and calls for jail time.

162. For example, one person posted, “Why isn’t every single Dominion employee in jail for their election fraud?!!!!!!!!!!”¹⁸⁷



163. Another person posted, “jail dominion find them...ask allies to track them down.”¹⁸⁸

¹⁸⁷ Woody James (@WoodsonTJames), Twitter (Dec. 9, 2020, 12:35 pm), *previously available at* <https://twitter.com/WoodsonTJames/status/1336726130771038208>.

¹⁸⁸ Lionslovestrump (@leonkhanin1234), Twitter (Dec. 8, 2020, 9:26 pm), <https://twitter.com/leonkhanin1234/status/1336497514598555650>.



164. One Dominion employee received text messages stating “*we are already watching you. Come clean and you will live.*”

165. One person left the following message on Dominion’s customer support line:

You’re all fucking dead, You’re all fucking dead. We’re bringing back the firing squad and you fuckers are all dead, everybody involved up against the wall you motherfuckers. We’re gonna have a fucking lottery to fucking give people a chance to shoot you motherfuckers you fucking wait you cocksuckers you commie pieces of shit. We’re going to fucking kill you all you motherfuckers. After a fair trial of course you pieces of shit. The American people are fucking coming for you this is the end of your fucking line guys your fucking days are numbered you better enjoy your Thanksgiving because you’ll never see another one you fucking cocksuckers. You will be gone soon. Happy Thanksgiving. Cock suckers. You’re almost done just watch and see what happens. Check out the executive order from September 12, 2018. You’ll see what’s going to happen. You’ll own nothing. You’ll be on the fucking 2030 plan because you’ll own nothing you fucking cocksuckers. It’s coming. Buckle your fucking seatbelts. Watch what’s going to happen next.

166. Another person sent a Dominion employee an email with the subject line, “***Time is up***” and with the message, “***You have 24 hours....***”

167. And another person left the following message on Dominion’s main office line:

Yeah, good afternoon. Fuck you, fucking scumbags.
We’re gonna blow your fucking building up. Piece of fucking shit.

168. Because of these threats and numerous others, Dominion has made significant expenditures to protect its people from harm—including by employing on-site police and security. Since the beginning of the viral disinformation campaign, Dominion has spent more than \$600,000 on private security for the protection of its people.

169. As a direct result of the viral disinformation campaign, Dominion has been forced to make significant expenditures in an attempt to mitigate the harm to its business. To date, Dominion has incurred expenses of more than \$700,000 to that end.

170. Dominion is a for-profit company that provides local election officials with tools they can use to run elections. It generates revenue by selling voting technology, licensing software, and providing related services to elected officials from both political parties. It contracts with state and local governments to provide its voting systems, software licenses, and services in a majority of states across the

country. Those contracts are typically multi-year contracts and range from tens of thousands of dollars to over a hundred million dollars, depending on the jurisdiction and scope of the contract. Given the nature of the U.S. election system and the voting services industry, Dominion's contracts have historically been long-term with high renewal rates. As a direct result of the disinformation campaign, Dominion has suffered enormous and irreparable economic harm.

171. As illustrated in the examples above, the disinformation campaign unfairly subjected Dominion to the hatred, contempt, and distrust of tens of millions of American voters. The elected officials who are Dominion's actual and potential customers have received emails, letters, and calls from their constituents demanding that they cease and avoid contracting with Dominion or using Dominion machines.

172. Dominion has suffered harm nationwide. For example, since the beginning of the disinformation campaign against Dominion, state legislators in various states in which Dominion has contracts—including Arizona, California, Colorado, Florida, Michigan, Ohio and Pennsylvania—have stated their intent to review and reassess those contracts. They have done so because of pressure from constituents and donors as a direct result of the lies peddled by Fox.

173. Louisiana recently cancelled its reassessment and bid process, essentially prohibiting Dominion from securing a new \$100-million-plus contract

with the state.¹⁸⁹ Louisiana’s Republican Secretary of State, Kyle Ardoin, attributed the cancellation to “the damage to voter confidence done by those who willfully spread misinformation and disinformation.”¹⁹⁰

174. On March 10, 2021, as a result of the disinformation campaign, Dominion lost a \$10 million contract in Stark County, Ohio.¹⁹¹ The contract had already been awarded to Dominion, had been fully negotiated, and was awaiting signing pending approval of the Board of Commissioners, which is perfunctory. However, as a result of the lies about Dominion peddled, published, and republished by Fox, the Board delayed its vote and then reversed course and has attempted to award the contract to Dominion’s competitor, ES&S.¹⁹²

¹⁸⁹ *Louisiana Ends Search for New Voting Machines Amid Criticism*, KATC 3 (Mar. 3, 2021), <https://www.katc.com/news/covering-louisiana/louisiana-ends-search-for-new-voting-machines-amid-criticism>.

¹⁹⁰ *Id.*

¹⁹¹ *Ohio County Rejects Dominion Voting Systems After Trump Supporters Balk*, NPR (Mar. 11, 2021), <https://www.npr.org/2021/03/11/975935129/ohio-county-rejects-dominion-voting-systems-after-trump-supporters-balk>.

¹⁹² *See Stark County No Longer Buying \$6.45 Million in Equipment From Dominion Voting Systems After Being Hounded by Trump Supporters* (Mar. 11, 2021), <https://www.clevescene.com/scene-and-heard/archives/2021/03/11/stark-county-no-longer-buying-645-million-in-equipment-from-dominion-voting-systems-after-being-hounded-by-trump-supporters>.

175. Dominion has now become part of the political narrative. Indeed, political candidates are running campaign platforms based on the falsities that Fox published and republished.¹⁹³

176. As a result of the radioactive falsehoods spread by Fox, elected officials, insurers, and potential investors have been deterred from dealing with Dominion, putting Dominion's contracts in more than two dozen states and hundreds of counties and municipalities at risk and significantly hampering Dominion's ability to win new contracts.

177. Based on Dominion's historic financial track record, contract pipeline, retention and renewal rates, and new business capture rates, as well as the nature, severity, pervasiveness, and permanence of the viral disinformation campaign, updated current projections show lost profits of over \$600 million over the next eight years. In addition, the viral disinformation campaign has irreparably damaged Dominion and destroyed the enterprise value of a business that was worth potentially more than \$1 billion (based on updated EBITDA and multipliers of comparable companies) before the viral disinformation campaign.

¹⁹³ Austin Chenge (@AustinChenge), Twitter (Feb. 2, 2021, 11:21 am), <https://twitter.com/AustinChenge/status/1356638816921128962/photo/1>.

COUNT ONE – DEFAMATION PER SE

178. Dominion repeats and re-alleges Paragraphs 1-177 as if set forth fully herein.

179. Fox published the following false and defamatory statements of fact about Dominion, including by and through Fox's own agents making the statements themselves; by intentionally providing a platform for guests to appear on Fox programming who Fox and its hosts knew would make such statements on the air and by affirming, endorsing, repeating, and agreeing with the statements of guests on their shows; and by republishing the statements on the air, Fox's websites, Fox's social media accounts, and Fox's other digital platforms and subscription services after the live broadcasts had aired:

- (a) On the November 8, 2020 broadcast of *Sunday Morning Futures*, which Fox broadcast live on television and satellite radio from New York on the Fox News Channel, rebroadcast on the Fox News Channel, and republished on fox.com, foxnews.com, and Fox Nation, Fox made, endorsed, and adopted the following false statements:

Powell: Yes. There has been a massive and coordinated effort to steal this election from We the People of the United States of America, to delegitimize and destroy votes for Donald Trump, to manufacture votes for Joe Biden. ... they ... used an algorithm to calculate the votes they would need to flip and they used computers to flip those votes ... from Trump to Biden ...

Bartiromo: Sidney, I want to ask you about these algorithms and the Dominion software.

...

Bartiromo: Sidney, we talked about the Dominion software. I know that there were voting irregularities. Tell me about that.

Powell: That's putting it mildly. The computer glitches could not and should not have happened at all. That is where the fraud took place, where they were flipping votes in the computer system or adding votes that did not exist. We need an audit of all of the computer systems that played any role in this fraud whatsoever. ... They had the algorithms ... That's when they had to stop the vote count and go in and replace votes for Biden and take away Trump votes.

Bartiromo: I've never seen voting machines stop in the middle of an election, stop down and assess the situation.¹⁹⁴

- (b) On the November 12, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the Twitter account @loudobbs, the "Lou Dobbs" Facebook account, the Instagram account @loudobbs tonight, Fox made, endorsed, and adopted the following false statements:

Dobbs: Let's talk about, just for a moment, an update on Dominion ...

Giuliani: Dominion is a company that's owned by another company called Smartmatic, through an intermediary company called Indra. Smartmatic is a company that was formed ... by three Venezuelans who were very close to, very close to the dictator, Chávez of Venezuela and it was formed in order to fix elections. That's the company that owns Dominion. ... [A]ll of its software is Smartmatic software ... So we're using a ... company that is owned

¹⁹⁴ *Sunday Morning Futures with Maria Bartiromo*, Fox News (Nov. 8, 2020), https://archive.org/details/FOXNEWSW_20201108_150000_Sunday_Morning_Futures_With_Maria_Bartiromo/start/2501/end/2561; Maria Bartiromo (@MariaBartiromo), Twitter (Nov. 8, 2020, 2:13 pm), <https://twitter.com/MariaBartiromo/status/1325516879033741319> (Ex. 4).

by Venezuelans who were close to – were close to Chávez, are now close to Maduro, have a history, they were founded as a company to fix elections

...

Dobbs: It's stunning. And they're private firms and very little is known about their ownership, beyond what you're saying about Dominion. It's very difficult to get a handle on just who owns what and how they're being operated. And by the way, the states, as you well know now, they have no ability to audit meaningfully the votes that are cast because the servers are somewhere else and are considered proprietary and they won't touch them. They won't permit them being touched.

...

Dobbs: This looks to me like it is the end of what has been a four-and-a-half – the endgame to a four-and-a-half year-long effort to overthrow the president of the United States. It looks like it's exactly that.

...

Dobbs: This election has got more firsts than any I can think of and Rudy, we're glad you're on the case and pursuing what is the truth.¹⁹⁵

¹⁹⁵ Lou Dobbs (@LouDobbs), Twitter (Nov. 12, 2020, 6:03 pm), <https://twitter.com/LouDobbs/status/1327024215887851521>; Lou Dobbs, *Rudy*, Facebook (Nov. 12, 2020), <https://www.facebook.com/watch/?v=1013383672481690>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 12, 2020) <https://www.instagram.com/p/CHgkRWyBBus/> (Ex. 18).



(c) On the November 13, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the Twitter account @loudobbs, the “Lou Dobbs” Facebook account, and the Instagram account @loudobbs tonight, Fox made, endorsed, and adopted the following false statements:

Dobbs: Let’s start with Dominion, a straight-out disavowal of any claim of fraud against the company, its software or machines. Your reaction.

Powell: Well, I can hardly wait to put forth all the evidence we have collected on Dominion, starting with the fact it was created to produce altered voting results in Venezuela for Hugo Chávez and then shipped internationally to manipulate votes for purchase in other countries, including this one. ... We also need to look at and we’re beginning to collect evidence on the financial interests of some of the governors and Secretaries of State who actually bought into the Dominion Systems, surprisingly enough – Hunter Biden type graft to line their own pockets by a getting voting machine in that would either make sure their election was successful or they got money for their family from it.

Dobbs: Well, that’s straightforward.

...

Powell: People need to come forward now and get on the right side of this issue and report the fraud they know existed in Dominion Voting Systems, because that's what it was created to do. It was its sole original purpose. It has been used all over the world to defy the will of people who wanted freedom.

Dobbs: Sidney, at the outset of this broadcast I said that this is the culmination of what has been an over a four-year effort to overthrow this president; to first deny his candidacy, the election, but then to overthrow his presidency. This looks like the effort to carry out an endgame in the effort against him. Do you concur?

Powell: Oh, absolutely.

...

Dobbs: Well, good, because this is an extraordinary and such a dangerous moment in our history. ... Sidney, we're glad that you are on the charge to straighten out all of this. It is a foul mess and it is far more sinister than any of us could have imagined, even over the course of the past four years.¹⁹⁶

¹⁹⁶ Lou Dobbs (@LouDobbs), Twitter (Nov. 13, 2020, 5:35 pm), <https://twitter.com/LouDobbs/status/1327379704014393344>; Lou Dobbs, *Release the Kraken*, Facebook (Nov. 13, 2020), <https://www.facebook.com/115777632950/videos/680800582822978>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 13, 2020), <https://www.instagram.com/p/CHjF39Uh7Wy/> (Ex. 19).



(d) On November 14, 2020, Fox and Dobbs published the following false statement to the @loudobbs Twitter account:

Read all about Dominion and Smartmatic voting companies and you'll soon understand how pervasive this Democrat electoral fraud is, and why there's no way in the world the 2020 Presidential election was either free or fair. #MAGA @realDonaldTrump #AmericaFirst #Dobbs.

Embedded in that tweet was another tweet from Rudy Giuliani (retweeted and adopted by Fox and Dobbs) with the following false statement:

Did you know a foreign company, DOMIMION, was [sic] counting our vote in Michigan, Arizona and Georgia and other states. But it was a front for SMARTMATIC, who was really doing the computing.¹⁹⁷

¹⁹⁷ Lou Dobbs (@LouDobbs), Twitter (Nov. 14, 2020, 11:27 am), <https://twitter.com/loudobbs/status/1327649331789385728> (Ex. 7).



- (e) On the November 14, 2020 broadcast of *Justice w/ Judge Jeanine*, which Fox broadcast live on television and satellite radio from New York on the Fox News Channel, rebroadcast on the Fox News Channel, and republished on fox.com, foxnews.com, Fox Nation, on the Jeanine Pirro Facebook account, and on the @jeaninepirro Twitter account, Fox made, endorsed, and adopted the following false statements:

Pirro: The Dominion software system has been tagged as one allegedly capable of flipping votes. Now you'll hear from Sidney Powell in a few minutes who will explain what she has unearthed in the creation of Dominion.

...

Powell: I am working on the massive aspect of — of system-wide election fraud, definitely impacting the swing states and likely going far beyond that. We're

talking about the alteration and changes in millions of – of votes; some being dumped that were for President Trump, some being flipped that were for President Trump, computers being overwritten to ignore signatures. All kinds of different means of manipulating the Dominion and Smartmatic software that, of course, we would not expect Dominion or Smartmatic to admit.

...

Pirro: I assume that you are getting to the bottom of exactly what Dominion is, who started Dominion, how it can be manipulated if it is manipulated at all, and what evidence do you have to prove this?

...

Pirro: If you could establish that there is corruption in the use of this software, this Dominion software, as you allege, and you say you have evidence, how do you put that together and prove that on election night, or immediately after, that at the time the votes were being tabulated or put in, that we can prove that they were flipped?

...

Powell: It was created for the express purpose of being able to alter votes and secure the re-election of Hugo Chávez and then Maduro. ... There's an American citizen who has exported it to other countries. And it is one huge, huge criminal conspiracy that should be investigated by military intelligence for its national security implications.

Pirro: Yes, and it – hopefully, the Department of Justice, but – but who knows anymore. Sidney Powell, good luck on your mission.¹⁹⁸

¹⁹⁸ Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 14, 2020, 9:15 pm), <https://twitter.com/JudgeJeanine/status/1327797216329617409>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 14, 2020, 9:45 pm), <https://twitter.com/judgejeanine/status/1327804765804261376>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 17, 2020, 9:49 am),

- (f) On the November 15, 2020 broadcast of *Fox and Friends Sunday*, Fox broadcast live on television and satellite radio from New York on the Fox News Channel and republished by Fox on fox.com, foxnews.com, and Fox Nation, Fox made the following false statements:

Bartiromo: [S]o much news on the software that was used on the voting machines on election night. There is much to understand about Smartmatic, which owns Dominion Voting Systems. They have businesses in Venezuela, Caracas. ... We're going to talk about it with Rudy Giuliani and why he does believe he will be able to overturn this election with evidence. He will join me along with Sidney Powell to give us an update on their investigation. This is very important to understand what was going on with this software. Sidney Powell is also talking about potential kickbacks that government officials who were asked to use Dominion actually also enjoyed benefits to their families.¹⁹⁹

- (g) On the November 15, 2020 broadcast of *Sunday Morning Futures*, which Fox broadcast live on television and satellite radio from New York on the Fox News Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxnews.com, Fox Nation, and the Twitter account @mariabartiromo, Fox made, endorsed, and adopted the following false statements:

Bartiromo: Plus, Sidney Powell on the Venezuela connection and whether kickbacks were involved for those taking on Dominion voting machines, as a hand recount of nearly five million ballots is under way in Georgia.

<https://twitter.com/JudgeJeanine/status/1328711979163324416>; Judge Jeanine Pirro, *Part One: Opening Statement*, Facebook (Nov. 14, 2020), <https://fb.watch/47gZMAHaDn/>; Judge Jeanine Pirro, *Sidney Powell*, Facebook (Nov. 14, 2020), <https://fb.watch/47hF09eZYP/> (Ex. 2).

¹⁹⁹ *Fox and Friends Sunday*, Media Matters for America (Nov. 15, 2020), <https://www.mediamatters.org/media/391956> (Ex. 9).

...

Giuliani: [T]he rigging ... went on ... [A] company that did the votes in 27 states ... uses Venezuela company software that's been used to steal elections in other countries.

...

Giuliani: And the software that they use is done by a company called Smartmatic. It's a company that was founded by Chávez and by Chávez's two allies, who still own it. And it's been used to cheat in elections in South America. ... Dominion sends everything to Smartmatic. Can you believe it? Can you believe it? Our votes are sent overseas. They are sent to someplace else, some other country. Why do they leave our country?

Bartirromo: Yes.

Giuliani: And this company had – and this company has tried-and-true methods for fixing elections by calling a halt to the voting when you're running too far behind. They have done that in prior elections. ... In Detroit, we have evidence that 100,000 ballots were brought in at 4:30 in the morning and counted and to the extent that our witnesses and there are four of them saw it, and one of them is an ex-employee of Dominion, and according to them every single ballot was for Biden and not only that whatever ballots they could see because they weren't Republican so they could get closer, every ballot they could see just had Biden's name on it, nobody else, not even another Democrat. Why does that happen? It happens because you know you're behind, Dominion notifies you, you call off the counting and then you start doing ballots like this.

...

Bartirromo: Look, I want to show this graphic of the swing states that were using Dominion and this software, the Smartmatic software. You just said it all. This is a Smartmatic, a Delaware entity registered in Boca Raton, Florida, activities in Caracas, Venezuela. The voting

machines were used, Dominion voting machines were used in Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin. And I have a graphic showing the states where they stopped counting, which I thought was also strange, to stop counting in the middle of election night. One source says that the key point to understand is that the Smartmatic system has a backdoor that allows it to be...

Giuliani: Yeah.

Bartiromo: ... or that allows the votes to be mirrored and monitored, allowing an intervening party a real-time understanding of how many votes will be needed to gain an electoral advantage. Are you saying the states that use that software did that?

Giuliani: I know I can prove that they did it in Michigan. I can prove it, with witnesses. ... [Y]es, there is a backdoor.

Bartiromo: Right.

...

Giuliani: We have people that I can't really disclose, that can describe the hardware in great detail. We have some of the people, former government employees, our government employees, and others that were there at the creation of Smartmatic, they can describe it. They can draw it, they can show it, and then we have proof that I can't disclose yet ... I mean, I can't imagine you'd give a contract to a company, if you went one step further and found out it's really being run by people that are close to Maduro and Chávez.

...

Bartiromo: According to public records, Dominion voting machines are used in 2,000 jurisdictions in 30 states.

...

Bartiromo: That's troubling, given we already know that at least two software glitches in Georgia and Michigan occurred on election night. Attorney Sidney Powell is

leading the charge against Dominion. And she says she has enough evidence of fraud to launch a massive criminal investigation.

...

Bartiromo: I want to get right into it. We just heard about the software made by Smartmatic from Rudy.

...

Powell: President Trump won by not just hundreds of thousands of votes but by millions of votes that were shifted by this software that was designed expressly for that purpose. We have sworn witness testimony of why the software was designed. It was designed to rig elections. ... It was exported internationally for profit by the people that are behind Smartmatic and Dominion. They did this on purpose. It was calculated. They have done it before. We have evidence from 2016 in California. We have so much evidence I feel like it's coming in through a fire hose.

...

Bartiromo: Wow, so, Sidney, you feel that you will be able to prove this? Do you have the software in your possession? Do you have the hardware in your possession? How will you prove this, Sidney?

Powell: Well, I have got lots of ways to prove it, Maria, but I'm not going to tell on national TV what all we have. I just can't do that.

...

Powell: [T]his is a massive election fraud, and I'm very concerned it involved not only Dominion and its Smartmatic software, but that the software essentially was used by other election machines also. It's the software that was the problem. ... They can put – it's like drag-and-drop – Trump votes to a separate folder and then delete that folder. ... We have even got evidence of some kickbacks, essentially.

Bartiromo: Kickbacks. I want to take a short break and come back on that. And I want to ask you about the kickbacks and who took kickbacks in which states.

...

Bartiromo: You said that there may have been kickbacks to some people who accepted the Dominion software. Tell me what you mean.

Powell: Well, I mean we're collecting evidence now from various whistle-blowers that are aware of substantial sums of money being given to family members of state officials who bought this software. I mean, we're talking about \$100 million packages for new voting machines suddenly in multiple states, and benefits ranging from financial benefits for family members to sort of what I would call election insurance, because they know that they can win the election if they are using that software.

...

Bartiromo: Which governor or which government official accepted hundreds of millions of dollars in benefits for their family as they took on this software?

...

Powell: We're still collecting the evidence on that, but it's more than one.

Bartiromo: OK. So, you can't say who you believe took kickbacks.

...

Powell: We have identified mathematically the exact algorithm they used and planned to use from the beginning to modify the votes, in this case, to make sure Biden won.

...

Powell: It's massive election fraud. It's going to undo the entire election.

...

Bartiromo: And, Sidney, you say you have an affidavit from someone who knows how this system works and was

there with the planning of it. You believe you can prove this in court?

Powell: Oh, yes. We have a sworn – essentially, a sworn statement from a witness who knew exactly how it worked from the beginning, why it was designed to work that way, and saw when things started shutting down, and they started – stopped counting the votes here. That was the same play that had worked in other countries.

Bartiromo: Wow. This is explosive.²⁰⁰

- (h) On the November 16, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the “Lou Dobbs” Facebook account, and the Twitter account @loudobbs, Fox made, endorsed, and adopted the following false statements:

Dobbs: President Trump’s legal team says potentially rigged voting machines demand a national security investigation. They are pointing to Dominion Voting Systems’ widely used ballot-scanning machines whose software is suspected of inflating vote totals for Joe Biden. Dominion systems used in more than two dozen states.

²⁰⁰ *Sunday Morning Futures*, Fox News (Nov. 15, 2020), https://archive.org/details/FOXNEWSW_20201115_150000_Sunday_Morning_Futures_With_Maria_Bartiromo/; Maria Bartiromo (@MariaBartiromo), Twitter (Nov. 15, 2020, 11:13 am), <https://twitter.com/MariaBartiromo/status/1328008263833690117> (Giuliani); *Giuliani: Trump is contesting the election ‘vigorously’ in the courts*, Fox News (Nov. 15, 2020), https://video.foxnews.com/v/6209933935001?playlist_id=3386055101001#sp=show-clips; Maria Bartiromo (@MariaBartiromo), Twitter (Nov. 15, 2020, 11:39 am), <https://twitter.com/MariaBartiromo/status/1328014693387087873> (Powell); *Attorney Powell on election legal challenges that remain active in several states*, Fox News (Nov. 15, 2020), https://video.foxnews.com/v/6209930642001?playlist_id=3386055101001#sp=show-clips; Maria Bartiromo (@MariaBartiromo), Twitter (Nov. 15, 2020, 1:58 pm), <https://twitter.com/MariaBartiromo/status/1328049759731453952> (Ex. 21).

Dominion also one of three companies accounting for almost 90% of the voting equipment in the U.S. elections.

...

Dobbs: Dominion Voting Systems seems to be figuring larger and larger in the interest of your legal team, and what is the latest?

Powell: Oh, definitely, Lou. I've just gotten some stunning evidence from a firsthand witness, a high-ranking military officer, who was present when Smartmatic was designed in a way that – and I'm going to just read to you some of these statements, if you don't mind, so I get them exactly right.

Dobbs: Sure.

Powell: From the affidavit: Designed in a way that the system could change the vote of each voter without being detected. He wanted the software itself to function in such a manner that if the voter were to place their thumbprint or fingerprint on a scanner, then the thumbprint would be tied to a record of the voter's name and identity as having voted but that voter would not be tracked to the changed vote. He made it clear that the system would have to be set up but not leave any evidence of the changed vote for a specific voter, and that there would be no evidence to show and nothing to contradict that the name or the fingerprint or thumbprint was going with a changed vote. Smartmatic agreed to create such a system and produce the software and hardware that accomplished the result for President Chávez. After the Smartmatic electoral management system was put in place, he closely observed several elections where the results were manipulated using the Smartmatic software. ... Persons controlling the vote tabulation computer had the ability to change the reporting of votes by moving votes from one candidate to another by using the Smartmatic software, and on and on it goes.

Dobbs: And Smartmatic, the relation –

Powell: Smartmatic owns Dominion.

Dobbs: Yes.

...

Dobbs: It's – it is a deeply, deeply troubling election, as I said earlier, the worst in this country's history, bar none, and we have seen official investigative and Justice Department officials slow to move, and it is infuriating to everyone.

Powell: No, we've seen willful blindness. They have adopted a position of willful blindness to this massive corruption across the country, and the Smartmatic software is in the DNA of every vote tabulating company's software and system.

Dobbs: Yes, and it is more than just a willful blindness. This is people trying to blind us to what is going on.²⁰¹

- (i) On the November 18, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the Twitter account @loudobbs, and the “Lou Dobbs” Facebook account, Fox made, endorsed, and adopted the following false statements:

Dobbs: I want to share with the audience one of the affidavits that has been given to us by an unidentified whistleblower, and it pertains to Dominion. ... I am alarmed because of what is occurring in plain sight during this 2020 election for president of United States. The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela. What happened in the United States was that the vote counting was abruptly stopped in five states using Dominion software. At the time that vote counting was

²⁰¹ *Lou Dobbs Tonight*, Fox Business (Nov. 16, 2020), https://archive.org/details/FBC_20201116_220000_Lou_Dobbs_Tonight/start/504/end/564; Lou Dobbs, *Sidney Powell*, Facebook (Nov. 16, 2020), <https://www.facebook.com/115777632950/videos/1625726320970976>; Lou Dobbs (@LouDobbs), Twitter (Nov. 16, 2020, 5:45 pm), <https://twitter.com/LouDobbs/status/1328469195550576645> (Ex. 8).

stopped, Donald Trump was significantly ahead in the votes. Then during the wee hours of the morning, when there was no voting occurring and the vote count reporting was offline, something significantly changed. When the vote reporting resumed the very next morning, there was a very pronounced change in voting in favor of the opposing candidate, Joe Biden. That from a whistleblower who was present both in Venezuela in 2013 and in this country as we were counting votes overnight on November 3rd. Your thoughts.

...

Giuliani: Our votes in 27, 28 states that are counted by Dominion. ... And the company counting it is not Dominion, it's Smartmatic, which is a company that was founded in 2005 in Venezuela for the specific purpose of fixing elections. That's their expertise, how to fix elections. They did it a number of times in Venezuela, they did it in Argentina... Well, that's the company that was counting and calculating on election night. And they did all their old tricks. They stopped it, they also switched votes around, subtly, maybe 10 per district so you don't notice it. They got caught in Antrim county, which is how we found out about them

...

Dobbs: It's outrageous.

...

Giuliani: We shouldn't be using this company that was founded by Chávez to call votes in America, because their specialty in Venezuela is cheating. ... And they're using a Venezuelan company as the vote counter, which is known for changing votes.²⁰²

²⁰² *Rudy Giuliani Returns to Court to Argue Trump Campaign's Election Case*, Fox Business (Nov. 18, 2020), https://video.foxbusiness.com/v/6210778333001?playlist_id=933116636001#sp=show-clips; Lou Dobbs (@LouDobbs), Twitter (Nov. 18, 2020, 5:35 pm), <https://twitter.com/LouDobbs/status/132919158>

- (j) On the November 19, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the Twitter account @loudobbs, the “Lou Dobbs” Facebook account, and the Instagram account @loudobbbstonight, Fox made, endorsed, and adopted the following false statements:

Dobbs: Another issue at the center of today’s news conference, the use of Dominion voting machines and Smartmatic software. Defense attorney Sidney Powell cited a whistleblower’s stunning affidavit. It says Smartmatic’s technology was used to rig elections in Venezuela. It is now in the, quote, “DNA of every vote tabulating company software and system.” Smartmatic and Dominion deny those charges, but Sidney Powell argues that algorithms in the Smartmatic software were used to change results in the presidential election.

...

Dobbs: One of the team members, Sidney Powell, among our guests here tonight. She will be providing more details on how Dominion voting machines and Smartmatic software were used to help Joe Biden.

...

Dobbs: Let’s turn to Smartmatic and Dominion. Are they or are they not linked?

Powell: Oh, they’re definitely linked. I would call them inextricably intertwined. They have the same history from their inception. I’m sure they’re trying to distance themselves from each other, but the fact is that the Dominion machines run the Smartmatic software or parts of the key code of it, and that is what allows them to manipulate the votes in any way the operators choose to

[8216639493](https://twitter.com/LouDobbs/status/1329178820302278668); Lou Dobbs (@LouDobbs), Twitter (Nov. 18, 2020, 4:45pm), <https://twitter.com/LouDobbs/status/1329178820302278668>; Lou Dobbs, Rudy Giuliani, Facebook (Nov. 18, 2020), <https://www.facebook.com/watch/?v=293258965242628> (Ex. 22).

manipulate them; and every time there was a glitch, they called it, or connection to the internet, they also violated state laws that required the machines to be certified and nothing to be changed before the votes.

...

Dobbs: And it's the presumption then that they had the records on those servers of all of the votes that were processed by Dominion or Smartmatic?

Powell: Yes. ... It could have run an automatic algorithm against all the votes, which we believe is what happened originally and then the machines had to stop or the counting had to stop in multiple places because President Trump's lead was so great at that point they had to stop the counting and come in and backfill the votes they needed to change the result.

...

Powell: There's thousands of people in federal prisons on far less evidence of criminal conduct than we have already against the Smartmatic and Dominion Systems companies

...

Dobbs: We have just watched, to everyone in this audience tonight, our election is run by companies, the ownership of which we don't know.²⁰³

²⁰³ *Lou Dobbs Tonight*, Fox News (Nov. 19, 2020), https://archive.org/details/FBC_20201119_220000_Lou_Dobbs_Tonight/; *Trump's Legal Team Still in Evidence Collection Process or Election Challenges*, Fox Business (Nov. 19, 2020), <https://video.foxbusiness.com/v/6211050624001#sp=show-clips>; Lou Dobbs, *Sidney Powell*, Facebook (Nov. 19, 2020), <https://www.facebook.com/watch/?v=880692419336775>; Lou Dobbs (@LouDobbs), Twitter (Nov. 19, 2020, 5:32 pm), <https://twitter.com/LouDobbs/status/1329553227046588417>; Lou Dobbs (@LouDobbs), Twitter (Nov. 19, 2020, 4:55 pm), <https://twitter.com/LouDobbs/status/1329543810867671044>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 19, 2020), <https://www.instagram.com/p/CHyIMiTBGIs/> (Ex. 10).



- (k) On the November 21, 2020 broadcast of *Justice w/ Judge Jeanine*, which Fox broadcast live on television and satellite radio from New

York on the Fox News Channel, rebroadcast on the Fox News Channel, and republished on fox.com, foxnews.com, Fox Nation, on the Jeanine Pirro Facebook account, and on the @jeaninepirro Twitter account, Fox made, endorsed, and adopted the following false statements:

Pirro: The president's lawyers alleging a company called Dominion, which they say started in Venezuela with Cuban money and with the assistance of Smartmatic software, a backdoor is capable of flipping votes.

...

Pirro: Now, why was there an overnight popping of the vote tabulation that cannot be explained for Biden?²⁰⁴

- (l) On the November 24, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the @loudobbs Twitter account, the "Lou Dobbs" Facebook account, and the Instagram account @loudobbs tonight, Fox made, endorsed, and adopted the following false statements:

Powell: [T]here's no doubt that the software was created and used in Venezuela to control the elections and make sure that Hugo Chávez was always reelected as the dictator of Venezuela in what appeared to be, quote, free and fair elections, end quote, but they were manipulated by the software used in the Dominion machines – and used by other machines in the United States, frankly, and we are just continuing to be inundated by evidence of all the frauds here...

²⁰⁴ Judge Jeanine Pirro, *Opening Statement* (Nov. 21, 2020), <https://www.facebook.com/watch/?v=3424348634350374>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 21, 2020, 9:15 pm), <https://twitter.com/JudgeJeanine/status/1330333931028115456>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 21, 2020, 9:16pm), <https://twitter.com/JudgeJeanine/status/1330334182732484611> (Ex. 3).

...

Dobbs: I think many Americans have given no thought to electoral fraud that would be perpetrated through electronic voting; that is, these machines, these electronic voting companies, including Dominion, prominently Dominion, at least in the suspicions of a lot of Americans.²⁰⁵

- (m) On the November 30, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the @loudobbs Twitter account, the “Lou Dobbs” Facebook account, and on the Instagram account @loudobbstonight, Fox made, endorsed, and adopted the following false statements:

Powell: [W]e need, frankly, to stop the election that’s supposed to happen in January because all the machines are infected with the software code that allows Dominion to shave votes for one candidate and give them to another, and other features that do the same thing...

...

Powell: Different states shaved different amounts of votes or the system was set up to shave and flip different votes in different states. Some people were targeted as individual candidates. It’s really the most massive and historical egregious fraud the world has ever seen.

...

²⁰⁵ *Lou Dobbs Tonight*, Fox Business (Nov. 24, 2020), https://archive.org/details/FBC_20201124_220000_Lou_Dobbs_Tonight/start/1080/end/1140; Lou Dobbs (@LouDobbs), Twitter (Nov. 24, 2020, 5:37 pm), <https://twitter.com/LouDobbs/status/1331366325629968386>; Lou Dobbs, *Sidney Powell Breaking News*, Facebook (Nov. 24, 2020), <https://www.facebook.com/115777632950/videos/381418186402867>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 24, 2020), https://www.instagram.com/p/CH_ZbqTBHSE/ (Ex. 13).

Dobbs: You know, people don't go to jail for their attitude, but in the case of the Secretary of State and the Governor of Georgia right now, one would be tempted to prosecute based on their conduct so far. What is going on with those two individuals?

...

Powell: [I]t seems that there were significant benefits for both Governor Kemp and perhaps Mr. Raffensperger also, and maybe others on their team, for deciding at the last minute to rush in a contract for Dominion for \$107 million for the state.

...

Dobbs: Now, do we know – you know, I just can't – I think most Americans right now cannot believe what we are witnessing in this election. We have, across almost every state, whether it's Dominion, whatever the company – voting machine company is, no one knows their ownership, has no idea what's going on in those servers, has no understanding of the software, because it's proprietary. It is the most ludicrous, irresponsible and rancid system imaginable in the world's only superpower.

...

Powell: Dominion and its minions and other state officials everywhere are apparently out there trying to destroy everything they can get to before we can seize it...

...

Dobbs: And as I said at the outset of the broadcast, Sidney, this is no longer about just voter fraud or electoral fraud, this is something much bigger and this president has to take, I believe, drastic action, dramatic action, to make certain that the integrity of this election is understood, or

lack of it, the crimes that have been committed against him and the American people.²⁰⁶

- (n) On the November 30, 2020 broadcast of *Hannity*, which Fox broadcast live on television and satellite radio from New York on the Fox News Channel, rebroadcast on the Fox News Channel, and republished on fox.com, foxnews.com, and Fox Nation, Fox made, endorsed, and adopted the following false statements:

Powell: The machine ran an algorithm that shaved votes from Trump and awarded them to Biden. They used the machines to trash large batches of votes that should have been awarded to President Trump. And they used a machine to inject and add massive quantities of votes for Mr. Biden.²⁰⁷

- (o) On the December 4, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the “Lou Dobbs” Facebook account, and the Instagram account @loudobbstonight, Fox made, endorsed, and adopted the following false statements:

Dobbs: At the center of it all, Dominion Voting Systems. Are they the culprit here? Not the only culprit, but are they the principal culprit?

...

Dobbs: But concomitantly, Dominion Voting Systems, with – you have described it, with algorithms in which –

²⁰⁶ Lou Dobbs, *Sidney Powell*, Facebook (Nov. 30, 2020), <https://www.facebook.com/watch/?v=830918901055891>; Lou Dobbs (@LouDobbs), Twitter (Nov. 30, 2020), 6:03 pm, <https://twitter.com/LouDobbs/status/1333547266032984064>; Lou Dobbs Tonight (@loudobbstonight), Instagram (Nov. 30, 2020), <https://www.instagram.com/p/CIO6-KVBKb8/> (Ex. 15).

²⁰⁷ *Hannity*, Fox News (Nov. 30, 2020), https://archive.org/details/FOXNEWSW_2_0201201_020000_Hannity/start/1939/end/1999 (Ex. 14).

which were designed to be inaccurate rather than to be a secure system.²⁰⁸



(p) On December 10, 2020, Fox and Dobbs published the following false statements to the @loudobbs Twitter account:

“The 2020 Election is a cyber Pearl Harbor: The leftwing establishment have aligned their forces to overthrow the United States government #MAGA #AmericaFirst #Dobbs.”

Fox and Dobbs embedded in the tweet—and therefore adopted as their own—a typewritten document with no other markings or attributions which falsely stated:

We have a warning to the mainstream media: you have purposely sided with the forces that are trying to overthrow the US system. These four people and their collaborators executed an electoral 9-11 against the United States, with the cooperation and collusion of the media and the Democrat Party ... It is a cyber Pearl Harbor. We have

²⁰⁸ *Cybersecurity expert: There Are ‘Multiple Ways’ to Potentially Interfere with Elections*, Fox Business (Dec. 4, 2020), <https://video.foxbusiness.com/v/6214283552001#sp=show-clips>; Lou Dobbs, *COL WALDRON*, Facebook (Dec. 4, 2020), <https://www.facebook.com/watch/?v=9210370684303>; Lou Dobbs Tonight (@loudobbs tonight), Instagram (Dec. 4, 2020), <https://www.instagram.com/p/CIZIfHZhQFv/> (Ex. 12).

identities, roles, and background of Dominion. Smartmatic people. This will turn into a massive RICO filing. It is Smartmatic, Dominion Voting Systems, Sequoia, SGO.

...

We have technical presentations that prove there is an embedded controller in every Dominion machine.

...

We have the architecture and systems, that show how the machines can be controlled from external sources, via the internet, in violation of voting standards, Federal law, state laws, and contracts.²⁰⁹

- (q) On the December 10, 2020 broadcast of *Lou Dobbs Tonight*, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation, the Twitter account @loudobbs, the “Lou Dobbs” Facebook account, and the Instagram account @loudobbs tonight, Fox made, endorsed, and adopted the following false statements:

Dobbs: You say these four individuals [Jorge Rodriguez, Khalil Majzoub, Gustavo Reyes-Zumeta, Antonio Mugica] led the effort to rig this election. How did they do it?

Powell: Well, Lou, they designed and developed the Smartmatic and Dominion programs and machines, that include a controller module that allows people to log in and manipulate the vote, even as it’s happening. We’re finding more and more evidence of this. We now have reams and reams of actual documents from Smartmatic and Dominion, including evidence that they planned and executed all of this.

...

²⁰⁹ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 4:56 pm), <https://twitter.com/LouDobbs/status/1337154346795012098> (Ex. 16).

Powell: We have evidence of how they flipped the votes, how it was designed to flip the votes. And that all of it has been happening just as we've been saying it has been.

...

Powell: [T]he entire system was created for the benefit of Venezuela and Hugo Chávez to rig elections to make sure he continued winning. And then it was passed on to Mr. Maduro to do the same. And we know it was exported to other countries by virtue of some of the Dominion executives that proceeded to go about and essentially sell elections to the highest bidder.

...

Powell: It is a very concerning and troubling and illegal web of conduct that all of which focused on rigging the election in this country. And we are seeing the results in multiple states where we're now identifying specific votes flipped, like in a couple of Georgia counties.

...

Dobbs: We're going to examine in some detail the – the reasons for what is apparently a broadly coordinated effort to – to actually bring down this President by ending his second term before it could begin.

...

Dobbs: [I]t's outrageous that we have an Attorney General, Sidney, who has said that he sees no sign of – of any significant fraud that would overturn the election. We had a head of the cyber intelligence unit for the Department of Homeland Security who is suing some people, apparently, for saying that his report basically, was – it was nonsense when he declared it was the most secure election in the country's history. What are we dealing with here, and how can we get to this, if we have a – an Attorney General who has apparently lost both his nerve and his commitment to his oath of office, and to the country; we have an FBI director who seems to be as politically corrupt as anyone who preceded him, and a Homeland Security department that doesn't know what the hell it's talking

about and is spending more time playing politics, at least as it applies to Mr. Krebs, than securing the nation.

...

Powell: President Trump won so many votes, he blew up their algorithm. The American people blew up the algorithm they created before the election to shave votes from Biden and give them to Trump. And we're now seeing direct evidence of that happening in – in multiple counties and multiple states, and we know it happened across the country.

...

Dobbs: Let me – let me make you an offer very straightforwardly: We will gladly put forward your evidence that supports your claim that this was a Cyber Pearl Harbor. We have tremendous evidence already but – of fraud in this election, but I will be glad to put forward on this broadcast whatever evidence you have, and we'll be glad to do it immediately.

Powell: Awesome.

Dobbs: We'll work overnight. We will – we will take up whatever air we're permitted beyond this broadcast, but we have to get to the bottom of this.

...

Dobbs: I mean the governor and the state – Secretary of State have got to find, if not the integrity, the – the primal fear of the voters in Georgia to stop what's going on and stop it now.

...

Dobbs: How much time do you need to get that evidence to this broadcast and we'll put it on the air?

Powell: I'll get you more information that's just stunning tonight.²¹⁰



(r) On December 10, 2020, Fox and Dobbs published the following false statements to the @loudobbs Twitter account:

Cyber Pearl Harbor: @SidneyPowell1 reveals groundbreaking new evidence indicating our Presidential election came under massive cyber-attack orchestrated

²¹⁰ *Sidney Powell raises questions about security of voting machines*, Fox Business (Dec. 10, 2020), <https://video.foxbusiness.com/v/6215520845001/#sp=show-clips>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:51 pm), <https://twitter.com/LouDobbs/status/1337168084541575171>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:52 pm), <https://twitter.com/LouDobbs/status/1337168397398921217>; Lou Dobbs, *Sidney Powell*, Facebook (Dec. 10, 2020), <https://www.facebook.com/watch/?v=681543625896199>; Lou Dobbs Tonight (@loudobbbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo0kAqB6Bq/>; Lou Dobbs Tonight (@loudobbbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo02XjhDIM/> (Ex. 1).

with the help of Dominion, Smartmatic, and foreign adversaries. #MAGA #AmericaFirst #Dobbs.²¹¹

- (s) On the December 12, 2020 broadcast of Fox & Friends, which Fox broadcast live on television and satellite radio from New York on the Fox News Channel and republished on fox.com and foxnews.com, Fox made, endorsed, and adopted the following false statement:

Giuliani: [W]e have a machine, the Dominion machine ... was developed to steal elections, and being used in the states that are involved.²¹²

- (t) On the January 26, 2021 broadcast of Tucker Carlson Tonight, which Fox broadcast live on television and satellite radio on the Fox News Channel, rebroadcast on the Fox News Channel, and republished on fox.com, foxnews.com, and the Instagram account @tuckercarlson tonight, Fox made, endorsed, and adopted the following false statements:

Carlson: Well, of course you will likely recognize our next guest. His name is Mike Lindell. He runs My Pillow. He advertises every night on this show and across Fox News. He's one of our biggest sponsors, and we are grateful for that.

...

Lindell: [S]omeone put up on – on the internet, actual machine – new machine election fraud, I – I retweeted it ... Dominion ... said they were going to go after Mike Lindell. Well they did. They hired hit groups, bots and trolls went after all my vendors, all these box stores to cancel me out. ... I'm not backing down. We cannot back down out of fear this time.

Carlson: I totally agree.

²¹¹ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:52 pm), <https://twitter.com/LouDobbs/status/1337168397398921217> (Ex. 1).

²¹² Rudy Giuliani on Trump Election Fight: We Have '1,000 Affidavits from Witnesses in 6 Different States,' Fox News (Dec. 12, 2020), https://video.foxnews.com/v/6215882367001?playlist_id=930909787001#sp=show-clips (Ex. 20).

...

Lindell: I've been all in trying to find the machine fraud, and I – we found it. We have all the evidence. ... I have the evidence. ... I dare Dominion to sue me because then it will get out faster. So this is – it – you know, they don't – they don't want to talk about it.

Carlson: No they don't.²¹³



180. As set forth above in detail, Fox published these false statements about Dominion with actual malice, even though Fox and its agents, including Bartiromo, Dobbs, Pirro, Hannity, Carlson, Scott, and Wallace (among others), actually knew, or at the very least recklessly disregarded that they were false.

181. Indeed, along with the detailed recitation of Fox's knowledge outlined above, some of the strongest evidence proving Fox knew it was spreading lies about Dominion came from the Fox on-air talent who declined to endorse and amplify

²¹³ Tucker Carlson Tonight (@tuckercarlson tonight), Instagram (Jan. 26, 2021), <https://www.instagram.com/p/CKh8s1FBKMA/> (Ex. 17).

those lies as Bartiromo, Dobbs, Pirro, Hannity, and the others did. For example:

- Fox's then-Politics Editor Chris Stirewalt, for instance, defended the network's Arizona call the day after the election, saying: "[w]e haven't seen any evidence yet that there's anything wrong"²¹⁴—and was fired two months later.²¹⁵
- Fox anchor Bret Baier reported on November 6, "We are not seeing any evidence of widespread fraud. We are not seeing anything that can change, right now at least, the split in these different States."²¹⁶
- By November 10, 2020, Fox's Laura Ingraham had called out Powell on the air for making false statements about Dominion.²¹⁷
- The morning of November 12, Fox's "America's Newsroom" show concluded that "nothing filed, any challenge so far, appears likely to overturn the results in any state."²¹⁸
- On November 12, Fox news anchor Eric Shawn called the lies about Dominion "disinformation."²¹⁹
- On November 18, Fox's Brit Hume tweeted a link to a November 17 *Wall Street Journal* editorial chastising Trump and others for blaming the election results on Dominion's systems without any evidence, and added

²¹⁴ Diana Falzone & Lachlan Cartwright, *Fox News Launches 'Purge' to 'Get Rid of Real Journalists,' Insiders Say*, The Daily Beast (Jan. 19, 2021), <https://www.thedailybeast.com/fox-news-launches-purge-to-get-rid-of-real-journalists>.

²¹⁵ Rachel Abrams & Michael M. Grynbaum, *Fox News Fires a Key Player in Its Election Night Coverage*, N.Y. Times (Jan. 19, 2021), <https://www.nytimes.com/2021/01/19/business/media/fox-news-chris-stirewalt-trump.html>.

²¹⁶ *RNC Chair alleges ballot counting problems in Democratic-led counties in key states*, Fox News (Nov. 6, 2020), <https://video.foxnews.com/v/6207779696001#sp=show-clips>.

²¹⁷ *Sidney Powell - The Ingraham Angle - 11/10/20*, YouTube (Nov. 11, 2020), <https://www.youtube.com/watch?v=hHpKZwCLSes>.

²¹⁸ *America's Newsroom*, Fox News (Nov. 12, 2020), https://archive.org/details/FOXNEWSW_20201112_140000_Americas_Newsroom.

the comment, “Good question → President Trump blames the election result on Dominion’s systems. Where’s the evidence?”²²⁰

- On November 19, Fox’s Tucker Carlson called out Sidney Powell for failing to produce any evidence to support the outlandish and incredible claims she had been making about Dominion on Fox over the last week—claims that Fox, through its agents, had repeated, republished, and endorsed numerous times on television, online, and on social media.²²¹ Despite his invitation to Powell to appear on his show and present her evidence, “she never sent [] any evidence, despite a lot of requests ... not a page.”²²² When he and his staff kept pressing Powell to present evidence, “she got angry” and told them stop contacting her.²²³ So they checked with others in and around the Trump campaign and people in positions of authority, who said that Powell had “never given them any evidence either.”²²⁴ ***Carlson concluded that Powell “never demonstrated that a single actual vote was moved illegitimately by software from one candidate to another. Not one.”***²²⁵
- On November 20, Fox’s Brit Hume again tweeted out facts disproving the lie about Dominion, this time tweeting a thread summarizing a November 20, 2020 article by conservative publication the *National Review* that explained why those who believe the lies about Dominion “have been conned.”²²⁶ But Fox, knowing the truth about the lies, continued repeating,

²²⁰ Brit Hume (@brithume), Twitter (Nov. 18, 2020, 7:49 am), <https://twitter.com/brithume/status/1329044145533558787>.

²²¹ Tucker Carlson, *Time for Sidney Powell to show us her evidence*, Fox News (Nov. 19, 2020), <https://www.foxnews.com/opinion/tucker-carlson-rudy-giuliani-sidney-powell-election-fraud>.

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ Brit Hume (@brithume), Twitter (Nov. 20, 2020, 11:38 am), <https://twitter.com/brithume/status/1329826562888380416>; Jim Geraghty, *Americans Deserves the Truth, Even If It’s Unpleasant*, National Review (Nov. 20, 2020), <https://www.nationalreview.com/the-morning-jolt/americans-deserve-the-truth-even-if-its-unpleasant/>.

republishing, and endorsing the con on its most prominent platforms, for the purpose of improving ratings.

182. While these handfuls of statements from a handful of people at Fox do not absolve Fox for its onslaught of defamatory statements about Dominion, they do demonstrate that Fox at a minimum recklessly disregarded, and really knew, the falsity of the lies its most popular on-air talent were repeatedly promoting about Dominion.

183. Fox's handful of statements in other broadcasts calling out these lies as falsehoods and disinformation do not excuse Fox's behavior. In fact, they make Fox's actions worse. They demonstrate how Fox recklessly disregarded the truth—indeed, that Fox knew the truth, but kept on broadcasting these malicious defamations anyway. For good reason, the First Amendment does not protect a broadcaster who tells falsehoods on multiple occasions yet also tells the truth at other times. This case proves the famous saying that a lie travels halfway around the world before the truth puts on its boots. Especially given Fox's relentless coverage of these lies, the truth had no chance.

184. The First Amendment is a cherished cornerstone of our democracy. But the First Amendment is not a get-out-of-jail free pass. If you yell "Fire" in a crowded theater, it has long been established you can be arrested. If you publish a false statement knowing it is false, or with reckless disregard as to its truth or falsity, it has long been established that the party you injure may hold you responsible for

injuring them. What Fox did here—promoting, amplifying, and endorsing devastating lies about Dominion, with knowledge of their falsity or reckless disregard for the truth—is not a close case. If this case does not rise to the level of defamation by a broadcaster, then nothing does.

185. Fox's statements are reasonably understood to be statements of fact about Dominion, and were understood by people who saw, heard, and read them to be statements of fact about Dominion.

186. Fox's statements are false. Far from being created in Venezuela to rig elections for a now-deceased Venezuelan dictator, Dominion was created in Toronto, and its voting systems are certified under standards promulgated by the EAC, reviewed and tested by independent testing laboratories accredited by the EAC, and were designed to be auditable and include a paper ballot backup to verify results. Because of this backup, independent audits and hand recounts of paper ballots have conclusively and repeatedly disproven the false claim that votes in Dominion machines were flipped, weighted, deleted, or otherwise manipulated by algorithms, software, cyber-attacks, or otherwise. Hugo Chávez's elections were not handled by Dominion, but by an entirely different company—Smartmatic, a competitor of Dominion's. Dominion was not created in or for Venezuela, has never been located there, and is not owned by Smartmatic or Venezuelans. Dominion has never provided machines or software or technology to Venezuela, nor has it ever

participated in any elections in Venezuela. It has no ties to the Venezuelan government or Hugo Chávez. Dominion does not use Smartmatic's software or machines, and there was no Smartmatic technology in any of Dominion's voting machines in the 2020 election. Dominion did not bribe or pay kickbacks to Georgia officials or their families.

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

188. Fox's defamatory statements, whether taken individually or together in their cumulative impact, damaged Dominion in the various ways described herein.

189. Dominion is entitled to punitive damages because Fox's defamatory statements were accompanied with malice, wantonness, and a conscious desire to cause injury. Fox purposefully made the defamatory statements heedlessly and with reckless and willful indifference to Dominion's rights.

190. Dominion is entitled to punitive damages because Fox published its defamatory statements about Dominion with actual malice.

191. Fox's statements are defamatory *per se*, as they impute serious criminal conduct to Dominion and also malign Dominion in the conduct of its business or trade. Fox's statements have exposed Dominion to the most extreme hatred and contempt. Fox, both directly and through the facially unreliable guests Fox repeatedly hosted on its shows, has accused Dominion of fraud, election-rigging,

conspiracy, and bribery, which are serious crimes. For Dominion—whose business is producing and providing voting systems for elections—there are no accusations that could do more to damage Dominion’s business or to impugn Dominion’s integrity, ethics, honesty, and financial integrity. Fox’s statements were calculated to—and did in fact—provoke outrage and cause Dominion enormous harm.

192. Fox’s viral disinformation campaign about Dominion reached over a billion people worldwide and caused enormous harm to Dominion. As a result of that defamatory campaign, Dominion has suffered the following single and indivisible injuries: Dominion employees have been stalked, have been harassed, and have received death threats; Dominion has been forced to make an expenditure of money to remedy the defamation and to protect the lives of its employees; Dominion has lost profits; and Dominion’s enterprise value has been irreparably damaged. Dominion is entitled to damages, including presumed economic damages, as a consequence of Fox’s conduct. These presumed damages include but are limited to the economic harm caused by Fox that now has prevented Dominion from becoming a multi-billion dollar company.

193. In short, as explained above, Fox made these false statements of fact with actual malice. At a minimum, Fox recklessly disregarded the truth. Though not necessary, Fox also knew these statements about Dominion were false. Fox acted with actual malice through the people—agents of Fox—who had responsibility

for airing these broadcasts and publishing these defamatory statements. They include—but are not limited to—the hosts of the relevant programs: Maria Bartiromo, Tucker Carlson, Lou Dobbs, Sean Hannity, and Jeannine Pirro; the producers and editors of those programs; the Fox executives responsible for airing each of those broadcasts, including but not limited to Suzanne Scott, Jay Wallace, Tom Lowell, Meade Cooper, John Fiedler, Lauren Petterson; and the Fox executives responsible for overseeing Fox, including but not limited to Rupert Murdoch and Lachlan Murdoch.

194. The false statements are inherently improbable. They rest on unbelievable allegations stacked on even more unbelievable allegations. Indeed, the same Dominion machines that supposedly were to blame for President Trump's loss also were used in states President Trump won such as Florida and Ohio.

195. Fox knowingly and intentionally relied on and used unreliable sources to perpetuate the defamatory lies about Dominion. By the time Fox first aired false and defamatory allegations about Dominion from Sidney Powell on November 8, 2020, Powell already had been completely discredited—as Fox knew or willfully disregarded. By November 22, even the Trump Campaign had distanced itself from Powell. Yet Fox continued to invite her on to spew lies. Moreover, by November 19, hand recounts confirmed the accuracy of Dominion machines. Yet Fox still aired these lies.

196. Fox deliberately conducted grossly inadequate investigations before publishing its false and defamatory statements about Dominion and then continuing to publish and republish these false statements.

197. Fox's false and defamatory statements about Dominion were made in furtherance of and to fit within the preconceived storyline Fox adopted and endorsed. Fox began touting election fraud even before the election. Fox published its false and defamatory statements and conformed its reporting to fit this preconceived false narrative.

198. Fox published its false and defamatory statements to make a profit at Dominion's expense and at the expense of the truth. Indeed, Fox's financial motivation to peddle its false narrative and lie about Dominion stealing the election from Donald Trump was substantial. Facing a threat to its most profitable line of business from other conservative media outlets competing for President Trump's and his supporters' attention, Fox knowingly lied about Dominion in order to keep, increase, and win back viewers, including its most important viewer then-President Trump.

199. And Fox, when confronted with the direct facts disproving its lies about Dominion, refused to retract its false and defamatory statements, thereby further demonstrating its actual malice in publishing them. Beginning on November 12, 2020, Dominion sent Fox and its reporters, producers, anchors, and content

managers—including those producing and airing the shows that broadcast false and defamatory statements—correspondence detailing Fox’s defamatory falsehoods about Dominion, explaining how and why those defamatory falsehoods were false, and providing citations to independent sources confirming the falsity of those defamatory falsehoods. Dominion also had a direct conversation with Fox News President and Executive Editor Jay Wallace during which Dominion detailed Fox’s defamatory falsehoods about Dominion and explained how and why they are false. And Dominion sent Fox retraction demand letters on November 20, 2020 and December 22, 2020 demanding the retraction of Fox’s defamatory falsehoods about Dominion. Nevertheless, Fox refused to retract any of its false and defamatory statements about Dominion, and instead repeatedly doubled-down on its false and defamatory statements by continuing to publish and republish them. Indeed, Fox continues to make its false and defamatory television broadcasts, social media posts, and statements about Dominion available to the public today on Fox’s multitude of platforms.

200. Fox published its false and defamatory statements not once, but repeatedly over a substantial period of time. Fox’s carried on its disinformation and defamation campaign against Dominion for months while deliberately ignoring Dominion’s specific and repeated warnings that these smears were not true. And it wasn’t just Dominion notifying Fox that it was airing ridiculous fiction. Multiple

people and organizations—from news outlets to third parties to governmental officials—declared publicly that Fox was spreading malicious lies and preposterous conspiracy theories. Indeed, Fox itself knew these lies were untrue. But Fox, fully knowing or recklessly disregarding that its false and defamatory statements about Dominion were untrue, continued its deliberate and premeditated campaign to vilify Dominion.

201. Nor can Fox truthfully (or credibly) claim that it was simply doing its job of reporting on the news of the day, which included news of and litigation concerning alleged fraud in the 2020 Presidential Election. To the contrary, Fox, speaking in its own voice as arguably the country’s most influential news organization, made, published, ratified, endorsed, adopted, and amplified attacks on Dominion specifically. Far from engaging in fair, objective reporting on charges and counter-charges, Fox instead promoted lies about Dominion and used its enormous influence in American culture to advance the false narrative that Dominion was actively complicit in a fraudulent theft of the 2020 Presidential Election.

202. Fox’s many lies about Dominion were specific and verifiably false, and therefore not “opinion.” At an absolute minimum, they are nonetheless actionable as mixed opinions because they are based on underlying false facts and/or on undisclosed facts. Fox used its brand—which it proudly touts as the “top brand for

morning and evening *news* coverage” and “the most trusted cable *news* brand”—in order to push and promote these demonstrable falsehoods.

203. Fox engaged in this knowing and reckless propagation of these enormous falsehoods in order to profit off these lies. Fox wanted to continue to protect its broadcast ratings, catering to an audience deeply loyal to President Trump. Fox similarly sought to aggrandize certain of its most significant advertisers, who were supporters of then-President Donald Trump. Succumbing to these motivations, Fox—both through the speakers it invited onto its shows and in its own voice through many of its most prominent on-air personalities, including, but not necessarily limited to, Maria Bartiromo, Tucker Carlson, Lou Dobbs, Sean Hannity, and Jeanine Pirro—defamed Dominion again and again.

204. In view of the foregoing, Dominion is entitled to actual, presumed, punitive, and other economic damages in an amount to be specifically determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Dominion respectfully requests that the Court enter an award and judgment in its favor, and against Fox News Network LLC, as follows:

- (a) awarding Dominion general compensatory damages in amount to be determined at trial;
- (b) awarding Dominion damages for (1) lost profits of not less than \$600,000,000; (2) lost enterprise value of not less than \$1,000,000,000; (3) security expenses of not less than \$600,000; and

- (4) expenses incurred combatting the disinformation campaign of not less than \$700,000;
- (c) awarding Dominion punitive damages in an amount to be determined at trial;
- (d) awarding Dominion pre- and post-judgment interest;
- (e) awarding Dominion all expenses and costs, including attorneys' fees; and
- (f) such other and further relief as the Court deems appropriate.

JURY DEMAND

Plaintiffs demand a trial by jury on all claims and issues so triable.

Dated: March 26, 2021

Respectfully submitted,

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