

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

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

Plaintiffs,)

v.)

NEWSMAX MEDIA INC.,)

Defendant.)

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

November 12, 2020:

“The November 3rd election was the most secure in American history. . . . **There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.** . . . [W]e can assure you we have the utmost confidence in the security and integrity of our elections, and you should too.”

Joint Statement from the U.S. Cybersecurity & Infrastructure Security Agency

November 19, 2020:

“So she says the algorithm was designed to crash allowing these states to shut down and usher in thousands of fake ballots for Biden. . . . ***it proves all the research that our investigative unit here on Stinchfield has been uncovering.***”

Newsmax anchor Grant Stinchfield, endorsing and lending credibility to Sidney Powell’s false claims that Dominion rigged the 2020 election

November 29, 2020:

“In this day and age, people want something that tends to affirm their views and opinions.”

Newsmax CEO Christopher Ruddy

1. On the actual facts, the November 2020 election was a huge success for Dominion. In jurisdiction after jurisdiction, in 28 states, in the midst of a highly disruptive pandemic, Dominion's voting machines facilitated efficient and reliable voting with accurate tallying of votes. Dominion machines created an auditable and verifiable paper trail. Over literally thousands of hand audits across the country, those paper ballots confirmed the accuracy of the Dominion machines' tallies. Dominion emerged from the election with arguably the most-tested, most-scrutinized, and most-proven voting technology in recent history. What should have been a triumph, however, turned to disaster—not because of anything Dominion did, but because of the lies that influential media companies like Newsmax promoted. Newsmax helped create and cultivate an alternate reality where up is down, pigs have wings, and Dominion engaged in a colossal fraud to steal the presidency from Donald Trump by rigging the vote.

2. During and after the November 2020 election, Newsmax saw a business opportunity. Spurred by a quest for profits and viewers, Newsmax—a competitor to media giant Fox—engaged in a race to the bottom with Fox and other outlets such as One America News Network (OAN) to spread false and manufactured stories about election fraud. Dominion quickly became the focus of this downward spiral of lies, as each broadcaster attempted to outdo the others by making the lies more outrageous, spreading them further, and endorsing them as strongly as possible.

3. Over the course of several months, Newsmax manufactured, endorsed, repeated, and broadcast a series of verifiably false yet devastating lies about Dominion. These outlandish and far-fetched fictions included 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 or owns a company founded in Venezuela to rig elections for the dictator Hugo Chávez; (4) Dominion paid kickbacks to government officials who used its machines in swing states during the 2020 Presidential Election; and (5) Dominion was involved with alleged voting irregularities in Dallas, Texas, in 2018—even though Dominion’s voting system was not used there.

4. Newsmax spread these lies by broadcasting and promoting interviews with discredited figures such as Sidney Powell, Rudolph Giuliani, Patrick Byrne, and Mike Lindell. But Newsmax went further, helping create and nurture the false and fabricated Dominion narrative by endorsing these known falsehoods as the “truth,” and falsely claiming the lies had corroborated Newsmax’s own “investigations.”

5. Newsmax created an entire brand out of defaming Dominion. For example, Newsmax developed an entire segment on its *Greg Kelly Reports* show based on Powell’s provably false claim that “millions of votes” were “shifted by the software that was designed expressly for” the purpose of rigging the election, which

was “exported internationally for profit by the people that are behind Smartmatic and Dominion,” and called the segment “*Democracy or Dominion.*”



6. Throughout this time, Newsmax recklessly disregarded the truth; indeed, Newsmax *knew* the statements it repeatedly broadcast about Dominion were lies. Specifically, Newsmax knew the vote tallies from Dominion machines had been confirmed by numerous independent audits and hand recounts of paper ballots following the election. Newsmax also knew the lies it was promoting and endorsing about Dominion had been debunked by an increasingly long list of bipartisan election officials, election security experts, judges, then-Attorney General William Barr, then-Director of the U.S. 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 several. Newsmax also knew or recklessly disregarded that there was no evidence

whatsoever to support its claims that Dominion was created in Venezuela by Hugo Chavez for the purpose of rigging elections.

7. How did Newsmax deal with the fact that independent experts, loyal Trump supporters, and Trump Administration officials alike had completely debunked its lies about Dominion? Newsmax added even more far-fetched flourishes to its fantastical story, claiming that Trump’s own allies were in on the “steal”—including specifically that they received “kickbacks” from Dominion to steal the election—and sold this inherently improbable scenario to its viewers.

8. While Newsmax has claimed it was merely reporting on allegations being made by President Trump, that “excuse” is also a lie. Newsmax made the intentional and knowing choice to depict—and then publicize, endorse, and fuel—the lies about Dominion as truth, creating and promoting an alternate reality that duped millions of Americans into believing that Dominion stole the 2020 election from President Trump. It repeatedly broadcast the lies of facially unreliable sources—lies which Newsmax itself adopted, endorsed, promoted, and manufactured. And it acted this way because the lies attracted Trump’s public stamp of approval, attention, and admiration, along with huge ratings boosts and profit windfalls. In short, this lawsuit is not about Newsmax covering President Trump; it is about Newsmax *courting* President Trump, by feeding its audience a torrent of lies that supported the false narrative that President Trump won the election.

9. Weeks after positioning itself on the vanguard of promoting these lies, in late December 2020, Newsmax admitted (at least with respect to certain of the lies) that it never had any evidence to support the lies it had been spreading, calling this a “clarification” of its reporting. Yet even after that admission, Newsmax refuses to tell its viewers the truth. To this day, Newsmax has never issued anything close to a retraction of its Dominion lies—has never told its viewers that the numerous specific lies it fed them for months, endorsed as the truth, even claimed were corroborated by its own investigations, were in fact false and have been authoritatively debunked. And while Newsmax has quietly (without any retraction) removed from its website some material defaming Dominion, it has left other such material up to this day.

10. If Newsmax cared about the truth—if it cared about informing (rather than deceiving) its viewers—it would identify for its viewers each specific lie it broadcast, promoted, and endorsed in November and December 2020, tell its viewers in no uncertain terms that those lies were false, and explain to its viewers all the voluminous evidence debunking those lies. That would be the right thing to do, even though it would not reverse the damage already done to Dominion. But recent history is littered with examples of former loyalists of President Trump who felt his wrath after telling the truth about the 2020 election, including former Attorney General William Barr, Georgia Governor Brian Kemp, Georgia Secretary of State Brad

Raffensperger, and even former Vice President Mike Pence. So Newsmax refuses to level with its audience, choosing profits and increased viewership over truth. Dominion brings this lawsuit to set the record straight, to vindicate its rights, to hold Newsmax accountable, and to recover damages for the devastating economic harm done to its business.

PARTIES AND RELEVANT NON-PARTIES

11. Plaintiff US Dominion, Inc. is a for-profit Delaware corporation with its principal place of business in Denver, Colorado. It is majority-owned by a private equity firm whose principal place of business is in New York, New York.

12. 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.

13. 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.”)

14. Defendant Newsmax Media, Inc., oversees the Newsmax news channel that is distributed through most leading cable, satellite, and streaming television

service providers; the news website Newsmax.com, through which it streams its news programming and publishes articles based on its programming; mobile apps for Apple and Android devices; and various social media accounts, including the @newsmax Twitter handle and on YouTube. The company was formed in and is organized under the laws of Delaware and has its principal place of business in West Palm Beach, Florida. Before Election Day 2020, Newsmax TV was available to over 70 million American households.¹ From the beginning of July 2020 to the week before Election Day, Newsmax averaged 58,000 viewers from 7 to 10 p.m. on weekdays.² The week after the election, Newsmax's ratings jumped to almost *ten times* Newsmax's pre-election ratings.³ In the same period, daytime viewership also increased *nearly ten-fold*.⁴ In February 2021, Newsmax claimed that it had generated five million downloads of the mobile apps through which it has streamed its news coverage since the 2020 election, with Newsmax CEO Christopher Ruddy

¹ John Eggerton, *Newsmax Grabs Fox Distribution Executive*, Next|TV (May 14, 2019), <https://www.nexttv.com/news/newsmax-grabs-fox-distribution-executive>.

² David Bauder, *Trump-friendly Newsmax Seeks to Cut into Fox's Viewership*, Associated Press (Nov. 18, 2020), <https://apnews.com/article/newsmax-sudden-competitor-fox-news-bddb5f123fe8d187570129a8425c7303>.

³ *Id.*

⁴ *Id.*

celebrating “that America is making the switch to Newsmax TV for fair, unbiased journalism.”⁵

15. Christopher Ruddy is the Chief Executive Officer of Newsmax Media, Inc.⁶ At all times, Ruddy was an agent of Newsmax. Ruddy founded Newsmax in 1998 as a conservative news website. Ruddy then launched the Newsmax cable TV channel in 2014. He and former President Donald Trump are “friends,” and spoke routinely after the 2020 Presidential Election.⁷ By the end of November 2020, Ruddy estimated that Newsmax was reaching “over thirty million Americans each month through our different outlets.”⁸

16. Greg Kelly is the host of *Greg Kelly Reports*, which airs weeknights at 7 p.m. Eastern Time on Newsmax TV.⁹ At all relevant times, *Greg Kelly Reports* broadcast from New York, New York.¹⁰ At all relevant times, Kelly was an agent of

⁵ Bill Hoffman, *More Than 5 Million Newsmax App Downloads!*, Newsmax (Feb. 25, 2021, 2:08 PM) <https://www.newsmax.com/newsfront/app-newsmax-apple-store-google-play/2021/02/25/id/1011529/>.

⁶ Christiane Amanpour, *Trump Confidant: Mr. President, Please Testify*, CNN (Dec. 17, 2019), <https://www.cnn.com/videos/politics/2019/12/17/chris-ruddy-trump-confidant-please-testify-amanpour-sot-vpx.cnn>.

⁷ Isaac Chotiner, *Why Newsmax Supports Trump’s False Voter-Fraud Claims*, *The New Yorker* (Nov. 24, 2020), <https://www.newyorker.com/news/q-and-a/why-newsmax-supports-trumps-false-voter-fraud-claims>.

⁸ *Id.*

⁹ *Greg Kelly Reports*, Newsmax (Mar. 3, 2021), <https://www.newsmaxtv.com/kelly> (last visited Aug. 5, 2021).

¹⁰ Kasey Caminiti, *A Man With a New York State of Mind*, *DuJour*, <https://dujour.com/culture/interview-greg-kelly-reports-newsmax-ray-kelly-nyc/> (last visited Aug. 5, 2021).

Newsmax. Kelly was the first Newsmax host to draw more than 1 million viewers in his time slot.¹¹ His show has built an audience about four times larger than that of CNBC’s heavily promoted *The News with Shepard Smith*, which airs at the same time as *Greg Kelly Reports*.¹² On December 7, 2020, *Greg Kelly Reports* out-rated *The Story with Martha MacCallum* on Fox News for the first time ever, according to Nielsen ratings.¹³ Kelly also hosts “The Greg Kelly Podcast” for Newsmax and “The Greg Kelly Show” on WABC radio.¹⁴ On information and belief, Newsmax operates and exercises control over the Twitter account @gregkellyusa, which is evidenced by the fact that the @gregkellyusa account’s profile lists and tags the account for @newsmax,¹⁵ and the fact that tweets are posted to the @gregkellyusa account during live broadcasts (when Kelly could not post himself).¹⁶ Newsmax

¹¹ Justin Peters, *The King of Dead-End TV*, Slate (Nov. 27, 2020, 5:45 AM), <https://slate.com/news-and-politics/2020/11/newsmax-greg-kelly-fox-news-trump.html>.

¹² Michael M. Grynbaum & John Koblin, *Newsmax, Once a Right-Wing Also-Ran, Is Rising, and Trump Approves*, Baltimore Sun (Nov. 22, 2020, 4:55 PM), <https://slate.com/news-and-politics/2020/11/newsmax-greg-kelly-fox-news-trump.html>.

¹³ Brian Stelter, *Newsmax TV Scores a Ratings Win over Fox News for the First Time Ever*, CNN Business (Dec. 8, 2020, 6:53 PM), <https://www.cnn.com/2020/12/08/media/newsmax-fox-news-ratings/index.html>.

¹⁴ *Podcast: The Greg Kelly Show*, 77 WABC Talk Radio, <https://wabcradio.com/podcast/greg-kelly-show/> (last visited Aug. 5, 2021).

¹⁵ Greg Kelly (@gregkellyusa), Twitter, <https://twitter.com/gregkellyusa> (last visited Aug. 5, 2021).

¹⁶ See, e.g., Greg Kelly (@gregkellyusa), Twitter (Mar. 25, 2021, 1:43 PM), https://twitter.com/gregkellyusa?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor (during Kelly’s live radio broadcast).

promotes *Greg Kelly Reports* across its social media accounts, including the Twitter handle @gregkellyusa.¹⁷

17. Grant Stinchfield hosts *Stinchfield* on Newsmax TV, which airs on weekdays at 8 p.m. Eastern Time.¹⁸ At all relevant times, Stinchfield was an agent of Newsmax. *Stinchfield* is one of Newsmax’s top-five rated shows.¹⁹ In addition to his television show, Stinchfield hosts the radio show “The Stinchfield Report” from 3 to 7 p.m. weekdays on KLIF/570 AM.²⁰ Stinchfield promotes his shows across social media, including through the Twitter handle @stinchfield1776.²¹ On information and belief, Newsmax operates and exercises control over the Twitter account @stinchfield1776, which is evidenced by the fact that the @stinchfield1776 account’s profile lists his affiliation with Newsmax. Stinchfield also runs the website GrantsRant.com.²²

¹⁷ See, e.g., Newsmax (@newsmax), Twitter (Aug. 4, 2021), <https://twitter.com/newsmax/status/1423085771599204357> (last visited Aug. 5, 2021).

¹⁸ *Stinchfield*, Newsmax, <https://www.newsmaxtv.com/stinchfield> (last visited Aug. 5, 2021).

¹⁹ *Stinchfield Ratings*, Cable Rankings, <https://ctv.kwayisi.org/networks/nmax/stinchfield/> (enter date range in “From” and “To” fields) (last visited Aug. 5, 2021).

²⁰ *Grant Stinchfield Biography, Age, Wiki, Profession, Wife, Family, Networth & More*, ARealNews (June 24, 2021), <https://arealnews.com/grant-stinchfield-biography/> (last visited July 5, 2021).

²¹ Grant Stinchfield (@stinchfield1776) (July 15, 2021, 8:35 PM), <https://twitter.com/stinchfield1776/status/1415847546354868227> (last visited Aug. 5, 2021); see also Newsmax (@newsmax), Twitter (July 29, 2021, 8:30 PM), <https://twitter.com/newsmax/status/1420919574396952587> (last visited July 5, 2021).

²² Grant’s Rant, <https://www.grantsrant.com/> (last visited Aug. 5, 2021).

18. Emerald Robinson is Newsmax’s White House correspondent, appearing regularly on Newsmax TV.²³ At all relevant times, Robinson was an agent of Newsmax. On information and belief, Newsmax operates and exercises control over the Twitter account @EmeraldRobinson, which is evidenced by the fact that the @EmeraldRobinson account’s profile lists her affiliation with Newsmax.²⁴

19. 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.’”²⁵ 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. Those judges called Powell’s lawsuits “nothing but speculation and conjecture,”²⁶ and “largely based on anonymous witnesses, hearsay, and irrelevant analysis of unrelated elections.”²⁷ They likewise concluded that even those witnesses and so-called “experts” “reach implausible conclusions, often because they are derived from *wholly unreliable sources*.”²⁸ Powell was also the

²³ Emerald Robinson, *Newsmax TV Names Emerald Robinson White House Correspondent*, Newsmax (Feb. 11, 2020, 8:21 AM), <https://www.newsmax.com/newsfront/newsmax-tv-emerald-robinson-media-white-house-correspondent/2020/02/11/id/953545/>.

²⁴ Emerald Robinson (@EmeraldRobinson), Twitter, https://twitter.com/EmeraldRobinson?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor (last visited Aug. 5, 2021).

²⁵ Sidney Powell, <https://www.sidneypowell.com/shop> (last visited Aug. 5, 2021).

²⁶ Op. & Order at 34, *King v. Whitmer*, No. 20-cv-12134 (E.D. Mich. Dec. 7, 2020) [Dkt. 62].

²⁷ Order at 24-25, *Bowyer v. Ducey*, No. 2-20-cv-02321 (D. Ariz. Dec. 9, 2020) [Dkt. 84].

²⁸ *Id.*

attorney for Michael Flynn, and in that capacity sought to have President Trump pardon him. President Trump pardoned Flynn on November 25, 2020—on literally the same day that Powell filed the first of her baseless lawsuits challenging the 2020 Presidential Election results.²⁹ (According to Powell, President Trump himself told her the news that the pardon was forthcoming.)³⁰ Newsmax repeatedly hosted and replayed Powell on its programming in the weeks and months following the 2020 Presidential Election to promote falsehoods about Dominion. As a result of Powell’s repeated lies about Dominion and her frivolous election fraud lawsuits, she currently faces sanctions in Michigan.³¹ During a hearing on the sanctions motion, the presiding federal judge observed that the “volume” of Powell’s purported evidence did not “equate with legitimacy or veracity” and that Powell had submitted “fantastical” evidence in support of her claims.

20. 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 complaint concerning the 2020 election—whether for the Trump Campaign or

²⁹ Spencer S. Hsu & Ann E. Marimow, *Michael Flynn judge says pardon doesn’t mean ex-national security adviser is innocent*, Wash. Post (Dec. 8, 2020), https://www.washingtonpost.com/local/legal-issues/michael-flynn-case-dismissed/2020/12/08/31abb5de-0975-11eb-a166-dc429b380d10_story.html.

³⁰ <https://talkingpointsmemo.com/news/trump-announces-pardon-for-mike-flynn>

³¹ Brent Kendall & Alexa Corse, *Trump 2020 Election Lawsuits Lead to Requests to Discipline Lawyers*, Wall St. J. (May 9, 2021, 10:00 AM), <https://www.wsj.com/articles/trump-2020-election-lawsuits-lead-to-requests-to-discipline-lawyers-11620568801>.

anyone else—that contained any allegations about Dominion. Newsmax broadcast false statements by Giuliani on its programming in the weeks following the 2020 Presidential Election to promote falsehoods about Dominion. On June 24, 2021, New York suspended Giuliani’s law license for making “*knowing*” false and misleading factual statements to support his claim that the presidential election was stolen from his client [Donald Trump].”³² On July 7, 2021, Washington, D.C. suspended Giuliani’s law license as well.³³

21. Michael Lindell is the founder and CEO of My Pillow, Inc. (“MyPillow”),³⁴ one of Newsmax’s biggest sponsors. Beginning in 2004, when Lindell founded the MyPillow company, Lindell personally starred in MyPillow’s infomercials, which claimed that MyPillow would help people suffering from fibromyalgia, insomnia, migraines and headaches, sleep apnea, snoring, TMJ, and restless leg syndrome.³⁵ In 2016, prosecutors alleged that these claims were “untrue

³² Order, *In re Giuliani*, No. 2021-00506 (N.Y. Sup. Ct. June 24, 2021), [https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20\(2021-00506\)%20PC.pdf](https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20(2021-00506)%20PC.pdf); Jim Mustian, *New York Court Suspends Rudy Giuliani’s law license*, Associated Press (June 24, 2021), <https://apnews.com/article/rudy-giuliani-new-york-law-license-suspended-c67f4504a22f8642d6096f29e3a5c51e>.

³³ Katelyn Polantz, *Rudy Giuliani suspended from practicing law in Washington, D.C.*, CNN (July 7, 2021), <https://www.cnn.com/2021/07/07/politics/rudy-giuliani-suspended-law-washington/index.html>.

³⁴ *Mike’s Story*, My Pillow, <https://www.mypillow.com/mikes-story> (last visited Aug. 5, 2021).

³⁵ See Complaint, *California v. MyPillow, Inc.*, No. HG16836619 (Ca. Super. Ct., Alameda Cty. Oct. 26, 2016).

or misleading.”³⁶ Rather than defend the truthfulness of MyPillow’s claims in court, Lindell opted to pay \$995,000 in civil penalties.³⁷ Similarly, the Better Business Bureau revoked the accreditation of MyPillow and lowered its rating to “F” based on a pattern of complaints by customers.³⁸ 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 Newsmax.³⁹ Lindell has been called “one of the most prominent peddlers of bogus conspiracy theories” about the 2020 election, including the lies about Dominion.⁴⁰ Newsmax knowingly broadcast lies about Dominion to a global audience by inviting Lindell on the air, where it knew he would repeat those lies. And Lindell has continued to spread these lies even after Dominion filed a defamation lawsuit against him on February 22, 2021,⁴¹ most recently producing and starring in a series of “docu-movies” dedicated to defaming Dominion.⁴² Lindell has

³⁶ *Id.*

³⁷ See Final Judgment, *California v. MyPillow, Inc.*, No. HG16836619 (Ca. Super. Ct., Alameda Cty. Oct. 31, 2016).

³⁸ *My Pillow*, Better Business Bureau, <https://www.bbb.org/us/mn/chaska/profile/pillows/my-pillow-inc-0704-96152336> (last visited Aug. 5, 2020).

³⁹ Tiffany Hsu, *As Corporate America Flees Trump, MyPillow’s C.E.O. Stands by Him*, N.Y. Times, <https://www.nytimes.com/2021/01/12/business/media/mypillow-mike-lindell-trump.html> (Feb. 22, 2021).

⁴⁰ Matt Gertz, *Pillow Fight: The Right-Wing Media Competition for Mike Lindell’s Affection (and Money)*, Media Matters for America (Feb. 5, 2021), <https://www.mediamatters.org/fox-news/pillow-fight-right-wing-media-competition-mike-lindells-affection-and-money>.

⁴¹ *US Dominion Inc. v. My Pillow, Inc.*, No. 21-cv-00445 (D.D.C. Feb. 22, 2021).

⁴² *Absolute Proof* (2021); *Absolute Interference* (2021); *Absolutely 9-0* (2021).

lied about Dominion rigging the election to this day and even promised his supporters that Trump will be reinstated as President by “August 13.”⁴³

22. Dick Morris is a political commentator who rose to notoriety in 1996 when he was fired from his role on the campaign for President Bill Clinton.⁴⁴ Morris has been called “an amateur prognosticator with ulterior motives,” whose views are often “willfully illogical and wrong.”⁴⁵ Morris has been called out in the past for crossing journalistic ethical lines by “accepting paid advertisements” on his personal website “from candidates that he discussed on the air at Fox.”⁴⁶ Morris is a regular Newsmax contributor, and Newsmax also manages Morris’s email list. Newsmax knowingly broadcast lies about Dominion to a global audience by inviting Morris on the air, where it knew he would repeat those lies. Morris was rewarded by Newsmax with his own show called *Dick Morris Democracy*, which began airing on Newsmax in February 2021.⁴⁷

⁴³ Mia Jankowicz, *Mike Lindell Set August 13 as the Date in His Bonkers Theory that Trump Will Be Reinstated as President*, Insider (July 6, 2021, 4:53 AM), <https://www.businessinsider.com/mike-lindell-claims-august-13-trump-reinstatement-2021-7>.

⁴⁴ Clarence Page, *The Dick Morris Story: An Affair to Not Remember*, Chicago Tribune (Sept. 1, 1996), <https://www.chicagotribune.com/news/ct-xpm-1996-09-01-9609010307-story.html>.

⁴⁵ Ezra Deutsch-Feldman & Michael Fitzgerald, *Dick Morris Is Lying, Part 8*, New Republic (Mar. 23, 2011), <https://newrepublic.com/article/85668/dick-morris-obama-2012-japan-economy>.

⁴⁶ *Fox Cuts Ties to Commentator Dick Morris*, Associated Press (Feb. 5, 2013), <https://apnews.com/article/9e36da7f0e2e47e1a6258d070b216d13>.

⁴⁷ *Dick Morris Democracy*, Newsmax, <https://www.newsmaxtv.com/Shows/Dick-Morris-Democracy> (last visited Aug. 6, 2021).

23. Patrick Byrne is the former CEO of the internet discount retailer Overstock.com, and is yet another self-styled “expert” whom Newsmax brought on its network to lie about Dominion and the 2020 election. Byrne has a long prior history of fabricating fantastical stories without ever providing a shred of evidence to support their truth, in order to serve his own personal interests. For instance, Byrne was previously ordered to pay an approximately \$1 million defamation judgment for falsely accusing a Canadian businessman of being connected to “Osama bin Laden’s favorite financier,” the Colombian drug cartel, the Russian mafia, and al Qaeda’s Golden Chain.⁴⁸ The court concluded that Byrne and his collaborators had “engaged in a calculated and ruthless campaign to inflict as much damage on [his victim’s] reputation as they could achieve. It is clear on the evidence that their intention was to conduct a vendetta in which the truth ... was of no consequence. Their mission was to expose what they conceive to be corrupt business practices ... [Their victim] became a convenient means to that end, even when he himself could not be demonstrated to be corrupt.”⁴⁹

24. Byrne has publicly admitted that he had already committed back in *August 2020* to the narrative that the 2020 Presidential Election was going to be

⁴⁸ *Nazerali v. Mitchell*, No. S116979, 2016 BCSC 810, Corrected Judgment at 97 (Sup. Ct. of British Columbia May 6, 2016), available at <https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc810/2016bcsc810.pdf>.

⁴⁹ *Id.*

rigged.⁵⁰ In public media appearances, Byrne refers to this narrative as the “last act” of a fantastical storyline that he first started to spread in August 2019,⁵¹ after it was revealed that he had had a romantic affair with the now-notorious Russian agent, Maria Butina, who was sentenced to 18 months in prison after being indicted by federal prosecutors for trying to infiltrate powerful political circles in the United States at the direction of the Russian government.⁵²

25. This storyline began when Byrne abruptly resigned his board seat and position as CEO at Overstock in August 2019 after his affair with Butina was revealed, and Overstock found itself unable to renew its insurance policy as long as Byrne remained in charge.⁵³ In an apparent attempt to rationalize his relationship

⁵⁰ Patrick Byrne, *How DJT Lost the White House, Introduction: Why I Was Involved Before November 3 & What I Learned Because I Was (1.3)*, Deep Capture (Jan. 24, 2021), <https://www.deepcapture.com/2021/01/how-djt-lost-the-white-house-introduction-why-i-was-involved-before-november-3-and-what-i-learned-by-doing-so/>; *Tech Millionaire Funds Hacking Team 2020 Election was 100% Rigged*, OAN (Nov. 20, 2020), previously available at <https://www.oann.com/tech-millionaire-funds-hacking-team-20-election-100-rigged/>

[<https://app.criticalmention.com/app/#clip/view/67795b8f-2934-4361-81bd-710b2250575a?token=37f52d99-127d-4b48-b8dc-e5e99babfaaa>]; Patrick Byrne: *Dissecting The Electronic Steal*, Operation Freedom (Nov. 24, 2020), www.youtube.com/watch?v=5fs3tKtmiEA.

⁵¹ Patrick M. Byrne (CEO of Overstock.com) EXPOSES Deep State Election Fraud, Rumble (Dec. 23, 2020), <https://rumble.com/vc4I9j-patrick-m.-byrne-ceo-of-overstock.com-exposes-deep-state-election-fraud.html>.

⁵² Michael Corkery, *Overstock C.E.O. Takes Aim at ‘Deep State’ After Romance With Russian Agent*, N.Y. Times (Aug. 15, 2019), <https://www.nytimes.com/2019/08/15/business/overstock-paul-byrne-maria-butina-affair.html>.

⁵³ Abha Bhattarai, *Inside Overstock.com, where a firebrand CEO and ‘Deep State’ intrigue took center stage*, Washington Post (Sept. 27, 2019), <https://www.washingtonpost.com/business/2019/09/26/inside-overstockcom-where-firebrand-ceo-deep-state-intrigue-took-center-stage/>.

with Butina—to portray himself as a patriotic American rather than an asset of a Russian agent—Byrne began to claim that the FBI had directed him to engage in a romantic relationship with Butina.⁵⁴ This is a claim that former FBI Director James Comey said was “ridiculous,” adding “[t]he FBI doesn’t work that way.”⁵⁵ Similarly, another former FBI agent with knowledge of FBI procedures called Byrne’s claims “absolutely outrageous and impossible to believe,” and “maybe he is going to be facing some serious criminal problems and now he’s trying to create a smokescreen. . . . It’s absolutely ludicrous.”⁵⁶

26. As if this storyline were not strange enough, Byrne would later publicly claim that the FBI eventually told him to quit his affair with Butina, and instead asked him to facilitate an \$18 million bribe of Hillary Clinton, which Byrne claims to have done on January 14, 2016.⁵⁷ Byrne made these claims publicly as early as October 6, 2020, on his personal blog, deepcapture.com,⁵⁸ and then added to the

⁵⁴ David Shortell and Caroline Kelly, *Former officials deny ex-CEO’s claim FBI asked him to pursue Maria Butina*, CNN (Aug. 23, 2019), <https://www.cnn.com/2019/08/23/politics/patrick-byrne-maria-butina-fbi-relationship-cnntv/index.html>.

⁵⁵ *Id.*

⁵⁶ *Former FBI Special Agent John Iannarelli Says Patrick Byrne’s Claims Are “Impossible to Believe,”* Fox News (Aug. 23, 2019), <https://video.foxnews.com/v/6076376906001#sp=show-clips>.

⁵⁷ *Patrick M. Byrne (CEO of Overstock.com) EXPOSES Deep State Election Fraud*, Rumble (Dec. 23, 2020), <https://rumble.com/vc4I9j-patrick-m.-byrne-ceo-of-overstock.com-exposes-deep-state-election-fraud.html>.

⁵⁸ Patrick Byrne, *The Hillary Clinton Bribery-&-Blackmail & Maria Butina Intoxicate-Rape-&-Murder Deep State Stings Finale*, Deep Capture (Oct. 6, 2020), <https://www.deepcapture.com/2020/10/finale-the-deep-states-hillary-clinton-bribery-blackmail-sting-the-maria-butina-rape-murder-gambit/>.

claims in later public media appearances. The \$18 million bribe was supposedly (according to Byrne) part of a plot by then-President Obama to ensure that he could “control” Clinton once she became President.⁵⁹ Byrne claims the “operation” was called “Project Snowglobe,”⁶⁰ and that he has seen “the bank record” to show the bribe was paid.⁶¹ In his nonsensical storyline, Byrne further claims that President Obama’s ultimate goal was to ensure that then-First Lady Michelle Obama would serve as President after Clinton.⁶² Also according to Byrne, this was the *second* bribe accepted by Hillary Clinton—a follow-up to an initial \$20 million bribe Clinton had supposedly already accepted from Turkey by the time Byrne claims the FBI enlisted him in the “sting.”⁶³ And in another ridiculous twist, Byrne claims that he used information about proper entrapment methodologies that he learned from his “FBI handlers” to entrap former leaders at the CIA and FBI, including former FBI Director James Comey and former CIA Director John Brennan, into approving the rape and murder of Maria Butina (which Byrne then declined to carry out), in some sort of

⁵⁹ *Patrick M. Byrne (CEO of Overstock.com) EXPOSES Deep State Election Fraud*, Rumble (Dec. 23, 2020), <https://rumble.com/vc4I9j-patrick-m.-byrne-ceo-of-overstock.com-exposes-deep-state-election-fraud.html>.

⁶⁰ *Id.*

⁶¹ *Dr Corsi NEWS 12-24-20: Patrick Byrne Explains Trump Path To Victory*, Rumble (Dec. 24, 2020), <https://rumble.com/vc5kbh-dr-corsi-news-12-24-20-patrick-byrne-explains-trump-path-to-victory.html>.

⁶² *Patrick M. Byrne (CEO of Overstock.com) EXPOSES Deep State Election Fraud*, Rumble (Dec. 23, 2020), <https://rumble.com/vc4I9j-patrick-m.-byrne-ceo-of-overstock.com-exposes-deep-state-election-fraud.html>.

⁶³ *Id.*

scheme to give Byrne leverage over those officials.⁶⁴ Finally, according to Byrne, former Attorney General William Barr “knows” about “Project Snowglobe,” and the entire plot will eventually be disclosed in the report of DOJ special counsel John Durham’s investigation into the origins of the FBI’s Russia investigation—because, as Byrne claims, “I know what’s in the Durham Report.”⁶⁵

27. Byrne has publicly claimed that this set of alleged experiences somehow tipped him off that the 2020 election would be rigged back in August 2020,⁶⁶ at which time he set out to hire a group he calls the “Bad News Bears” to “reverse-engineer” the supposed election-rigging to come.⁶⁷ (Elsewhere, Byrne has

⁶⁴ Patrick Byrne, *The Hillary Clinton Bribery-&-Blackmail & Maria Butina Intoxicate-Rape-&-Murder Deep State Stings Finale*, Deep Capture (Oct. 6, 2020), <https://www.deepcapture.com/2020/10/finale-the-deep-states-hillary-clinton-bribery-blackmail-sting-the-maria-butina-rape-murder-gambit/>.

⁶⁵ Patrick M. Byrne (CEO of Overstock.com) *EXPOSES Deep State Election Fraud*, Rumble (Dec. 23, 2020), <https://rumble.com/vc4I9j-patrick-m.-byrne-ceo-of-overstock.com-exposes-deep-state-election-fraud.html>.

⁶⁶ Patrick Byrne, *How DJT Lost the White House, Introduction: Why I Was Involved Before November 3 & What I Learned Because I Was (1.3)*, Deep Capture (Jan. 24, 2021), <https://www.deepcapture.com/2021/01/how-djt-lost-the-white-house-introduction-why-i-was-involved-before-november-3-and-what-i-learned-by-doing-so/>; *Tech Millionaire Funds Hacking Team 2020 Election was 100% Rigged*, OAN (Nov. 20, 2020), previously available at <https://www.oann.com/tech-millionaire-funds-hacking-team-20-election-100-rigged/> [<https://app.criticalmention.com/app/#clip/view/67795b8f-2934-4361-81bd-710b2250575a?token=37f52d99-127d-4b48-b8dc-e5e99babfaaa>]; Patrick Byrne: *Dissecting The Electronic Steal*, Operation Freedom (Nov. 24, 2020), www.youtube.com/watch?v=5fs3tKtmiEA. Patrick M. Byrne (CEO of Overstock.com) *EXPOSES Deep State Election Fraud*, Rumble (Dec. 23, 2020), <https://rumble.com/vc4I9j-patrick-m.-byrne-ceo-of-overstock.com-exposes-deep-state-election-fraud.html>.

⁶⁷ See Patrick Byrne, *How DJT Lost the White House, Introduction: Why I Was Involved Before November 3 & What I Learned Because I Was (1.3)*, Deep Capture (Jan. 24, 2021), <https://www.deepcapture.com/2021/01/how-djt-lost-the-white-house-introduction-why-i-was-involved-before-november-3-and-what-i-learned-by-doing-so/>.

claimed he “knew” since October 2018 that the 2020 Presidential Election was going to be rigged.)⁶⁸ As part of his “Bad News Bears” efforts, Byrne takes credit for personally funding and working closely with Russell Ramsland, who was peddling lies back in 2018 about a Dallas congressional election—lies about a competitor of Dominion’s whose equipment was used in that election, that were debunked but that ended up being very similar to the lies spread about Dominion in the 2020 Presidential Election. To fit his preconceived narrative, Byrne falsely accused Dominion of rigging the 2018 Dallas election, even though Dominion’s machines were not used in the Dallas election, and then transposed those same discredited theories onto Dominion and the 2020 Presidential Election. Byrne has also boasted about working closely with Ramsland’s team to create a so-called “forensic report” about the 2020 vote in Antrim County, Michigan. That report falsely accused Dominion of switching votes in Antrim County to Joe Biden from Donald Trump, and Byrne and others published and promoted that false report to spread further disinformation and lies about Dominion (as discussed in more detail below).

28. Byrne’s partnership with other promoters of the false Dominion election fraud narrative has not been limited to Ramsland. For instance, Byrne has also boasted of having sent documents and information to Mike Lindell after Byrne

⁶⁸ *Patrick M. Byrne (CEO of Overstock.com) EXPOSES Deep State Election Fraud*, Rumble (Dec. 23, 2020), <https://rumble.com/vc4I9j-patrick-m.-byrne-ceo-of-overstock.com-exposes-deep-state-election-fraud.html>.

lost access to President Trump in late 2020. And Byrne served as CEO of Defending the Republic, the organization launched by Sidney Powell to help fund her own efforts to falsely accuse Dominion of rigging the 2020 election.

29. Using the same playbook that was used for the false “forensic report” in Antrim County, Byrne has partnered with OAN, Sidney Powell, and others to fund the sham election “audit” in Arizona. In addition, he has published a book, *The Deep Rig*, and a feature film of the same name, in which he uses some of the same false and manufactured “evidence” he has presented in his blog posts and media appearances to further promote lies about Dominion rigging elections.

30. Finally, apparently in anticipation of the U.S. Supreme Court declining to hear a case seeking to throw out the 2020 election results, Byrne falsely claimed in early December 2020 that Chief Justice John Roberts “may be compromised,” because his name according to Byrne appears on the flight manifest of the notorious Jeffrey Epstein’s private jet.⁶⁹ (Byrne has also implicated several U.S. agencies in allegedly assassinating Epstein.⁷⁰) And in yet another of his fantastical lies, Byrne has falsely asserted that DNC staffer Seth Rich had been murdered not as part of a robbery, but because Rich’s “role” “in the DNC” had “put him in a position to have

⁶⁹ Patrick Byrne & Dave Janda, *Patrick Byrne: Dissecting The Election Fraud*, Operation Freedom (Dec. 9, 2020), available at <https://rumble.com/vbpgi7-patrick-byrne-dissecting-the-election-fraud.html>.

⁷⁰ *Id.*

known . . . that the Dominion servers had been used in the [2016 Democratic] primaries to steal from Bernie [Sanders] to give to Hillary [Clinton]”; according to Byrne, “[t]hey could not have let a guy who had the kind of knowledge that we’re now talking about, to walk around. They couldn’t let him walk around if he was not on board.”⁷¹

31. Russell Ramsland is a failed Republican congressional candidate and conspiracy theorist who has publicly claimed, among other things, that George Soros—who was born in 1930—helped form the “Deep State” in Nazi Germany in the 1930s along with President George H.W. Bush’s father, the Muslim Brotherhood, and “leftists.”⁷² Well before the 2020 election, Ramsland had publicly peddled a false story about the 2018 U.S. congressional election in Dallas, Texas, and the 2019 gubernatorial election in Kentucky, falsely claiming that those elections had been rigged by voting machines with links to Smartmatic and using Venezuelan election-stealing software controlled by a George Soros operative, and that votes had been sent to CIA-funded databases in Spain where they were changed and sent back to the United States. Ramsland’s false claims went nowhere. Even the Republican Attorney General of Texas, Ken Paxton—a staunch ally of President

⁷¹ Patrick Byrne: *Blowing Open the Election Steal*, Operation Freedom (Dec. 8, 2020), <https://www.youtube.com/watch?v=8IGdRb8IZKA>.

⁷² John Savage, *Texas Tea Partiers Are Freaking Out Over ‘Deep State’ Conspiracy Theories*, Vice (Sep. 20, 2018), <https://www.vice.com/en/article/mbwgxx/texas-tea-partiers-are-freaking-out-over-deep-state-conspiracy-theories>.

Trump—rejected Ramsland’s claims about the 2018 Dallas congressional election, explaining in a public statement: “In this case, after a thorough investigation by our office with the assistance of election systems experts, cybersecurity experts, and the FBI, we found the claims in this case were unverifiable, and an audit of the voting records confirmed the outcome of the election.”⁷³

32. Despite Ramsland’s claims having been debunked, Patrick Byrne, Sidney Powell, Rudolph Giuliani and others took the lies Ramsland had tried to peddle in 2018 and promoted them to a massive global audience, working with Newsmax, OAN, Fox and other media outlets to give them far greater reach than they had before. Some (including Byrne) even took it one step further, revising Ramsland’s false story about the Dallas 2018 congressional election to promote the new lie that it was Dominion that had rigged that 2018 election—even though Dominion machines were not used in that election.

33. Ramsland filed numerous affidavits recycling and repurposing his absurd 2018 election fraud stories in support of lawsuits brought by Sidney Powell and others seeking to throw out 2020 presidential election results in several states that Joe Biden won. No court found any of Ramsland’s affidavits submitted in those cases to have any merit, and in fact Ramsland was judicially determined to have

⁷³ Emma Brown, Aaron C. Davis, Jon Swaine and Josh Dawsey, *The making of a myth* (May 9, 2021), <https://www.washingtonpost.com/investigations/interactive/2021/trump-election-fraud-texas-businessman-ramsland-asog/>.

provided “materially false information” in support of his claims of vote manipulation⁷⁴ in one of these cases when he referenced and cited locations in Minnesota when alleging voter fraud in Michigan.⁷⁵

34. Ramsland’s crowning “achievement” in the 2020 election, however, was when he was brought in by Patrick Byrne, Rudolph Giuliani and others to write up a purportedly independent “report” on the election results in Antrim County, Michigan, that fed the preconceived Dominion election fraud narrative by falsely claiming that Dominion machines were designed to and did switch votes from Trump to Biden. Despite being falsely touted as the conclusions of an independent “audit,” the report was from the start a transparent attempt by Ramsland, at the behest of Byrne and Giuliani others, to falsely fit what actually happened in Antrim County into the preconceived false election fraud narrative. Antrim County officials quickly explained that Ramsland’s Antrim County report was “riddled with false and unsupported claims, baseless attacks, and incorrect use of technical terms,”⁷⁶ and the former acting director of the Election Assistance Commission’s Voting System

⁷⁴ Rule to Show Cause, *Page v. Oath Inc.*, No. S20C-07-030 (Del. Super. Ct. Dec. 18, 2020).

⁷⁵ Clara Hendrickson, *Affidavit in Michigan lawsuit seeking to overturn election makes wildly inaccurate claims about vote*, PolitiFact (Dec. 4, 2020), <https://www.politifact.com/factchecks/2020/dec/04/russell-james-ramsland-jr/affidavit-michigan-lawsuit-seeking-overturn-electi/>.

⁷⁶ See Ali Swenson, *Report spreads debunked claims about Dominion machines in Michigan county*, AP News (Dec. 15, 2020), <https://apnews.com/article/fact-checking-afs:Content:9847904839>.

Testing and Certification program—who is actually an expert in election voting systems—said the report demonstrated a “grave misunderstanding” of Antrim County’s voting system and “a lack of knowledge of election technology and process.”⁷⁷ Michigan’s Attorney General and Secretary of State issued a joint statement that Ramsland’s report was “critically flawed, filled with dramatic conclusions without any evidence to support them.”⁷⁸ And the Republican-led Michigan Senate Oversight Committee released a 55-page report, which stated that “The Committee found no evidence of widespread or systemic fraud in Michigan’s prosecution of the 2020 election” and specifically called out individuals like Ramsland for their false claims about systemic fraud in Michigan, stating that they “have been utilizing misleading and false information about Antrim County to raise money or publicity for their own ends” and recommending that the Michigan Attorney General investigate such misconduct.⁷⁹ Nonetheless, knowingly or with reckless disregard for the truth, Newsmax broadcast this known peddler of lies and promoted his false Antrim County report to amplify its defamatory campaign against

⁷⁷ See Todd Spangler, *Former election security chief for Trump knocks down Antrim County report*, The Detroit Free Press (Dec. 16, 2020), <https://www.freep.com/story/news/politics/elections/2020/12/16/antrim-county-report-debunked-by-former-trump-election-official/3923499001/>.

⁷⁸ AG. SOS: *Plaintiff’s Report in Antrim County Election Lawsuit Demonstrates Lack of Credible Evidence in Widespread Fraud or Wrongdoing*, Michigan Dep’t of Attorney General (Dec. 14, 2020), https://www.michigan.gov/ag/0,4534,7-359-92297_47203-547422--,00.html.

⁷⁹ MICH. S. OVERSIGHT COMM., REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN (Apr 9, 2021), https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport.pdf.

Dominion, conforming to the pre-conceived false narrative that Dominion had rigged the election.

35. “Fox” is Fox News Network and Fox Corp., the self-described “most watched television news channel” controlled by Lachlan and Rupert Murdoch, and a competitor of Newsmax.

36. “OAN” is One America News Network, a television news channel controlled by the Herring family and another competitor of Newsmax.

37. Newsmax, Fox, and OAN each broadcast a series of defamatory statements about Dominion in order to compete in a race to the bottom for viewership, ratings, and profit.

FACTUAL ALLEGATIONS

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

38. Until the defamatory attacks starting after the 2020 election, Dominion was a thriving voting technology company. In 2002, Dominion CEO John Poulos came up with an idea to help people with vision impairments vote independently on paper ballots, so he founded a business out of his basement in Toronto as Dominion Voting Systems Corporation. From the beginning, Dominion’s objective has been accurate, transparent, and accessible elections. All Dominion systems are capable of producing paper records and are 100% auditable, with testing, reviews, audits, and recounts subject to oversight and verification by all political parties. Indeed,

Dominion has been at the forefront of developing the technology to produce auditable paper records. Dominion 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.

39. 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.

40. 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, set up a manufacturing supply in New York, 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.

41. 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).

42. 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.

43. 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 28 states including, for example, the more than 50 counties in New York.

44. Dominion does not run elections—local election officials run them. Dominion voting machines are used by election officials to accurately tabulate votes from county-verified voters using a durable paper ballot controlled and secured by those local election officials. In other words, what Dominion voting machines do is

count paper ballots, and in that process *create a fully auditable paper trail* that allows for complete hand recounts to confirm and verify election results.

45. By objective measures, the performance of Dominion’s machines was a huge success in the 2020 election because they accurately counted the votes in literally thousands of different jurisdictions in challenging circumstances. Across the jurisdictions using Dominion voting machines—in the midst of a pandemic—hand audits conducted as part of the vote certification process repeatedly confirmed the accuracy of the Dominion machine vote tallies. As President Trump’s own Attorney General William Barr stated, Dominion’s machines were just “counting machine[s], and they save everything that was counted. So you just reconcile the two. There had been no discrepancy reported anywhere, and I’m still not aware of any discrepancy.”⁸⁰

***Christopher Ruddy Founds Newsmax and
Transforms It Into a Trump-Supporting Cable Channel***

46. Newsmax was founded in 1998 as a conservative news and opinion website that offered an alternative to major conservative news sources like Fox News.⁸¹ According to CEO Christopher Ruddy, “[b]ack then, there was no real

⁸⁰ Jonathan D. Karl, *Inside William Barr’s Breakup with Trump*, The Atlantic (June 27, 2021), <https://www.theatlantic.com/politics/archive/2021/06/william-barrs-trump-administration-attorney-general/619298/>.

⁸¹ Andrew Edgecliffe-Johnson, *Rise of Newsmax Defies Media Trend*, The Financial Times (Jan. 10, 2010, 20:35), <https://archive.ph/20110217123246/http://www.ft.com/cms/s/0/780adad6-fe15-11de-9340-00144feab49a.html>; Isaac Chotiner, *Why Newsmax Supports Trump’s False Voter-*

competitor to Fox News, and I thought that there needed to be more diversity of opinion on the right, which led me to start Newsmax.”⁸²

47. Ruddy launched Newsmax’s own cable news channel in 2014.⁸³ Ruddy’s goal was simple: “serving an audience of more than 80 million disenfranchised Baby Boomers.”⁸⁴ Ruddy hoped Newsmax TV would reach 50 million homes.⁸⁵ After President Trump’s election in 2016, Newsmax pushed to cater its programming to President Trump’s loyal supporters and vie for the attention of President Trump himself.

48. In fact, Newsmax was one of the earliest consistent supporters of President Trump, years before he ran for office.⁸⁶ Ruddy himself is a long-time friend of President Trump and has credited Newsmax for giving Donald Trump his

Fraud Claims, The New Yorker (Nov. 24, 2020), <https://www.newyorker.com/news/q-and-a/why-newsmax-supports-trumps-false-voter-fraud-claims>.

⁸² A.J. Katz, *10 Things You Need to Know About Newsweek, the Surging Conservative News Network*, AdWeek (Nov. 23, 2020) <https://www.adweek.com/convergent-tv/newsmax-conservative-news-network-10-things-you-need-to-know/>.

⁸³ *Id.*

⁸⁴ Hadas Gold, *Newsmax to Launch Channel with DirecTV*, Politico (May 29, 2014, 11:40 AM), <https://www.politico.com/blogs/media/2014/05/newsmax-to-launch-channel-with-directv-189395>; see also Jeremy Barr, *Newsmax Hopes Conservative Anger at Fox News and a Few Trump Tweets Can Boost the Much Smaller Network*, Wash. Post (Nov. 10, 2020, 3:36 PM), <https://www.washingtonpost.com/media/2020/11/10/newsmax-fox-news-trump-tweets/>.

⁸⁵ Callum Borchers, *Newsmax chief executive Chris Ruddy’s savvy play for the ear of President Trump*, Wash. Post (Feb. 21, 2017, 12:56 PM), <https://www.washingtonpost.com/news/the-fix/wp/2017/02/21/newsmax-ceo-chris-ruddys-savvy-play-for-the-ear-of-president-trump/>.

⁸⁶ Rosie Gray, *Newsmax and the Rise of Trump*, The Atlantic (Mar. 10, 2017), <https://www.theatlantic.com/politics/archive/2017/03/how-chris-ruddy-became-the-medias-favorite-friend-of-trump/519168/>.

“legitimacy” back in 2011.⁸⁷ The two have remained close friends ever since.⁸⁸ During the first few weeks of Donald Trump’s presidency, Ruddy spoke with the President so frequently that he emerged as an “unofficial conduit from the official inner sanctum of the presidency to the outside world.”⁸⁹

***The Run-Up to the 2020 Presidential Election:
Newsmax Courts Fox Viewers***

49. Prior to the 2020 Presidential Election, President Trump would occasionally criticize Fox for what he perceived as insufficient support, such as for Fox polls showing him behind in the Presidential race or Fox airing an interview with a Democrat. On January 28, 2020, President Trump tweeted, “So, what the hell has happened to @FoxNews. Only I know! Chris Wallace and others should be on Fake News CNN or MSDNC. How’s Shep Smith doing? Watch, this will be the beginning of the end for Fox, just like the other two which are dying in the ratings.”⁹⁰

⁸⁷ Jeremy W. Peters, *A Compass for Conservative Politics*, N.Y. Times (July 10, 2011), <https://www.nytimes.com/2011/07/11/business/media/newsmax-a-compass-for-conservative-politics.html>.

⁸⁸ Rosie Gray, *Newsmax and the Rise of Trump*, The Atlantic (Mar. 10, 2017), <https://www.theatlantic.com/politics/archive/2017/03/how-chris-ruddy-became-the-medias-favorite-friend-of-trump/519168/>.

⁸⁹ *Id.*

⁹⁰ Donald J. Trump (@realDonaldTrump), Twitter (Jan. 28, 2020, 10:44 AM), *previously available at* <https://twitter.com/realdonaldtrump/status/1222183788924502017> [<https://www.thetrumparchive.com>].

50. “Shep Smith” refers to Shepard Smith, a former Fox anchor who left the network in 2019 in the middle of his long-term contract after criticism from Trump.

51. As the 2020 Presidential Election approached, President Trump repeatedly asserted that either he would win, or the election would be stolen from him via fraud. In President Trump’s own words: “the only way we’re gonna lose this election is if the election is rigged”⁹¹ and there “is massive fraud.”⁹²

52. President Trump also drew a line in the sand: if he lost, his supporters must either agree with him that the election was rigged or else face the consequences. For example, President Trump would later fire Christopher Krebs, whom he had appointed as director of the Cybersecurity and Infrastructure Security Agency (“CISA”) in charge of overseeing online security for the election, when Krebs dared to rebut President Trump’s claims of fraud in the 2020 election.⁹³ Later, Trump Campaign attorney Joe DiGenova stated that Krebs “should be drawn and quartered.

⁹¹ Morgan Chalfant, *Trump: “The only way we’re going to lose this election is if the election is rigged”*, The Hill (Aug. 17, 2020, 7:22 PM), <https://thehill.com/homenews/administration/512424-trump-the-only-way-we-are-going-to-lose-this-election-is-if-the>.

⁹² The Hill, *Trump: “The only way we can lose in my opinion is massive fraud”*, YouTube (Oct. 26, 2020), <https://www.youtube.com/watch?v=Rt6nCZRKChE>.

⁹³ Christopher Krebs, *Opinion: Trump fired me for saying this, but I’ll say it again: The election wasn’t rigged*, Wash. Post (Dec. 1, 2020, 5:23 PM), https://www.washingtonpost.com/opinions/christopher-krebs-trump-election-wasnt-hacked/2020/12/01/88da94a0-340f-11eb-8d38-6aea1adb3839_story.html.

Taken out at dawn and shot.”⁹⁴ Trump also raised firing Attorney General William Barr in a December 12, 2020 meeting,⁹⁵ just days after Barr publicly announced that the Department of Justice had found “no voter fraud that could overturn election.”⁹⁶ Three days after that meeting, Barr resigned.⁹⁷ Other Republicans and Trump supporters like Georgia Secretary of State Raffensperger and Georgia Governor Kemp who dared to defy Trump and acknowledge the true reality—that President Trump lost the 2020 election fair and square—likewise felt Trump’s public wrath.⁹⁸

53. At the same time that President Trump was laying the groundwork for a preconceived “fraud” narrative to excuse an election loss, news organizations—including Newsmax—widely reported that election officials were expecting record-shattering mail-in voting because of concerns over the ongoing coronavirus

⁹⁴ [Jim Acosta et al., *Trump attorney issues call for violence against truth-telling former election cybersecurity official*, CNN \(Dec. 1, 2020\), <https://www.cnn.com/2020/11/30/politics/joe-digenova-attorney-trump-campaign-chris-krebs-violence/index.html>.](https://www.cnn.com/2020/11/30/politics/joe-digenova-attorney-trump-campaign-chris-krebs-violence/index.html)

⁹⁵ Kevin Liptak & Jamie Gangel, *Trump raised firing Barr in White House meeting on Friday*, CNN (Dec. 12, 2020, 6:57 PM), <https://www.cnn.com/2020/12/12/politics/william-barr-donald-trump-white-house-meeting/index.html>

⁹⁶ Anthony Zurcher, *US attorney general finds ‘no voter fraud that could overturn election’*, BBC News (Dec. 2, 2020), <https://www.bbc.com/news/world-us-canada-55153366>.

⁹⁷ Noah Feldman, *Bill Barr Quit. What Finally Spooked Him?*, Bloomberg (Dec. 15, 2020, 5:00 AM), <https://www.bloomberg.com/opinion/articles/2020-12-15/william-barr-has-resigned-what-finally-spooked-him>.

⁹⁸ Amara Walker, *Family of Georgia’s Secretary of State Was Still Getting Death Threats Months After Election, Report Says*, CNN (June 11, 2021, 8:46 PM), <https://www.cnn.com/2021/06/11/politics/georgia-raffensperger-family-death-threats-election/index.html>; Jacob Knutson, *Georgia Gov. Kemp Says Pro-Trump Conspiracy Theorists Have Threatened His Family*, Axios (Dec. 18, 2020), <https://www.axios.com/georgia-gov-kemp-trump-death-threats-19be75f5-0b03-417f-b55a-0a72ec9ac193.html>.

pandemic. News organizations—again including Newsmax—also reported that this mail-in voting was widely expected to 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.

54. In other words, well before any false claim that Dominion machines had switched votes, Newsmax predicted and understood precisely what would actually happen during the first week of November: early vote tallies would lean in favor of then-President Trump, whereas later vote tallies would favor now-President Joe Biden. However, Newsmax would flip the script on that reality to push its preconceived narrative that Biden's predicted comeback was the result of Dominion rigging the election.

55. Newsmax's pre-election stories reflect this understanding, adopting Trump's predictions of fraud even before the election, priming its viewers with the pre-conceived narrative that Trump's prospective loss could only occur if voting fraud occurred. On October 14, 2020, Newsmax hosted President Trump himself on *Greg Kelly Reports*.⁹⁹ Newsmax, through its on-air host Greg Kelly, asked President

⁹⁹ *Interview: Greg Kelly Interviews Donald Trump on Newsmax's Greg Kelly Reports – October 14, 2020*, YouTube, <https://www.youtube.com/watch?v=VPtv1APuhbU> (last visited Aug. 5, 2021).

Trump his plans to combat election fraud in the aftermath of November 3. In response, President Trump claimed the election was already “a rigged deal.”

56. As the election neared, Newsmax moved to capitalize on the perception that Fox was insufficiently supportive of President Trump. For example, Newsmax criticized Fox News host Chris Wallace’s moderating of the first presidential debate in September 2020, reporting that the Fox host “let Biden get off easy” while he “badgered” and “debated” President Trump.¹⁰⁰ In late October 2020, a Newsmax.com article declared: “Trump Rips ‘Fake’ Fox News Polls Indicating He’s Trailing Biden.”¹⁰¹

57. On Election Day, Newsmax CEO Christopher Ruddy set the stage for Newsmax to become the landing spot for Trump supporters who were dissatisfied with the election results and with Fox. Ruddy made the assertion that Fox might bear responsibility for a Trump loss. In an interview with talk show host Michael Berry, Ruddy said, “I am shocked about what Fox News has done. . . . I think if Trump loses and it’s a close election, blame Chris Wallace and Fox News.”¹⁰²

¹⁰⁰ Marisa Herman, *Conservatives Hit Fox News’ Chris Wallace: He Helped Biden*, Newsmax (Sept. 30, 2020, 11:33 AM), <https://www.newsmax.com/politics/chris-wallace-debate-fox-news-moderator/2020/09/30/id/989617/>.

¹⁰¹ Marisa Herman, *Trump Rips ‘Fake’ Fox News Polls Indicating He’s Trailing Biden*, Newsmax (Oct. 22, 2020, 4:17 PM), <https://www.newsmax.com/us/Trump-Biden-FoxNews-polls/2020/10/22/id/993327/>.

¹⁰² Lindsey Ellefson, *Newsmax CEO Chris Ruddy Says Fox News Is to Blame if Trump Loses (Audio)*, The Wrap (Nov. 3, 2020, 6:26 PM), <https://www.thewrap.com/chris-ruddy-trump-fox/>.

58. That night, while other news networks (including Fox’s Decision Desk) waited for more votes to be counted before calling the state of Florida, Newsmax called Florida for President Trump early in the evening. Florida was correctly called for President Trump soon thereafter by other networks, but the White House noticed that Newsmax was first. In response, special assistant to President Trump Andrew Giuliani, who is Rudolph Giuliani’s son, appeared on Newsmax from the White House lawn, boasting: “We have Newsmax on every single TV at the White House.”¹⁰³ Newsmax was quick to publish that story on its website and to brag about it across social media platforms.¹⁰⁴ Newsmax tweeted: “‘We have Newsmax on every single TV at the White House’ @AndrewHGiuliani on other networks refusal to call states despite the ‘empirical data.’”¹⁰⁵

¹⁰³ Jason Devaney, *Newsweek: Angry Fox News Viewers Turned to Newsmax Election Night*, Newsmax (Nov. 4, 2020, 11:24 PM), <https://www.newsmax.com/newsmax-tv/fox-news-conservatives-arizona-florida/2020/11/04/id/995313/>.

¹⁰⁴ *Id.*

¹⁰⁵ Newsmax (@newsmax), Twitter (Nov. 3, 2020, 10:46 PM), <https://twitter.com/newsmax/status/1323849128938557440>.



59. Newsmax seized another opportunity to brag about and capitalize on its burgeoning status as the favored network of President Trump and his loyalists shortly thereafter when Fox News became the first major news network to project that President Trump had lost the battleground state of Arizona.

60. President Trump was reportedly “fuming” when he learned that Fox had called Arizona for Biden, and his camp was quick to turn against Fox. Almost immediately after Fox’s Arizona call, President Trump’s son-in-law Jared Kushner called Fox founder and Chairman Rupert Murdoch to complain. Less than thirty minutes after Fox had called Arizona, President Trump’s political advisor Jason Miller 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!”¹⁰⁶



61. Republican National Committee spokesperson Liz Harrington similarly attacked Fox on Twitter: “Call GA, NC, and TX, you HACKS! Retract AZ!”¹⁰⁷

62. In the wake of the immediate backlash against Fox, Newsmax refused to call Arizona. Instead, Newsmax “buoyed Trump supporters who were defiant about the president’s loss,” leading President Trump and his allies to further embrace Newsmax over Fox.¹⁰⁸

¹⁰⁶ Jason Miller (@JasonMillerinDC), Twitter (Nov. 3, 2020, 11:47 PM), <https://twitter.com/JasonMillerinDC/status/1323849305917186050>.

¹⁰⁷ Liz Harrington (@realLizUSA), Twitter (Nov. 3, 2020, 11:52 PM), <https://twitter.com/realLizUSA/status/1323850485699432450>.

¹⁰⁸ Kevin Roose, *Newsmax courts Fox News viewers with election denialism.*, N.Y. Times (Nov. 12, 2020, 8:56 PM), <https://www.nytimes.com/2020/11/12/technology/newsmax-fox-news-trump.html>.

63. And it worked. As just one example, a couple who were “loyal viewers of Fox News who watched the channel religiously for almost 20 years” “decided to stop watching Fox News forever and look for an alternative” the morning after the election.¹⁰⁹ They heard about “the conservative upstart Newsmax during a pro-Trump rally” and decided to make the switch.¹¹⁰ The couple’s story was just one of many in “a quantifiable shift in the number of people who watch Newsmax,” which saw a “dramatic uptick in viewers in the weeks since the election by capitalizing on conservative frustration with Fox.”¹¹¹

64. All told, Newsmax’s ratings spiked on Election Night. Over 3 million viewers tuned in to the network on November 3, and Newsmax TV boasted its highest ratings ever in the week following the election.¹¹² On Election Night, singer Travis Tritt tweeted:

¹⁰⁹ Jeremy Barr, *Why these Fox News loyalists have changed the channel to Newsmax*, Wash. Post (Dec. 27, 2020, 8:47 AM), <https://www.washingtonpost.com/media/2020/12/27/fox-news-viewers-switch-to-newsmax/>.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Brian Stelter, *Newsmax TV scores a ratings win over Fox News for the first time ever*, CNN (Dec. 8, 2020, 6:53 PM), <https://www.cnn.com/2020/12/08/media/newsmax-fox-news-ratings/index.html..>



65. Tritt’s tweet was liked over 43,000 times.¹¹⁴

66. Actress Alana Stewart likewise tweeted:



67. Stewart’s tweet received over 3,000 likes.¹¹⁶

68. This changed media dynamic—that Fox was losing viewers and that its rivals were trying to capitalize—was evident immediately. The morning after the election, Newsweek reported: “Conservatives and the Trump administration have railed against Fox News after the network called Arizona for Joe Biden.”¹¹⁷

¹¹³ Travis Tritt (@Travistritt), Twitter (Nov. 3, 2020, 9:38 PM), <https://twitter.com/Travistritt/status/1323862098926067712>.

¹¹⁴ *Id.*

¹¹⁵ Alana Stewart (@AlanaKStewart), Twitter (Nov. 3, 2020, 10:18 PM), <https://twitter.com/AlanaKStewart/status/1323872198499598337>.

¹¹⁶ *Id.*

¹¹⁷ Emma Nolan, *Conservatives Turn Against Fox News Over Election Coverage, Change Channel to Newsmax*, Newsweek (Nov. 4, 2020, 3:55 AM), <https://www.newsweek.com/fox-news-arizona-biden-filpped-newsmark-trump-1544688>.

Newsmax itself picked up the headline: “Angry Fox News Viewers Turned to Newsmax Election Night.”¹¹⁸

***November 5-7, 2020:
Independent Evidence Confirms an Accurate Count
Even as False Claims of Election Fraud Begin to Emerge***

69. While Newsmax refused to admit that Trump would likely lose the election and benefited from its conscious decision to reject the truth, false (though vague) claims of election fraud began to emerge. At this early point, these claims did not yet expressly connect Dominion to the false allegations.

70. Meanwhile, Newsmax itself acknowledged at this early point that widespread fraud had not occurred. As early as November 5, Newsmax host Sean Spicer, President Trump’s former press secretary and communications director, admitted he had not “seen *any* evidence of widespread fraud.”¹¹⁹

71. Consistent with Spicer’s comment, the *Wall Street Journal* likewise reported that same day about the “misinformation about vote counting” that was “coming from prominent public figures with massive followings” and the “wild

¹¹⁸ Jason Devaney, *Newsweek: Angry Fox New Viewers Turned to Newsmax Election Night*, Newsmax (Nov. 4, 2020, 11:24 PM), <https://www.newsmax.com/newsmax-tv/fox-news-conservatives-arizona-florida/2020/11/04/id/995313/>.

¹¹⁹ Brian Trusdell, *Spicer Hasn’t ‘Seen Evidence’ of Widespread Election Fraud*, Newsmax (Nov. 5, 2020, 7:22 PM), <https://www.newsmax.com/newsmax-tv/spicer-trump-fraud-election/2020/11/05/id/995660/>.

allegations” that “the election is being stolen.”¹²⁰ These false conspiracy theories led Facebook “to limit the spread of false and possibly dangerous content,” taking down the “Stop the Steal” group that had amassed hundreds of thousands of members around false claims of election fraud.¹²¹ The article also noted that CISA “tweeted earlier Thursday about the robust safeguards in place to ensure a fair and accurate election.”¹²²

72. Even the Trump Administration made clear early on that no election fraud took place. That same day of November 5, CISA posted a fact check in its “Election Security Rumor vs. Reality” section to debunk the “rumor” that a “bad actor could change election results without detection.” Instead, CISA stated: “Reality: Robust safeguards including canvassing and auditing procedures help ensure the accuracy of official election results.”¹²³

✓ **Reality: Robust safeguards including canvassing and auditing procedures help ensure the accuracy of official election results.**

✗ **Rumor: A bad actor could change election results without detection.**

CISA then stated: “**Get the Facts:** The systems and processes used by election officials to tabulate votes and certify official results are protected by various

¹²⁰ Jeff Horwitz et al., *Facebook Imposes Limits on Election Content, Bans ‘Stop the Steal’ Group*, Wall St. J. (Nov. 5, 2020, 10:26 PM), <https://www.wsj.com/articles/facebook-takes-down-group-organizing-protests-of-vote-counting-11604603908>.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Election Sec. Rumor vs. Reality Post Election*, U.S. Cybersecurity & Infrastructure Sec. Agency (Nov. 5, 2020), <https://www.cisa.gov/rumorcontrol#rumor17>.

safeguards that help ensure the accuracy of election results. These safeguards include measures that help ensure tabulation systems function as intended, protect against malicious software, and enable the identification and correction of any irregularities.” And CISA then explained in detail that “[e]very state has voting system safeguards to ensure each ballot cast in the election can be correctly counted” and “[e]very state also has laws and processes to verify vote tallies before results are officially certified,” including “robust chain-of-custody procedures, auditable logs, and canvass processes. The vast majority of votes cast in this election will be cast on paper ballots or using machines that produce a paper audit trail, which allow for tabulation audits to be conducted from the paper record in the event any issues emerge with the voting system software, audit logs, or tabulation.”¹²⁴

73. State and local officials likewise released statements confirming that the vote tallies were accurate and that the election was not rigged. For example, in Antrim County, Michigan—a jurisdiction that used Dominion voting machines for the election—officials identified an initial vote reporting error caused by a clerk’s human error. Officials quickly confirmed that the reporting error was indeed human and was not caused by Dominion voting machines, and that Dominion’s tabulation

¹²⁴ *Id.*

of votes in Antrim County was in fact accurate right from the very first tabulation.¹²⁵ On November 6, just days after the election, Michigan Secretary of State Jocelyn Benson issued a statement in response to “false claims made by Republican National Committee chairwoman Ronna McDaniel” that Dominion machines had malfunctioned in Antrim County. In the original unofficial count, user error caused a mistaken vote count in Antrim County that was quickly corrected and was not due to the Dominion machines. Benson’s statement made that clear: “The erroneous reporting of unofficial results from Antrim county was a result of accidental error on the part of the Antrim County clerk. The equipment and software did not malfunction and all ballots were properly tabulated. . . . Because the clerk did not update software, even though the tabulators counted all the ballots correctly, those accurate results were not combined properly when the clerk reported unofficial results. . . . The software did not cause a misallocation of votes; it was a result of user human error.”¹²⁶

74. From there, public information continued to pour in confirming that the vote counts were accurate, and thus any allegations against Dominion were based on

¹²⁵ MICH. SENATE OVERSIGHT COMMITTEE, REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN, https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport.pdf.

¹²⁶ *False claims from Ronna McDaniel have no merit*, The Office of Sec’y of State of Mich. (Nov. 6, 2020), <https://www.michigan.gov/sos/0,4670,7-127-93094-544676--,00.html>.

lies and misinformation. On November 7, 2020, the Associated Press reported that Dominion was not to blame for the human error in Antrim County, Michigan. Rather, the Associated Press correctly reported that a “clerk’s error” led to the reporting of unofficial voting results that favored Biden.¹²⁷

75. Also on November 7, 2020, Chris Krebs, the CISA head nominated by President Trump, urged Americans to stop spreading baseless claims that minor vote counting issues indicated fraud. Krebs tweeted: “Seeing #disinfo that some isolated voting day issues are tied to some nefarious election hacking and vote manipulation operations. Don’t fall for it and think twice before sharing!”¹²⁸

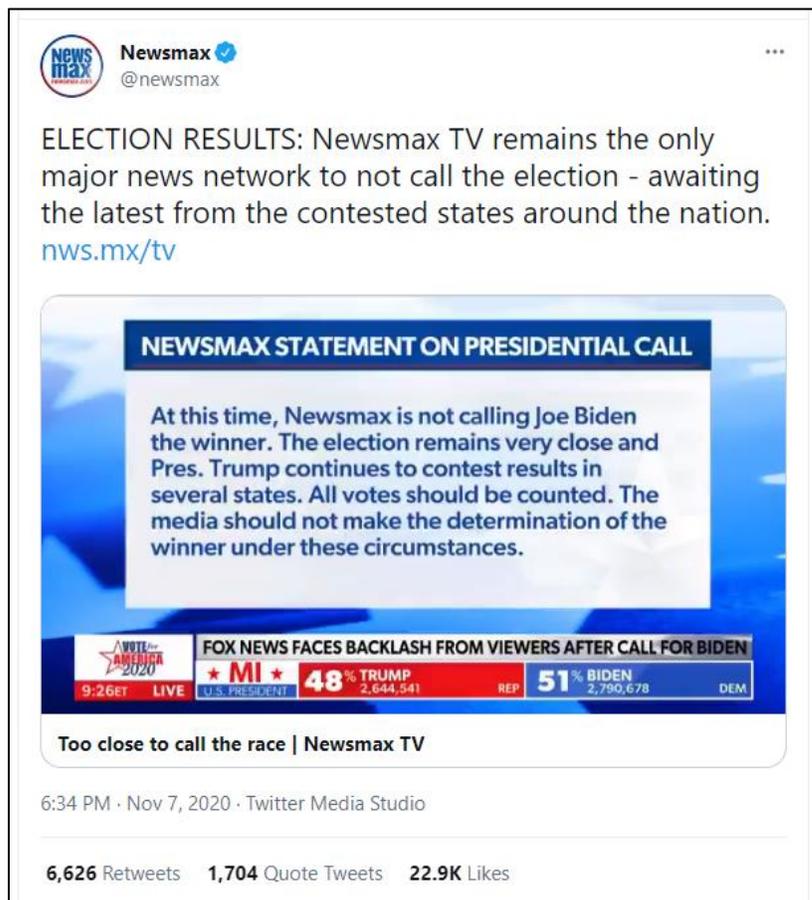
76. Newsmax, however, understood that its growing viewer base of Trump loyalists wanted it to continue to propagate the storyline that the election had been stolen. Trump had made the litmus test clear: either accept his narrative of election fraud, or lose his long-sought support. So Newsmax stuck to its alternate reality that Trump had not lost the election—at least not fairly.

77. On November 7, most networks—including Fox—projected that President Trump lost the 2020 Presidential Election. Notably, Newsmax refused to

¹²⁷ *Officials: Clerk error behind county results favoring Biden*, Associated Press (Nov. 7, 2020), <https://apnews.com/article/joe-biden-donald-trump-technology-voting-michigan-6beef230376e75252d6eaa91db3f88f>.

¹²⁸ Ali Swenson, *Posts falsify ties between election tech firm and Democrats*, Associated Press (Nov. 10, 2020), https://apnews.com/article/election-2020-joe-biden-us-news-media-michigan-43bdaa186e3b8d9d897cae3bd0c6cdc0?utm_medium=APFactCheck&utm_campaign=SocialFlow&utm_source=Twitter.

do so, and in fact boasted that it remained “the only major news network to not call the election,” attaching a video clip that described the election as “too close to call”:¹²⁹



78. The underlying reason for Newsmax’s decision was made clear by the chyron on its tweet, “Fox News Faces Backlash from Viewers After Call for

¹²⁹ Newsmax (@newsmax), Twitter (Nov. 7, 2020, 8:34 PM), <https://twitter.com/newsmax/status/1325265500964794368>.

Biden,”¹³⁰ and the next day Ruddy declared that Trump is “very disappointed in Fox News” and “that Newsmax is now ‘a major player in cable news.’”¹³¹

79. The ratings reflected this new business reality. In the three days following the election, “Newsmax TV led Fox Business and CNBC in all key day parts. Newsmax is also seeing a terrific surge across its media properties, starting with its cable and satellite news channel.” In that same article titled, “Newsmax Again Beats Fox Business, CNBC in Ratings,” Newsmax likewise reported that “Fox News viewers appear to be deserting the network in droves as they tune into Newsmax TV.”¹³²

November 8-10, 2020:

Fox Connects Dominion with the False Claims of Fraud Even as Recounts and Hand Audits Further Confirm the Accuracy of the Count

80. Fox realized that in order to stem the tide and try to recover lost viewers—including the most important viewer of all, President Trump himself—it needed to go all in on the alternate reality that Trump lost because of massive election fraud.

81. Recognizing the mortal threat to its viewership and profits, Fox acted. The morning of November 8—the day after it had called the election for Joe Biden—

¹³⁰ *Id.*

¹³¹ Kevin Roose, *Newsmax courts Fox News viewers with election denialism*, N.Y. Times (Nov. 12, 2020, 8:56 PM), <https://www.nytimes.com/2020/11/12/technology/newsmax-fox-news-trump.html>.

¹³² *Newsmax Again Beats Fox Business, CNBC in Ratings*, Newsmax (Nov. 10, 2020, 11:15 AM), <https://www.newsmax.com/newsmax-tv/nielsen-tv-ratings-fox-business/2020/11/10/id/996331/>.

Fox began connecting Dominion with the false election fraud narrative. Fox started by inviting Sidney Powell onto a broadcast of *Sunday Morning Futures* on Fox News Channel, where 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,”¹³³ and that “the Dominion software” was to blame.¹³⁴ According to Powell: “That is where the fraud took place, where they were flipping votes in the computer system or adding votes that did not exist.”¹³⁵

82. Dominion became a convenient scapegoat precisely because 28 states used Dominion machines—including many of the contested battlegrounds. And even in jurisdictions that did not use Dominion machines—such as in Philadelphia—Dominion became an easy target because its machines were used in so many other highly contested jurisdictions—including in Georgia, Michigan, Wisconsin, Arizona, and other parts of Pennsylvania. Casting Dominion as the perpetrator of the fraud provided a way to explain why President Trump lost.

83. Even as Fox began to connect Dominion with the false claims of fraud, the facts continued to demonstrate the accuracy of the Dominion machines. On

¹³³ *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..

¹³⁴ *Id.*

¹³⁵ *Id.*

November 9, 2020, Maricopa County, Arizona, completed a hand audit of paper ballots as required by state law that showed a 100% match with the counts from the Dominion machines used in Maricopa County. The count was overseen by Republican, Libertarian, and Democratic officials.¹³⁶ The results were widely reported. Indeed, Newsmax.com itself reported these results and included a statement by Arizona Attorney General Mark Brnovich—a Republican—that “his office conducted random audits and found no problems.”¹³⁷

84. Also on November 9, 2020, Georgia Voting System Implementation Manager Gabriel Sterling held a press briefing where he rebutted inaccurate claims made about an update to machines on the eve of the election, confirming that “nothing was done to the . . . system after [October 31],” when voter files were updated as part of normal procedure. He explained that claims of voter fraud were “nonsense. Don’t buy into these things. Find trusted sources.”¹³⁸

85. On November 10, 2020, the *New York Times* reported: “Election officials in dozens of states representing both political parties said that there was no

¹³⁶ 2020 General Election Hand Count Results Summary of Hand Count Audits – 2020 General Election, Sec’y of State of Ariz. (Nov. 17, 2020, 4:54 PM), <https://azsos.gov/election/2020-general-election-hand-count-results>.

¹³⁷ Brian Trusdell, *Arizona AG Confident Few, If Any, Election Anomalies*, Newsmax (Nov. 11, 2020, 10:21 PM), <https://www.newsmax.com/politics/brnovich-arizona-election-anomalies/2020/11/11/id/996643/>.

¹³⁸ Georgia Voting System Implementation Manager Gabriel Sterling, *Campaign 2020 News Conference on Georgia Vote Count*, C-SPAN (Nov. 9, 2020), <https://www.c-span.org/video/?477943-1/news-conference-georgia-vote-count>.

evidence that fraud or other irregularities played a role in the outcome of the presidential race . . .” The *Times* contacted the offices of the top election officials in every state. Notably, all 29 Republican secretaries of state were surveyed, most responding directly to the *Times*. None reported any major voting issues, refusing to back up claims of a fraudulent election.¹³⁹

86. Also on November 10, the Associated Press reported in a Fact Check: “As poll workers tallied votes from the U.S. presidential election, many social media users interpreted a clerk’s error in a small, Republican-leaning Michigan county as vote-rigging because it wrongly favored Joe Biden before being fixed. A week later, that misinterpreted mistake has snowballed *into a deluge of false claims* that Democrats have deep ties to Dominion Voting Systems, the company that supplies election equipment to Michigan and dozens of other states nationwide.”¹⁴⁰

87. In that same “Fact Check,” the Associated Press again reported that “Dominion was not to blame” for the initial user error in the Antrim County, Michigan count, “according to the Michigan Department of State.” Antrim County Clerk Sheryl Guy confirmed there was no malfunction of the Dominion machines in

¹³⁹ Nick Corasaniti et al, *The Times Called Officials in Every State: No Evidence of Voter Fraud*, N.Y. Times (Nov. 19, 2020), <https://www.nytimes.com/2020/11/10/us/politics/voting-fraud.html>.

¹⁴⁰ Ali Swenson, *Posts falsify ties between election tech firm and Democrats*, Associated Press (Nov. 10, 2020), https://apnews.com/article/election-2020-joe-biden-us-news-media-michigan-43bdaa186e3b8d9d897cae3bd0c6cdc0?utm_medium=APFactCheck&utm_campaign=SocialFlow&utm_source=Twitter (emphasis added).

Antrim County: “There was no malice, no fraud here, just human error.”¹⁴¹ In response to a tweet by Newsmax’s White House correspondent Emerald Robinson on November 9 asserting that “[o]nce the Trump campaign investigates Dominion Voting Systems, the whole thing is going to fall apart,” a Twitter user sent Robinson this Associated Press Fact Check debunking the false claims about Dominion machines in Michigan.¹⁴²

88. Also on November 10, 2020, Kansas Secretary of State Scott Schwab declared: “Kansas did not experience any widespread, systematic issues with voter fraud, intimidation, irregularities or voting problems We are very pleased with how the election has gone up to this point.”¹⁴³ Kansas used Dominion machines during the 2020 election.

89. In short, in the days following the election, the public record was replete with evidence confirming that the election was a success, that there was no fraud, and that Dominion did not “rig” the election or “switch” any votes. This information was echoed by state and local officials, confirmed by recounts and audits, reported widely by the media, and even endorsed by the Trump Administration.

¹⁴¹ *Id.*

¹⁴² Sonja Pickles (@PicklesSonja), Twitter (Nov. 10, 2020, 4:29 PM), <https://twitter.com/PicklesSonja/status/1326321159651135488>.

¹⁴³ Jenny Jarvie & Seema Mehta, ‘Hoaxes and nonsense’: GOP election officials in Georgia reject Trump’s unfounded fraud claims, L.A. Times (Nov. 9, 2020, 7:46 PM), <https://www.latimes.com/politics/story/2020-11-09/republican-officials-counter-false-claims-of-election-fraud>.

***November 10-13, 2020:
Newsmax Joins the Race to the Bottom and
Zeroes in on Dominion as the Villain***

90. For Fox, the false narrative about Dominion provided a lifeline. It allowed Fox to reassert itself in its viewership battle with OAN and Newsmax. So in the following days, Fox only increased the intensity and frequency of its defamation campaign. Despite the highly publicized mountain of evidence proving that the 2020 election was safe, secure, and accurately tabulated, including specifically by Dominion machines, Fox persisted in forming and perpetuating its alternate reality that Dominion rigged the election and stole it from Trump.

91. At this point, Newsmax faced a choice. It could engage in a battle of lies with Fox—each attempting to outdo the other with outlandish and false statements. Or it could tell the truth by rejecting these demonstrably false claims about Dominion.

92. Newsmax chose to prioritize its profits over the truth. For Ruddy and Newsmax, the facts did not matter. What mattered was feeding the audience what it wanted—even if it was spreading false information. And the race to the bottom began in earnest, dragging Dominion down with it.

93. Newsmax began with the false origin story about Dominion, namely that Dominion was created in Venezuela by Hugo Chavez for the purpose of rigging elections. And Newsmax's alleged basis for that lie was that Dominion and its

competitor Smartmatic are the same. On November 10, 2020, Newsmax’s White House Correspondent Emerald Robinson retweeted the false claim that Smartmatic, described in the post as “synonymous with fraud for most Venezuelans,” is a “subsidiary of Dominion.” Robinson zeroed in on Dominion, creating her own claim that “*All crooked roads lead to Dominion Voting Systems.*”¹⁴⁴



94. As Newsmax well knew and recklessly disregarded, the alleged Venezuela-Chavez connection was based on the verifiably false claim that Dominion is owned by (or, in Robinson’s tweet, owns) Smartmatic—a completely separate company that competes against and neither owns nor is owned by Dominion, as was readily apparent from information in the public domain since well before the

¹⁴⁴ Emerald Robinson (@EmeraldRobinson), Twitter (Nov. 10, 2020, 10:37 AM), <https://twitter.com/EmeraldRobinson/status/1326232608137752576>.

November 3, 2020 election.¹⁴⁵ Newsmax later admitted that it had no evidence that Dominion and Smartmatic were the same company, but refused to retract the lies and tell the truth.

95. Similarly, Newsmax and its on-air talent at a minimum recklessly disregarded the facts—and indeed knew—that votes cast on Dominion machines could be—and had already been, and continued to be—verified using paper ballots that could be recounted by hand, rendering the fantasy of a vote-flipping machine made for a deceased Venezuelan dictator inherently improbable and verifiably false. Yet Newsmax actively sold to the American public these lies—that Dominion rigged the 2020 election and stole it from Trump just like it stole elections in Venezuela for Chavez, as it was designed to do—because these lies were paying off.

96. In the weeks after the election, Newsmax’s viewership began to climb dramatically. “As the campaign season crested into election night and beyond, and Trump refused to concede, more than 1 million people tuned into Greg Kelly’s Newsmax show. That’s *10 times* the audience the host drew earlier in the year.”¹⁴⁶ “Other Newsmax hosts [saw] similarly steep ascents.”¹⁴⁷ In the first full week after

¹⁴⁵ *Elections Security Is Our Top Priority Security-Focused Tech Company, Dominion Voting to Implement New Verified Paper Ballot System*, Ga. Sec’y of State (July 29, 2019), <https://sos.ga.gov/securevoting/> (last visited July 5, 2021).

¹⁴⁶ David Folkenflik, *Newsmax Rises On Wave of Resentment Toward Media – Especially Fox News*, NPR (Nov. 30, 2020, 12:11 PM), <https://www.npr.org/2020/11/30/939030504/newsmax-rises-on-wave-of-resentment-toward-media-especially-fox-news>.

¹⁴⁷ *Id.*

the election, Newsmax increased its viewership over *four times* from the week before.¹⁴⁸ By November 10, after showing viewers that Trump had tweeted Newsmax clips at his followers, a Newsmax anchor declared, “The president seems to be changing his tune on which network to go to.”¹⁴⁹

97. Meanwhile, evidence debunking the lies about Dominion continued to mount in the public record. On November 11, 2020, the *New York Times* published an article titled, “No, Dominion voting machines did not delete Trump votes,” which quoted an election-technology expert who explained that “[m]any of the claims being asserted about Dominion and questionable voting technology is misinformation at best and, *in many cases, they’re outright disinformation.*”¹⁵⁰

98. On November 12, 2020, the Associated Press published another Fact Check, which debunked the claim that Dominion “deleted” large numbers of votes or “switched” them to count for President Joe Biden.¹⁵¹

¹⁴⁸ Nathan Bomey, *Could Fox News lose its grip on far-right conservative viewers to Newsmax, OAN?*, USA Today (Dec. 21, 2020, 4:01 AM), <https://www.usatoday.com/story/money/2020/12/21/fox-news-newsmax-oan-cable-news-donald-trump-2020-election/3881624001/>.

¹⁴⁹ Jeremy Barr, *Newsmax hopes conservative anger at Fox News and a few Trump tweets can boost the much smaller network*, Wash. Post (Nov. 10, 2020, 3:36 PM), <https://www.washingtonpost.com/media/2020/11/10/newsmax-fox-news-trump-tweets/>.

¹⁵⁰ Jack Nicas, *No, Dominion voting machines did not delete Trump votes*, N.Y. Times (Nov. 11, 2020, 12:25 PM), <https://www.nytimes.com/2020/11/11/technology/no-dominion-voting-machines-did-not-delete-trump-votes.html>.

¹⁵¹ Ali Swenson & Amanda Seitz, *AP FACT CHECK: Trump tweets a tall tale of ‘deleted’ votes*, Associated Press (Nov. 12, 2020), <https://www.apnews.com/article/fact-check-trump-tweets-tall-tale-votes-13c104367924b8192b4fcec334f7806>.

99. Also on November 12, 2020, OAN—who by that time had joined Newsmax and Fox in the race to the bottom to defame Dominion—falsely reported that Dominion deleted 2.7 million Trump votes nationwide based on an Edison Research report.¹⁵² President Trump quickly retweeted the story,¹⁵³ but just as quickly, Edison Research President Larry Rosin exposed the segment as a lie: “Edison Research created no such report and we are not aware of any voter fraud.”¹⁵⁴ Fact checks quickly confirmed that the OAN story was false.¹⁵⁵

100. That same day, the burgeoning narrative that Dominion was to blame for the election results was again exposed as untrue when a joint statement from federal, state, and local authorities published by CISA confirmed that there was “***no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.***”¹⁵⁶ This widely-reported public announcement from the Trump

¹⁵² 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>.

¹⁵³ Colby Hall, *Trump Goes ALL Caps Promoting OAN’s Voter Fraud Conspiracy Debunked By the NY Times and Others*, Mediaite (Nov. 12, 2020, 12:19 PM), <https://www.mediaite.com/election-2020/trump-goes-all-caps-promoting-oans-voter-fraud-conspiracy-debunked-by-the-ny-times-and-others/>.

¹⁵⁴ 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>.

¹⁵⁵ Rem Reider, *FactCheck Posts Trump Tweets Conspiracy Theory About Deleted Votes*, Factcheck.org (Nov. 13, 2020), <https://www.factcheck.org/2020/11/trump-tweets-conspiracy-theory-about-deleted-votes/>.

¹⁵⁶ U.S. CYBERSECURITY & INFRASTRUCTURE SEC. AGENCY, JOINT STATEMENT FROM ELECTIONS INFRASTRUCTURE GOV’T COORDINATING COUNCIL & THE ELECTION INFRASTRUCTURE SECTOR COORDINATING EXEC. COMM. (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

Administration’s own experts on election security disproved the election-rigging lies about Dominion.

101. Newsmax knew about the CISA announcement the same day it was issued. Beyond it being widely reported in the press, Newsmax’s White House Correspondent, Emerald Robinson, had been responding to and reposting then-CISA Director Christopher Krebs’ “Rumor Control Update” posts debunking election fraud claims on Twitter since November 6.

102. On November 12, the *New York Times* published a story entitled “Newsmax courts Fox News viewers with election denialism,” which quoted Newsmax CEO Ruddy.¹⁵⁷ The article noted that Newsmax TV “has promoted a parade of conspiracy theories and false allegations of voter fraud.” Examining Newsmax’s rise in viewership, the article declared that Newsmax’s “alternate-reality strategy is working.”¹⁵⁸

103. The next day, November 13, 2020, Chief Judge Timothy Kenny of the Third Circuit Court in Wayne County, Michigan made clear that the attempts to allege fraud in the election were “*not credible*.” Chief Judge Kenny rejected an attempt by Trump allies to block the certification of the vote in Wayne County, in

¹⁵⁷ Kevin Roose, *Newsmax courts Fox News viewers with election denialism*, N.Y. Times (Nov. 12, 2020, 8:56 PM), <https://www.nytimes.com/2020/11/12/technology/newsmax-fox-news-trump.html>.

¹⁵⁸ *Id.*

Constantino v. City of Detroit. Chief Judge Kenny rejected the plaintiffs’ claims of election fraud and unequivocally concluded: “Plaintiffs’ interpretation of events is incorrect and not credible.”¹⁵⁹

104. But by then, Newsmax and its counterparts Fox and OAN had fully settled on Dominion as the scapegoat in the alternate reality that the 2020 election was stolen from Trump. On November 12, Fox broadcast defamatory statements about Dominion again. The spiral of lies was now gathering speed.

105. And the next day, on November 13, 2020, Newsmax host Benny Johnson joined the burgeoning narrative against Dominion by tweeting: “Ban mail-voting and Dominion voting machines and pass mandatory voter ID, NOW.”¹⁶⁰ This tweet was liked by almost 19,000 Twitter users and shared over 3,000 times.¹⁶¹

¹⁵⁹ Opinion & Order, at 7, *Costantino v. City of Detroit*, No. 20-014780-AQ (Mich. Ct. App., 3d Cir.), available at <http://www.kylemooreit.com/leb/wp-content/uploads/2020/11/11-13-20-Costantino-Opinion-searchable.pdf>.

¹⁶⁰ Benny Johnson (@bennyjohnson), Twitter (Nov. 13, 2020, 4:05 PM), <https://twitter.com/bennyjohnson/status/1327402235903533058>.

¹⁶¹ *Id.*



106. Not to be outdone, Newsmax host Michelle Malkin also took to Twitter to endorse and spread false assertions about Dominion, falsely suggesting that Dominion was somehow connected with Antifa: “Joe Oltmann (now banned on Twitter) exposes pro-Antifa, cop hatred-inciting rants of #EricCoomer, VP of strategy/security of Dominion Voting Systems. ‘What if I told you he is a major shareholder’ in Dominion & ‘owns patents associated with other voting systems?’ #MalkinLive.”¹⁶² As Newsmax later admitted, it *never* had evidence to substantiate these false claims.

¹⁶² Michelle Malkin (@michellemalkin), Twitter (Nov. 13, 2020, 10:43 AM), <https://twitter.com/michellemalkin/status/1327321119095832576>.

***November 15-16, 2020:
Newsmax Pits Democracy Against Dominion—
Falsely Branding Dominion as Synonymous with Election Fraud
Even as the Evidence Continues to Show Otherwise***

107. By mid-November, even more evidence debunking these lies continued to pour in. For example, on November 15, 2020, the Associated Press published a report debunking the false claim that election servers connected to Dominion were seized in Germany.¹⁶³

108. Then, on November 16, 2020, fifty-nine specialists in election security publicly and forcefully rebutted the lies about Dominion, explaining 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.”¹⁶⁴ “Anyone asserting that a U.S. election was ‘rigged’ is making an extraordinary claim, one that must be supported by persuasive and verifiable evidenceWe are aware of alarming assertions being made that the 2020 election was ‘rigged’ by exploiting technical vulnerabilities. However, in every case of which we are aware, these claims either have been unsubstantiated or are technically incoherent.”¹⁶⁵

¹⁶³ Jude Joffe-Block, *False reports claim election servers were seized in Germany*, Associated Press (Nov. 15, 2020), <https://apnews.com/article/fact-checking-9754011363>.

¹⁶⁴ Nicole Perlroth, *Election Security Experts Contradict Trump’s Voting Claims*, N.Y. Times (Nov. 16, 2020), <https://www.nytimes.com/2020/11/16/business/election-security-letter-trump.html>.

¹⁶⁵ 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*, josephhall.org (Nov.

109. Newsmax knew about these statements because they were widely reported on and publicized, and because its own White House Correspondent Emerald Robinson was regularly responding to then-CISA director Chris Krebs' tweets debunking false election fraud claims.¹⁶⁶ For example, Chris Krebs posted a link to these statements to his Twitter account on November 12¹⁶⁷ and 17.¹⁶⁸ Robinson tweeted directly in response to Krebs (along with another user who accused Robinson of spreading false claims about Dominion).¹⁶⁹ Newsmax knew about CISA's statement debunking the election fraud claims and about the coalition of federal and state officials who concluded that there was no evidence that any votes were compromised and that the 2020 election was "the most secure in American history." Newsmax itself reported these findings in a story on its website on November 17.¹⁷⁰

110. Nevertheless, Newsmax pressed on with its alternate-reality strategy and barrage of lies about Dominion. But now, it actually began to create and brand

16, 2020), <https://josephhall.org/papers/Experts-Statement-on-the-US-2020-General-Election-16NOV2020-1057.pdf>.

¹⁶⁶ Emerald Robinson (@EmeraldRobinson), Twitter (Nov. 6, 2020, 2:17 PM), <https://twitter.com/emeraldrobinson/status/1324838286356029453?lang=en>.

¹⁶⁷ Chris Krebs #Protect2020 (@CISAKrebs), Twitter (Nov. 12, 2020, 4:34 PM), <https://twitter.com/CISAKrebs/status/1327047087024984064>.

¹⁶⁸ Chris Krebs #Protect2020 (@CISAKrebs), Twitter (Nov. 17, 2020, 8:45 AM), <https://twitter.com/CISAKrebs/status/1328741106624901120>.

¹⁶⁹ Emerald Robinson (@EmeraldRobinson), Twitter (Nov. 17, 2020, 8:38 PM), <https://twitter.com/EmeraldRobinson/status/1328920407496384512>.

¹⁷⁰ *Trump Fires Head of DHS Election Security Agency*, Newsmax (Nov. 17, 2020, 7:22 PM), <https://www.newsmax.com/politics/krebs-cybersecurity/2020/11/17/id/997523/>.

an entire campaign selling its audience on the total fantasy that Dominion rigged the election and stole it from Trump, starting with its segment on its primetime show *Greg Kelly Reports* titled, “*Democracy or Dominion.*”

111. In its November 16, 2020 “*Democracy or Dominion*” segment, Newsmax and Kelly rebroadcast and endorsed Sidney Powell’s false statements about Dominion after they had already aired on Fox. This segment is still available on Newsmax’s YouTube channel and has over 770,000 views just on that site alone. After celebrating that “*the truth is finally told*” and “*the evidence is slowly emerging*” in introducing a cavalcade of falsehoods, Kelly played a Sidney Powell interview in which Powell claimed that Dominion’s voting software was designed to shift millions of votes from President Trump to Biden:



President Trump won by not just hundreds of thousands of votes but by millions of votes that were shifted by the software that was designed expressly for that purpose. . . . *It was exported internationally for profit by the people that are behind*

Smartmatic and Dominion. They did this on purpose. It was calculated. They've 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.*¹⁷¹

112. By this point, Kelly and Newsmax knew or recklessly disregarded the facts debunking this manufactured narrative, including numerous audits in swing states verifying the results and the unequivocal statements by Trump appointee Chris Krebs, CISA, and 59 independent election experts. Nonetheless, Kelly cut into Powell's interview to give an unwavering endorsement of her claims: "I believe her, and I don't believe the critics and the naysayers."¹⁷² Instead, Kelly claimed that, through Powell, "the truth is finally told." But as Kelly and Newsmax well knew, their claims were exactly backwards. The truth had been widely reported for weeks, and the proponents of the truth (including Trump's own allies) were only "critics and naysayers" in Newsmax's alternate reality—where pigs can fly and up is down. Newsmax rebroadcast Powell's false claims as truth, including Powell's claim she had "so much evidence" of the false Dominion allegations that "*it's coming in*

¹⁷¹ Newsmax TV, *They Need to Get a Grip | Greg Kelly*, YouTube (Nov. 16, 2020), <https://www.youtube.com/watch?v=cZ5K3TMTNg0>; Newsmax, *They Need to Get a Grip | Greg Kelly*, Facebook (Nov. 16, 2020), <https://www.facebook.com/newsmax/videos/491524035097426>; Newsmax (@newsmax), Twitter (Nov. 16, 2020, 5:37 PM), <https://twitter.com/newsmax/status/1328512611307171840>; *Greg Kelly Reports*, Newsmax (Nov. 16, 2020), <https://app.criticalmention.com/app/#clip/view/18e23dd5-e9f9-414d-8852-334933661efd?token=77d8b679-c7d2-4315-9468-5a13188bd472> (Ex. 12).

¹⁷² *Greg Kelly Reports*, Newsmax (Nov. 16, 2020), <https://app.criticalmention.com/app/#clip/view/18e23dd5-e9f9-414d-8852-334933661efd?token=77d8b679-c7d2-4315-9468-5a13188bd472> (Ex. 12).

through a fire hose.”¹⁷³ Of course, Powell would never produce any evidence proving her claims.

113. Yet despite Newsmax’s knowledge of the truth, Newsmax still aired Powell’s remarks again later the same day, this time alongside additional remarks from Rudolph Giuliani, amplifying their inherently improbable and verifiably false claims that Dominion shifted millions of Trump votes to Biden and its software was “designed” to rig elections.¹⁷⁴

114. Minutes later in the same segment, Newsmax’s on-air anchor Emma Rechenberg, host of *National Report* on Newsmax, aired Powell’s statements again before asking Joe DiGenova to weigh in:

DiGenova: Well the bottom line about Dominion is that it is a suspect company. It’s used in twenty-seven states in the United States and there's a reason it isn’t used in the other twenty th[ree]. They're smarter. It has an origin in Venezuela with friends of Hugo Chavez. The company that runs it now has the counting done overseas in Germany and Barcelona.¹⁷⁵

DiGenova’s statements about Dominion were all false.

¹⁷³ *Id.*

¹⁷⁴ Newsmax, *President Trump Continues to Not Concede / Report*, Facebook (Nov. 16, 2020), <https://www.facebook.com/watch/?v=1753178618164935>; Newsmax (@newsmax), Instagram (Nov. 16, 2020), <https://www.instagram.com/p/CHqnhfnHVk3/>.

¹⁷⁵ Newsmax, *President Trump Continues to Not Concede / Report*, Facebook (Nov. 16, 2020), <https://www.facebook.com/watch/?v=1753178618164935>; Newsmax (@newsmax), Instagram (Nov. 16, 2020), <https://www.instagram.com/p/CHqnhfnHVk3/>; National Report, Newsmax (Nov. 16, 2020), <https://app.criticalmention.com/app/#clip/view/b59c14f5-5d99-49d7-8209-c7da11b46ebb?token=1cfbe59c-bc7e-4386-9540-41671812f9bd> (Ex. 14).

115. The next day, Newsmax again targeted Dominion when Newsmax anchor Heather Childers interviewed Dick Morris. Childers tried to minimize CISA's November 12 statement that the election was secure by falsely stating that Dominion was a member of CISA's board of directors, a purposeful mischaracterization of Dominion's relationship with CISA.¹⁷⁶ Childers then encouraged Morris to elaborate on the false claims against Dominion. As prompted, Morris falsely claimed that Dominion was owned by China's communist party and invented by Hugo Chavez's supporters in Venezuela.

Morris: . . . also remember Dominion is a kind of a shell company. The real owners, the real motivators of Dominion are the Chinese communist party and two Chavez supporters in Venezuela who shortly after Chavez seized power invented the Dominion Voting System as a method of stealing elections in Venezuela. And as a result they would take that in Venezuela, Argentina, and a whole host of other countries.¹⁷⁷

As Newsmax was already well aware, none of these statements are true.

116. Newsmax has not only refused to retract these statements—it has since rewarded Dick Morris with his own regular show, *Dick Morris Democracy*.¹⁷⁸

¹⁷⁶ *American Agenda*, Newsmax (Nov. 17, 2020) <https://app.criticalmention.com/app/#clip/view/a65f03d0-8b0f-4768-8d61-12aaff4e6051?token=77d8b679-c7d2-4315-9468-5a13188bd472> (Ex. 15).

¹⁷⁷ *Id.*

¹⁷⁸ *Dick Morris Democracy*, Newsmax, <https://www.newsmaxtv.com/Shows/Dick-Morris-Democracy> (last visited Aug. 6, 2021).

***November 17-18, 2020:
Dominion Contacts Newsmax to Set the Record Straight,
But Newsmax Doubles Down***

117. The morning of November 17, Newsmax engaged a new character in its fictional narrative about Dominion: Patrick Byrne. Newsmax was the very first of the television networks to broadcast Byrne—a fact that Byrne celebrated. To this day, the title of Byrne’s post promoting his Newsmax interview states: “*NewsmaxTV Breaks Cone of Silence, Millions Hear Story There First.*”¹⁷⁹ He added in his introduction to the video, “The Cone of Silence was smashed today by NewsmaxTV. That itself will be a source of discuss [sic] sometime in the future. In the meantime, enjoy. . . . Let the record show that numerous other journalists have had this story. . . . None would run with the story.”¹⁸⁰ Newsmax, however, had no such compunction.

118. On the National Report with Emma Rechenberg, Byrne claimed that he was funding “cyber security experts” who had proven that Dominion machines were hacked in the 2018 election in Dallas, Texas, and that same team had “data” proving that Dominion hacked “five counties” that “flipped” the electoral college from Trump to Biden¹⁸¹—false claims that Byrne elsewhere described as being the “last act” in the same purported long-running “deep state” conspiracy that he said had

¹⁷⁹ National Report, Newsmax (Nov. 17, 2020), <https://www.deepcapture.com/2020/11/newsmaxtv-breaks-cone-of-silence-millions-hear-story-there-first/> (Ex. 16).

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

earlier involved him facilitating an \$18 million bribe to Hillary Clinton.¹⁸² (Byrne had gone public with absurd “deep state” conspiracy theories long before Newsmax invited him to peddle his Dominion lies on its air.) But among the huge problems with Byrne’s November 17 rant on Newsmax: it was public knowledge that *Dominion machines were not used in Dallas or anywhere else in Texas during the 2018 election*. Nonetheless, Newsmax added Byrne’s false statements to its alternate reality despite knowing their falsity or at a minimum recklessly disregarding it. Byrne’s November 17 appearance is today notably absent from Newsmax’s website, and Newsmax still has provided no explanation, retraction, or apology.

119. To combat this and the many other false narratives about Dominion that Newsmax and others created and perpetuated, Dominion began circulating a regular email titled “SETTING THE RECORD STRAIGHT: FACTS & RUMORS.” The emails were complete with links to independent sources disproving the false claims being made about the company. Dominion also maintained a page on its public website with the same information, from November 11, 2020 onwards.

120. On November 17, 2020 at 3:10 P.M. Eastern, Dominion sent its first “SETTING THE RECORD STRAIGHT” email to Newsmax’s booking producer,

¹⁸² Patrick Byrne, *The Hillary Clinton Bribery-&-Blackmail & Maria Butina Intoxicate-Rape-&Murder Deep State Stings Finale*, Deep Capture (Oct. 6, 2020), <https://www.deepcapture.com/2020/10/finale-the-deep-states-hillary-clinton-bribery-blackmail-sting-the-maria-butina-rape-murder-gambit/>.

Alicia Hesse. Among other responsibilities, Hesse is involved with soliciting guests to speak on Newsmax TV—including on Greg Kelly’s show. Upon information and belief, Hesse shared the contents of the emails she received from Dominion with the hosts and other producers for the shows she books. The November 17, 2020 email included the following information:

- 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”;¹⁸³
- That “Dominion is not, and has never been, owned by Smartmatic,” with detailed facts, and that Dominion has “no ownership relationships” with Smartmatic nor “any ties to Venezuela”;
- That “[v]ote deletion/switching assertions are completely false,” along with specific factual information why;
- That “[t]here were no Dominion software glitches and ballots were accurately tabulated,” and “[t]he results are also 100% auditable,” along with explanations and facts;
- That “[n]o unauthorized or last-minute software updates occurred”;
- 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”;
- 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;

¹⁸³ 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-infrastructuregovernment-coordinating-council-election>.

- That “Assertions of voter fraud conspiracies are 100% false” along with 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.”¹⁸⁴

121. Dominion received no reply from Newsmax in response to this email.

122. That same day, Newsmax and Greg Kelly hosted Sidney Powell on *Greg Kelly Reports* to spread bombshell lies about Dominion. Powell performed as expected. In particular, Powell claimed to have “evidence” of “the guy who founded” Dominion admitting “he can change a million votes, no problem at all”:

Powell: And we know Dominion and has a long history of rigging elections. That’s what it was created to do to begin with.

...

And worse than that, it had a backdoor so it could be manipulated by anyone who could access it through that backdoor and that was a deliberate feature. The affidavit of the young military officer we provided yesterday to the public explains how it was created for that very purpose so Maduro, I mean so Hugo Chávez, would never lose another election and he did not after that software was created. He won every single election and then they exported to Argentina and other countries in South America and then they brought it here. . . .

We can -- got the evidence from the word -- the own mouths of the guy who founded the company. I haven't even had a chance to get that out to the public yet, but they admit -- the founder of the company admits, he can change a million votes no problem at all.

Kelly: The founder of Dominion admitted a long time ago,

¹⁸⁴ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 17, 2020) (Ex. 1).

recently to you, can -- tell us more, please.

Powell: Publicly. *I will tweet out the video later and I'll tag you in it.*

...

The only reason the glitches happened in the system was because he was so -- he had so far many more votes than they had calculated in advance, their algorithms wouldn't perform the functions they had originally performed or were set to perform. They couldn't make up the vote count he had gotten so many hundreds of thousands more than they planned. So that's when they had to stop the counting and come up with a way to back fill the votes or destroy votes for Trump while they fabricated votes for Biden.¹⁸⁵

123. Of course, Powell had no such evidence and never tweeted out the video, which does not exist because Dominion's founder never made any such statement. Newsmax knew—or at minimum recklessly disregarded—the falsity of these statements, and to this day flatly refuses to retract these demonstrably false lies, despite Dominion's numerous retraction demands.

124. Newsmax knew the truth not only from Dominion's email, but also from mounting evidence in the public record. While Newsmax continued to ignore the truth, pressing forth with its lies despite knowledge of their falsity, public officials continued to verify the accuracy of vote counts, adding to the mountain of evidence debunking any theories of fraud in the election. On November 17, 2020,

¹⁸⁵ Newsmax TV, Greg Kelly Reports, *Major Developments in Key States* / Sidney Powell, YouTube (Nov. 17, 2020), <https://www.youtube.com/watch?v=zMDtOtGFrYg> (Ex. 17).

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.*”¹⁸⁶ That same day, the Maricopa County Board of Supervisors published a letter to voters about election results, confirming “[m]ore than 2 million ballots were cast in Maricopa County and *there is no evidence of fraud or misconduct or malfunction.*”¹⁸⁷

125. Also, on November 17, 2020, the Associated Press released a report debunking the claim that Smartmatic owns Dominion Voting Systems: “Both Dominion and Smartmatic have released statements saying no ownership relationship exists between the two competing firms. Indra Sistemas, a Spanish

¹⁸⁶ *Republican Maricopa County chairman says ‘no evidence of fraud or misconduct’ in presidential election*, Fox 61 (Nov. 17, 2020, 4:36 PM), <https://www.fox61.com/article/news/politics/elections/maricopa-county-chairman-says-no-evidence-of-fraud-or-misconduct-in-presidential-election/75-6aba1803-850a-460f-8f86-b185a41f4708>.

¹⁸⁷ Chairman of Maricopa Cnty. Bd. of Supervisors Clint Hickman, Letter to Maricopa County Voters, Maricopa Cnty. (Nov. 17, 2020), <https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters>.

company, told The Associated Press in an email it has never developed any project or had a commercial, contractual or corporate relationship with either firm.”¹⁸⁸

126. The same day, *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.”¹⁸⁹ 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.’”¹⁹⁰

127. 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 leads in the swing states.¹⁹¹ Dominion sent that article to Newsmax.

128. The next day, November 18, President Trump called Newsmax CEO Ruddy. As Ruddy reported, President Trump “said that it’s just incredible, the

¹⁸⁸ Ali Swenson, *Smartmatic Does Not Own Dominion Voting Systems*, Associated Press (Nov. 17, 2020), <https://apnews.com/article/fact-checking-afs:Content:9740535009>.

¹⁸⁹ Alexa Corse, *Voting Machine Supplier Criticized by Trump in Spotlight on Election Integrity*, Wall St. J. (Nov. 17, 2020, 9:46 AM), https://www.wsj.com/articles/voting-machine-supplier-criticized-by-trump-in-spotlight-on-election-integrity-11605624361?mod=searchresults_pos17&page=2.

¹⁹⁰ *Id.*

¹⁹¹ The Editorial Board, *Rage Against the Voting Machine*, Wall St. J. (Nov. 17, 2020, 6:33 PM), <https://www.wsj.com/articles/rage-against-the-voting-machine-11605656036>.

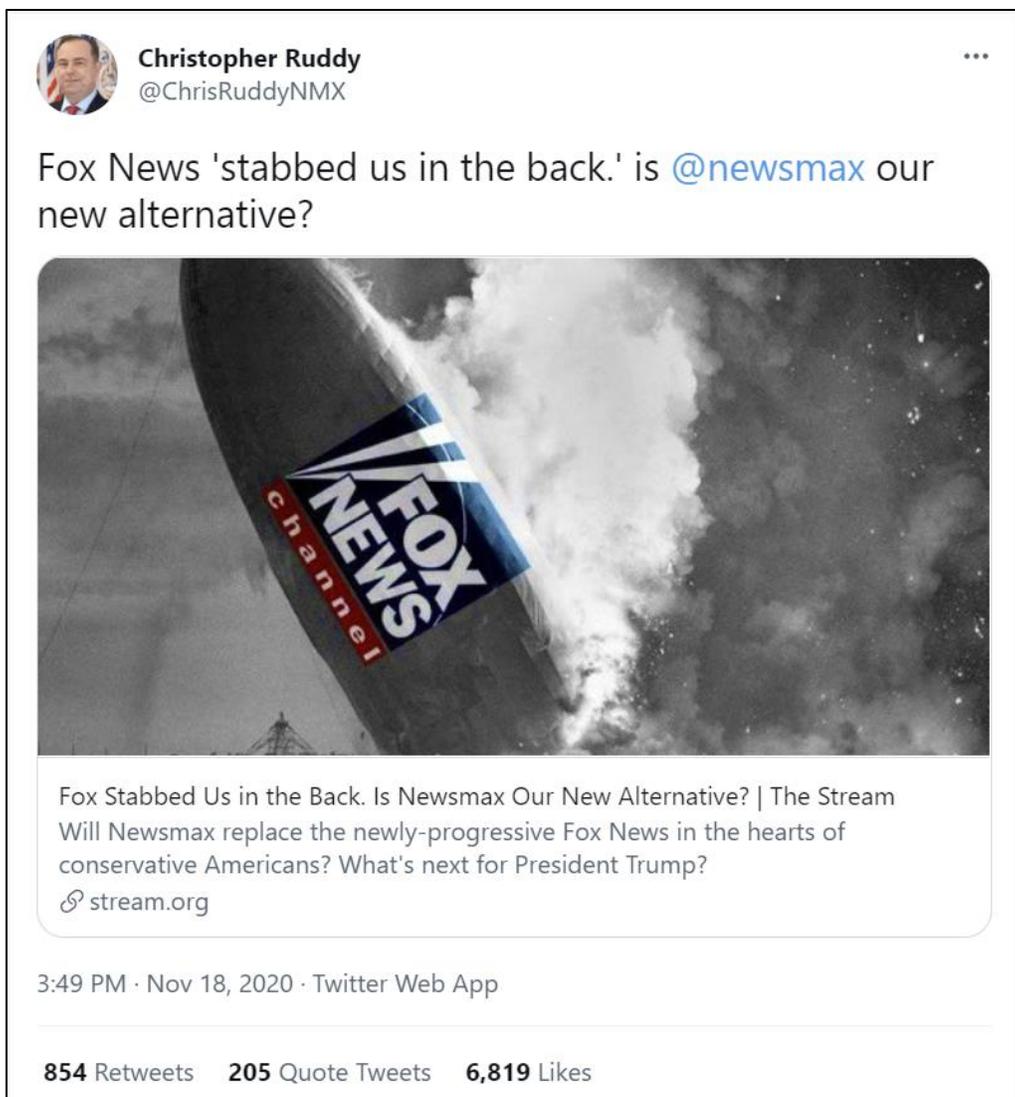
ratings you're getting, and everyone's talking about it.”¹⁹² President Trump told Ruddy to “keep up the good work.”¹⁹³

129. In response, Ruddy tweeted in delight several times that day. First, Ruddy tweeted: “Fox News ‘stabbed us in the back.’ Is Newsmax our new alternative?”¹⁹⁴

¹⁹² Michael M. Grynbaum & John Koblin, *Newsmax, One a Right-Wing Also-Ran, Is Rising, and Trump Approves*, N.Y. Times (Nov. 22, 2020), <https://www.nytimes.com/2020/11/22/business/media/newsmax-trump-fox-news.html>.

¹⁹³ *Id.*

¹⁹⁴ Christopher Ruddy (@ChrisRuddyNMX), Twitter (Nov. 18, 2020, 3:49 PM), <https://twitter.com/ChrisRuddyNMX/status/1329179915414073347>.



130. Later that day, Ruddy tweeted: “Another call today from @realDonaldTrump, he’s wowed by Newsmax TV’s ratings and big buzz. Says he’s gaining in Michigan, more coming! Keep watching @newsmax: nws.mx/tv.”¹⁹⁵

¹⁹⁵ Christopher Ruddy (@ChrisRuddyNMX), Twitter (Nov. 18, 2020, 3:49 PM), <https://twitter.com/ChrisRuddyNMX/status/1329203165510721537>.



131. Newsmax also capitalized on the buzz on its website. In an article Newsmax published on November 18, 2020, Greg Stinchfield bragged, “We’re killing it here on Newsmax with a tactic they've never tried. It's called the truth, the stone-cold truth, and once you get a taste of it, you will never tolerate being lied to again.” Of course, Newsmax’s tactic was anything but the truth.¹⁹⁶

132. Fox continued to sink to the challenge as well. The next night, in an interview between Lou Dobbs and Sidney Powell on Fox Business, Dobbs himself endorsed Powell’s statement that “Smartmatic owns Dominion,” concluded that the election was “deeply, deeply, troubling,” and warned that “people [are] trying to blind us to what is going on.”¹⁹⁷

¹⁹⁶ *Trump-Friendly Newsmax Seeks to Cut into Fox News Viewership*, Newsmax (Nov. 18, 2020 10:04 PM), <https://www.newsmax.com/newsfront/media-fox-competition/2020/11/18/id/997732/>.

¹⁹⁷ Complaint, ¶ 179(h), *U.S. Dominion Inc. et al. v. Fox News Network, LLC*, No. N21C-03-257 (Del. Sup. Ct. Apr. 26, 2021).

November 19-21, 2020:
***As the Evidence Debunking Newsmax’s Lies Piles Up,
Newsmax Ramps Up Its Disinformation Campaign***

133. Spurred on by ratings and the praise of President Trump, and despite knowing the truth, Newsmax continued its defamatory campaign against Dominion the next day, November 19. Over the course of three segments, Newsmax’s Grant Stinchfield combined Powell’s and Giuliani’s false statements about Dominion with his own lie—that he and his team had independently uncovered the evidence that Dominion rigged the 2020 election, describing the allegations against Dominion as *“what we here on Stinchfield have been warning about for the past few weeks.”*¹⁹⁸ Newsmax, and Stinchfield, already knew that these claims were debunked, or at the very least recklessly disregarded the truth; they would admit they had no such evidence several weeks later. Yet they took a step further than just repeating and endorsing the defamatory claims. They affirmatively took ownership of the fabricated claims in their own right, in order to sell this alternate reality to Newsmax’s viewers.

134. Stinchfield introduced Powell by blithely brushing aside any contrary reports that disproved her claims and falsely assuring viewers that Powell and Giuliani had “tons of evidence,” including “sworn witness affidavits” that backed

¹⁹⁸ Stinchfield, *Powell Calls Out Election Hacking*, Newsmax (Nov. 19, 2020), <https://app.criticalmention.com/app/#clip/view/9060596d-35ef-4fff-b500-fa56fa4f875f?token=eac1ac75-b0a8-4076-8613-ae72593523fd> (Ex. 19).

up all of their claims. He went even further, telling his viewers that the (nonexistent) evidence against Dominion was “*damning*” and that it supported what Newsmax and his show had already been telling its viewers: that Dominion’s “software is designed expressly to cheat,” committed “systematic widespread fraud” in the election to change votes to Biden, and that Dominion “has ties to communist Venezuela.”¹⁹⁹

135. Stinchfield did not and could not have validated those claims, nor could he have found that any evidence was “damning,” because there is no evidence and are no affidavits that could reasonably be viewed as substantiation for Powell’s false claims, particularly in light of all the actual evidence debunking the lies.

136. In the same segment, Stinchfield replayed a Sidney Powell press conference, interrupting throughout to endorse her defamatory statements and to assure his viewers that his “investigative unit” had been “uncovering” these (already-debunked) claims for weeks:

So she says the algorithm was designed to crash, allowing these states to shut down and usher in thousands of fake ballots for Biden. *It all makes sense now* if this is true, right, and *she says it proves all the research that our investigative unit here on Stinchfield has been uncovering. . .*²⁰⁰

¹⁹⁹ Stinchfield, *Digging into Fraud Allegations*, Newsmax (Nov. 20, 2020), <https://app.criticalmention.com/app/#clip/view/b3bb497c-180e-4971-8436-ab8eae44f918?token=7a679127-0e9f-4efe-bd9f-931fe9d65dc7> (Ex. 20).

²⁰⁰ Stinchfield, *Powell Calls Out Election Hacking*, Newsmax (Nov. 20, 2020), <https://app.criticalmention.com/app/#clip/view/9060596d-35ef-4fff-b500-fa56fa4f875f?token=eac1ac75-b0a8-4076-8613-ae72593523fd> (Ex. 19).

By claiming that the “research” of its own “investigative unit” had corroborated the false claims promoted by Powell, Newsmax endorsed those false claims for its viewers, actively working to convince the audience of this alternative reality. Notably, Stinchfield did not describe for his Newsmax audience the supposed “research that our investigative unit here on Stinchfield has been uncovering”—because no such “research” could ever have corroborated Powell’s patently false claims about Dominion.

137. In the clip, Newsmax republished Powell’s claim that Dominion’s voting system was designed to switch votes from then-President Trump to Biden and had systematically done so in the election, that Dominion had ties to Venezuela, and that votes were being manipulated and counted by foreign actors. Again, Newsmax was well aware that these claims were false. The Georgia vote audit had already confirmed the Dominion voting systems’ accuracy.²⁰¹ Indeed, Newsmax reported the results of the Georgia hand count on its website the same day.²⁰² Newsmax was also told directly that the claims about Dominion were false in the “SETTING THE RECORD STRAIGHT” compendium it had received, and in countless other

²⁰¹ *Historic First Statewide Audit of Paper Ballots Upholds Result of Presidential Race*, Ga. Sec’y of State (Nov. 19, 2020), https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race.

²⁰² *Biden Maintains His Lead Over Trump as Georgia Recount Ends*, Newsmax (Nov. 19, 2020, 7:30 PM), <https://www.newsmax.com/politics/GOV-NORTHAM-POL-US/2020/11/19/id/997933/>.

publicly available sources. The truth was clear: Dominion didn't have ties to Venezuela and its software hadn't switched votes in the election.

138. The same day, Fox's Tucker Carlson publicly 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 previous week.²⁰³ 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." When he and his staff kept pressing Powell to present evidence, "she got angry" and told them to stop contacting her. So Carlson and his staff 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." Carlson concluded that Powell "never demonstrated that a single actual vote was moved illegitimately by software from one candidate to another. Not one."²⁰⁴

139. Yet Newsmax continued to peddle these baseless lies about Dominion. On November 19, 2020, Newsmax and Newsmax's Chris Salcedo aired more lies about Dominion on *The Chris Salcedo Show*. In the episode, Salcedo said: "Stinchfield has been very good in the forefront of exploring the Dominion voting

²⁰³ Tucker Carlson, *Opinion: 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>.

²⁰⁴ *Id.*

machines. *Salcedo Show has been exploring and trying to sound the alarm bells for months now*, about how our votes are tabulated outside the country.”²⁰⁵ Salcedo then played a clip of Giuliani falsely claiming that “our votes are counted in Germany and in Spain by a company owned by affiliates of Chavez and Maduro.” Newsmax’s Stinchfield was quick to agree: “We saw, Chris that these votes had gone through a server in Frankfurt, Germany.”²⁰⁶ Newsmax knew these lies were false or at a minimum recklessly disregarded the truth, and yet chose to not only air them, but to take credit for leading the charge in discovering and uncovering these made-up claims.

140. Even more evidence debunking Newsmax’s lies came to light that same day. On November 19, 2020, Georgia announced the results of its hand count of 100% of the paper ballots cast in Georgia’s election. As Georgia Secretary of State Raffensperger announced, this audit “upheld and reaffirmed the original outcome produced by the machine tally of votes cast. Due to the tight margin of the race and the principles of risk-limiting audits, this audit was a full manual tally of all votes cast. The audit confirmed that the original machine count accurately portrayed the

²⁰⁵ The Chris Salcedo Show, *Changing Votes Using Dominion Software*, Newsmax (Nov. 20, 2020), <https://app.criticalmention.com/app/#clip/view/cd83634c-80a4-420e-8712-d86044d6a148?token=53eea26c-97c5-4908-b3b7-29d8443e3682> (Ex. 21).

²⁰⁶ *Id.*

winner of the election.”²⁰⁷ This hand recount verified the accuracy of the Dominion machine counts and conclusively disproved the accusations against Dominion.

141. The next day, the *Wall Street Journal* once again reported that the Dominion allegations were false and that the Georgia recount had confirmed the accuracy of Dominion’s voting machines.²⁰⁸

142. Yet Newsmax kept going. On November 20, 2020, Newsmax brought Sidney Powell back on air to the *Howie Carr Show*, where she claimed that Dominion’s voting system had used an “algorithm” to switch *ten million votes* from Trump to Biden. Powell also claimed to “have a lot of extremely solid evidence it’s beyond impressive and absolutely terrifying.” Yet Powell “couldn’t say for sure yet” whether any states other than the battleground states had been impacted.²⁰⁹ Escalating her defamatory lies further, Powell claimed that “one of the high people in Dominion voting systems *went to Detroit to operate the system himself there that night,*” referring to the TCF convention center in downtown Detroit, on the night of the presidential election, where the city of Detroit’s votes were being counted in

²⁰⁷ *Historic First Statewide Audit Of Paper Ballots Upholds Result Of Presidential Race*, Georgia Secretary of State (Nov. 19, 2020) (last visited Aug. 5, 2021), https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race.

²⁰⁸ The Editorial Board, *Georgia Certifies: Donald Trump Lost*, Wall St. J. (Nov. 20, 2020, 6:42 PM), <https://www.wsj.com/articles/georgia-certifies-donald-trump-lost-11605915757?page=2>.

²⁰⁹ The Howie Carr Show, *Howie Carr with Sidney Powell*, Newsmax (Nov. 20, 2020), <https://app.criticalmention.com/app/#clip/view/5ff309a8-afd5-4de3-81a0-770224c312e6?token=56c376de-1f43-4102-99e3-567f6fb82962> (Ex. 22).

view of hundreds of election challengers.²¹⁰ Powell also claimed to have evidence that Eric Coomer, who at the time worked for Dominion, was on “a conference call or something, a Zoom supposedly with the antifa and he said don't worry about Trump, I've already made sure he's going to lose the election.”²¹¹

143. Powell's defamatory claims were wildly implausible and unsupported by any evidence. Indeed, Newsmax knew these lies were false or at minimum recklessly disregarded the truth. As Newsmax knew, because it had been sent this report by Dominion already, the Michigan Secretary of State's website had publicly debunked any allegations about Dominion impacting the vote count in Detroit.²¹² It also already knew that the results of the Georgia and Maricopa County hand recounts had confirmed the same—that Dominion's voting systems had accurately tabulated the presidential election.²¹³

144. How did Newsmax respond to the Georgia audit? By bringing on Sidney Powell to promote an even more inherently improbable story that Dominion

²¹⁰ *Id.*; see also Tresa Baldas et al, 'Get to TCF': What really happened inside Detroit's ballot counting center, Detroit Free Press (Nov. 6, 2020, 12:00 PM), <https://www.freep.com/story/news/local/michigan/detroit/2020/11/06/tcf-center-detroit-ballot-counting/6173577002/>.

²¹¹ The Howie Carr Show, *Howie Carr with Sidney Powell*, Newsmax (Nov. 20, 2020), <https://app.criticalmention.com/app/#clip/view/5ff309a8-afd5-4de3-81a0-770224c312e6?token=56c376de-1f43-4102-99e3-567f6fb82962> (Ex. 22).

²¹² *False claims from Ronna McDaniel have no merit*, The Office of Sec'y of State of Mich. (Nov. 6, 2020), <https://www.michigan.gov/sos/0,4670,7-127-93094-544676--,00.html>.

²¹³ Chairman of Maricopa Cnty. Bd. of Supervisors Clint Hickman, Letter to Maricopa County Voters, Maricopa Cnty. (Nov. 17, 2020), <https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters>.

had bribed Georgia officials. On November 21, 2020, Newsmax invited Powell back on air to present another series of lies, including that the Georgia certification was a “total farce,” and Georgia’s Republican governor and Republican secretary of state had received bribes from Dominion and were in on the “scam”:

Powell: . . . Georgia is probably going to be the first state I'm going to blow up, and Mr. Kemp and the Secretary of State need to go with it because they're in on the Dominion scam with their last-minute purchase or award of a contract to Dominion of \$100 million. The state Bureau of Investigations for Georgia ought to be looking into financial benefits received by Mr. Kemp and the Secretary of State's family about that time. Another benefit Dominion was created to reward is what I would call election insurance, that's why Hugo Chavez had it created in the first place. . . .²¹⁴

145. Governor Kemp and Secretary of State Raffensperger received death threats as a result of Powell’s false claims.²¹⁵ Just as before, Newsmax knew that these statements were already proven false by election and cybersecurity experts, the results of hand recounts across the country (including in Detroit), publicly available sources, and every other source already sent to Newsmax by Dominion thus far. Newsmax also knew that Powell was a facially unreliable source, yet Newsmax kept

²¹⁴ *Sidney Powell: It Will Be BIBLICAL*, YouTube (Nov. 21, 2020), <https://www.youtube.com/embed/Y68pEknYyCM?rel=0&start=0> (Ex. 23).

²¹⁵ Amara Walker, *Family of Georgia’s Secretary of State Was Still Getting Death Threats Months After Election, Report Says*, CNN (June 11, 2021, 8:46 PM), <https://www.cnn.com/2021/06/11/politics/georgia-raffensperger-family-death-threats-election/index.html>; Jacob Knutson, *Georgia Gov. Kemp Says Pro-Trump Conspiracy Theorists Have Threatened His Family*, Axios (Dec. 18, 2020), <https://www.axios.com/georgia-gov-kemp-trump-death-threats-19be75f5-0b03-417f-b55a-0a72ec9ac193.html>.

inviting her back on air, each time with more fantastical and improbable allegations—lies that Newsmax endorsed as part of the alternative reality it was creating for its audience.

146. As November wore on, Newsmax’s disinformation campaign was paying off. On November 23, 2020, Newsmax CEO Christopher Ruddy boasted that ad revenues for Newsmax “are tripling in Q4” of 2020 “compared to last year,” and Newsmax expected ad revenues “will double *again* by the end of Q1 2021.”²¹⁶ Ruddy also said Newsmax was on a “hiring splurge” following the election.²¹⁷

***November 22-30, 2020:
Even After President Trump and Other Republicans
Disavow Powell’s Lies, Newsmax Barrels Forward***

147. On November 22, 2020, the Trump Campaign itself disavowed Sidney Powell by issuing the following statement: “Sidney Powell is practicing law on her own. She is not a member of the Trump Legal Team. She is also not a lawyer for the President in his personal capacity.”²¹⁸

²¹⁶ A.J. Katz, *10 Things You Need to Know About Newsweek, the Surging Conservative News Network*, AdWeek (Nov. 23, 2020), <https://www.adweek.com/convergent-tv/newsmax-conservative-news-network-10-things-you-need-to-know/>.

²¹⁷ Lisa Richwine & Helen Coster, *Newsmax plans expansion to capitalize on Trump support, anger at Fox News*, Reuters (Dec. 10, 2020, 5:20 AM), <https://www.reuters.com/article/media-conservative/newsmax-plans-expansion-to-capitalize-on-trump-support-anger-at-fox-news-idINKBN28K17S?edition-redirect=uk>.

²¹⁸ 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>.

148. Other prominent Republicans acknowledged the obvious truth about Powell and Giuliani, too. On November 22, during an interview on ABC News’s *This Week*, Trump ally Chris Christie called out Powell and Giuliani—whose law license was later suspended for making “*knowing*” false and misleading factual statements to support his claim that the presidential election was stolen from his client [Donald Trump]”²¹⁹—and stated: “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.”²²⁰

149. Even Republicans who once supported Powell’s and Giuliani’s lies distanced themselves from the Dominion defamation campaign. Republican senators called the White House, warning that Powell seemed “unhinged” and that the Trump Campaign should distance itself from her.

150. Newsmax, however, kept on peddling the false Dominion conspiracy theories to its viewers as fact. On November 23, 2020, Newsmax host Benny Johnson stated on “The Benny Report” that Dominion employs “Trump-hating

²¹⁹ Order, *In re Giuliani*, No. 2021-00506 (N.Y. Sup. Ct. June 24, 2021), [https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20\(2021-00506\)%20PC.pdf](https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20(2021-00506)%20PC.pdf); <https://apnews.com/article/rudy-giuliani-new-york-law-license-suspended-c67f4504a22f8642d6096f29e3a5c51e> (*emphasis added*).

²²⁰ Paul Kane & Felicia Sonmez, *Chris Christie calls the conduct of Trump’s legal team a ‘national embarrassment’*, Wash. Post (Nov. 22, 2020, 10:11 PM), https://www.washingtonpost.com/politics/republicans-christie-trump-concede/2020/11/22/05c280e6-2cda-11eb-bae0-50bb17126614_story.html.

Antifa members as security engineers,” its voting systems are used in Venezuela, and the votes were counted off American soil.

Johnson: Finally, we get to Dominion Voting Systems. . . Their voting systems are used in Venezuela and their votes are counted off American soil, if that tells you anything.²²¹

151. Then, on November 24, adding to the piles of evidence Newsmax had already been sent and obviously knew based on its own online reporting, Dominion sent Newsmax producer Alicia Hesse yet another email outlining the many statements—with links—made by conservative leaders over the prior 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.²²²

152. On November 25, CNN ran an article entitled, “Fox News staffers thought Newsmax was a joke. But they’re not laughing anymore.”²²³ Based on

²²¹ Newsmax TV, *You Have Every Right to Be Suspicious | Benny Johnson*, YouTube (Nov. 23, 2020), <https://www.youtube.com/watch?v=5j88gkKbjoo>; Newsmax (@newsmax), Twitter (Nov. 21, 2020, 6:08 pm), <https://twitter.com/newsmax/status/1330332248906866693>; The Benny Report, Newsmax (Nov. 23, 2020), <https://app.criticalmention.com/app/#clip/view/7bff6161-b305-411e-9b6f-fd894a3e1002?token=37f52d99-127d-4b48-b8dc-e5e99babfaaa> (Ex. 24).

²²² SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 23, 2020) (Ex. 2).

²²³ Brian Stelter, *Fox News staffers thought Newsmax was a joke. But they’re not laughing anymore*, CNN Business (Nov. 25, 2020, 5:15 PM), <https://www.cnn.com/2020/11/25/media/fox-news-newsmax/index.html>.

reporting from within Fox, the article recognized Fox's growing concern about Newsmax, along with OAN, and some steps Fox was taking: "Fox News is taking action to stave off newfound competition from Newsmax TV. Producers on some Fox programs have been told to monitor Newsmax's guest bookings and throw some sand in Newsmax's gears by encouraging guests who appear on both channels to stop saying yes to the upstart." As the article stated: "According to Fox sources, producers were told to avoid some regular guests if they kept showing up on Newsmax after being encouraged to stop. Management's goal: to remind guests who's boss in the right-wing media world." Fox "staffers also said that the competitive dynamic is having an impact on some of Fox's programming choices." Fox was "paying close attention to the daily ratings spreadsheets that show Newsmax's performance alongside Fox News, Fox Business and other channels." And because of this competition to spread false conspiracy theories, "[o]ur audience has absolutely been radicalized," one longtime on-air staffer at Fox said.²²⁴ Proud of having created this dangerous radicalizing "dynamic" (because it helped Newsmax compete with Fox), not only did Newsmax tweet the article, but Christopher Ruddy personally retweeted it out again.

²²⁴ *Id.*



153. On November 26, 2020, Dominion sent yet another email to Newsmax producer Alicia Hesse with the same sets of facts she had been repeatedly sent in earlier SETTING THE RECORD STRAIGHT emails, as well as even more 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.”²²⁶

²²⁵ Christopher Ruddy (@ChrisRuddyNMX), Twitter (Nov. 25, 2020, 5:10 PM), <https://twitter.com/newsmax/status/1331736961829265408>.

²²⁶ E-mail from Dominion, FACT SHEET: Dominion Voting Systems in Pennsylvania (Nov. 26, 2020) (Ex. 4).

154. Meanwhile, public officials continued to debunk Newsmax’s lies. On November 29, 2020, Chris Krebs appeared on 60 Minutes and declared: “[Election] Day was quiet. There was no indication or evidence that there was any evidence of hacking or compromise of election systems on, before, or after November 3.”²²⁷

155. Yet Newsmax continued to promote its falsehoods about Dominion across its platforms, despite knowing all of these facts. By late November, Newsmax’s Ruddy had:

[E]merged as the most audacious media entrepreneur of the Trump election fantasy. The chief executive of Newsmax and part of President Trump’s South Florida social circle, Mr. Ruddy has capitalized on the anger of Mr. Trump’s supporters at Fox News for delivering the unwelcome news, first in Arizona and then nationally, that Mr. Trump had lost his re-election campaign. On Newsmax, however, the fight is still on, the imaginary election-altering Kraken is yet to be released, Mr. Trump is striving valiantly for four more years and the ratings are incredible.²²⁸

156. In the “hallucinatory attempt to overturn the election, Mr. Ruddy saw opportunity: Newsmax, available on cable in most American households and streaming online, became the home of alternate reality.”²²⁹ Ruddy admitted as much:

²²⁷ Scott Pelley & Chris Krebs, *Fired director of U.S. cyber agency Chris Krebs explains why he says vote was “most secure in American history”*, 60 Minutes (Nov. 29, 2020), <https://www.youtube.com/watch?v=YzBJJ1sxtEA>.

²²⁸ Ben Smith, *The King of Trump TV Thinks You’re Dumb Enough to Buy It*, N.Y. Times (Nov. 29, 2020), <https://www.nytimes.com/2020/11/29/business/media/newsmax-chris-ruddy-trump.html>.

²²⁹ *Id.*

“In this day and age, people want something that tends to affirm their views and opinions.”²³⁰ So Newsmax continued to spread lies about Dominion.

***December 1-13, 2020:
Undeterred, Newsmax Keeps Hosting Powell
to Spread Lies about Dominion***

157. By December, even President Trump’s Department of Justice had confirmed that no fraud took place. On December 1, 2020, Trump appointee and then-U.S. Attorney General William 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.”²³¹ Other Trump advisors had privately admitted by mid-December that these theories regarding Dominion rigging the election were “bat-shit insane.”²³²

158. Newsmax knew about Barr’s statement and the DHS and DOJ’s findings, indeed it reported these facts on Newsmax.com the same day.²³³ But that

²³⁰ *Id.*

²³¹ 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>.

²³² Emma Brown et al., *The Making of a Myth*, Wash. Post (May 9, 2021), <https://www.washingtonpost.com/investigations/interactive/2021/trump-election-fraud-texas-businessman-ramsland-asog/>.

²³³ Newsmax, *AG Barr to AP: DOJ Has No Evidence of Fraud That Would Change Election Outcome*, Newsmax (Dec. 1, 2020, 2:41 PM), <https://www.newsmax.com/politics/barr-election-fraud/2020/12/01/id/999518/>.

didn't stop Newsmax from continuing to broadcast the false narrative about Dominion.

159. Meanwhile, Dominion sent another fact sheet—this time focusing on debunking claims that Dominion rigged the election in Georgia—to Newsmax through its booking producer Alicia Hesse. The fact sheet further detailed the independent audits, hand recounts, and other measures taken by Georgia's Republican administration that had verified that Dominion had accurately tabulated votes in Georgia's 2020 election.²³⁴

160. On December 7, 2020, a *second* Georgia hand recount once again confirmed the results and the accuracy of the Dominion machines. Newsmax itself reported this development on its website with the headline: "*Georgia Officials: 2nd Recount Also Shows Biden Won State.*"²³⁵

161. Even though Newsmax *knew* that hand recounts had yet again confirmed the accuracy of Dominion's machines, later that same day, Newsmax again sold its viewers on its manufactured alternate reality when it scheduled and aired yet another interview by Greg Kelly of Sidney Powell broadcasting their lies that Dominion rigged the 2020 election. In case there was any doubt that Kelly and

²³⁴ E-mail from Dominion, FACT SHEET: Dominion Voting Systems in Georgia (Dec. 3, 2020) (Ex. 5).

²³⁵ *Georgia Officials: 2nd Recount Also Shows Biden Won State*, Newsmax (Dec. 7, 2020, 10:54 AM), <https://www.newsmax.com/politics/georgia-recount-biden-win/2020/12/07/id/1000360/>.

Newsmax brought Powell on the air for the express purpose of spreading lies about Dominion, Kelly welcomed Powell by telling her “*we’re on your side*” before steering her to the topic of Dominion. Powell falsely claimed that Dominion’s machines were made in Venezuela, used to rig an election for Maduro, and switched 5% of the votes for Joe Biden: “We know from one of our witnesses that these machines were created in Venezuela and the entire process was started there to make sure Mr. Chavez won every election. . . . This is the same technology, the same equipment that came out of Venezuela to be used here. . . . We’re essentially fighting the entire globalist elite power structure that wants to control the world for their own financial benefit.” Kelly agreed vehemently: “You know, two years ago I would have said that sounds crazy but after all that’s happened I think you're absolutely right.”²³⁶

162. Newsmax got exactly the results it was looking for. On December 8, 2020, Newsmax finally achieved a goal it had long coveted: Newsmax TV “notched a ratings win over Fox News Channel for the very first time.”²³⁷ In the key 25- to 54-year-old demographic prized by advertisers, Greg Kelly’s “Greg Kelly Reports”

²³⁶ Newsmax TV, *The EMERGENCY APPEAL: Sidney Powell*, YouTube (Dec. 7, 2020), <https://www.youtube.com/watch?app=desktop&v=QwkVKNEs0uk> (Ex. 25).

²³⁷ Brian Stelter, *Newsmax TV scores a ratings win over Fox News for the first time ever*, CNN Business (Dec. 8, 2020, 6:53 PM), <https://www.cnn.com/2020/12/08/media/newsmax-fox-news-ratings/index.html>.

on Newsmax out-rated “The Story with Martha MacCallum” on Fox, drawing 229,000 viewers to Fox’s 203,000.²³⁸ Newsmax’s commitment to the race to the bottom was working.

163. The next day, Newsmax CEO Christopher Ruddy boasted about the ratings win on Twitter.²³⁹



164. Meanwhile, Fox kept pushing its own false narrative. On December 10, 2020, Fox, through the @LouDobbs account, tweeted a promotion for the *Lou Dobbs Tonight* show, which stated: “The 2020 Election is a cyber Pearl Harbor. The

²³⁸ *Id.*

²³⁹ Christopher Ruddy (@ChrisRuddyNMX), Twitter (Dec. 9, 2020), <https://twitter.com/ChrisRuddyNMX/status/1336731893174243331>

leftwing establishment have aligned their forces to overthrow the United States government #MAGA #AmericaFirst #Dobbs.”²⁴⁰

165. On December 13, 2020, Ruddy took to Twitter again, tweeting a Newsmax article with the headline: “Mike Lindell at Rally: Fox News ‘had to be in on it.’”²⁴¹



166. On December 14, 2020, Newsmax host John Bachman interviewed Dick Morris, who spouted yet more lies about Dominion: “Bear in mind, Dominion was invented by people working for Hugo Chavez, the Venezuelan dictator after he ‘lost’ an election, and he then decided to ‘win’ the election by fixing the voting machines and he expressly had them designed, it’s written in the specs that this

²⁴⁰ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 4:56 pm), <https://twitter.com/LouDobbs/status/1337154346795012098>.

²⁴¹ Christopher Ruddy (@ChrisRuddyNMX), Twitter (Dec. 13, 2020, 12:35 PM), <https://twitter.com/ChrisRuddyNMX/status/1338190802422521865>.

should be, so votes can be altered and not be traced.”²⁴² Again, two months after Morris helped cement Newsmax’s new and manufactured reality, he was rewarded with his own show on Newsmax, *Dick Morris Democracy*.²⁴³

167. On December 17, Newsmax host Grant Stinchfield had MyPillow CEO Mike Lindell appear on his show. Lindell welcomed the opportunity to tell viewers that President Trump would have won the election had Dominion’s algorithms not intentionally changed votes in the middle of the night. Of course, everyone at Newsmax already knew that Lindell’s outlandish claim was a lie, and that Lindell was a facially unreliable source. But Stinchfield wasn’t going to miss an opportunity to amplify Lindell’s theories and emphasize Newsmax’s support for Lindell when Lindell’s lies so neatly fit the false and defamatory narrative that Newsmax and Stinchfield had been on the “frontlines” of feeding to their viewers for weeks.²⁴⁴ In response to Lindell’s false claim that Dominion’s algorithms changed votes in the middle of the night, Stinchfield reminded viewers that Lindell was “a big time advertiser here on Newsmax,” for which Newsmax was “grateful.”

²⁴² John Bachman Now, *Newsmax* (Dec. 14, 2020, 9:10 PM) <https://app.criticalmention.com/app/#clip/view/849c5422-e609-448e-88b5-deb1fbb12b6d?token=c9431b6b-60b7-4ce2-948d-eed6fe846f32> (Ex. 26).

²⁴³ *Dick Morris Democracy*, Newsmax, <https://www.newsmaxtv.com/Shows/Dick-Morris-Democracy> (last visited Aug. 6, 2021).

²⁴⁴ Newsmax TV, *Lindell: America is Watching You*, Fox, YouTube (Dec. 17, 2020), <https://www.youtube.com/watch?app=desktop&v=jL8Id-q26F0>; Newsmax (@newsmax) (Ex. 27); Twitter (Dec. 17, 2020, 7:45 pm), <https://twitter.com/newsmax/status/1339778665090068480>.

168. And the next day, Newsmax co-anchors Bob Sellers and Heather Childers invited repeat contributor Dick Morris back on air to parrot his usual lies about Dominion’s voting software.²⁴⁵ This time, Morris falsely claimed that the Antrim County, Michigan audit proved that the Michigan election results were altered and flipped by Dominion and Smartmatic voting software:

. . . This is actual intervention in the vote count. This is through Dominion software and Smartmatic and the accusation here is that the vote count itself was altered and flipped through that software. You know, it's been proven in one county in Michigan, which had a two-week-long forensic audit and showed that the results that originally said that Biden wanted with 63% were wrong and Trump won by 61 . . .²⁴⁶

169. This statement was totally false. In fact, the official Michigan audit had already publicly concluded the opposite—that any irregularity in Antrim County was caused by human error, *not* voting machines. Newsmax and its anchors knew this, as Newsmax reported these findings in a news story it posted to Newsmax.com on December 17, explaining that the Antrim County audit was complete and had confirmed (yet again) that voting machines had *not* flipped votes, and affirmed Biden’s Michigan win.²⁴⁷

²⁴⁵ *American Agenda*, Newsmax (Dec. 18, 2020), <https://app.criticalmention.com/app/#clip/view/db62a290-e360-46b9-984a-b5fb49464496?token=ae575e6a-a10c-4124-8254-c4f88f05daec> (Ex. 28).

²⁴⁶ *Id.*

²⁴⁷ Charlie McCarthy, *Trump Earns Small Gain in Michigan County Election Audit*, Newsmax (Dec. 17, 2020, 8:32 PM), <https://www.newsmax.com/politics/michigan-trump-biden-election/2020/12/17/id/1002140/>.

170. The “forensic audit” Morris referenced stemmed from a Facebook video, which claimed in its caption that “Trump WON The Election NEW Evidence Shows” because “a forensics report done on Dominion voting machines determined that the ‘Dominion Software Was Intentionally Designed To Influence Election Results.’”²⁴⁸ Michigan officials were *not* behind this alleged “report,” as Morris and Newsmax knew or at the very least recklessly disregarded.

171. Instead, the report was the work of Russell Ramsland and his biased, non-independent organization Allied Security Operations Group, which had released it three days earlier, on December 13. As Newsmax and Morris knew or recklessly disregarded, the “audit” was in no way an official or independent exercise. Indeed, as Newsmax and Morris had to know, or at the very least recklessly disregarded, Ramsland had publicly peddled these same sorts of lies about the 2018 Dallas congressional election and 2019 Kentucky gubernatorial election. Moreover, as Newsmax and Morris had to know, or recklessly disregarded, Ramsland had also provided Sidney Powell and Lin Wood with affidavits that had been discredited in numerous courts.

172. The details of just how deeply flawed and untrustworthy Ramsland’s Antrim County report was had been publicly known and readily available since at

²⁴⁸ Angelo Fichera, *Audit in Michigan County Refutes Dominion Conspiracy Theory*, FactCheck.org (Dec. 18, 2020), <https://www.factcheck.org/2020/12/audit-in-michigan-county-refutes-dominion-conspiracy-theory/>.

least November 7, and would later likewise be explained by Michigan’s Republican-controlled Senate Oversight Committee.

173. For example, in his report, Ramsland references the “allowable election error rate established by the Federal Election Commission.” The Federal Election Commission regulates campaign finance, not voting machines or software. The EAC—Election Assistance Commission—certifies voting machines and software, and of course had certified Dominion’s technology well in advance of the 2020 election.²⁴⁹

174. Ramsland’s report also claims that his “forensics team” “perform[ed a] forensic duplication of the Antrim County Election Management Server running Dominion Democracy Suite 5.5.3-002.” But there is no Democracy Suite 5.5.3-002. Instead, 5.5.3-002 refers to the ImageCast Precinct machine, which scans, tabulates, and stores the paper ballots, not the election management server or software.

175. And Ramsland’s report falsely claims that “all adjudication log entries for the 2020 election cycle are missing” and must have been “manually removed.” But Antrim County neither purchased nor used—nor possessed the hardware

²⁴⁹ *How the U.S. Election Assistance Commission Facilitates Fair and Secure Elections*, EAC (Dec. 3, 2020), <https://www.eac.gov/news/2020/12/03/how-us-election-assistance-commission-facilitates-fair-and-secure-elections/>; Certificate of Conformance, EAC (Sept. 14, 2018), https://www.eac.gov/sites/default/files/voting_system/files/DSuite55_CertConf_Scope%28FINA%20L%29.pdf.

required to use—Dominion’s adjudication software, so obviously no “log entries” had been “removed.” They never existed in the first place, because Antrim County did not use them.²⁵⁰ Indeed, it was widely known by at least November 7 that Dominion machines had not caused the original unofficial error in the Antrim County tally.

176. Even Trump ally Ed McBroom, the Michigan State Senator and Chairman of the Republican-led Michigan Senate Oversight Committee, acknowledged the truth that Newsmax refused to report. On June 23, 2021, he released the results of an investigation by the Committee that again confirmed the accuracy of the vote counts in Dominion’s machines in Antrim County, determined that the conclusions in the sham Ramsland report were “indefensible” and based on “willful ignorance or avoidance” of the proof, and recommended that the Michigan Attorney General consider investigating “those who have been utilizing misleading and false information about Antrim County to raise money or publicity for their own ends.”²⁵¹ McBroom also told the Washington Post in May 2021: “I don’t see how anybody can take Mr. Ramsland and his group seriously as genuine purveyors of

²⁵⁰ See Declaration of Ryan Macias, FactCheck.org, https://cdn.factcheck.org/UploadedFiles/Rebuttal_ASOG-Antrim_Report.pdf (last visited Aug. 6, 2021).

²⁵¹ MICH. SENATE OVERSIGHT COMMITTEE, REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN, https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport.pdf

fact. It's very clear they're beyond mistaken and misrepresenting what actually happened."²⁵²

***December 2020-April 2021:
Dominion Demands That Newsmax Retract Its False Statements,
But Newsmax Refuses***

177. The same day Newsmax aired its false claims about Dominion and Antrim County, December 18, Dominion sent a formal retraction demand letter to Newsmax.²⁵³ In that letter, Dominion once again put Newsmax on formal written notice of facts—which Newsmax knew of from widespread reporting, from receiving numerous iterations of Dominion's "SETTING THE RECORD STRAIGHT" emails beginning over a month before, and from countless reports and documents in the public domain, many of which it had reported about on its online website—that demonstrated that the claims Newsmax had been broadcasting, publishing, 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.²⁵⁴
- 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

²⁵² Emma Brown et al., *The Making of a Myth*, Wash. Post (May 9, 2021), <https://www.washingtonpost.com/investigations/interactive/2021/trump-election-fraud-texas-businessman-ramsland-asog/>.

²⁵³ Letter from Dominion to Newsmax Chief Executive Officer Christopher Ruddy (Dec. 18, 2020) ("Dominion's First Retraction Demand Letter") (Ex. 7).

²⁵⁴ E-mails from Dominion, SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Exs. 1-5).

tabulation met mandatory requirements during logic and accuracy testing ... [a]nd after [the] 2020 elections, the hand count audit showed the machines generated an accurate count.”²⁵⁵

- On November 6, 2020, the Michigan Secretary of State had declared that the errors in Antrim County, Michigan were the result of user error, and had explained further that Dominion’s “equipment and software did not malfunction and all ballots were properly tabulated.”²⁵⁶
- 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.²⁵⁷
- Votes are counted and reported by county and state election officials— not by Dominion or any other election technology company. Dominion equipment is used by county and state officials to tabulate ballots. Dominion’s voting systems are designed and certified by the U.S. government to be closed and do not rely on network connectivity.²⁵⁸
- Dominion’s source code is reviewed by independent third-party labs that test for, among other things, accuracy and security as part of the federal and state certification process.²⁵⁹

²⁵⁵ Chairman of Maricopa Cnty. Bd. of Supervisors Clint Hickman, Letter to Maricopa County Voters, Maricopa Cnty. (Nov. 17, 2020), <https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters>.

²⁵⁶ *False claims from Ronna McDaniel have no merit*, The Office of Sec’y of State of Mich. (Nov. 6, 2020), <https://www.michigan.gov/sos/0,4670,7-127-93094-544676--,00.html>.

²⁵⁷ Dominion’s First Retraction Demand Letter (Ex. 7); Ali Swenson, *Smartmatic does not own Dominion Voting Systems*, Associated Press (Nov. 17, 2020), <https://apnews.com/article/fact-checking-afs:Content:9740535009>.

²⁵⁸ 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>.

²⁵⁹ See, e.g., U.S. Election Assistance Comm’n, *How the U.S. Election Assistance Comm’n Facilitates Fair and Secure Elections*, (Dec. 3, 2020) <https://www.eac.gov/news/2020/12/03/how-us-election-assistance-commission-facilitates-fair-and-secure-elections/> (last visited Aug. 6, 2021) (“Before voting machines and election management systems are used in elections, the systems undergo rigorous hardware and software testing by laboratories accredited by the EAC

- No software updates were made on the eve of the 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.”²⁶⁰
- Congresswoman Carolyn Maloney’s 2006 letter on election integrity made no reference whatsoever to Dominion.²⁶¹
- Newsmax’s sources such as Powell, Giuliani, and Ramsland—as well as the individuals those sources purported to rely on—were proven liars and entirely unreliable.

178. Dominion’s December 18 letter also attached its 15-page retraction demand letter it had sent to Powell two days earlier concerning the nearly identical lies about Dominion she had been spreading since Election Day.²⁶² That letter included even more facts detailing the complete falsity of her lies about Dominion

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”); U.S. Election Assistance Comm’n, *Frequently Asked Questions*, <https://www.eac.gov/voting-equipment/frequently-asked-questions> (last visited Aug. 6, 2021) (“the test labs will examine the source code to ensure compliance with the voluntary voting system guidelines”); U.S. ELECTION ASSISTANCE COMM’N, TESTING & CERTIFICATION PROGRAM MANUAL, VERSION 2.0, (May 31, 2015), https://www.eac.gov/sites/default/files/eac_assets/1/28/Cert%20Manual%207%208%2015%20FINAL.pdf (“[T]he 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]”)

²⁶⁰ Dominion’s First Retraction Demand Letter (Ex. 7); *Historic First Statewide Audit of Paper Ballots Upholds Result of Presidential Race*, Ga. Sec’y of State (Nov. 19, 2020), https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race..

²⁶¹ 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], https://defendingtherepublic.org/?page_id=986.

²⁶² See Dominion’s First Retraction Demand Letter.

and more evidence of why Powell and her sources were completely unreliable and proven liars, including:

- Powell lied about having a Dominion employee “on tape” saying he “rigged the election for Biden” when she knew no such tape exists.²⁶³
- Federal judges in Michigan and Arizona had called her filings “nothing but speculation and conjecture that votes for President Trump were destroyed, discarded or switched to votes for Vice President Biden,” “were largely based on anonymous witnesses, hearsay, and irrelevant analysis of unrelated elections,” and that her so-called experts—including Ramsland—“reach implausible conclusions, often because they are derived from wholly unreliable sources.”²⁶⁴
- Election and government officials—including Republicans and Trump allies—in Michigan, Arizona, and Georgia had explicitly debunked her election claims about Dominion.²⁶⁵
- Even Tucker Carlson called Powell out for failing to provide any evidence to support her assertions.²⁶⁶
- Powell deliberately misrepresented Joshua Merritt—aka, “Spyder”—as a “military intelligence expert” even though he had no such expertise, drafted nearly identical affidavits for two separate witnesses, and had doctored the official Georgia Secretary of State certification for Dominion

²⁶³ *Id.*

²⁶⁴ See Op. & Order Den. Pl.’s Emer. Motion. For Decl., Emerg., and Inj. Relief at 34, *Whitmer v. City of Detroit*, No. 20-cv-12134 (E.D. Mich. Dec. 7, 2020) [Dkt. 62]; Order at 24-25, *Bowyer v. Ducey*, No. 2-20-cv-02321 (D. Ariz. Dec. 9, 2020) [Dkt. 84].

²⁶⁵ Nick Corasaniti, Reid J. Epstein & Jim Rutenberg, *The Times Called Officials in Every State: No Evidence of Voter Fraud*, *The N. Y. Times* (Nov. 10, 2020), <https://www.nytimes.com/2020/11/10/us/politics/voting-fraud.html>; Letter from Clint Hickman to Maricopa Cty. Voters (Nov. 17, 2020), <https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters>; *Historic First Statewide Audit of Paper Ballots Upholds Result of Presidential Race*, Georgia Secretary of State, https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race (last visited Aug. 6, 2021).

²⁶⁶ *Tucker Carlson SLAMS Sidney Powell for not Providing Evidence Election was Taken from Trump*, YouTube (Nov. 19, 2020), <https://www.youtube.com/watch?v=57156J47xhk>.

in order to falsely claim it was undated. (It would later be reported by the *Washington Post* that Merritt had formerly worked for Russell Ramsland at ASOG—another critical fact that Powell failed to disclose.²⁶⁷)

179. But Newsmax refused to retract. Instead, just a few hours after Dominion sent these letters to Newsmax, Newsmax and Greg Kelly invited Russell Ramsland on air to broadcast more lies about Dominion, and specifically to promote Ramsland’s long-debunked Antrim County report—a report Newsmax knew, or recklessly disregarded, to be false. During the segment, Kelly repeatedly endorsed the completely unreliable Ramsland and his false Antrim County report, calling it a “very important report” that “made perfect sense,” and saying “it’s so troubling to me that people are discounting this, but I don’t think you can steal something this big and get away with it.”²⁶⁸ Yet all the while, Newsmax knew that Ramsland was simply recycling the same discredited falsehoods he had originally attached to the 2018 Dallas congressional election. Newsmax knew this because prior to Kelly’s December 18 segment, Newsmax had reviewed an earlier interview of Ramsland in which he made these same false claims about the 2018 Dallas election, but that time making the claims about a Dominion competitor; Newsmax played part of that interview during Kelly’s December 18 segment.

²⁶⁷ Emma Brown et al., *The Making of a Myth*, Wash. Post (May 9, 2021), <https://www.washingtonpost.com/investigations/interactive/2021/trump-election-fraud-texas-businessman-ramsland-asog/>.

²⁶⁸ Greg Kelly Reports, Newsmax (Dec. 18, 2020), <https://app.criticalmention.com/app/#clip/view/61b6c650-cf46-400d-9606-6296bd102730?token=f8a458a8-5923-4a4d-a01d-1ca5ac17de27> (Ex. 29).

180. Rather than retract its month of defamatory statements, the next day, Newsmax tried a ploy and issued a “clarification” regarding its lies about Dominion rigging the election, titled “Facts about Dominion, Smartmatic You Should Know.”²⁶⁹

181. The purported “clarification” acknowledged what Newsmax long knew to be true: “No evidence has been offered that Dominion or Smartmatic used software or reprogrammed software that manipulated votes in the 2020 election.”²⁷⁰ Newsmax, however, failed to retract the wholesale alternate reality it had spent almost two months cultivating, feeding, and spreading about Dominion, including Stinchfield’s false assertion that Newsmax’s own “investigative unit” had “uncovered” evidence corroborating Powell’s false claims. Newsmax also couched its “clarification” in terms that conspicuously avoided correcting other of its earlier lies: “Dominion *has stated* its company has no ownership relationship with the House Speaker Nancy Pelosi's family, Sen. Dianne Feinstein's family, the Clinton family, Hugo Chavez, or the government of Venezuela.”²⁷¹

182. In sum, despite knowing the truth, Newsmax in its “clarification” pointedly refused to actually correct its earlier lies about Dominion or issue a

²⁶⁹ *Facts About Dominion, Smartmatic You Should Know*, Newsmax (Dec. 19, 2020, 8:24 PM), <https://www.newsmax.com/us/smartmatic-dominion-voting-systems-software-election/2020/12/19/id/1002355/>.

²⁷⁰ *Id.*

²⁷¹ *Id.*

retraction of those falsehoods. Rather, the alternate reality Newsmax helped promote—that Dominion rigged the 2020 election, among other lies—continues to persist. Regardless, at this point Newsmax’s defamatory broadcasts had already done severe damage to Dominion, and Dominion continues to suffer as a result of Newsmax’s lies.

183. On December 21, 2020, Attorney General Barr once again publicly rebutted the election fraud lies. He stated “at a news conference that he saw no basis for the federal government seizing voting machines. He also said that he did not intend to appoint a special counsel to investigate allegations of voter fraud.”²⁷² As Barr told the Associated Press, “If I thought a special counsel at this stage was the right tool and was appropriate, I would name one, but I haven’t, and I’m not going to.”²⁷³

184. That same day, and just two days after issuing its “clarification,” Newsmax invited Mike Lindell onto its air. Sebastian Gorka, who was guest-hosting the *Greg Kelly Reports* show that night, prefaced the Lindell segment by telling viewers that Newsmax was “not going to ignore” alleged evidence of election fraud,

²⁷² Matt Zaptosky, Rosalind S. Helderman, Amy Gardner, & Karoun Demirjian, ‘Pure insanity’: How Trump and his allies pressured the Justice Department to help overturn the election, Wash. Post (June 16, 2021), <https://www.washingtonpost.com/politics/interactive/2021/trump-justice-department-2020-election/>.

²⁷³ *Id.*

“because we fight for the truth and we believe that this is still the greatest nation on God’s earth and nobody gets to steal it from us.”²⁷⁴ He then introduced “[t]he great Mike Lindell,” who he said was “fighting for America.”²⁷⁵ Lindell immediately, and entirely predictably, launched into his stock-in-trade false claims of voting machine fraud, and specifically said “the biggest fraud is the Dominion machines.”²⁷⁶ While Gorka cut in to tell Lindell “I don’t want to discuss,” he did *not* tell his audience that what Lindell had just said was false.²⁷⁷ Rather, Gorka said simply “[w]e’re not going to get into the minutia and the details,” implicitly endorsing rather than rebutting Lindell’s lies.²⁷⁸

185. On December 22, 2020, Dominion responded to Newsmax’s continued lies by writing Newsmax a second letter explaining that Dominion was “disappointed that Newsmax continues to publish lies about US Dominion Inc.,” despite Dominion’s retraction demand.²⁷⁹ Indeed, rather than “retracting the false statements about Dominion,” “Newsmax instead decided to double down on its libel while simultaneously claiming to ‘clarify’ its news coverage.”

²⁷⁴ *Mike Lindell to Newsmax TV: “American Dream” Is on the Line*, Newsmax (Dec. 21, 2020), <https://www.newsmax.com/newsmax-tv/mike-lindell-election-lawsuits-american-dream/2020/12/21/id/1002635/> (Ex. 30).

²⁷⁵ *Id.*

²⁷⁶ *Id.*

²⁷⁷ *Id.*

²⁷⁸ *Id.*

²⁷⁹ Dominion’s Second Retraction Letter (Ex. 8).

186. Newsmax responded to Dominion’s letters on December 28, 2020, acknowledging receipt of both letters. But in that response, Newsmax’s lawyers tried to rewrite history and ignored the actual statements in its many broadcasts about Dominion, falsely stating, “At no time did the hosts or Newsmax indicate support for or agreement with her [Powell’s] allegations. At the same time, they did not have any specific knowledge that the evidence she cited was non-existent, nor that her claims were false.”²⁸⁰ But as Newsmax knew, not only did it repeatedly endorse Powell’s lies, it manufactured a false narrative and alternative reality that Dominion rigged the 2020 election and stole it from Trump, which defied the mountain of evidence in the public record, Dominion’s “SETTING THE RECORD STRAIGHT” emails, and Dominion’s retraction demands.

187. Notwithstanding its acknowledgment that Powell’s and others’ false claims about Dominion “lack[ed] evidence” and after quietly taking two stories espousing those false claims off its website, Newsmax continued to peddle the same litany of lies about Dominion.

188. For example, after a single one of Newsmax’s on-air hosts, Bob Sellers, initially rebuked a guest for peddling known lies about Dominion on air, he walked back his rebuke and voiced his support for the guest the next day. On February 2, 2021, during an interview of Mike Lindell about his recent Twitter ban, Lindell tried

²⁸⁰ Newsmax’s Response to Dominion’s Retraction Letters (Ex. 9).

to claim he had “100% proof” of election fraud via Dominion’s voting systems. Newsmax co-anchor Bob Sellers interrupted Lindell, told the audience that Newsmax had not verified any of his claims, and stormed off set.²⁸¹ But Sellers’ resolve was short-lived. Facing immediate backlash from both Newsmax and its audience, Sellers apologized on air the next day, calling Lindell a “friend of this network” who would continue to be an important guest.²⁸²

189. Throughout this timeframe, Newsmax continued pushing a fraud narrative that was now inextricably linked to Dominion through Newsmax’s prior false statements. Because of the connection that Newsmax pushed between Dominion and election fraud, Newsmax’s later references to election fraud—even those that did not mention Dominion specifically—reinforced the false narrative connecting Dominion to election fraud. Newsmax had already linked Dominion with the false claims of fraud and as a key part of the fictitious story that the election was

²⁸¹ Joe Walsh, *Newsmax Anchor Cuts Off Mike Lindell As Network Braces For Lawsuit From Dominion*, Forbes (Feb. 2, 2021, 6:10 PM), <https://www.forbes.com/sites/joewalsh/2021/02/02/newsmax-anchor-cuts-off-mike-lindell-as-network-braces-for-lawsuit-from-dominion/?sh=20c65bd93e1e>.

²⁸² Katie Dowd, *Trump fans turn on Newsmax after its off-the-Rails interview with MyPillow’s Mike Lindell*, SFGate (Feb. 3, 2021, 3:06 PM), <https://www.sfgate.com/politics/article/mypillow-newsmax-bob-sellers-twitter-segment-15921742.php>; Ron Dicker, *Newsmax Host is Now Sorry for Walking Out on ‘Important Guest’ Mike Lindell*, Huffpost (Feb. 4, 2021, 11:06 AM), https://www.huffpost.com/entry/bob-sellers-apology-mike-lindell_n_601bc8e6c5b62bf307546ac2?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAABVpma7PeYPG_hqxrXqNeqc8dS8_v7mjdV03oTfbR2K1Bdd0YVGzVpT0KSIZeN11TTE7yQ8FLLB0MjladtF1rFmP1ntsnfyO46pQbhe2-rToAjXiIYzbb4fdbYCaSOYIIiUGVxZ_9TqP41oXr-d6CWKgvECgeIkixLHzgSMXomB6.

“rigged,” and sought to maintain its momentum as viewers increasingly switched over to Newsmax. As Newsmax itself reported in late December, “Sixty-seven percent of Republicans believe Joe Biden won the presidential election due to voter fraud.”²⁸³

190. Even though, months later, Newsmax still refused to retract its lies, on April 30, 2021, Newsmax issued a half-hearted “apology” statement to Dr. Eric Coomer, Dominion’s then-Director of Product Strategy and Security. Remarkably, Newsmax *admitted* that its hosts and guests peddled unproven claims that “Dr. Coomer played a role in manipulating Dominion voting machines, Dominion voting software, and the final vote counts in the 2020 presidential election” even though Newsmax had “*no evidence* that such allegations were true.”²⁸⁴ Yet far from owning up to the harm it caused, Newsmax’s choice phrasing stated only that *Dr. Coomer* was not involved in the “manipulation” of voting machines during the 2020 election, thus suggesting by clear implication that someone else at Dominion had been involved—which was consistent with the false narrative Newsmax had been

²⁸³ Solange Reyner, *Poll: 67 Percent of Republicans Believe Voter Fraud Boosted Biden to Win*, Newsmax (Dec. 30, 2020, 3:24 PM), <https://www.newsmax.com/politics/voterfraud-biden-republicans-2020/2020/12/30/id/1003672/>.

²⁸⁴ *Statement About Dr. Eric Coomer, Director of Product Strategy and Security at Dominion Voting Systems*, Newsmax (Apr. 30, 2021), previously available at <https://www.newsmax.com/newsfront/eric-coomer-dominion-voting-systems/2021/04/30/id/1019671/>

[<https://web.archive.org/web/20210503051939/https://www.newsmax.com/newsfront/eric-coomer-dominion-voting-systems/2021/04/30/id/1019671/>].

endorsing for months that Dominion as a whole was a corrupt company responsible for election fraud. Newsmax still failed to state what it had known for months—there is no evidence that Dominion rigged the 2020 Presidential Election—let alone retract the multitude of other lies it made, propagated, and endorsed in its disinformation campaign against Dominion. And, of course, Newsmax’s “apology” to Dr. Coomer wasn’t given nearly the same prominence as its original knowingly false claims about Dominion (and Dr. Coomer), which were broadcast repeatedly on primetime TV for weeks.

191. Newsmax’s competitor OAN reacted to the Coomer settlement by publicly (and falsely) scolding Newsmax for having settled with Dominion. At some point after this scolding, Newsmax took down its “clarification” from its website.

192. Meanwhile, Newsmax continues to amplify and promote the individuals spreading lies about Dominion and the election. As just one example, *the same day* Newsmax published its half-hearted apology to Dr. Coomer, Newsmax promoted the social media platform of known Dominion defamation campaign ringleader Mike Lindell, telling its readers that Lindell is “a vocal proponent of claims the 2020 election was stolen.”²⁸⁵ Instead of telling its readers the truth—that Lindell’s claims about Dominion and the election, which Lindell has turned into an

²⁸⁵ Charlie McCarthy, *MyPillow’s Lindell to Relaunch ‘Frank’ Social Media Website at South Dakota Rally*, Newsmax (Apr. 30, 2021, 12:10 PM), <https://www.newsmax.com/politics/lindell-mypillow-frank-social-media/2021/04/30/id/1019657/>.

entire series of defamatory “docu-movies,” are false—Newsmax instead continues to express support for Lindell and his lies about Dominion, linking readers to other stories Newsmax published *agreeing with* Lindell’s election fraud claims, praising him as an “American Hero,” and promoting sales of his MyPillow products.²⁸⁶ And most recently, Newsmax has aired Lindell’s commercials for an upcoming “cyber-symposium” at which Lindell will tell yet more lies about Dominion—and Newsmax used the occasion to criticize Fox for not airing those same commercials.²⁸⁷

193. CNN recently broadcast a report showing that people continue to believe the lies about Dominion as fact, including Mike Lindell’s lies. One Republican election official stated that she was “unable to convince [her] constituents of the simple fact that the election wasn’t stolen: ‘They are like, “Well, Mike Lindell says this.””” She elaborated that Lindell’s claims ““made me angry. . . . He has created a lot of doubt in a lot of peoples’ minds even though the count was accurate.””²⁸⁸ Lindell himself acknowledged that he wants his viewers to believe his

²⁸⁶ *Mike Lindell Targeted, Help Him Today!*, Newsmax (Jan. 28, 2021, 11:52 AM), <https://www.newsmax.com/newsfront/mike-lindell-mypillow-boycott/2021/01/28/id/1007643/>.

²⁸⁷ *Fox News Bans Mike Lindell Ad, MyPillow Drops Network*, Newsmax (July 30, 2021, 6:22 AM), <https://www.newsmax.com/newsfront/fox-news-mike-lindell-mypillow-ad/2021/07/30/id/1030532/>; *Where Is Mike Lindell? He disappears from Fox News, Newsmax begins manhunt*, YouTube (Aug. 6, 2021), <https://www.youtube.com/watch?v=VmLgmdghAII>.

²⁸⁸ Casey Tolan et al., *MyPillow magnate Mike Lindell’s latest election conspiracy theory is his most bizarre yet*, CNN (Aug. 5, 2021), <https://www.cnn.com/2021/08/05/politics/mike-lindell-mypillow-ceo-election-claims-invs/index.html>.

movies. When asked, “The people who have watched your video believe what you say?” Lindell responded: “100 percent.”²⁸⁹

Ruddy Attempts to Rewrite History and Distance Himself and Newsmax From Their Manufactured Alternate Reality—Meanwhile, More and More Evidence Mounts Disproving the Lies and Holding Those Who Spread Them Accountable

194. On May 24, 2021, in a desperate attempt to stave off a defamation lawsuit from Dominion for Newsmax’s manufactured disinformation campaign, Newsmax’s CEO wrote a letter to Dominion Founder and CEO John Poulos.²⁹⁰ But much like Newsmax’s stories about Dominion, Ruddy’s May 24 letter was a work of fiction.

195. Ruddy first claimed that Newsmax never received Dominion’s December 18 retraction demand letter. But as Newsmax’s own lawyers admitted in December 2020, “the email addresses used for Mr. Ruddy and Mr. Chandler” to send that letter “appear to be correct.”²⁹¹

196. Ruddy next claimed that neither he nor Newsmax generally knew their lies were in fact lies—and that they continue to be unaware “of any independent review and examination of the voting software.”²⁹² Of course, this was yet another lie by Ruddy because both he and Newsmax were aware of and at a minimum recklessly disregarded the investigations by independent election experts, Trump’s

²⁸⁹ *Id.* (quoting embedded video).

²⁹⁰ May 24, 2021 Letter from C. Ruddy to J. Poulos (Ex. 10).

²⁹¹ *Id.*

²⁹² *Id.*

own administration, and even Trump’s loyal supporters debunking Newsmax’s lies about Dominion and the election, not to mention the rulings in federal court forcefully dismissing every lawsuit regarding Dominion’s machines.

197. Ruddy saved his most ludicrous revisionist history for last: he claimed that all Newsmax did was “report then President Trump’s public claims, the claims made by his lawyers, and claims they made in legal documents in several states.”²⁹³ Even if Ruddy’s revisionist history were true (it is not), the law does not provide a get-out-of-jail-free card to broadcast lies with knowing or reckless disregard for the truth. But Ruddy’s revisionist history has no basis in reality. As just one of many examples, when Newsmax’s Grant Stinchfield lied to Newsmax’s viewers that he had an “investigative unit” that had independently “been uncovering” evidence that Dominion rigged the election, Newsmax was not simply reporting on Trump’s claims—*it was manufacturing the claims itself*.

198. In the months following Ruddy’s hollow attempt to rewrite history and stave off responsibility for his and his network’s disinformation campaign, even more evidence has surfaced demonstrating the total falsity of Newsmax’s lies about Dominion. For example, on June 23, 2021, the Republican-led Michigan Senate Oversight Committee, chaired by Trump ally Senator Ed McBroom, released a 55-page report, which stated that “The Committee found no evidence of widespread or

²⁹³ *Id.*

systemic fraud in Michigan's prosecution of the 2020 election” and expressed total confidence that the state’s 2020 election outcome—that Biden defeated Trump by about 155,000 votes, or 2.8%—“represent[s] the true results of the ballots cast by the people of Michigan.”²⁹⁴ The report specifically called out individuals like Lindell and Ramsland for their false claims about systemic fraud in Michigan, stating that they “have been utilizing misleading and false information about Antrim County to raise money or publicity for their own ends,” and calling for the Michigan Attorney General to investigate them for their conduct.²⁹⁵ Senator McBroom and the Committee thoroughly debunked the Antrim County Report, providing the actual ballot counts and details demonstrating that Dominion’s machines had it right all along and were the reason the results were ultimately accurate—a Trump victory by almost 4,000 votes in Antrim County.

²⁹⁴ MICH. SENATE OVERSIGHT COMMITTEE, REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN (Apr. 9, 2021), https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport.pdf; David Eggert, *Michigan Senate GOP probe: No systemic fraud in election*, ABC News (June 23, 2021), <https://abcnews.go.com/Politics/wireStory/michigan-senate-gop-probe-systemic-fraud-election-78445547>; Clara Hendrickson & Dave Boucher, *Michigan Republican-led investigation rejects Trump's claim that Nov. 3 election was stolen*, Detroit Free Press (June 23, 2021), <https://www.freep.com/story/news/politics/elections/2021/06/23/michigan-senate-investigation-election-trump/5035244001/>.

²⁹⁵ MICH. SENATE OVERSIGHT COMMITTEE, REPORT ON THE NOVEMBER 2020 ELECTION IN MICHIGAN (Apr. 9, 2021), at 19, https://misenategopcdn.s3.us-east-1.amazonaws.com/99/documents/20210623/SMPO_2020ElectionReport.pdf.

199. On June 24, 2021, the Supreme Court of the State of New York, Appellate Division, First Judicial Department, suspended Rudolph Giuliani from the practice of law after it determined that he had “made *knowing* false and misleading factual statements to support his claim that the presidential election was stolen from his client [Donald Trump],” based on “uncontroverted evidence” that he made such “demonstrably false and misleading statements to courts, lawmakers and the public at large in his capacity as lawyer for former President Donald J. Trump and the Trump campaign in connection with Trump’s failed effort at reelection in 2020.”²⁹⁶

200. On June 27, 2021, even more evidence emerged demonstrating that former Attorney General William Barr’s public statement on December 1, 2020 that the U.S. Department of Justice “had uncovered no evidence of widespread voter fraud that could change the outcome of the 2020 election” was just the tip of the iceberg. Further reporting revealed that Barr had “received two briefings from cybersecurity experts at the Department of Homeland Security and the FBI” about the allegations of rigged voting machines, after which he and his team at the Department of Justice “realized from the beginning it was just bullshit.” Barr further disclosed that “even if the machines somehow changed the count, it would show up

²⁹⁶ Order, *In re Giuliani*, No. 2021-00506 (N.Y. Sup. Ct. June 24, 2021), [https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20\(2021-00506\)%20PC.pdf](https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20(2021-00506)%20PC.pdf); <https://apnews.com/article/rudy-giuliani-new-york-law-license-suspended-c67f4504a22f8642d6096f29e3a5c51e>; Jim Mustian, *New York Court Suspends Rudy Giuliani’s law license*, Associated Press (June 24, 2021), <https://apnews.com/article/rudy-giuliani-new-york-law-license-suspended-c67f4504a22f8642d6096f29e3a5c51e>.

when they were recounted by hand,” and that Dominion’s machines were just “counting machine[s], and they save everything that was counted. So you just reconcile the two. There had been no discrepancy reported anywhere, and I’m still not aware of any discrepancy.”²⁹⁷

201. On August 3, 2021, a federal judge in Colorado disciplined two lawyers who filed a frivolous lawsuit based on lies against Dominion following the election, concluding that the case was frivolous and brought in bad faith. In his 68-page opinion, Judge N. Reid Neureiter concluded: “Albeit disorganized and fantastical, the Complaint’s allegations are extraordinarily serious and, if accepted as true by large numbers of people, are the stuff of which violent insurrections are made.”²⁹⁸

202. Even with these latest facts further debunking the lie that Dominion designed its machines to and in fact did steal the 2020 election from Trump, Newsmax refuses to set the record straight and let its viewers know that its numerous broadcasts about Dominion were lies. Instead, Newsmax continues to promote its alternate reality and dupe its viewers, at Dominion’s and the American public’s expense.

²⁹⁷ Jonathan D. Karl, *Inside William Barr’s Breakup with Trump*, The Atlantic (June 27, 2021), <https://www.theatlantic.com/politics/archive/2021/06/william-barrs-trump-administration-attorney-general/619298/>.

²⁹⁸ Order Granting Defendants’ Motions for Sanctions, at 6, *O’Rourke et al. v. Dominion Voting Systems, Inc., et al.*, No. 20-cv-03747 (D. Colo. Aug. 3, 2021), available at <https://context-cdn.washingtonpost.com/notes/prod/default/documents/779f6d9a-5696-4bdf-8d1b-a63d7f08d51a/note/892ae5bb-664f-4125-af38-1cb1151ba5d0.#page=1>.

The Lies About Dominion Go Viral

203. Newsmax did not just broadcast its false and defamatory statements about Dominion on the air on its cable channel; it also, as a matter of practice, posted and republished its broadcasts across its multiple media platforms via its Newsmax Media enterprise, which is comprised of the Newsmax.com web site through which it streams its newscasts for free to anyone who will watch them, its social media accounts, its YouTube account, and its mobile apps.

204. The Newsmax channel is available to over 70 million American households via the leading satellite and digital television services, and is available for free to anyone with an internet connection via newsmax.com.²⁹⁹ The week after the election, Newsmax's ratings jumped almost *ten times* Newsmax's pre-election ratings.³⁰⁰ In the same period, daytime viewership also increased *nearly ten-fold*.³⁰¹ Daily active users of Newsmax's mobile app have also soared following the election, increasing by almost a multiple of **14** from October 20, 2020 to November 24, 2020.³⁰² By February 2021, Newsmax was able to boast that it had secured **32 times**

²⁹⁹ John Eggerton, *Newsmax Grabs Fox Distribution Executive*, NextTV (May 14, 2019), <https://www.nexttv.com/news/newsmax-grabs-fox-distribution-executive>.

³⁰⁰ David Bauder, *Trump-friendly Newsmax seeks to cut into Fox's viewership*, Associated Press (Nov. 18, 2020), <https://apnews.com/article/newsmax-sudden-competitor-fox-news-bddb5f123fe8d187570129a8425c7303>.

³⁰¹ *Id.*

³⁰² Nathan Bomey, *Could Fox News Lose Its Grip on Far-Right Conservative Viewers to Newsmax, OAN?*, USA Today (Dec. 21, 2020), <https://www.usatoday.com/story/money/2020/12/21/fox-news-newsmax-oan-cable-news-donald-trump-2020-election/3881624001/>.

more downloads of the mobile apps through which it streams its programming since the weeks prior to the election.³⁰³

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

206. The harm to Dominion is unprecedented and irreparable because of how fervently millions of people believe Newsmax—because of Newsmax’s publication, republication, and promotion of the falsehoods about Dominion it used as the foundation for the burgeoning growth of its business in the wake of the 2020 election.

207. Through this race to the bottom among Fox, Newsmax, and OAN, Dominion has been falsely branded as synonymous with election fraud. Thus, even later generalized references to “election fraud” or similar statements tie back for viewers and readers to Newsmax’s defamatory campaign.

208. Newsmax’s lies did not simply harm Dominion. They harmed democracy. They harmed the idea of credible elections. They harmed a once-

³⁰³ Bill Hoffman, *More Than 5 Million Newsmax App Downloads!*, Newsmax (Feb. 25, 2021, 2:08 PM), <https://www.newsmax.com/newsfront/app-newsmax-apple-store-google-play/2021/02/25/id/1011529/>.

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.”

209. Indeed, some Newsmax viewers believed the lies about Dominion with such devotion that they took the fight to the United States Capitol on January 6, 2021 and at rallies across the country to #StopTheSteal, inflicting violence, terror, and death along the way.³⁰⁴ “[C]rucially, supportive media outlets amplified [Trump’s] claims, from wholehearted cheerleading on Newsmax and One America News Network (OAN) to credulous acceptance of gossamer-thin (and failed) legal challenges.”³⁰⁵ “And in the minds of millions, including some of those who sacked the Capitol, those outlets helped legitimize the groundless fraud claims.”³⁰⁶ A banner at the on January 6 read: “No Machines Dominion Steals!”

³⁰⁴ Bill Keveney & Maria Puente, *How conservative media stoked baseless election-fraud claims that motivated DC rioters*, USA Today (Jan 13, 2021, 4:49 PM), <https://www.usatoday.com/story/entertainment/tv/2021/01/11/dc-riots-how-newsmax-oan-conservative-outlets-fueled-mob/6589298002/>.

³⁰⁵ *Id.*

³⁰⁶ *Id.*

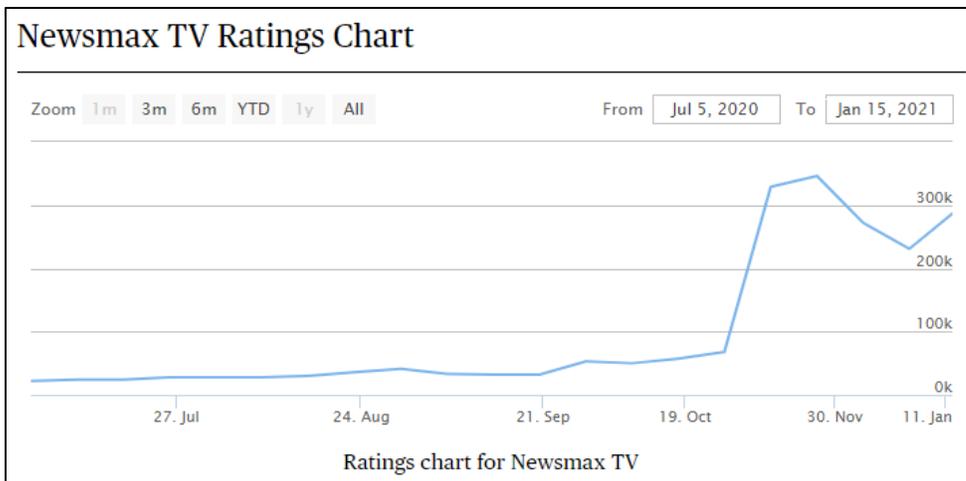


210. Newsmax's promotion and endorsement of these lies about Dominion led its viewers to conclude that these baseless and false conspiracy theories were true. Newsmax fanned the flames, and did not care what else burned down in the process as it spread these malicious falsehoods about Dominion.

While Dominion and the Country Suffered, Newsmax Flourished

211. The lies about Dominion were good business for Newsmax. Newsmax TV has experienced a ratings surge across-the-board. The chart below shows the explosion in ratings Newsmax experienced as it continued to feed its audience lies about Dominion to keep them coming back.³⁰⁷

³⁰⁷ *Id.*



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212. Newsmax’s website traffic on newsmax.com spiked by 145% in December 2020 over the previous year.³⁰⁹ In November 2020, Newsmax’s app was downloaded over 3 million times, and Newsmax boasted that the uptick was a result of “attracting millions who are leaving Fox News and switching to Newsmax TV.”³¹⁰ Newsmax’s mobile app has also experienced a dramatic spike in downloads since the election, boasting over 3 million downloads in November 2020, boosting the Newsmax app to the top ten apps in the iPhone app store.³¹¹

213. As Newsmax’s ratings and traffic have risen, so have its advertising revenues. Newsmax CEO Christopher Ruddy boasted that ad revenues for Newsmax

³⁰⁸ *Newsmax TV Ratings*, Cable Rankings (Aug. 4, 2021), <https://ctv.kwayisi.org/networks/nmax/> (input relevant dates in graph).

³⁰⁹ Lindsey Ellefson, *Newsmax’s Online Visitors Spiked 148% in December Over Previous Year*, The Wrap (Jan. 28, 2021, 6:59 AM), <https://www.thewrap.com/newsmax-traffic-spiked-december-2020/>.

³¹⁰ *Newsmax App Sees 3 Million Downloads This Month*, Newsmax (Nov. 23, 2020, 12:52 PM), <https://www.newsmax.com/newsfront/newsmax-tv-mobile-app/2020/11/23/id/998372/>.

³¹¹ *Newsmax TV Makes iPhone’s Top 10 Apps!*, Newsmax (Nov. 9, 2020, 5:22 PM), <https://www.newsmax.com/newsmax-tv/newsmax-tv-iphone-app-top-10/2020/11/09/id/996143/>.

“are tripling in Q4” of 2020 “compared to last year,” and Newsmax expects ad revenues “will double *again* by the end of Q1 2021.”³¹² Newsmax CEO Christopher Ruddy has said Newsmax is on a “hiring splurge” following the election.³¹³

Dominion Has Suffered Enormous Harm

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

215. After watching Newsmax broadcasts, countless Twitter users believed and began spreading Newsmax’s defamatory falsehoods about Dominion across social media.

216. For example, one person responding to a tweet decrying election conspiracies tweeted the video of Sidney Powell’s November 21, 2020 appearance on Newsmax with the caption, “You need to do some basic research first. This is ANOTHER to help you[r] ignorance.”³¹⁴

³¹² A.J. Katz, *10 Things You Need to Know About Newsweek, the Surging Conservative News Network*, AdWeek (Nov. 23, 2020) <https://www.adweek.com/convergent-tv/newsmax-conservative-news-network-10-things-you-need-to-know/>.

³¹³ Lisa Richwine & Helen Coster, *Trump support, anger at Fox News*, Reuters (Dec. 10, 2020, 5:20 AM), <https://www.reuters.com/article/media-conservative/newsmax-plans-expansion-to-capitalize-on-trump-support-anger-at-fox-news-idINKBN28K17S?edition-redirect=uk>.

³¹⁴ SW (@SWMDUSA), Twitter (Nov. 21, 2020, 8:09 PM), <https://twitter.com/SWMDUSA/status/1330362755124256775>.



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

218. For example, one person posted, “Why isn’t every single Dominion employee in jail for their election fraud?!!!!!!!!!!!!”³¹⁵

³¹⁵ Woody James (@WoodsonTJames), Twitter (Dec. 9, 2020, 12:35 PM), *previously available at* <https://twitter.com/WoodsonTJames/status/1336726130771038208>.



219. Another person posted, “jail dominion find them...ask allies to track them down.”³¹⁶



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

221. 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

³¹⁶ Proud zionist conservative, previously Lionslovestrump (@leonkhanin1234), Twitter (Dec. 8, 2020, 9:26 PM), <https://twitter.com/leonkhanin1234/status/1336497514598555650>.

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.

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

223. 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.

224. And most recently—on July 4, no less—someone threw a brick through the window of a Dominion office.

225. 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.

226. 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.

227. 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.

228. 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.

229. 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 California, Colorado, Florida, Michigan, Ohio and Pennsylvania—are reviewing or 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 Newsmax.

230. For example, prior to the 2020 election, Louisiana had issued Dominion an “Intent to Award Letter,” noting its intent to accept Dominion’s bid to provide Louisiana with its voting systems beyond the 2020 election. But in March 2021, Louisiana retracted that “intent” and issued a “Notice of Cancellation” on the Request for Proposal on the State’s reassessment and bid process, essentially reneging on awarding Dominion the \$100-million-plus contract with the state.³¹⁷

231. This cancellation was due to the lies about Dominion. One Louisiana radio host, Jeff Crouere, declared: “Tell Kyle we don’t want a Dominion voting machine lawsuit here like they had in Georgia ... Call Kyle and tell him to get honest voting machines.”³¹⁸ “Kyle” refers to Louisiana’s Republican Secretary of State,

³¹⁷ *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>.

³¹⁸ Sam Karlin, *How Louisiana’s Bid for New Voting Machines Fell Apart Amid Baseless Fraud Allegations*, *The Advocate* (Mar. 7, 2021), https://www.theadvocate.com/baton_rouge/news/politics/elections/article_fc7c4008-7e14-11eb-b1d7-3734976f1a47.html.

Kyle Ardoin. Secretary Ardoin attributed the changed circumstances to “the damage to voter confidence done by those who willfully spread misinformation and disinformation.”³¹⁹ On July 2, Louisiana passed a bill that reworks “Louisiana’s method for selecting its next voting system.” Trump supporters in Louisiana have called “to block Louisiana’s current voting machine vendor, Dominion Voting Systems, from participating in an open bid process for the new multimillion-dollar contract” because they “blame” Dominion “for Trump’s loss in key swing states.”³²⁰

232. Because Dominion’s contracts are often long-term, the harm to Dominion will continue to play out over the next years. Nevertheless, since the November 2020 election, Dominion already has seen further evidence of damage in addition to the Louisiana contract described above. Indeed, Dominion has not received numerous contracts as a result of the lies spread by Newsmax and others. As of July 23, 2021, these contracts were worth a combined \$90 million over 53 separate potential contracts. Election officials have even told Dominion that Dominion is losing business “because of the ‘Dominion’ name.” Together with the Louisiana contract, these add up to at least \$70 million in net profits lost. Even many rational elections administrators who reject the lies are unwilling to deal with the

³¹⁹ *Id.*

³²⁰ Melinda DeSlatte, *Analysis: Louisiana to Hve New Approach for Voting Machines* (July 11, 2021), <https://apnews.com/article/technology-government-and-politics-louisiana-voting-election-2020-0517ded61aa9bd507240eb593ca995a2>.

political blowback from many of their constituents—blowback that only exists due to the lies spread about Dominion.

233. On June 8, 2021, as a result of the disinformation campaign, the Georgia Republican Party Convention passed a resolution calling for an investigation into Dominion: “1. Formal action shall be taken by the Georgia General Assembly to appoint an independent investigatory committee not controlled by the Executive Branch to conduct an investigation into the procurement, implementation, management and oversight of Dominion Voting machines and their software.”³²¹ The stated goal of the resolution is “[r]eplacing all Dominion voting systems with secure hand marked paper ballots which should be scanned and tabulated using a device that is not connected to the internet, and to do so with the passage of legislation for the governor to sign prior to the start of the candidate qualifying beginning March 7, 2022.”³²²

234. Officials in San Luis Obispo County, California, have also abandoned Dominion voting machines and have reverted to paper ballots over Dominion

³²¹ Georgia GOP Resolutions Committee to the 2021 Georgia Republican Party Convention, *2021 Convention Resolutions Committee Report*, Georgia GOP (last visited July 5, 2021), <https://gagop.org/2021-convention-resolutions-committee-report/>.

³²² *Id.*

machines as a result of the disinformation campaign. As one official wrote in an email: “I don't trust Dominion Voting Systems at all.”³²³

235. These are some examples of the damage Dominion has suffered as a result of the Newsmax defamation campaign against Dominion. Regardless of the ultimate outcomes, these examples illustrate the stark difficulty that Dominion will have in the months and years ahead.

236. The damage to Dominion is not limited to the review and potential cancellation of Dominion’s contracts, either. Newsmax’s defamatory campaign has spurred sham audits, which continue to harm Dominion. Arizona is currently in the midst of a sham audit propagated by people who have bought into the lies pushed by Newsmax in its race to the bottom with Fox and OAN.

237. Republican chairman of the Maricopa County Board of Supervisors, Jack Sellers, rightly called the audit in Arizona “a gift disguised as an audit.”³²⁴ It was a total sham for reasons beyond the bias and complete lack of experience of the private companies performing the audit, including:

- There were no “bipartisan counting boards” set up for the hand counts, as required.

³²³ Peter Johnson, *SLO County to revert to ‘traditional’ election model following supervisor note*, New Times San Luis Obispo (May 6, 2021), <https://www.newtimeslo.com/sanluisobispo/slo-county-to-revert-to-traditional-election-model-following-supervisor-vote/Content?oid=11001664>.

³²⁴ Michael Wines, *In Arizona, G.O.P. senators defend their vote review but retract claims of deleted election data* (Mar. 18, 2021), <https://www.nytimes.com/2021/05/18/us/arizona-election.html>.

- The private group conducting the “audit” implemented forensic reviews of ballots for watermarks (based on the false belief that actual ballots in Arizona have watermarks—they do not), bamboo fibers (based on the false belief that 40,000 ballots were flown in from China and would therefore have bamboo fibers in them), and for folds or other markings (on the false belief that if a ballot has a fold or a food or coffee stain, it is invalid).
- The group falsely claimed that “Maricopa County deleted a directory full of election databases from the 2020 election cycle days before the election equipment was delivered to the audit,” when in fact the group was just too incompetent to “locate files on a copy they made of the County’s server.”
- The group claimed that the “chain of custody of ballots” had been broken, when in fact the Republican former Arizona Secretary of State Ken Bennett had approved the actual Chain of Custody Document that demonstrated it had never been broken.
- Vote counters were given blue pens—which “can be read by ballot marking devices and could be conceivably used to ruin or falsify ballots”—to mark ballots rather than red pens, breaking a cardinal rule of election audits that Cyber Ninjas’ head Doug Logan did not know.
- The group left security gates and ballots unattended and brought unauthorized pens and cell phones near the ballot counting areas.
- The group refused to publicly disclose its procedures for ensuring voter privacy, despite being ordered by a Maricopa County Superior Court to do so.³²⁵

³²⁵ See Ralph Neas et al., *How the Arizona Senate Audit in Maricopa County Is an Assault on Voting Rights*, Century Foundation (July 1, 2021), <https://tcf.org/content/report/arizona-senate-audit-maricopa-county-assault-voting-rights/?session=1>.

238. Unsurprisingly, actual Republican and independent election experts have completely discredited the audit as a sham. For example, former Kentucky Republican Secretary of State Trey Grayson and Dr. Barry C. Burden of the Elections Research Center at the University of Wisconsin-Madison—both “eminent election experts”—declared as follows:

The ongoing review of ballots from the November 2020 general election in Maricopa County as ordered by the Arizona State Senate and executed by their inexperienced, unqualified contractor, Cyber Ninjas, does not meet the standards of a proper election recount or audit. Although the scope of the undertaking is notable, the private firms conducting it are ill-equipped to conduct it successfully and produce meaningful findings about the 2020 election. In contrast to official procedures in Arizona and best practices around the country, the Cyber Ninjas review suffers from a variety of maladies: uncompetitive contracting, a lack of impartiality and partisan balance, a faulty ballot review process, inconsistency in procedures, an unacceptably high level of error built into the process, and insufficient security. A general lack of transparency and communication also makes it difficult to evaluate the review fully as one would an official recount or audit, and it undermines rather than establishes confidence in the election system and the review itself. Because it lacks the essential elements of a bona fide post-election analysis, the review currently underway in Maricopa County will not produce findings that should be trusted.³²⁶

239. And most recently, an independent analysis by the Associated Press determined that “out of more than 3 million ballots cast in last year’s presidential

³²⁶ DR. BARRY C. BURDEN & SEC’Y TREY GRAYSON, STATES UNITED DEMOCRACY CTR., REPORT ON THE CYBER NINJAS REVIEW OF THE 2020 PRESIDENTIAL AND U.S. SENATORIAL ELECTIONS IN MARICOPA COUNTY, ARIZONA (June 22, 2021), <https://statesuniteddemocracy.org/wp-content/uploads/2021/06/6.22.21-SUDC-Report-re-Cyber-Ninjas-Review-FINAL.pdf>.

election” in Arizona, the “Arizona county election officials have identified fewer than 200 cases of potential voter fraud,” only four of which “have led to charges”—“two involved Democratic voters and two involved Republicans”—and “No person’s vote was counted twice.”³²⁷ These cases had nothing to do with alleged voting machine fraud.

240. Regardless of the fact that it is a sham audit, the continuing coverage of it reinforces the harm and emphasizes how Dominion will forever be tainted with false claims of fraud. A recent article noted that an Arizona legislator supporting the sham audit was “exploring alternatives to Dominion voting machines.”³²⁸ ““There’s a lot of push nationally to get rid of the machines because people feel like they can be manipulated.””³²⁹ Indeed, in many circles, the word “Dominion” is now falsely associated with election fraud, and the sustained attack on Dominion now means that people falsely relate even general references to “election fraud” or similar phrases to Dominion. Arizona State Senator Wendy Rogers recently tweeted calling for “solitary confinement cells” for “the execs at the fraud machine company”:

³²⁷ Bob Christie & Christina A. Cassidy, *Ap: Few AZ Voter Fraud Cases, Discrediting Trump’s Claims*, Associated Press (July 16, 2021), <https://apnews.com/article/business-government-and-politics-arizona-election-2020-e6158cd1b0c6442716064e6791b4c6fc>.

³²⁸ Kyra Haas, *Some lawmakers want to eliminate voting machines*, AZ Capitol Times (Jun. 3, 2021), <https://azcapitoltimes.com/news/2021/06/03/some-lawmakers-want-to-eliminate-voting-machines/>.

³²⁹ *Id.*



241. As the County Recorder in Maricopa County, Arizona said, “[O]rdinary people, the ones who are showing up on a Wednesday night at a political meeting, I believe they really believe it. And that’s super sad.”³³¹ He also stated: “We can’t indulge these insane lies any longer. As a party. As a state. As a country.”³³²

242. Nevertheless, across the country, other jurisdictions are attempting to pursue their own sham audits. For example, Fulton County, Pennsylvania—which Trump won by an “almost seven-to-one” margin over Biden—hired Wake TSI, one of the same technology companies used in Maricopa County with virtually no election auditing experience, to conduct a sham audit of Fulton County ballots.³³³ As a result of this sham audit, Pennsylvania’s Secretary of State was forced “to

³³⁰ Wendy Rogers (@WendyRogersAZ), Twitter (Aug. 2, 2021, 5:40 PM), <https://twitter.com/wendyrogersaz/status/1422326523177148416?s=21>.

³³¹ Josh Dawsey & Rosalind S. Helderman, *Trump has grown increasingly consumed with ballot audits as he pushes falsehood that election was stolen*, Wash. Post (June 2, 2012, 6:50 PM) https://www.washingtonpost.com/politics/trump-2020-election-audits/2021/06/02/95fd3004-c2ec-11eb-8c34-f8095f2dc445_story.html.

³³² *Id.*

³³³ Marc Levy & Mark Scolforo, *Pennsylvania Decertifies County’s Voting System after Audit*, Associated Press (July 21, 2021), <https://apnews.com/article/technology-joe-biden-business-government-and-politics-pennsylvania-93c5f0b03167971d4dc5919e68949c51>.

decertify” the Dominion machines leased by the County because “the inspection violated state law ... was done in a manner that ‘was not transparent or bipartisan’ and the firm had ‘no knowledge or expertise in election technology.’”³³⁴

243. In late July 2021, in a Georgia county—Bibb County—a rally was held to begin a sham audit in Georgia. Signs said: “Ditch Dominion.” The Bibb County Party Chair “wants to know if [Georgia Secretary of State] Raffensperger will support an investigation into Dominion Voting.”³³⁵



244. In short, Dominion has now become part of both national- and state-level election fraud narratives at Dominion’s great expense. Political candidates are running campaign platforms based on the falsities that Newsmax published and republished.³³⁶ And Dominion’s name has become unfairly and inaccurately

³³⁴ *Id.*

³³⁵ Ariel Schiller, *Raffensperger hosts meet and greet in Roberta, Bibb County GOP Protests*, 41 NBC (July 22, 2021), <https://www.41nbc.com/raffensperger-hosts-meet-and-greet-in-roberta-bibb-county-gop-protests/>.

³³⁶ Austin Chenge (@AustinChenge), Twitter (Feb. 2, 2021, 11:21 AM), <https://twitter.com/AustinChenge/status/1356638816921128962/photo/1>.

tarnished as synonymous with fraud. Dominion is now so closely and inaccurately tied to the false claims of election fraud that even general references to “election fraud,” a “rigged election,” or similar statements—including by Newsmax—reinforce the false narrative pushed by Newsmax, and that Newsmax continues to push.

245. As a result of the radioactive falsehoods spread by Newsmax, 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. Even landlords are refusing to work with Dominion. In early August 2021, Dominion was told by a prospective commercial landlord that the landlord would not discuss renting to Dominion, citing security concerns relating to the election lies.

246. Additionally, 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, conservative projections show lost profits from existing customers of over \$463 million and from potential new customers of over \$68 million. In addition, the viral disinformation campaign has irreparably damaged Dominion. It has decimated Dominion’s goodwill 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.

COUNT ONE – DEFAMATION PER SE

247. Dominion repeats and re-alleges each of the foregoing paragraphs as if set forth fully herein.

248. Newsmax published the following false and defamatory statements of fact about Dominion, including by and through Newsmax’s own agents making the statements themselves; by intentionally providing a platform for guests to appear on Newsmax programming who Newsmax knew would make defamatory 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, Newsmax’s websites, Newsmax’s social media accounts, and Newsmax’s other digital platforms and subscription services after the live broadcasts had aired:

- (a) On November 10, 2020, Newsmax’s White House Correspondent Emerald Robinson tweeted the false statement that “All crooked roads lead to Dominion Voting Systems” in direct response to her retweet of the false statement, “Little tidbit: Smartmatic is the electronic voting systems company that has been used in Venezuela since 2004. Its name is synonymous with fraud for most Venezuelans. Since 2009, Smartmatic has been a subsidiary of Dominion.”³³⁷

³³⁷ Emerald Robinson (@EmeraldRobinson), Twitter (Nov. 10, 2020, 10:37 AM), <https://twitter.com/EmeraldRobinson/status/1326232608137752576> (Ex. 11).



- (b) On the November 16, 2020 broadcast of *Greg Kelly Reports* in a segment titled “Democracy or Dominion,” which Newsmax broadcast live on television on the Newsmax TV channel, and republished on Newsmax’s YouTube channel, Newsmax’s Facebook account, and Newsmax’s Twitter account, Newsmax made, endorsed, and adopted the following false statements:

Greg Kelly: . . . I think this country, this planet, could be in for the awakening of the millennium, something that we haven’t seen in thousands of years, as this election, the truth is finally told. . . . Folks, I think we will be in for the shock of our lifetime this is going to be wild; and the evidence is slowly emerging. Yes, I would like to have seen it yesterday; but the president has some very, very smart lawyers. One of my favorites, Sidney Powell. She helped Michael Flynn beat the travesty of a case that was lodged against him. She’s a former federal prosecutor. And you tell me, does she -- seem like she's speaking the truth? She spoke to Maria Bartiromo over the weekend.

Sidney Powell: President Trump won by not just hundreds of thousands of votes, but by millions of votes, that were shifted by the software that was designed expressly for that purpose. . . . It was exported internationally for profit by the people that are behind Smartmatic and Dominion. They did this on purpose. It was calculated. They’ve 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.

Kelly: I believe her. And I don't believe the critics and the naysayers. . . .

Kelly: Talking about Dominion. This company, the software; there are a lot of concerns. And what she's saying, I'm believing. Big problems, vulnerabilities, votes that can be switched. It happened before in South Carolina. And Sidney Powell is right³³⁸



- (c) On the November 16, 2020 broadcast of *Greg Kelly Reports*, Newsmax and Newsmax anchor Greg Kelly hosted Dick Morris and made, endorsed, and adopted the following false statements:

Dick Morris: . . . I believe that this election was absolutely stolen.

³³⁸ Greg Kelly Reports, Newsmax (Nov. 16, 2020), <https://app.criticalmention.com/app/#clip/view/18e23dd5-e9f9-414d-8852-334933661efd?token=77d8b679-c7d2-4315-9468-5a13188bd472> (Ex. 12); Newsmax TV, *They need to get a grip / Greg Kelly*, YouTube (Nov. 16, 2020), <https://www.youtube.com/watch?v=cZ5K3TMTNg0>; Newsmax, *They Need to Get a Grip / Greg Kelly*, Facebook (Nov. 16, 2020), <https://www.facebook.com/newsmax/videos/491524035097426>; Newsmax (@newsmax), Twitter (Nov. 16, 2020, 5:37 PM), <https://twitter.com/newsmax/status/1328512611307171840>.

Greg Kelly: . . . I agree with you, by the way. . . .

Morris: . . . You asked me if I was confident that it had been stolen. I certainly am, and I think we have to fight and fight and fight to get the truth out here about Dominion and about the recounts. . . .³³⁹

- (d) On the November 16, 2020 broadcast of *National Report*, which Newsmax broadcast live on television on the Newsmax TV channel, and republished on Newsmax's Facebook account and Instagram account, Newsmax made, endorsed, and adopted the following false statements:

Sidney Powell: We're fixing to overturn the results of the election in multiple states. And 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.

. . .

Rechenberg (Newsmax host): And Joe, I'll go back to you then, too, because it wasn't just the observers staying out of the counting area, it was also this Dominion voting service, this -- this technology here. What have you researched about that, and what's the Trump legal team doing in regards to Dominion?

DiGenova: Well, the bottom line about Dominion is -- is that it is a suspect company. . . . It has an origin in Venezuela with friends of Hugo Chavez. The company that runs it now has the counting done overseas in Germany and Barcelona.³⁴⁰

³³⁹ Greg Kelly Reports, *Dick Morris to Newsmax TV: Confident Election Stolen, Not About Fixing It*, Newsmax (Nov. 16, 2020), <https://www.newsmax.com/newsmax-tv/dick-morris-election-stolen-dominion/2020/11/16/id/997323/> (Ex. 13)

³⁴⁰ National Report, Newsmax (Nov. 16, 2020), <https://app.criticalmention.com/app/#clip/view/b59c14f5-5d99-49d7-8209-c7da11b46ebb?token=1cfbe59c-bc7e-4386-9540-41671812f9bd> (Ex. 16); Newsmax, *President Trump continues to not concede / Report*, Facebook (Nov. 16, 2020), <https://www.facebook.com/watch/?v=1753178618164935>; Newsmax (@newsmax), Instagram (Nov. 16, 2020), <https://www.instagram.com/p/CHqnhfnHVk3/>.

- (e) On the November 17, 2020 broadcast of *American Agenda*, which Newsmax broadcast live on television on the Newsmax TV channel, Newsmax made, endorsed, and adopted the following false statements:

Heather Childers: . . . you know, everyone saw the statement that came out allegedly from the DHS that said this was the safest election ever, I think, in the history of elections. But what people did not know, I didn't realize, is sitting on that board of the Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, was, in fact, Dominion and Smartmatic.

Dick Morris: Right, that's true. And also remember, Dominion is a -- kind of a shell company. The real owners, the real motivators of Dominion are the Chinese Communist Party and two Chavez supporters in Venezuela, who shortly after Chavez seized power, invented the Dominion Voting System as a method of stealing elections in Venezuela. And as a result, they were kicked out of Venezuela, Argentina, and a whole host of other countries. . . .

Bob Sellers: . . . By the way, folks, you can get Dick's up-to-the-minute news by going to DickMorris.com, subscribing free.³⁴¹

- (f) On the November 17, 2020 broadcast of the *National Report with Emma Rechenberg*, which Newsmax broadcast live on television on the Newsmax TV channel, Newsmax made, endorsed, and adopted the following false statements:

Emma Rechenberg: If you don't mind, kind of break down how you're connected to this Dominion machine voting system and why you have some concerns about it. . . .

Patrick Byrne: . . . This election was hacked. This election was hacked. The outcome has been rigged. I did not vote for Trump. I'm a small L libertarian, never voted Republican or Democrat for president in my life. I'm saying this election was rigged. I'm a CEO who built a \$2 billion tech company. I don't mean to sound like I'm beating my chest. I was national entrepreneur of the year, you go back a decade, for building a \$2 billion tech company, Overstock. I

³⁴¹ American Agenda, Newsmax (Nov. 16, 2020), <https://app.criticalmention.com/app/#clip/view/a65f03d0-8b0f-4768-8d61-12aaff4e6051?token=77d8b679-c7d2-4315-9468-5a13188bd472> (Ex. 15).

know what I'm talking about. Yeah, I'm also a Ph.D. from Stanford and a Marshall scholar besides. I'm putting all that credibility on the line. This election was hacked, the outcome was rigged and should be completely ignored or discounted, I mean, through the court system. The courts should throw it out. . . . How I know this is this.

Rechenberg: Right. You sound like Trump's legal team right now, so we're all on the same page. You sound like what their claims are as well, and clearly you have the experience and the expertise in regards to maybe shedding some light on how you know that to be true, yeah.

Byrne: Okay. Here's how I know that. I'm backing -- I have the data incidentally. I have the data, the electronics, everything. I have been backing and supporting some cyber security experts, a number of different groups. This is how it came about. In 2018, the Dallas election had irregularities. The Texas state government hired an elite cyber security company to go in and study what had happened in 2018, and they reverse engineered it. And when you reverse engineer something, that's when you take the final product and you get a bunch of people to study and they break it apart and figure out how you built it so they can go copy it. These guys reverse engineered the 2018 Dallas irregularities which turned out to be a hack. Dominion ran it. It was Dominion's technology that ran it. . . .

. . .

. . . I'm putting my -- I was a Marshall scholar, a Ph.D. from Stanford. . . . I built a \$2 billion company. I'm putting it all on the line. This entire election was hacked. It's far easier to have hacked this than a PayPal or your Venmo account.

Rechenberg: Sure. I mean, we've seen hacks on major social media outlets before in this year alone. My mind goes to Twitter. Are you in touch with the Trump campaign, and would you advise when they are pursuing these lawsuits specifically about Dominion, that they would bring on board someone who would be able to prove that they could, in fact, change votes for Donald Trump to Joe Biden? Would that be provable in court if you brought on the right person?

Byrne: Absolutely provable. We have the data. We have the data.

You do not have to worry. The only question is how quickly can the process intake versus how quickly the goons are trying to shut down the process so they can seal this all in cement. Now, I'm saying this again. I did not vote for Mr. Trump. I respect him. He got elected President. He's -- so this isn't a Trump supporter coming out and saying this. I'm a tech CEO, national entrepreneur of the year for building a tech company, if you go back about -- Ernst and Young about 10 years ago. I know what I'm talking about, and this thing is child's play to have beaten. It's embarrassing. And Trump is actually correct, his campaign is correct.

Rechenberg: Have they reached out to you?

Byrne: I'm one step ahead of the sheriffs myself because of the fact that I've come out about some things, so I don't work for them, anything like that. I'm not a donor to them, but I've been using my own resources to unscramble this and I'm trying to feed it into the system. Yes, the system is taking it in. They have their other sources, but we have all the goods, they're absolutely correct.

Rechenberg: And do you believe it was millions of votes that were again flipped from Donald Trump to Joe Biden?

Byrne: Well, the main event is not the total number of millions. It was not widespread deep. It was narrow and deep. It was very strategic.

Rechenberg: In select states, you're saying?

Byrne: Select counties.

Rechenberg: Okay.

Byrne: Five counties that really matter, and they realize if you hack these five -- well, they're very -- a small number of places, if you defeated the election you could flip the states and you could flip from that flip the electoral college. And how it was done -- I mean people can see this in news they already know if you think about this. Doesn't it seem a little odd that Mr. Biden was behind in states, you know, 600,000 votes, and then he has this come from behind victory and wins by 14,000?

Rechenberg: I know. That's what so many people are asking. That is what a lot of people are asking.

Byrne: 800,000.³⁴²

- (g) On the November 17, 2020 broadcast of *Greg Kelly Reports*, which Newsmax broadcast live on television on the Newsmax TV channel, and republished on Newsmax's YouTube account, Newsmax made, endorsed, and adopted the following false statements:

Powell: . . . *we know Dominion has a long history of rigging elections. That's what it was created to do to begin with.* . . . We've got increasingly mounting evidence of significant fraud across multiple states that cast in the question the validity of the elections in every swing state; including Nevada and Arizona and Michigan, Wisconsin, Georgia. And it went beyond that, too.

Kelly: You know regarding Dominion. . . .

Powell: And worse than that it had a backdoor so it could be manipulated by anyone who could access it through that backdoor. And that was a deliberate feature the affidavit of the young military officer we provided yesterday to the public explains how it was created for that very purpose, so Maduro -- I mean, so Hugo Chavez would never lose another election. And he did not after that software was created. He won every single election. And then they exported it to Argentina, and other countries in South America, and then they brought it here. And they -- it's a foreign company no matter how you look at it. So they've already violated the President's order against foreign interference in our elections. Our votes were actually eventually counted in Barcelona, Spain or Frankfurt, Germany on foreign servers. It's absolutely stunning. And what's really stunning is the effort that is being mounted against getting the truth out on this. But you have to realize that every tech company, every media company, every social media company, scads of globalist corporations have been doing business in countries with these dictators that have been installed through this rigged election system

³⁴² National Report, Newsmax (Nov. 17, 2020), <https://www.deepcapture.com/2020/11/newsmaxtv-breaks-cone-of-silence-millions-hear-story-there-first/> (Ex. 16).

for decades. The corruption is actually worldwide in [sic] going to upset a countless number of elections across this country and -- and around the world.

Kelly: All right.

Powell: So we need to do that to get rid of the corruption.

Kelly: *It does make a lot of sense now. . .*

Powell: . . . *We can -- got the evidence from the word -- the own mouths of the guy who founded the company. I haven't even had a chance to get that out to the public yet, but they admit -- the founder of the company admits, he can change a million votes no problem at all.*

Kelly: The founder of Dominion admitted a long time ago, recently to you, can -- tell us more, please.

Powell: *Publicly. I will -- I will tweet out the video later, and I'll tag you in it.*

Kelly: Please do. @GregKellyUSA if you don't mind. . . .

. . .

Powell: . . . I think we'll find he had at least 80 million votes. The only reason the glitches happened in the system was because he was so -- he had so far many more votes than they had calculated in advance, their algorithms wouldn't perform the functions they had originally performed or were set to perform. They couldn't make up the vote count he had gotten so many hundreds of thousands more than they planned. So that's when they had to stop the counting and come up with a way to back fill the votes or destroy votes for Trump while they fabricated votes for Biden.

Kelly: Sidney Powell, who is a former federal prosecutor, by the way, spent ten years working for the government. Good luck. And by the way, very quickly, you have evidence, it's coming in fast. There is a reason for not making public, correct? I mean, you're going to have a hostile media picking it apart, possibly trying to destroy your case before you can even make it; is that part of your

thinking? Very briefly, if you don't mind.

...

Kelly: Well, millions are praying for you and with you. And find her on Twitter, the least we can do. SidneyPowell1. @SidneyPowell1, the numeral one. We appreciate it so much. Good luck, and please stay safe.³⁴³

- (h) On the November 17, 2020 broadcast of *Wake Up America*, which Newsmax broadcast live on television on the Newsmax TV channel, and republished on Newsmax's Twitter account, Newsmax made, endorsed, and adopted the following false statements:

Emerald Robinson: . . . [I]n the last 24 hours she has released a very long detailed whistleblower statement that she says is by a high-ranking military official with firsthand knowledge of Dominion Voting Systems, and how they can be misused. In the statement the whistleblower describes the evolution of Dominion Voting machines and Smartmatic software. Smartmatic software is what was used by Hugo Chavez and his successor to fix elections in Venezuela. This whistleblower said that the software was -- was developed in conjunction with Chavez in order to appease his desires to manipulate the vote in Venezuela in a way that could not be detected. The whistleblower go to -- went on to describe in detail his firsthand experience watching the votes being manipulated in Venezuela in their 2013 presidential elections. He goes on to say that the Smartmatic software is -- that all the vote tabulating machines, including Dominion Voting machines, uses a derivative or a descendant of Smartmatic software saying that it's in the DNA of every software program used by every voting machine. In the statement he says quote: "The fact that the voting machine displays a voting result that the voter intends and then prints out a paper ballot which reflects that change does not matter. It is the software that counts the digitized vote and reports the results. The software itself is the one that changes the information electronically to the result that the operator of the software and vote counting system intends to produce that counts. He says that he came forward because he's

³⁴³ Newsmax TV, Greg Kelly Reports, *Major Developments in Key States | Sidney Powell*, YouTube (Nov. 17, 2020), <https://www.youtube.com/watch?v=zMDtOtGFrYg> (Ex. 17).

concerned about what he’s seeing in the 2020 presidential election saying, quote: “The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela.” He describes what he saw on election night in five key, battleground states using Dominion Voting Systems, that includes Georgia, where the vote count was stopped and went offline for several hours when President Trump was ahead in the vote; when they came back online, later in the wee hours of the morning, then Joe Biden had taken the lead significantly.³⁴⁴

- (i) On the November 19, 2020 broadcast of *Stinchfield*, which Newsmax broadcast live on television on the Newsmax TV channel, Newsmax made, endorsed, and adopted the following false statements:

Sidney Powell: . . . votes from President Trump and flipped them to President Biden; which we might never uncovered had the votes for President Trump not been so overwhelming in so many of these states that it broke the algorithm that have been plugged into the system, and that’s what caused them to have to shut down.

Grant Stinchfield: This is unbelievable. That’s President Trump’s attorney, Sidney Powell, laying out evidence that a corrupt algorithm in the Dominion Voting System starts switching votes from President Trump to Biden on election night, and it’s such a massive scale it crashes the system. That’s when we see the (inaudible) them all stop counting. This is why multiple states stopped counting ballots in the middle of the night, she says. But she also says the states, what they did afterwards, was absolutely shocking.

Powell: That’s when they came in the back door with all the mail-in -- mail-in ballots, many of which they had actually fabricated. Some were on pristine paper with identically matching perfect circled dots for Mr. Biden; others were shoved in, in batches. They’re always

³⁴⁴ Wake Up America, Newsmax (Nov. 17, 2020), <https://app.criticalmention.com/app/#clip/view/c5209c63-8029-4239-afa9-930a7a6a93a4?token=1cfbe59c-bc7e-4386-9540-41671812f9bd> (Ex. 18); Newsmax (@newsmax), Twitter (Nov. 17, 2020, 7:40 am), <https://twitter.com/newsmax/status/1328724576931495936>.

put in a certain number of batches, and people would rerun the same batch. This corresponds to our statistical evidence that shows incredible spikes in the vote counts at particular times.

Stinchfield: So she says the algorithm was designed to crash allowing these states to shut down and usher in thousands of fake ballots for Biden. It all makes sense now, if this is true, right? And she says *it proves all the research that our investigative unit here on Stinchfield has been uncovering*. . . .³⁴⁵

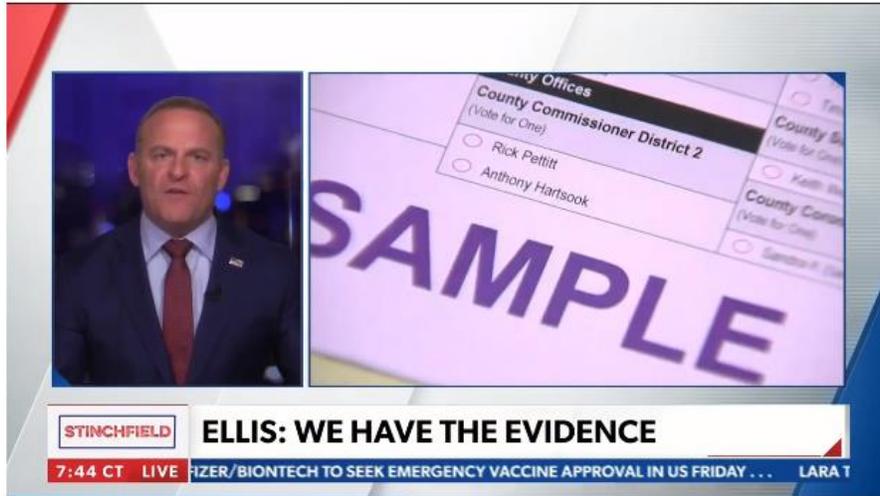


. . .

Stinchfield: . . . The bottom line is, the media is going to ignore all this anyway. Not us though. That's Jenna Ellis, of course, ripping into the media naysayers who been hounding the president's campaign for proof of widespread voter fraud. Today the campaign, as we said, dropped a bomb on the left detailing some of the evidence they have been able to compile so far *and it is damning*. . . .³⁴⁶

³⁴⁵ Stinchfield, *Powell Calls Out Election Hacking*, Newsmax (Nov. 19, 2020), <https://app.criticalmention.com/app/#clip/view/9060596d-35ef-4fff-b500-fa56fa4f875f?token=eac1ac75-b0a8-4076-8613-ae72593523fd> (Ex. 19).

³⁴⁶ Stinchfield, *Ellis: We Have the Evidence*, Newsmax (Nov. 19, 2020), <https://app.criticalmention.com/app/#clip/view/f1bc310f-e3ff-40b5-a2cd-7be3339bdad8?token=eac1ac75-b0a8-4076-8613-ae72593523fd> (Ex. 20).



- (j) On the November 19, 2020 broadcast of *Chris Salcedo Show*, which Newsmax broadcast live on television on the Newsmax TV channel, Newsmax made, endorsed, and adopted the following false statements:

Grant Stinchfield: . . . but I think if you're going to prove fraud, the electronic pathway to that is the way you're going to have to do it, and it may be the most simple way to do it. We've been on the forefront on our show Stinchfield of going into the Dominion Voting Systems. . .

Chris Salcedo: . . . Stinchfield has been very good on the forefront of exploring the Dominion Voting Machines, Salcedo Show has been exploring and trying to sound the alarm bells for -- for months now, about how our votes are tabulated outside the country. Rudy Giuliani spoke on this today. And -- and just listen to him lay this out. I -- my jaw dropped because it was -- A, it was validation from what we've been reporting. And B, to hear Rudy Giuliani talking about it was just amazing. Listen.

Rudy Giuliani: . . . you should be more astounded by the fact that our votes are counted in Germany and in Spain by a company owned by affiliates of Chavez and Maduro. . . .

Salcedo: . . . number two -- I mean, the fact they were able to lay out that case, Grant, was just -- jaw dropping to me.

Stinchfield: . . . we saw, Chris that these votes had gone through a server in Frankfurt, Germany. I know there was a lot of talk about

what happened to these servers in Frankfurt, Germany; what's confirmed and what's not. But what I can tell you is the people that I've talked to absolutely proved that votes were going from certain states through this server. And lo and behold, we put up the IP address of that Frankfurt server, the next day, after Stinchfield aired that, the server was taken offline, Chris. You can't even find it anymore.³⁴⁷

- (k) On the November 20, 2020 broadcast of *The Howie Carr Show*, which Newsmax broadcast live on television on the Newsmax TV channel, Newsmax made, endorsed, and adopted the following false statements:

Sidney Powell: . . . a lot of evidence of fraud is going to be coming out next week. I've got just more than I can say grace over right now coming in every day. It only gets worse and worse. This was very widespread. Very deliberate. Very well-funded. . . .

...

Powell: Yeah, we have a lot of extremely solid evidence. It's beyond impressive and absolutely terrifying.

...

Howie Carr: So how many fraudulent votes do you think that Joe Biden had on his side . . . of the slate?

Powell: Probably at least ten million.

Carr: Ten million fraudulent votes?

...

Carr: So did -- did most of these votes disappear for the President and appear for Joe Biden in the -- in those states that are still being fought over or -- or did this go on -- how many states did this go on in?

Powell: I think the -- well, there are several ways that they did this.

³⁴⁷ The Chris Salcedo Show, *Changing Votes Using Dominion Software*, Newsmax (Nov. 20, 2020), <https://app.criticalmention.com/app/#clip/view/cd83634c-80a4-420e-8712-d86044d6a148?token=53eea26c-97c5-4908-b3b7-29d8443e3682> (Ex. 21).

One was an algorithm that I believe they ran nationwide, but I can't say that for sure yet, because we haven't had the time to run the data nationwide. But that would typically be the way it would be done. And certainly make it less apparent that it had been done in any one place if they ran the algorithm consistently across the country. So, for example, they can dial it -- literally dial it -- to every time there was a vote for Trump or -- that it be weighted at 0.75, and every vote for Biden be weighted at 1.25. . . . So I don't think any state was safe from it, despite the best efforts of some not to use the Dominion Voting Systems which were clearly fraudulently created and sold.

. . .

Powell: . . . and then the other thing they did, where they had the real problem, was Trump won so overwhelmingly in all the states that had to cut off their machines, that they had to cut off their machines for hours to go in and backfill additional votes and move things around even more to make sure that Biden won. . . . We found . . . pristine ballots with only a computer-made dot for Biden, and all of them were alike. They could just stick those in the machine in batches and run them through repeatedly and count, you know, hundreds of thousands of votes that way. There's a drag-and-drop feature to take Trump votes and put them in a trash can or assign them to a third-party candidate or move them from a third-party candidate to Biden. I mean, I think they did absolutely everything. And we also have information that one of the high people in Dominion Voting Systems went to Detroit to operate the system himself there that night at the -- the Detroit center.

. . .

Carr: Let me ask about this guy Eric Coomer. He's -- I think he -- he works for Dominion, he's -- he's Berkeley, California University of California grad. He's the one who was allegedly -- there's a -- he was on a conference call or something, a Zoom, with -- with Antifa and he said, supposedly: Don't worry about Trump, I've already -- I've already made sure he's going to lose the election. . . is that true, for -- for starters . . . ?

Powell: Yes.

Carr: It's true? You have that . . . ?

Powell: It's true. Yeah, we -- we have an affidavit to that effect and we have . . . I think we have a copy of the call.

. . .

Powell: And also Dominion has shuttered up both of their offices in Canada where they shared an office floor with a George Soros entity. . . . And they have moved their office in Denver. And, of course, I'm sure there was a lot of document shredding and things, quote, "lost," end quote, in that process. You know, the FBI should have moved on all of this immediately; all of the voting machines should have already been impounded. The software should have been secured and examined. . . .

. . .

Powell: . . . in the meantime we will be producing additional evidence to help the public understand the breadth and depth of this international, frankly criminal conduct; and it will also reflect substantial foreign interference in our election.

Carr: Sidney Powell . . . Including China, correct?

Powell: Yeah. China, Iran, Serbia, Lichtenstein. Multiple places.³⁴⁸

- (1) On a November 21, 2020 broadcast interview, which Newsmax broadcast live on television on the Newsmax TV channel, and republished on its YouTube account, Newsmax made, endorsed, and adopted the following false statements:

Rob Schmitt: . . .you know, if -- if you want to -- if you want to shut the media up, and they say that you guys have nothing; when will you have some of the stuff that's -- that's this hard core evidence in paper and writing?

Sidney Powell: Well, frankly, the affidavits we've already introduced are hard core evidence. . . They're first-hand testimony of witnesses who saw how and why the system was created and how

³⁴⁸ ChooseAmericaNow, The Howie Carr Show, *Howie Carr Show – Sidney Powell Interview (11/20/20)*, YouTube (Nov. 20, 2020), <https://www.youtube.com/watch?v=Jy bq5fhfo0c> (Ex. 21).

it worked to accomplish the objective for Hugo Chavez. . . . We've got all kinds of different evidence. And then we've the statistical and mathematical evidence that's absolutely irrefutable. . . . And we've got other testimonial evidence that appears to be coming in now to indicate the Democrats literally added 35,000 votes to every Democratic candidate to begin with.

. . .

Powell: . . . frankly, with everything we've got, these should be criminal prosecutions at a -- at a significant level for fraud and conspiracy to defraud . . . provable beyond a reasonable doubt. There are hundreds of thousands of people in our criminal system right now in prison who were convicted on far less evidence of guilt than we have here.

. . .

Powell: . . . and they can see it. Everybody saw it on election night. They saw votes being subtracted from President Trump and appearing on the Biden side of the scale. And that's exactly what this Dominion System was designed to do. And we have . . . eyewitness testimony to its entire creation for that very purpose.

. . .

Schmitt: I mean how big of a -- you know, if -- if this happened, how big of a conspiracy, how many people would have had to been in on something like this?

Powell: Oh gosh. Probably thousands, including the people running the machines at each of the polls -- polling centers. We know, for example, that one of the higher ups of Dominion went to Detroit the night of the election to -- to handle things himself. And we also have evidence that there were any number of VPN lines open to the internet for foreign actors to be meddling in it.

. . .

Powell: . . . our key -- our witness from Venezuela who saw it all created and how it worked, said that he knew as soon as the machines were turned off in those key states, it was because we the

people in voting Trump -- and voting for Trump in a landslide election, had essentially broken the algorithm that had been preprogrammed into the machine. . . .

. . .

Powell: . . . Georgia's probably going to be the first state I am going to blow up and -- and Mr. Kemp and the Secretary of State need to go with it, because they're in on the Dominion scam with their last-minute purchase or award of a contract to Dominion of \$100 million. The State Bureau of Investigation for Georgia ought to be looking into financial benefits received by Mr. Kemp and -- and the Secretary of State's family about that time. And another benefit, Dominion was created to award, is what I would call, election insurance. That's why Hugo Chavez had it created in the first place.

. .

. . .

Powell: . . . And it looks like it -- thirty-five thousand votes were added to every democratic candidate.³⁴⁹

- (m) On the November 23, 2020 broadcast of *The Benny Report*, which Newsmax broadcast live on television on the Newsmax TV channel, and republished to Newsmax's YouTube account and Twitter account, Newsmax made, endorsed, and adopted the following false statements:

Benny Johnson: Finally, we get to Dominion Voting Systems. . . . Their voting systems are used in Venezuela. And their votes are counted off of American soil; if that tells you anything. . . .³⁵⁰

- (n) On the December 7, 2020 broadcast of *Greg Kelly Reports*, which Newsmax broadcast live on television on the Newsmax TV channel,

³⁴⁹ Newsmax, *Sidney Powell: It Will Be BIBLICAL*, YouTube (Nov. 21, 2020), <https://www.youtube.com/embed/Y68pEknYyCM?rel=0&start=0> (Ex. 23).

³⁵⁰ The Benny Report, Newsmax (Nov. 21, 2020), <https://app.criticalmention.com/app/#clip/view/7bff6161-b305-411e-9b6f-fd894a3e1002?token=37f52d99-127d-4b48-b8dc-e5e99babfaaa> (Ex. 24); Newsmax TV, *You have every right to be suspicious / Benny Johnson*, YouTube (Nov. 23, 2020, 4:19 PM), <https://www.youtube.com/watch?v=5j88gkKbjoo>; Newsmax (@newsmax), Twitter (Nov. 21, 2020, 6:08 PM), <https://twitter.com/newsmax/status/1330332248906866693>.

and republished on Newsmax's YouTube account, Newsmax made, endorsed, and adopted the following false statements:

Greg Kelly: . . . Gosh, we're pulling for you. As you know, this is an opinion show and we're on your side. How are you holding up, first of all?

. . .

Kelly: . . . You're still focused primarily on the Dominion Voting machines and the issues on a technical basis, correct?

Sidney Powell: . . . yes, we focused also on the systematic problem with the Dominion machines. We have an expert who has identified that the votes for Biden was 5% overall greater wherever there were Dominion machines than any of the other votes. That is essentially the amount of votes that it can flip and brag about being able to flip. We know from one of our -- one of our witnesses that these machines were created in Venezuela, and the entire process was started there to make sure Mr. Chavez won every election. And then, of course, the Wall Street Journal, I think, today featured Venezuela's rigged election for Maduro. This is the same technology. The same equipment. It came out of Venezuela to be used here. I would imagine our three letter agencies have a role in it. We're essentially fighting the entire globalist elite power structure that wants to control the world for their own financial benefit. . . .

Kelly: You know, two years ago, I would have said that sounds crazy; but after all that's happened, ***I think you're absolutely right.*** I think this is the way the world works. By the way, I do want to ask you about the servers overseas. Dominion reportedly has all kinds of internet connections and -- for whatever reason they were counting the votes in places like Spain and Germany. You have seen the reports, maybe you know firsthand that -- you know, some of these servers may or may not have been seized. Overseas equipment of Dominion taken possession of by forces friendly to the United States. Do you know anything about that?

Powell: . . . The Dominion system should never have been allowed in this country. They are internationally known. Our votes were

counted in Frankfurt, Germany, and altered in Barcelona, Spain, and other places. We simply cannot allow that as the United States of America. . . .³⁵¹

- (o) On the December 14, 2020 news broadcast, which was broadcast live on the Newsmax TV channel, Newsmax made, endorsed, and adopted the following false statements:

Dick Morris: . . . Bear in mind, Dominion was invented by people working for Hugo Chavez, the Venezuelan dictator after he, quote, “lost” an election. And he then decided to, quote, “win” the election by fixing the voting machines. And he expressly had them designed -- it's written in the specs -- that this should be so votes can be altered and not be traced. . . . secondly, they're about to do the same damn thing on January 5th with the same machines and the same result, and the Senate is at risk this time.

John Bachman: . . . but fundamentally, nothing has really changed in that state for voters who are going to the polls . . . today.³⁵²

- (p) On the December 17, 2020 broadcast of *Stinchfield*, which Newsmax broadcast live on television on the Newsmax TV channel, and republished to Newsmax's YouTube account and Twitter account, Newsmax made, endorsed, and adopted the following false statements:

Grant Stinchfield: I want to bring in a guy now, who I know agrees with me. . . . Mike Lindell. . . . So look, Fox News, we all know, has problems. We know it's responsible for bringing a lot of viewers to Newsmax. . . .

. . .

Mike Lindell: . . . But I will say this, it's a blessing, because at 11:15, when they realized that the -- all of algorithms broke in all those Dominion machines, that Donald Trump was going to win the

³⁵¹ Newsmax TV, Greg Kelly Reports, *The EMERGENCY APPEAL: Sidney Powell*, YouTube (Dec. 7, 2020), <https://www.youtube.com/watch?v=QwkVKNEs0uk> (Ex. 25).

³⁵² John Bachman Now, *Newsmax* (Dec. 14, 2020, 9:10 PM) <https://app.criticalmention.com/app/#clip/view/849c5422-e609-448e-88b5-deb1fbb12b6d?token=c9431b6b-60b7-4ce2-948d-eed6fe846f32> (Ex. 26).

presidency anyway, in spite of all the cheating, so they had to stop everything in the middle of the night, and then backfill votes and stop³⁵³

- (q) On the December 18, 2020 broadcast of *American Agenda*, which Newsmax broadcast live on television on the Newsmax TV channel, Newsmax made, endorsed, and adopted the following false statements:

Dick Morris: . . . This is actual intervention in the vote count. This is through Dominion software and Smartmatic. And the accusation here is that the vote count itself was altered and flipped through that software. You know, it's been proven in one county in Michigan³⁵⁴

- (r) On the December 18, 2020 broadcast of *Greg Kelly Reports*, which Newsmax broadcast live on television on the Newsmax TV channel, and republished on Newsmax's YouTube account, Newsmax made, endorsed, and adopted the following false statements:

Greg Kelly: That's Russell Ramsland, election technology and security expert, speaking before the election, and all of his concerns unfortunately came true. Russell Ramsland wrote the very important report on the craziness that happened in Antrim County, Michigan. Russell, welcome back to Newsmax. How are you tonight?

Russell Ramsland: Good to be here.

Kelly: Thanks so much. So sir, your report I think was shocking. I thought it was very, very important, and you lay out in great detail all of the weirdness and the issues, and you've got the technical expertise and it made perfect sense. . . .

Ramsland: . . . [T]he logs, had they been able to be published, show very clearly that the RCV algorithm was enacted, it shows very clearly that the error messages were massive, it shows very clearly that races were flipped. Now, most of the important races that were

³⁵³ Newsmax TV, Stinchfield, *Lindell: America is watching you*, Fox, YouTube (Dec. 17, 2020, 5:35 PM), <https://www.youtube.com/watch?app=desktop&v=jL8Id-q26F0> (Ex. 27).

³⁵⁴ American Agenda, Newsmax (Dec. 18, 2020), <https://app.criticalmention.com/app/#clip/view/db62a290-e360-46b9-984a-b5fb49464496?token=ae575e6a-a10c-4124-8254-c4f88f05daec> (Ex. 28).

flipped were down ballot. The most important race was a marijuana, proposal. . . .

Kelly: It is amazing. Yeah. 68 percent I think was the error rate, which is obviously ludicrous. . . .

. . .

Kelly: I want to show the initial tally from Antrim County. It has Joe Biden up with a pretty comfortable lead, and then things switched. Let's go ahead to the next one. By November 21st Donald Trump had the lead, and I guess we were lucky to catch this. And you, I think, made the point in the report that it could not have just been Antrim County. Antrim County, if this were to happen there, Dominion voting system is used in what, 48 counties, all 48 of Michigan. There's absolutely no way this was confined to one county.

Ramsland: Correct. . . .

Kelly: It's so troubling to me that people are discounting this, but I don't think you can steal something this big and get away with it. . . .³⁵⁵

- (s) On the December 21, 2020 broadcast of *Greg Kelly Reports*, which Newsmax broadcast live on television on the Newsmax TV channel, and republished on Newsmax's YouTube account, Newsmax made, endorsed, and adopted the following false statements:

Sebsatian Gorka: But now the election's fine because their guy "won." So, don't investigate anything. Nothing. . . . Well, we're not going to ignore it here, because we fight for the truth and we believe that this is still the greatest nation on God's earth and nobody gets to steal it from us. . . . One man who decided, he's not a politician, he doesn't work for the president, but he's still fighting for him and for the cause of truth, is a man that makes my show, for example, America First on Salem Radio possible. The great Mike Lindell. . .

³⁵⁵ Greg Kelly Reports, Newsmax (Dec. 18, 2020), <https://app.criticalmention.com/app/#clip/view/61b6c650-cf46-400d-9606-6296bd102730?token=f8a458a8-5923-4a4d-a01d-1ca5ac17de27> (Ex. 29).

. He's fighting for America . . . Mike Lindell . . . what's going on?

Mike Lindell: Well, I believe in this president, but – and I'll tell you what, nobody realizes . . . what America we had on election night at 11:15. You know, you talked about all this fraud, doctoring – the biggest fraud is the Dominion machines. And at 11:15 on election night our great president –

(Talking simultaneously.)

Gorka: Mike, I don't want to discuss. Mike. Mike. We're not going to get into the minutia and the details. . . .³⁵⁶

249. As set forth above in detail, Newsmax published these false statements about Dominion with actual malice, even though Newsmax and its agents, including Greg Kelly, Grant Stinchfield, Heather Childers, Alison Maloni, Alicia Hesse, Christopher Ruddy, John Bachman, Emma Rechenberg, Emerald Robinson, Christopher Salcedo, Ben Johnson, and Rob Schmitt (among others), actually knew and recklessly disregarded that they were false.

250. Newsmax'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.

251. Newsmax's statements are false. Dominion did not rig the election, and Dominion software did not switch any votes. Far from being created in Venezuela to rig elections for a now-deceased Venezuelan dictator, Dominion was created in

³⁵⁶ *Mike Lindell to Newsmax TV: "American Dream" Is on the Line*, Newsmax (Dec. 21, 2020), <https://www.newsmax.com/newsmax-tv/mike-lindell-election-lawsuits-american-dream/2020/12/21/id/1002635/> (Ex. 30).

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 run by Dominion, but were affiliated with 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. Dominion is not a member of the CISA Board of Directors, nor is Dominion run by China or the Chinese Communist Party.

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

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

254. Dominion is entitled to punitive damages because Newsmax's defamatory statements were accompanied with malice, wantonness, and a conscious desire to cause injury. Newsmax purposefully made the defamatory statements heedlessly and with reckless and willful indifference to Dominion's rights. Newsmax made its false and defamatory statements about Dominion with inherent bias and ill will.

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

256. Newsmax'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. Newsmax's statements have exposed Dominion to the most extreme hatred and contempt. Newsmax, both directly and through the facially unreliable guests Newsmax 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.

Newsmax's statements were calculated to—and did in fact—provoke outrage and cause Dominion enormous harm.

257. Newsmax spread the lies about Dominion throughout its television and digital media platforms to an audience of tens of millions who placed credence in Newsmax as a news source, and the falsehoods ultimately and foreseeably were republished repeatedly on social media, as Newsmax intended. Newsmax's viewers were led by Newsmax to believe the lies. The inevitable effect was severe and permanent damage to Dominion's once-thriving business.

258. Newsmax's viral disinformation campaign about Dominion reached millions of people in the United States and worldwide and caused enormous economic 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's offices have been attacked; 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; Dominion has suffered a loss of goodwill; and Dominion's enterprise value has been irreparably damaged. Dominion is entitled to damages, including presumed economic damages, as a consequence of Newsmax's conduct. These presumed damages include but are not limited to the economic harm caused by

Newsmax in its race to the bottom with Fox and others that now has prevented Dominion from becoming a multi-billion-dollar company.

259. In short, as explained above, Newsmax made these false statements of fact with actual malice. At a minimum, Newsmax recklessly disregarded the truth. Though not necessary, Newsmax also knew these statements about Dominion were false. Newsmax acted with actual malice through the people—agents of Newsmax—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; the producers and editors of those programs; the Newsmax executives responsible for airing each of those broadcasts, including but not limited to Alicia Hesse; and the Newsmax executives responsible for overseeing Newsmax, including but not limited to Christopher Ruddy.

260. The First Amendment is a cherished cornerstone of our democracy. But the First Amendment is not a get-out-of-jail-free pass and clearly does not extend to Newsmax's conduct here. On its network and various mediums, Newsmax repeated, endorsed, adopted, and made up its own narratives accusing Dominion of rigging the election. Newsmax also invited numerous guests onto its shows whom Newsmax knew would falsely accuse Dominion of various serious crimes—that was precisely why Newsmax invited them onto its air. What Newsmax 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.

261. Newsmax itself knew that it was spouting lies. For example, Newsmax repeatedly—though quietly—removed broadcasts, segments, and other content from its website that had been publicly debunked. In addition, one of Newsmax’s on-air hosts, Bob Sellers, eventually rebuked Mike Lindell for peddling known lies about Dominion, only to apologize on air the next day, calling Lindell a “friend of this network” who would continue to be an important guest.³⁵⁷ And Newsmax host Grant Stinchfield claimed on November 19 on air that he had an “investigative unit” that had been “uncovering” evidence proving Dominion rigged the 2020 election and stole it from President Trump. But on December 19, Newsmax publicly admitted it never had such evidence.

262. The false statements broadcast, promoted, manufactured, and amplified by Newsmax are inherently improbable. They rest on inherently unbelievable allegations stacked on even more inherently unbelievable allegations. The existence

³⁵⁷ Katie Dowd, *Trump Fans Turn on Newsmax After Its Off-the-Rails Interview with MyPillow’s Mike Lindell*, SFGate (Feb. 3, 2021), <https://www.sfgate.com/politics/article/mypillow-newsmax-bob-sellers-twitter-segment-15921742.php>; Ron Dicker, *Newsmax Host is Now Sorry for Walking Out on ‘Important Guest’ Mike Lindell*, Huffpost (Feb. 4, 2021), https://www.huffpost.com/entry/bob-sellers-apology-mike-lindell_n_601bc8e6c5b62bf307546ac2?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAABVpma7PeYPG_hqxrXqNeqc8dS8_v7mjdV03oTfbR2K1Bdd0YVGzVpT0KSIZeNi1TTE7yQ8FLLB0MjladtFirFmP1ntsnfyO46pQbhe2-rToAjXiIYZbb4fdbYCaSOYIIiUGVxZ_9TqP41oXr-d6CWKgvECgeIkixLHgzSMXomB6.

of the auditable trail of paper ballots alone is enough to render the allegations inherently improbable. Moreover, 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. And all these same allegations were repeatedly debunked, discredited, and absolutely dismissed by federal judges—including those appointed by President Trump—and numerous Trump allies and administration officials, in addition to 59 independent election security experts who themselves had raised questions previously about hypothetical election vulnerabilities.

263. Newsmax knowingly and intentionally relied on and used completely unreliable sources to perpetuate the defamatory lies about Dominion. By the time Newsmax first aired false and defamatory allegations about Dominion from Sidney Powell, Powell already had been completely discredited—as Newsmax knew or willfully disregarded. By November 22, even the Trump Campaign had disavowed Powell. Yet Newsmax continued to invite her on to spew lies. Moreover, by November 19—at least as early as November 9—numerous hand recounts had confirmed the accuracy of Dominion machines. Yet Newsmax still aired these lies.

264. Newsmax deliberately avoided and turned a blind eye to the truth in the conduct of its investigations, and then deliberately lied about its investigations, by publishing its false and defamatory statements about Dominion while lying about

what those investigations purportedly uncovered and then continuing to publish and republish these false statements.

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

266. Newsmax published its false and defamatory statements to make a profit at Dominion's expense and at the expense of the truth. Newsmax's financial motivation to peddle its false narrative and lie about Dominion stealing the election from Donald Trump was substantial. Vying for ratings and profits and competing with Fox, Newsmax recklessly disregarded the truth—indeed, it knowingly lied—about Dominion in order to recruit and keep viewers. And it did so to curry favor with Trump and win his approval, because Newsmax knew that if it did, Trump would endorse the network and give it the huge ratings boosts it coveted. Newsmax also knew that if it did not—if, instead, Newsmax told its viewers the truth about Dominion and the election—Trump would attack the network and cost it and its owners millions and millions of dollars.

267. Newsmax, 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 17, 2020—and repeatedly thereafter, including but not limited to November 18, November 19, November 20, November 23, November 24, November 25, November 26, November 30, December 3, December 5, December 14, and December 17—Dominion sent Newsmax producer Alicia Hesse correspondence detailing Newsmax’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 sent Newsmax retraction demand letters on December 18, 2020 and December 22, 2020 demanding the retraction of Newsmax’s defamatory falsehoods about Dominion. Yet Newsmax still did not issue a retraction. Instead, Newsmax continues to make its false and defamatory television broadcasts, social media posts, and statements about Dominion available to the public today on Newsmax’s multitude of platforms.

268. Newsmax published its false and defamatory statements not once, but repeatedly over a substantial period of time. Newsmax 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 despite the ever-growing mountains of evidence conclusively demonstrating that these statements were false. And it wasn’t just Dominion notifying Newsmax that it was airing ridiculous fiction. Multiple people and organizations—from other news

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

269. Newsmax also cannot truthfully or plausibly claim that it was just reporting on the news of the day, or that it was simply reporting statements of the then-President. To the contrary, it was Newsmax that was manufacturing claims and promoting new content and storylines in support of the false Dominion election fraud narrative, in hopes that it would catch President Trump’s eye and persuade him to steer his loyal supporters to Newsmax.

270. To be sure, numerous other broadcasters reported at times on debunked election fraud allegations, but many of those broadcasters framed their reporting by noting that the allegations had been widely debunked. Newsmax, however, made a different decision. Using its own voice as a news organization, Newsmax made, published, ratified, endorsed, adopted, and amplified attacks on Dominion that it knew were false or acted with reckless disregard for their truth or falsity. Through its most-watched anchors, Newsmax promoted lies about Dominion and used its growing influence in American culture to advance the false narrative that Dominion

was actively complicit in a fraudulent theft of the 2020 Presidential Election. Newsmax even stated that these lies were “the truth,” and that their own “investigative units” substantiated the lies. Newsmax made the intentional and knowing choice to publicize the lies about Dominion as truth, creating an alternate reality that continues to dupe millions of Americans into believing that Dominion stole the 2020 election from Trump.

271. Newsmax’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. Newsmax used its brand in order to push and promote these demonstrable falsehoods as truth.

272. Newsmax engaged in this knowing and reckless propagation of these enormous falsehoods in order to profit off these lies. Newsmax wanted to increase its viewership and grow its broadcast ratings, cater to an audience deeply loyal to President Trump that was dissatisfied with other news organizations after the election, like Fox, and establish itself as a leading voice in conservative news media. Newsmax similarly sought to aggrandize certain of its most significant advertisers like Mike Lindell, who were supporters of Donald Trump. Succumbing to these motivations, Newsmax—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, Greg Kelly, Emerald Robinson, and Grant Stinchfield—defamed Dominion again and again.

273. 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 Newsmax Media, Inc., 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 (including lost goodwill) 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: August 10, 2021

Respectfully submitted,

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/s/ Brian E. Farnan

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File & ServeXpress Transaction Receipt

File & ServeXpress Transaction ID: 66835306
Submitted by: Brian Farnan, Farnan LLP
Authorized by: Brian E Farnan, Farnan LLP
Authorize and file on: Aug 10 2021 8:00AM EDT 

Court: DE Superior Court-New Castle County
Case Class: Civil
Case Type: CDEF - Defamation
Case Name: US Dominion, Inc. v. Newsmax Media, Inc.

Transaction Option: Originating Event
Billing Reference: DOM-FOX

Documents List

5 Document(s)			
Originating Document, 175 Pages			
Document Type: Complaint	Access: Public	Statutory Fee: \$211.25	Linked:
Document title: Complaint			
Attached Document, 347 Pages			
Document Type: Exhibits	Access: Public	Statutory Fee: \$1.25	Linked:
Document title: Exhibits 1 through 30 to Complaint			
Attached Document, 2 Pages			
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Document title: Case Information Statement			
Attached Document, 2 Pages			
Document Type: Praecipe	Access: Public	Statutory Fee: \$1.25	Linked:
Document title: Praecipe for Defendant Newsmax Media Inc.			
Attached Document, 1 Pages			
Document Type: Summons	Access: Public	Statutory Fee: \$1.25	Linked:
Document title: Summons for Defendant Newsmax Media Inc.			

Close All

Sending Parties (6)

Party	Party Type	Attorney	Firm	Attorney Type
Dominion Voting Systems Corporation (pending)	Plaintiff	Farnan, Brian E	Farnan LLP	Attorney in Charge
Dominion Voting Systems Corporation (pending)	Plaintiff	Farnan, Michael	Farnan LLP	Attorney in Charge
Dominion Voting Systems, Inc. (pending)	Plaintiff	Farnan, Brian E	Farnan LLP	Attorney in Charge
Dominion Voting Systems, Inc. (pending)	Plaintiff	Farnan, Michael	Farnan LLP	Attorney in Charge
US Dominion, Inc. (pending)	Plaintiff	Farnan, Brian E	Farnan LLP	Attorney in Charge
US Dominion, Inc. (pending)	Plaintiff	Farnan, Michael	Farnan LLP	Attorney in Charge

 **Case Parties**

Party	Party Type	Attorney	Firm	Attorney Type
Dominion Voting Systems Corporation (pending)	Plaintiff	Farnan, Brian E	Farnan LLP	Attorney in Charge
Dominion Voting Systems Corporation (pending)	Plaintiff	Farnan, Michael	Farnan LLP	Attorney in Charge
Dominion Voting Systems, Inc. (pending)	Plaintiff	Farnan, Brian E	Farnan LLP	Attorney in Charge
Dominion Voting Systems, Inc. (pending)	Plaintiff	Farnan, Michael	Farnan LLP	Attorney in Charge
Newsmax Media, Inc. (pending)	Defendant	No Answer on File	Firm TBD	N/A
US Dominion, Inc. (pending)	Plaintiff	Farnan, Brian E	Farnan LLP	Attorney in Charge
US Dominion, Inc. (pending)	Plaintiff	Farnan, Michael	Farnan LLP	Attorney in Charge

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