

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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HON. BENNIE G. THOMPSON, <i>in his</i>)
<i>personal capacity,</i>)
2466 Rayburn House Office Building)
U.S. House of Representatives)
Washington, DC 20515) Civil Action No. _____
)
Plaintiff,) COMPLAINT
)
v.) JURY TRIAL REQUESTED
)
DONALD J. TRUMP, <i>solely in his personal</i>)
<i>capacity</i>)
Mar-A-Lago)
1100 S. Ocean Blvd.)
Palm Beach, Florida 33480-5004,)
)
RUDOLPH W. GIULIANI,)
Rudolph W Giuliani, PLLC)
445 Park Ave FL 18)
New York, NY 10022-2606)
)
PROUD BOYS INTERNATIONAL, L.L.C.,)
c/o Jason L. Van Dyke)
108 Durango Dr.)
Crossroads, TX, 76227, and)
)
OATH KEEPERS,)
Attn: Stewart Rhodes)
1030 E. Hwy 377)
Ste 110-285)
Granbury, TX 76048)
4625 West Nevso Drive, Suite 2 & 3)
Las Vegas, NV, 89103)

Defendants.

COMPLAINT

INTRODUCTION

1. On and before January 6, 2021, the Defendants Donald J. Trump, Rudolph W. Giuliani, Proud Boys, and Oath Keepers conspired to incite an assembled crowd to march upon and enter the Capitol of the United States for the common purpose of disrupting, by the use of force, intimidation and threat, the approval by Congress of the count of votes cast by members of the Electoral College as required by Article II, Section 1 of the United States Constitution. In doing so, the Defendants each intended to prevent, and ultimately delayed, members of Congress from discharging their duty commanded by the United States Constitution to approve the results of the Electoral College in order to elect the next President and Vice President of the United States.

2. Plaintiff, the Honorable Bennie G. Thompson, Member of the United States House of Representatives, brings this action against the Defendants for conspiring to prevent him and other Members of Congress from discharging these official duties, in violation of 42 U.S.C. § 1985(1). Enacted as the “Ku Klux Klan Act” in 1871, Section 1985(1) was intended to protect against conspiracies, through violence and intimidation, that sought to prevent Members of Congress from discharging their official duties. The statute was enacted in response to violence and intimidation in which the Ku Klux Klan and other organizations were engaged during that time period.

3. The Defendants conspired to prevent, by force, intimidation and threats, the Plaintiff, as a Member of Congress, from discharging his official duties to approve the count of votes cast by members of the Electoral College following the presidential election held in November 2020.

4. In furtherance of this common goal of preventing the timely approval of the Electoral College vote count, the Defendants acted in concert to incite and then carry out a riot at the Capitol by promoting an assembly of persons to engage in tumultuous and violent conduct or the threat of it that created grave danger of harm to the Plaintiff and to other Members of Congress.

5. This conduct jointly undertaken to threaten the Plaintiff and other Members of Congress in order to disrupt the Electoral College vote count was part of an ongoing course of action pursued by the Defendants for the purpose of contesting the announced results of the presidential election held in November 2020 and preventing the duly elected President and Vice President from attaining approval of Congress of their election necessary to their inauguration.

6. The insurrection at the Capitol was a direct, intended, and foreseeable result of the Defendants' unlawful conspiracy. It was instigated according to a common plan that the Defendants pursued since the election held in November 2020, culminating in an assembly denominated as the "Save America" rally held at the Ellipse in Washington, D.C. on January 6, 2021, during which Defendants Trump and Giuliani incited a crowd of thousands to descend upon the Capitol in order to prevent or delay through the use of force the counting of Electoral College votes. As part of this unified plan to prevent the counting of Electoral College votes, Defendants Proud Boys and Oath Keepers, through their leadership, acted in concert to spearhead the assault on the Capitol while the angry mob that Defendants Trump and Giuliani incited descended on the Capitol. The carefully orchestrated series of events that unfolded at the Save America rally and the storming of the Capitol was no accident or coincidence. It was the intended and foreseeable culmination of a carefully coordinated campaign to interfere with the legal process required to confirm the tally of votes cast in the Electoral College.

7. While not all of the Defendants in this action were physically present at the Capitol during this attack on the Plaintiff and other Members of Congress, the events that occurred were the natural, foreseeable and intended consequence of the Defendants' coordinated campaign to use intimidation, harassment and threats in an attempt to prevent Congress from discharging its legally required duty to preside over, and approve, the count of the Electoral College votes which ultimately confirmed that Defendant Trump's opponent was elected the next President of the United States.

8. Accordingly, this action seeks the award of compensatory damages to redress the harm to the Plaintiff caused by the Defendants' use of intimidation, harassment and threats of violence to interfere with his discharge of his legally required duty as a Member of Congress and punitive damages to punish the Defendants for the reckless and malicious manner in which they acted and to enjoin and deter a recurrence of this unlawful conduct.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the subject matter of this suit pursuant to 28 U.S.C. § 1331 because the claim in this case arises under the laws of the United States.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this district.

THE PARTIES

11. Plaintiff Bennie G. Thompson is the duly elected Representative of the Second Congressional District of Mississippi. On January 6, 2021, Rep. Thompson was present in the Capitol in order to discharge his legally required duty to observe and approve the count of votes cast by members of the Electoral College for the election of President and Vice-President of the

United States. As described in more detail below, Rep. Thompson was hindered, delayed, impeded and almost completely prevented from carrying out these duties because of the Defendants' unlawful actions. Rep. Thompson brings this suit in his personal capacity.

12. Defendant Donald J. Trump was the President of the United States from January 20, 2017 until noon Eastern Standard Time on January 20, 2021. Defendant Trump is a resident of the state of Florida. As described in more detail below, Defendant Trump, acting solely in his personal capacity, conspired with others with the purpose of preventing, by force, intimidation and threats, the Plaintiff and other Members of Congress from discharging their duty to approve the results of the Electoral College vote and certify the results of the presidential election held in November, 2020. Defendant Trump is sued in his personal capacity.

13. Defendant Rudolph William Giuliani has acted as a confidant of Defendant Trump. The actions attributed to Defendant Giuliani were undertaken in his personal capacity and not as an officer of the United States. He is a resident of New York. As discussed in more detail below, Defendant Giuliani acted in concert with other Defendants to prevent the Plaintiff and other Members of Congress from discharging their duty to approve the results of the Electoral College vote and certify the results of the presidential election held in November 2020.

14. Proud Boys International, L.L.C. ("Proud Boys") is a Texas Limited Liability Company with multiple chapters in the United States and main offices located in Crossroads, Texas. The organization describes itself as a "pro-Western fraternal organization for men who refuse to apologize for creating the modern world; aka Western Chauvinists." Proud Boys members have participated in multiple events that have supported and promoted views that were highly critical of positions advanced during the presidential campaign of then Vice President Biden and views that were strongly supportive of positions advanced during the presidential

campaign of then President Trump. It also has repeatedly employed and supported the use of violence in its opposition to views with which it differed, such as the views expressed by leaders of the Black Lives Matter movement. Proud Boys members can often be identified by the yellow and black colors they wear as well as by logos and emblems that are identified with the Proud Boys organization. As described in more detail below, Proud Boys was involved in organizing and carrying out the insurrection at the Capitol on January 6, 2021, in pursuit of a purpose shared by Defendants Trump and Giuliani, as part of a jointly conceived and executed plan to prevent the counting of Electoral Votes confirming Defendant Trump's opponent as the next President.

15. Defendant Oath Keepers is a militia organization incorporated as a non-profit corporation in Nevada, with its main office located in Las Vegas, Nevada, whose members are comprised of current and former military and law enforcement officers who express the view that the federal government is trying to strip American citizens of their rights. The organization's name is derived from the oath that all military and police take to "defend the Constitution against all enemies, foreign and domestic." The organization and its leadership have routinely stated that it is preparing for or engaged in a civil war. As described in more detail below, Oath Keepers was directly involved in organizing and carrying out the insurrection at the Capitol on January 6, 2021 in pursuit of a purpose shared by Defendants Trump, Giuliani and Proud Boys.

STATEMENT OF FACTS

I. Defendants' Actions Leading Up to the "Save America" Rally

16. The attack on the Capitol that occurred on January 6, 2021 was no accident. Since the results of the election held in November 2020 were announced, Defendant Trump, in concert with Defendant Giuliani, mobilized supporters by mounting a campaign of

misinformation and anger-laden rhetoric to challenge the validity of the election results in support of the false contention that Defendant Trump had actually won the election notwithstanding the results certified by every state in the Union that demonstrated otherwise.

17. During the presidential campaign, Defendant Trump repeatedly declined to agree that, regardless of the outcome of the election, he would ensure a peaceful transition of power. In doing so, he solicited the support of, and endorsed the belligerent and violent actions of, organizations such as the Proud Boys that expressed support of his reelection.

18. During this time, Defendant Trump actively and enthusiastically supported armed protesters who used threats and, at times, violence in the pursuit of their political and social agendas. For example, after state governments began implementing restrictions on access to public facilities in response to the spread of the COVID-19, Defendant Trump referred to supporters who threatened the use of violence in resisting these restrictions as the “Trump Army” and the “first line of defense when it comes to fighting off the Liberal mob.”

19. In another illustration of Defendant Trump’s endorsement of the threat of violence, after a caravan of Trump supporters swarmed a Biden campaign bus on November 1, 2020, nearly causing a violent accident and leading to the cancellation of a Biden campaign event, Defendant Trump praised the mob, saying, “These patriots did nothing wrong.”

20. After the votes were tallied from the election held on November 3, 2020, Defendants Trump and Giuliani initiated a campaign in which they reported that the announced vote tallies were the product of fraud and that Defendant Trump in fact won the election, notwithstanding that these assertions were repeatedly rejected by the courts and the states to which they were presented.

21. On November 4, 2020, Defendant Trump declared that he had won the presidential election, notwithstanding that some votes cast had not yet been counted.

22. After all the votes had been counted and former Vice President Joseph Biden was declared the victor, Defendants Trump and Giuliani and Defendant Trump's supporters embarked on a campaign to challenge as fraudulent the vote results in more than 60 lawsuits filed in various state and federal courts.

23. Notwithstanding that the allegations of fraud were repeatedly rejected by the courts in which these suits were filed, Defendants Trump and Giuliani together maintained that Defendant Trump had actually prevailed in the election and continued to attack the integrity of the state election offices and officials and the election results in those states that reported Defendant Trump received fewer votes than then-former Vice President Biden.

24. Defendant Trump communicated these inflammatory and demonstrably false views through various social media outlets, including Twitter, through which he had 89 million followers.

25. Similarly, at a press conference held in the parking lot of Four Seasons Total Landscaping in Pennsylvania held on November 7, 2020, Defendant Giuliani stated that there had been widespread voter fraud in Philadelphia and Pittsburgh which he claimed accounted for Defendant Trump's loss in that state. Both cities have large African American populations.

26. Defendant Giuliani claimed that Philadelphia had "a sad history of voter fraud." He also named deceased African Americans, whom he falsely claimed were still allowed to vote.

27. In another episode in the campaign mounted by Defendants Trump and Giuliani, Defendant Giuliani said, "The margin in Michigan was 146,121, and these ballots were all cast

basically in Detroit, that Biden won 80-20. So, you see a change as a result in the election in Michigan if you take out Wayne County, so it's a very significant case." As a result, Defendant Giuliani advocated rejecting the votes cast by voters in Detroit, the population of which is 78 percent African American. No evidence of such fraud was ever produced or found by any court or state agency.

28. In still another episode in this campaign to instill doubt in the integrity of the electoral process, Defendant Giuliani asserted at a press conference held on November 19, 2020 that Defendant Trump's loss in Wisconsin was attributed to fraud in voting in Milwaukee and Madison, Wisconsin, both of which have large African American populations.

29. In response to Defendant Trump and Giuliani's repeated assertions that voting in states where Defendant Trump lost was tainted by fraud, some supporters of Defendant Trump, with his urging and support, harassed election workers in Arizona, Georgia, Michigan, Nevada, Pennsylvania, Wisconsin and other states and attempted to interfere with and/or stop the vote count in those states.

30. Defendant Trump persisted in casting doubt on the integrity of the electoral process in states where he lost and encouraging supporters to do the same, notwithstanding that state election officials found no evidence of fraud and resistance to the election results expressed by his supporters grew increasingly shrill and accusatory. Although officials rebutted the allegations of fraud and urged calmer exchanges over the election results, supporters of Defendant Trump, with his expressed support, continued to engage in personal and accusatory attacks.

31. Georgia Republican election official Gabriel Sterling, for example, pleaded with Trump to "[s]top inspiring people to commit potential acts of violence. Someone is going to get

shot, someone is going to get killed. And it's not right." This plea, like others from state election officials, went unheeded by Trump and his supporters.

32. Other threats of violence expressed by Trump supporters, with his endorsement, continued unabated. On December 6, 2020, for example, armed protestors arrived at the home of Michigan Secretary of State Jocelyn Benson, threatening violence after the results of the election.

33. Similarly, on December 8, the official Twitter account of the Arizona GOP asked supporters if they were willing to die for Defendant Trump, accompanied by a clip from the movie "Rambo."

34. Acknowledging the existence of these threats of violence, Trump endorsed rather than discouraged them. On December 10, 2020, for example, he tweeted: "People are upset, and they have a right to be. Georgia not only supported Trump in 2016, but now. This is the only State in the Deep South that went for Biden? Have they lost their minds? This is going to escalate dramatically. This is a very dangerous moment in our history...." Notwithstanding the danger that these threats of violence could escalate, Defendant Trump continued to claim that he had won elections in states where the state-certified vote tallies showed otherwise.

35. As states finished certifying the official election results, confirming that Defendant Trump had lost the presidential election, Defendants Trump and Giuliani began characterizing the presidential election as stolen. On December 12, 2020, "Stop the Steal" rallies occurred across the country where violence erupted among the demonstrators. Rather than urging the demonstrators to act peacefully, Defendant Trump expressed his unqualified support of those who participated in these rallies and their violent tactics and tweeted, "I'll be seeing them!"

36. Turning his attention away from challenging the state election results and toward the final count of the Electoral College votes by Congress on January 6, 2021, Defendant Trump began to rally his supporters to descend on Washington at that time. He tweeted: “Statistically impossible to have lost the 2020 Election” and “Big protest in DC on January 6th. Be there, will be wild!”

37. In the days leading up to the “Save America” rally scheduled for January 6, 2021, Defendant Trump repeatedly issued messages to his supporters expressing support for the use of violent means to secure his reelection and stop the process confirming the election of former Vice President Biden.

38. On social media message boards used by Trump supporters, supporters referred to the need to “go to war” against those who they regarded as unreceptive to Defendant Trump’s efforts to secure his reelection.

39. In yet another warning that the incendiary remarks expressed by Trump could lead to violence, on December 28, 2020, former White House official Olivia Troye expressed concern “that there will be violence on January 6th because the president himself encourages it.” Ms. Troye continued, “This is what [Trump] does. He tweets. He incites it. He gets his followers and supporters to behave in this manner, and these people think they they’re being patriotic because they are supporting Donald Trump.”

40. Nonetheless, on January 1, 2021, Defendant Trump retweeted a tweet from the chair of Women for America First, an organizer of the “Save America” rally, stating, “The cavalry [*sic*] is coming, Mr. President!”

41. On December 29, 2020, Enrique Tarrio, Chairman of the Proud Boys, posted a message on the social media site Parler about the demonstration planned for January 6, 2021.

Among other things, Tarrío announced that the Proud Boys would “turn out in record numbers on Jan 6th but this time with a twist... We will not be wearing our traditional Black and Yellow. We will be incognito and we will be spread across downtown DC in smaller teams. And who knows ... we might dress in all BLACK for the occasion.” Law enforcement investigating the Capitol insurrection has attributed the statement about dressing in “all BLACK” as a reference to dressing like the group known as “Antifa,” whom the Proud Boys have identified as an enemy of their movement and are often depicted in the media wearing all black to demonstrations.

42. In early January, Proud Boys leader Joseph Biggs posted on the social media platform Parler: “Every lawmaker who breaks their own stupid Fucking laws should be dragged out of office and hung.”

43. In an interview posted online on or about January 3, 2021, Mr. Biggs described the Proud Boys’ efforts to organize and participate in events, stating that the group carefully plans ahead around a common objective for the group to achieve at the event.

44. Defendant Trump encouraged and condoned the violence in which the Proud Boys engaged. When asked to denounce the Proud Boys during the September 28, 2020 presidential debate, which had followed events over the summer in which Proud Boys members were reported to have promoted and engaged in violence during rallies, Defendant Trump condoned, rather than condemned, their violent conduct, telling members of the group: “Proud Boys, stand back and stand by.”

45. Understanding that Defendant Trump was endorsing their violent conduct and enlisting them for future conflicts, Proud Boys Chairman Tarrío responded by tweeting: “Standing by sir.”

46. Thomas Caldwell, a leader of Defendant Oath Keepers, was also directly involved in coordinating and preparing for the insurrection at the Capitol.

47. On January 1, 2021, Caldwell sent a Facebook message with information about a hotel in Northern Virginia where Oath Keepers members could stay and assemble when they came to Washington, D.C. on January 6, 2021, stating that the hotel had “a good location and would allow us to hunt at night if we wanted to.” This message further stated that gathering on January 6 would be a “call to arms.”

48. Following his father’s lead, on January 4, 2021, at a campaign rally in Georgia, Donald Trump Jr. rallied the crowd by stating, “They’re not taking this White House. We’re going to fight like hell.”

49. Stoking the anger and fervor of the crowd assembled in Washington, D.C. for the “Stop the Steal” rally scheduled for January 6, 2021, at a rally at Freedom Plaza in Washington, D.C. held on January 5, 2021, the leader of the “Stop the Steal” event led the crowd of Trump supporters in a chant of: “Victory or death!”

50. On the morning of January 6, 2021, before the Congressional approval of the Electoral College vote count was scheduled to occur later that day, Defendant Trump sent a message by twitter to Vice President Pence, encouraging him to refuse to allow the state-certified Electoral College ballots to be counted, as the Electoral Count Act of 1887 required. Instead, Defendant Trump stated, “All Mike Pence has to do is send [the election] back to the States, AND WE WIN.”

51. The Electoral Count Act of 1887 requires that Congress convene on January 6 at 1:00 PM of the year after each presidential election in order to count the ballots cast by members of the Electoral College and, absent objection to any of the ballots, certify the count to the Vice

President, acting as President of the Senate, who is required to formally declare the victor in the election.

52. Defendant Trump's proposal to Vice President Pence as the President of the Senate, that he decline to count the Electoral College ballots and, instead of declaring the winner of the election, send the election back to the states, was in direct contravention of the legal requirements that the Electoral Count Act of 1887 imposed on the Vice President.

II. The Actions of Defendants Trump and Giuliani at the "Save America" Rally

53. On the morning of January 6, 2021, before the "Save America" rally, Defendant Trump urged his followers to resist the final count of the Electoral College ballots, misinforming them in a tweet that "The States want to redo their votes. They found out they voted on a FRAUD. Legislatures never approved. Let them do it. BE STRONG!" No state ever expressed the view, attributed to them by Defendant Trump, that they wanted to "redo their votes."

54. Defendant Giuliani spoke immediately before Defendant Trump. In remarks mirroring Defendant Trump's prior messages, Defendant Giuliani began by making a series of statements about the election contradicted by the state election officers, calling the votes lawfully cast in favor of President Biden "crooked ballots" and stating that he was "going to find criminality" and "proof this election was stolen." Then, he incited the crowd to take violent action, stating, "If we're right, a lot of them will go to jail. So, let's have trial by combat ... I'll be darned if they're going to take our free and fair vote ... We're going to fight to the very end to make sure that doesn't happen."

55. Then, Defendant Trump addressed the assembled crowd. Defendant Trump began by condemning his political opposition and repeating the same unproven accusation, rejected by the state election officers, that the election was stolen from him: "Hundreds of

thousands of American patriots are committed to the honesty of our elections and the integrity of our glorious Republic. All of us here today do not want to see our election victory stolen by emboldened radical left Democrats, which is what they're doing and stolen by the fake news media. That's what they've done and what they're doing. We will never give up. We will never concede, it doesn't happen. You don't concede when there's theft involved." No state or court has credited Defendant Trump's assertion that his opportunity to win the presidential election was "stolen" from him.

56. Defendant Trump then began stoking the crowd's anger and urging them to take action to forcibly seize control of the process for counting and approving the Electoral College ballots, stating: "Republicans are constantly fighting like a boxer with his hands tied behind his back. It's like a boxer, and we want to be so nice. We want to be so respectful of everybody, including bad people. We're going to have to fight much harder and Mike Pence is going to have to come through for us. If he doesn't, that will be a sad day for our country because you're sworn to uphold our constitution. Now it is up to Congress to confront this egregious assault on our democracy. After this, we're going to walk down, and I'll be there with you. We're going to walk down. We're going to walk down any one you want, but I think right here. We're going to walk down to the Capitol, and we're going to cheer on our brave Senators, and Congressmen and women. We're probably not going to be cheering so much for some of them because you'll never take back our country with weakness. You have to show strength, and you have to be strong." It was Defendant Trump's efforts to undermine the legitimacy of the presidential election results, not the lawful actions of the state election officials, that constituted the "egregious assault on our democracy" to which he referred.

57. The call to arms by Defendant Trump had its intended effect. Immediately after his incendiary remarks, the crowd began shouting and chanting, “Storm the Capitol,” “Invade the Capitol Building,” and “Take the Capitol right now.”

58. Rather than discourage the riotous action that was advocated, Defendant Trump reinforced it by stating: “The radical left knows exactly what they’re doing. They’re ruthless and it’s time that somebody did something about it.”

59. Defendant Trump then roused the crowd further, shouting: “Something is wrong here, something is really wrong, can’t have happened and we fight, we fight like hell, and if you don’t fight like hell, you’re not going to have a country anymore.”

60. At this point, the crowd began chanting “Fight like Hell” and “Fight for Trump.”

61. Then, Defendant Trump directed the crowd to descend upon the Capitol: “So we are going to ... walk down Pennsylvania Avenue ..., and we are going to the Capitol, and we are going to try and give ... our Republicans, the weak ones because the strong ones don’t need any of our help, we’re ... going to try and give them the kind of pride and boldness that they need to take back our country. So, let’s walk down Pennsylvania Avenue.”

62. The permit obtained for the Save America rally expressly provided: “This permit does not authorize a march from the Ellipse.” Defendant Trump nevertheless instructed the angry crowd to march from the Ellipse to the Capitol for the purpose of “fight[ing] like hell,” and therefore directed the crowd to take action outside the bounds of what the permit authorized.

III. The Insurrection at the Capitol

63. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include

permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol.

64. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public. Metal barriers were placed along pedestrian entrances approximately one hundred feet from the west side entrance to the Capitol.

65. On January 6, 2021, at approximately 1:00 PM, in accordance with the Constitution and federal law dictating the means by which Congress counts the states' Electoral Votes, including the date and time such counting shall occur, a joint session of the United States Congress convened at the United States Capitol to certify the vote count of the 2020 presidential election.

66. Defendant Proud Boys was a key instigator of the insurrection at the Capitol, working in concert with Defendants Trump and Giuliani as they incited and directed an angry mob to descend on the Capitol.

67. At approximately 12:50 PM on January 6, 2021, Defendant Proud Boys, rallied by leader Joseph Biggs, coalesced and marched towards the Capitol while Trump was speaking at the Save America rally.

68. En route to the Capitol, members of Defendant Proud Boys were engaged in various chants and response calls, including "Fuck Antifa!" and "Whose streets? Our streets!"

69. At the direction of the Defendant Proud Boys rally organizers, many Proud Boys members abandoned their organization's colors of black and yellow in order to wear the black attire associated with Antifa.

70. Captured on video, <https://www.youtube.com/watch?v=n0MA5GjR6Zo>, at approximately 12:52 PM, Defendant Proud Boys head Biggs dispatched the leader of the assault on the Capitol entrance.

71. Following this lead, more members of Defendant Proud Boys descended on the Capitol, breaking through the metal barriers erected a hundred feet from the Capitol building and overcoming the Capitol Police officers stationed there to repel any incursion on the Capitol.

72. Following the lead of the Defendant Proud Boys, who overcame the barriers erected to protect the Capitol, the crowd dispatched by Defendant Trump descended on the Capitol.

73. By the time the thousands of demonstrators arrived at the Capitol, the Proud Boys had already begun compromising the protections erected by the Capitol Police near the base of the Capitol.

74. As a result, the crowd that arrived passed easily through the outer ring of barriers and was able to confront and ultimately overwhelm an inner array of Capitol Police and barricades established as the last line of defense outside the Capitol building.

75. Having delayed delivering his incendiary remarks to the crowd at the Ellipse in order to afford the Defendant Proud Boys an opportunity to arrive at the Capitol and overcome its initial defenses, Defendant Trump acted in concert with the Proud Boys, allowing them to clear the way for the arriving riotous crowd to descend on, and ultimately enter, the Capitol.

76. The crowd that Defendants Trump and Giuliani incited to march upon and forcibly enter the Capitol erected gallows on the Capitol grounds and displayed a noose.

77. Members of the crowd, whom Defendants Trump and Giuliani incited to forcibly enter the Capitol, proceeded as Defendants Trump and Giuliani directed them to interrupt the

count of the Electoral College ballots with the purpose of precluding the final certification of the election results required by law.

78. At the time the rioters initially broke into the Capitol, members of the House of Representatives and the Senate were engaged in debating the tally of the votes cast by members of the Electoral College.

79. Defendant Trump was watching live televised reports of the forcible entry into the Capitol and the violence committed by the crowd dispatched by Defendants Trump and Giuliani. Rather than take action to attempt to calm the riotous crowd or direct additional law enforcement to the site, Defendant Trump egged on members of the riotous crowd by tweeting at 1:49 PM a video of the “Save America” rally filmed shortly before, where he had rallied the crowd with his clarion call: “Our country has had enough. We will not take it anymore and that’s what this is all about . . . You’ll never take back our country with weakness. You have to show strength, and you have to be strong.”

80. Shortly after 2:00 PM, the riotous crowd breached the Capitol Building. Windows and barricades were broken as the mob stormed into the National Statuary Hall, the heart of the Capitol building.

81. Video recorded a member of Defendant Proud Boys as he broke through a Capitol window at approximately 2:11 PM, using the clear-plastic shield seized from an overcome Capitol Police Officer. Thereafter, members of the crowd, including some from the Defendant Proud Boys, entered the Capitol through the broken window and then opened a door, through which the riotous crowd streamed into the Capitol.

82. The member of Defendant Proud Boys who broke through the window with a plastic shield then posted a self-congratulatory video of himself smoking a cigar in celebration of

his unlawful entry, declaring: “Victory smoke in the Capitol, boys ... I knew we could take this shit over if we tried hard enough.”

83. Other video live streamed to the social media site Parler captured Defendant Proud Boys leader Joseph Biggs, who had entered the Capitol, responding to an inquiry asking, “Hey Biggs, what do you gotta say” by smiling and pronouncing, “This is awesome!”

84. Shortly after the Capitol was breached, the Senate was called into recess.

85. Chaos and violence reigned as riotous members of the crowd inflamed by remarks from Defendants Trump and Giuliani streamed into the Capitol, overcoming most of the remaining Capitol Police and descending upon Capitol offices of Members of Congress and their staff. Rioters beat on the doors of the chamber of the House of Representatives where Defendant Thompson and other members of the House were forced to shelter in place.

86. Employing ear pieces and walkie-talkies in order to communicate with each other and coordinate their attack on the Capitol, members of Defendant Proud Boys inside the Capitol Building continued to lead and coordinate facets of the attack on the Capitol in order to interfere with the tally of Electoral College votes in which members of Congress were engaged.

87. Yet another video depicted a member of Defendant Proud Boys inside the Capitol saying, “We just went ahead and stormed the Capitol. It’s about to get ugly.” He was surrounded by riotous supporters who chanted “Our house” and were accompanied by another member of Defendant Proud Boys who sarcastically called for “Nancy,” to summon the Speaker of the House of the United States House of Representatives, Nancy Pelosi.

88. Thereafter, members of Defendant Proud Boys and members of the riotous crowd whose invasion of the Capitol was incited by Defendants Trump and Giuliani roamed the Capitol, entering and rifling through Member offices, including the office of House Speaker

Nancy Pelosi, leaving furniture and files in disarray and removing personal and official effects including laptops containing confidential information. As they roamed the Capitol Building, members of Defendant Proud Boys and members of the riotous crowd chanted, “Fight for Trump.”

89. Members of Defendant Proud Boys as well as members of the riotous crowd also searched for Members of Congress in the halls and rooms of the Capitol. Several rioters carried plastic handcuffs that would have permitted them to detain Members of Congress whom they encountered.

90. Notwithstanding that Republican Members of Congress trapped in the Capitol transmitted appeals to the White House to take immediate action to stop the insurrection, no action was forthcoming as the President continued to watch the insurrection unfold in live televised reports.

91. Soon after members of the riotous crowd dispatched by Defendants Trump and Giuliani forcibly entered the Capitol and began roaming its halls and offices, Defendant Trump called upon them to disrupt the Electoral College ballot count, tweeting that “Mike Pence didn’t have the courage to do what should have been done ...”

92. When the Capitol was breached around 2:11 PM, then Vice President Pence was present at the Capitol in his capacity as President of the Senate, in order to preside over the tally of the Electoral College ballots.

93. Having declined to suspend the Electoral College vote tally as Defendant Trump urged him to do, then Vice President Pence also became a target of the crowd’s ire, along with Members of Congress, as rioters chanted “Hang Mike Pence.”

94. Once inside the Capitol, some members of the riotous crowd confirmed they were acting upon the direction and at the behest of Defendant Trump. When the crowd confronted Capitol Police inside the Capitol, they warned the Capitol Police officers, “You’re outnumbered. There’s a fucking million of us out there. And we are listening to Trump – your boss.” Apparently believing that Defendant Trump’s inciteful remarks gave them license to enter and overtake the Capitol, leaders of the riotous crowd also told Capitol Police, “We were invited here by the President of the United States.” Rioters parading through the halls of the Capitol carried flags and wore clothing and other paraphernalia bearing the name: “Trump.”

95. As House Republican Conference Chair the Honorable Elizabeth L. Cheney stated in her vote in favor of the Article of Impeachment on January 12, 2021, Defendant Trump “summoned this mob, assembled the mob, and lit the flame of this attack. Everything that followed was his doing.”

96. Then Senate Majority Leader Senator Mitch McConnell likewise observed in remarks delivered on the Senate floor on January 19, 2021 the pivotal role of Defendant Trump in inciting the attack on the Capitol, stating, “The mob was fed lies. They were provoked by the President and other powerful people and they tried to use fear and violence to stop a specific proceeding of the first branch of the federal government which they did not like.”

97. Acting in concert with Defendant Proud Boys and the rest of the riotous mob entering the Capitol, members of Defendant Oath Keepers wore paramilitary equipment, helmets, reinforced vests and clothing with Oath Keepers paraphernalia, moving in a regimented manner as members of the military are trained. Pursuing a purpose shared by Defendants Trump and Giuliani as well as Defendant Proud Boys, Defendant Oath Keepers played a leadership role

of the riotous crowd and provided military-style assistance sufficient to overcome any Capitol Police resistance.

98. Members of Defendant Oath Keepers were equally clear that the purpose of their unlawful presence at the Capitol was to interfere with the tally of Electoral College votes. One member of Defendant Oath Keepers, for example, posted a photograph of herself at the Capitol on the social media site Parler, along with the statement: “Me before forcing entry into the Capitol Building. #stopthesteal #stormthecapitol #oathkeepers #ohiomilitia.” Another post late in the day declared: “Yeah. We stormed the Capitol today. Teargassed, the whole, 9. Pushed our way into the Rotunda. Made it into the Senate even. The news is lying (even Fox) about the Historical Events we created today.”

99. Like Defendant Proud Boys, members of Defendant Oath Keepers communicated with portable devices that permitted them to coordinate their activities in the Capitol. A message later posted on Facebook for example revealed Defendant Oath Keepers was transmitting intelligence about the location of Members of Congress whom they were hunting. It said: “All members are in the tunnels under capital seal them in. Turn on gas.” Another message transmitted to Defendant Oath Keepers leader Thomas Caldwell during the attack reported: “Tom, all legislators are down in the Tunnels 3 floors down,” and “Go through back house chamber doors facing N left down hallway down steps.” Still another message among members of Defendant Oath Keepers revealed the organized manner in which they pursued their mission: “We have a good group. We have about 30-40 of us. We are sticking together and sticking to the plan.”

100. Reflecting on their success in interfering with the tally of the Electoral College votes, Defendant Oath Keepers leader Thomas Caldwell posted a message on Facebook at

approximately 7:49 PM on the same day with a video of himself inside the Capitol and the message: “Us storming the castle. Please share. Sharon was with me. I am such an instigator! She was ready for it man! Didn’t even mind the tear gas.”

101. Gloating over their perceived success, Caldwell then sent another message reporting: “Proud boys scuffled with cops and drove them inside to hide. Breached the doors. One guy made it all the way to the house floor, another to Pelosi’s office. A good time.”

102. Viewing their success in disrupting the Congress as a model for similar actions in the future, Caldwell sent another message stating: “We need to do this at the local level. Let’s storm the capitol in Ohio. Tell me when!”

103. Members of the riotous crowd prominently displayed a Confederate flag within the walls of the Capitol. Widely viewed as a symbol of the subjugation of African Americans as slaves by the dominant white slave holders as well as a powerful reminder of the insurrection caused by the secession of the southern states before the Civil War, members of the riotous crowd carried the Confederate Flag as a banner reflecting much of the sentiment motivating many who invaded the Capitol.

104. Outside the Capitol, rioters attacked Capitol Police officers, yelling “traitors” at those law enforcement officers who were trying to protect the Capitol and the members of the House of Representatives and Senate.

105. Rioters doused law enforcement officers with bear mace, a concentrated pepper spray designed to deter bear attacks, *i.e.*, not intended to be deployed against humans.

106. Capitol Police Officers were dragged and kicked.

107. At least one officer was beaten with the pole attached to an American flag.

108. While the rioting crowd was forcibly entering the Capitol, roaming its halls and desecrating its offices, that same day Defendant Giuliani joined the other Defendants in seeking to delay and derail the tally of the Electoral College ballots by calling Members of Congress, urging them to do everything they could to “slow it down” and “delay” the Electoral College vote count in Congress.

109. In these phone call communications with selected Members of Congress while the insurrection was ongoing on January 6, Defendant Giuliani urged: “And I know they’re reconvening at eight tonight, but the only strategy we can follow is to object to numerous states and raise issues so that we get ourselves into tomorrow ideally until the end of tomorrow.”

110. At 6:01 PM, Defendant Trump expressed the view that the insurrection attempted by the rioting crowd dispatched by Trump and Giuliani and the accompanying violence at the Capitol were justified and to be expected, tweeting: “These are the things and events that happen when a sacred landslide election victory is so unceremoniously & viciously stripped away from great patriots who have been badly & unfairly treated for so long. Go home with love & in peace. Remember this day forever!” This again was a complete and utter lie by Trump trying to tell the American people that he won a landslide election victory which was being stripped away.

111. The final announcement by Vice President Mike Pence of the count of the Electoral College votes, which provided the imprimatur of Congress on the results of the presidential election held in 2020, did not occur until 3:41 AM the next morning, January 7, 2021.

112. Five people died during the course of the riot and/or as a result of injuries sustained during the riot. Those casualties included one member of law enforcement.

113. Fights between rioters and officers of the Capitol Police resulted in the hospitalization of more than 50 officers.

114. Faced with the threat of criminal prosecution, many of the rioting crowd members justified their presence and their actions as occurring because Defendants Trump and/or Giuliani instructed them to proceed in this unruly and disruptive manner, and that these individuals were following orders from their then-President and his attorney.

IV. Plaintiff, the Honorable Bennie Thompson

115. When the attack on the Capitol began, Plaintiff Thompson was seated in Gallery C of the House of Representatives, prepared to discharge his duties to supervise and eventually vote on approval of the count of the Electoral College ballots.

116. Plaintiff Thompson was present when the proceeding began at 1:00 PM, as required by the Electoral Count Act of 1887.

117. Between approximately 2:15 and 2:20 PM, soon after rioters had breached the Capitol Building, the House was called into recess.

118. Plaintiff Thompson heard rioters pounding on the door of the House chamber and saw security guards move furniture to blockade the door. He then heard the rioters trying to break into the chamber refer to Speaker Pelosi as a “bitch,” saying they wanted to get their hands on her and refer to Vice President Pence as having betrayed President Trump.

119. Plaintiff Thompson witnessed security personnel draw their firearms to protect Plaintiff Thompson and other Members of Congress, who were there to perform their legally required duties, from the violent rioters who were attempting to disrupt, and ultimately did disrupt, this important function of Congress.

120. Through the blocked doors, Plaintiff Thompson heard threats of physical violence against any Member who attempted to proceed to approve the Electoral College ballot count.

121. Plaintiff Thompson heard a gunshot, the source of which, at the time, was unknown to him, although he later learned that it had killed one of the rioters who had forced her way into the Capitol lobby.

122. Capitol security instructed Plaintiff Thompson and the other lawmakers to lie on the floor, don gas masks that were stored under seats in the gallery, and to move to the other side of the gallery. After an extended period of time had elapsed, during which Plaintiff Thompson and his colleagues were unable to move or leave the gallery because the rioters posed a continuing threat to their safety, Capitol security led Plaintiff Thompson and the other lawmakers through a tunnel out of the Capitol to the Longworth House Office Building, where they were directed to shelter in a room with 200-300 other lawmakers, staff members, and family members.

123. During this period, Plaintiff Thompson received telephone calls from his wife who reported what she saw on the televised reports of violence at the Capitol. Plaintiff Thompson ultimately moved to a different room in the Longworth Building, and at about 6:00 P.M. was moved to a secure location in the Capitol.

124. Plaintiff Thompson personally witnessed rioters who had gotten far into the building and were lying face down on the floor and restrained after being arrested by security.

125. All these events took place during a worldwide COVID-19 pandemic. Plaintiff Thompson was 72 years old at the time and therefore within the age group for which the virus posed the greatest risk to his health.

126. By being required to shelter in place, Plaintiff Thompson and other Members of Congress were forced to occupy space that did not allow for the social distancing measures that minimized the risk of transmission of the virus.

127. Shortly after the siege on the Capitol ended, at least two other Members of Congress who shared the confined space with Plaintiff Thompson tested positive for COVID-19.

128. Until the proceedings with the count of the Electoral College ballots resumed at approximately 8:00 PM, Plaintiff Thompson and other Members were barred from leaving the Capitol Building because their safety remained at risk from rioting crowd members who were still present.

129. During this entire time, Plaintiff Thompson reasonably feared for his physical safety. While trapped in the building, during the siege by the rioters that Defendants unleashed on the Capitol, Plaintiff Thompson feared for his life and worried that he might never see his family again.

130. On January 13, 2021, an Article of Impeachment was passed by a bipartisan majority of the House of Representatives, citing Defendant Trump for inciting the violence perpetrated at the Capitol. The Article of Impeachment provides, in part:

On January 6, 2021, pursuant to the 12th Amendment to the Constitution of the United States, the Vice President of the United States, the House of Representatives, and the Senate met at the United States Capitol for a Joint Session of Congress to count the votes of the Electoral College. In the months preceding the Joint Session, President Trump repeatedly issued false statements asserting that the Presidential election results were the product of widespread fraud and should not be accepted by the American people or certified by State or Federal officials. Shortly before the Joint Session commenced, President Trump, addressed a crowd at the Ellipse in Washington, D.C. There, he reiterated false claims that “we won this election, and we won it by a landslide.” He also willfully made statements that, in context, encouraged — and foreseeably resulted in — lawless action at the Capitol, such as: “if

you don't fight like hell you're not going to have a country anymore." Thus incited by President Trump, members of the crowd he had addressed, in an attempt to, among other objectives, interfere with the Joint Session's solemn constitutional duty to certify the results of the 2020 Presidential election, unlawfully breached and vandalized the Capitol, injured and killed law enforcement personnel, menaced Members of Congress, the Vice President, and Congressional personnel, and engaged in other violent, deadly, destructive and seditious acts.

131. At the conclusion of President Trump's impeachment trial, the Senate voted to acquit Defendant Trump, finding Defendant Trump not guilty of inciting the deadly riot at the Capitol by a vote of 57 to 43.

132. Minutes after voting to acquit Defendant Trump, Senate Minority Leader Mitch McConnell gave a speech on the floor of the Senate. Senator McConnell began by acknowledging Defendant Trump's culpability: "There is no question that President Trump is practically and morally responsible for provoking the events of that day. The people who stormed this building believed they were acting on the wishes and instructions of their president. And their having that belief was a foreseeable consequence of the growing crescendo of false statements, conspiracy theories, and reckless hyperbole which the defeated President kept shouting into the largest megaphone on planet Earth." However, like the other Senators who voted to acquit Defendant Trump, Senator McConnell did not believe that the impeachment process was constitutional. Senator McConnell went on to state that "President Trump is still liable for everything he did while he was in office, as an ordinary citizen, unless the statute of limitations has run, still liable for everything he did while in office, didn't get away with anything yet – yet. We have a criminal justice system in this country. We have civil litigation. And former presidents are not immune from being held accountable by either one."

CAUSE OF ACTION

Violation of the Ku Klux Klan Act

133. Plaintiff incorporates herein by reference the allegations contained in all preceding paragraphs.

134. Under the Ku Klux Klan Act, 42 U.S.C. § 1985(1), Defendants may not “conspire to prevent, by force, intimidation, or threat, any person ... holding any office, trust, or place of confidence under the United States ... from discharging any duties thereof; or to induce by like means any officer of the United States to leave any ... place[] where his duties as an officer are required to be performed, or ... to molest, interrupt, hinder, or impede him in the discharge of his official duties.”

135. Defendants Trump, Giuliani, Proud Boys, and Oath Keepers plotted, coordinated, and executed a common plan to prevent Congress from discharging its official duties in certifying the results of the presidential election.

136. In furtherance of this conspiracy, Defendants Trump and Giuliani engaged in a concerted campaign to misinform their supporters and the public, encouraging and promoting intimidation and violence in furtherance of their common plan to promote the re-election of Defendant Trump, even after the states had certified election results decisively showing he lost the election, and to disrupt the legally required process before Congress to supervise the counting of the Electoral College ballots and certify the results of that count.

137. As a result, Defendant Trump acted beyond the outer perimeter of his official duties and therefore is susceptible to suit in his personal capacity.

138. The activities alleged above were undertaken by all Defendants as co-conspirators for the purpose of seeking to prevent Plaintiff Thompson and other members of Congress from certifying that former Vice President Biden won the presidential election.

139. As a result of the acts set out in the above paragraphs committed in furtherance of this conspiracy, Plaintiff Thompson was hindered and impeded in the discharge of his official duties and suffered the deprivation of his right to be free from intimidation and threats in the discharge of his official duties, as explicitly protected under Ku Klux Klan Act. During the time when the Capitol was under attack, Plaintiff Thompson suffered emotional distress.

140. As a result, Plaintiff Thompson seeks an award of compensatory damages.

141. As the unlawful actions taken by the Defendants were malicious and in reckless disregard of federally protected rights, Plaintiff Thompson seeks an award of punitive damages to punish the Defendants for engaging in a concerted and continuing course of unlawful conduct and to deter the Defendants and others from engaging in similar unlawful conduct in the future.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests an award of the following relief:

- A. A declaratory judgment that the actions described herein constitute a violation of 42 U.S.C. § 1985(1);
- B. Injunctive relief enjoining Defendants from engaging in future violations of 42 U.S.C. § 1985(1);
- C. Compensatory in an amount to be determined at trial;
- D. Punitive damages in an amount to be determined at trial;
- E. An award of costs and reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
- F. Such other relief as the Court deems necessary and just.

Dated: February 16, 2021

Respectfully submitted,

/s/ Janette Louard

Janette Louard (*pro hac vice* motion to be filed)

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