

Exhibit 1

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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

MAJED KHALIL,

Plaintiff,

V.

**FOX CORPORATION, FOX NEWS
NETWORK LLC, LOU DOBBS, and
SIDNEY POWELL,**

Defendants.

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COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Majed Khalil (“Mr. Khalil”), through his attorneys, Brown Rudnick LLP, hereby brings this Complaint against Defendants Fox Corporation and Fox News Network LLC (collectively, “Fox”), Lou Dobbs (“Dobbs”) and Sidney Powell (“Powell,” and with Fox and Dobbs, the “Defendants”), and alleges as follows:

INTRODUCTION

1. In the aftermath of Joe Biden winning the 2020 election for President of the United States, Defendants undertook a concerted, fraudulent effort to overturn the demonstrable and irrefutable fact that Donald Trump had lost the election, in which there had been no rigging or manipulation of the election results. This fraudulent effort included, as a major component, fabricated charges being leveled against two companies, Dominion and Smartmatic (and their affiliates), along with an outrageous fabricated claim that Venezuela and certain Venezuelans, including Plaintiff, were somehow involved in orchestrating this non-existent scheme to rig or fix the results of the 2020 U.S. Presidential election to favor Joe Biden. As Smartmatic has noted in

its lawsuit pending in this Court, the fraudulent effort needed “to identify a villain.”¹ Two of the invented “villains” were Dominion and Smartmatic. When Dominion and Smartmatic appropriately pushed back and provided detailed notice to Fox, Dobbs, and others that their serial lies about the claimed election fraud and Venezuelan involvement were entirely bogus, Defendants double-downed on their scheme and falsely identified Mr. Khalil, a Venezuelan businessman who, as set forth below, had no involvement in, or connection to, any United States election and no business dealings whatsoever with Dominion or Smartmatic, on December 10, 2020 as having been the “COO” of the alleged Venezuelan-Smartmatic-Dominion election scam, which Defendants falsely characterized as a “cyber Pearl Harbor” and an “electoral 9-11 against the United States.” Defendants even went so far as to bizarrely and falsely claim that Plaintiff was involved in creation of Smartmatic election software and hardware that allegedly was used to siphon off votes during the 2020 Presidential election, a lie totally devoid of reality, insofar as, among other things, Plaintiff had no connection to Smartmatic and no familiarity with creation of election computer software or hardware, and as Smartmatic has established, Smartmatic itself had no involvement in any such election scheme. Thus, Mr. Khalil was identified as part of Defendants’ manufactured effort to assign a further foreign name to their non-existent conspiracy and became a fabricated “third villain” in this fictional and xenophobic conspiracy hatched and promoted by Defendants.

2. Defendants’ statements, at a minimum, were clearly defamatory, and Plaintiff in this action seeks compensation for their outrageous, false claims. But Defendants’ conduct was even more egregious and sinister than garden-variety defamation. Indeed, it was an exercise in

¹ See Complaint ¶¶ 92-93 (“Compl.”), *Smartmatic USA Corp., et al. v. Fox Corporation, et al.*, Index No. 151136/2021 (Supreme Court, New York Cnty.).

classic disinformation and propagandistic as well: Defendants attempted to vilify Plaintiff, a private individual and foreign national with absolutely no connection to any United States election and no connection with Smartmatic or Dominion, as an “other” by falsely identifying him as intimately involved with United States election interference. These allegations, however, were fabricated by Defendants out of thin air to xenophobically add another foreign “name” to the manufactured charges of a non-existent Smartmatic or Dominion conspiracy with Venezuelan officials and private citizens. In the false parallel reality that Defendants have concocted, a private individual, simply by being a foreigner with a Venezuelan nationality and having a foreign-sounding name, is cast as a “COO” of a non-existent foreign election scheme.²

3. To understand how Plaintiff came to be falsely charged with involvement in this non-existent U.S. election rigging conspiracy, it is necessary to review the sequence of events that occurred after Joe Biden won the election for President, and the litany of false claims made by Defendants against Smartmatic and Dominion before they falsely pilloried Plaintiff. Defendant Lou Dobbs, a then-prominent Fox personality, played a critical role in this conspiracy, as he repeatedly hosted Sidney Powell to present and endorse her bogus claims of election fraud orchestrated by Venezuela and Venezuelans, which culminated in the December 10, 2020 broadcast (which was rebroadcast multiple times by Fox and Dobbs) and tweets, in which Plaintiff was targeted by Defendants and ensnared in this fabricated charge of election fraud.

4. Defendants endorsed, repeated, and broadcast a series of verifiably-false claims about Dominion, Smartmatic and others, despite being put on notice by both Dominion and

² See, e.g., Sean Illing, “How Propaganda Works in the Digital Age” (Oct. 20, 2019), <https://www.vox.com/policy-and-politics/2019/10/18/20898584/fox-news-trump-propaganda-jason-stanley> (noting that propaganda “today” “is more about pushing conspiracy theories or misleading spin than anything else” and identifying Fox News as active purveyor of propaganda).

Smartmatic (and by others) of the falsity of their claims, before falsely accusing Plaintiff of involvement with this non-existent election scheme. These outlandish, defamatory, and far-fetched fictions included (but were not limited to) Defendants' demonstrably false claims that: (i) Dominion committed election fraud by rigging the 2020 U.S. Presidential Election; (ii) Dominion's software and algorithms manipulated vote counts in the 2020 U.S. Presidential Election; (iii) Dominion is owned by Smartmatic, and Smartmatic and was founded in Venezuela to rig elections for former Venezuelan leader Hugo Chávez; (iv) Dominion paid kickbacks to government officials who used its machines in the 2020 U.S. Presidential Election; and (v) Smartmatic was allegedly involved in an election rigging scheme in Venezuela and in the 2020 U.S. Presidential election.

5. By December 10, 2020, Defendants knew full well that their "story" of a massive election fraud orchestrated by Dominion, Smartmatic, and Venezuela(ns) was pure fiction. Faced with compelling and uncontroverted evidence that the claims of election fraud were fabricated, however, Defendants did not cease their false propaganda and deliberate disinformation campaign. Instead, on December 10, 2020, Defendants dug an even deeper hole and threw Plaintiff, a private Venezuelan businessman with no connection to either Smartmatic or Dominion, and no involvement with administration of United States elections, into the ditch by falsely identifying Plaintiff as the COO of this non-existent "cyber Pearl Harbor."

6. Each Defendant knew their claims about Plaintiff's involvement in election fraud were false, or at a minimum, recklessly disregarded the truth, the evidence of which was plainly available to them. For example, Defendants knew the vote tallies from Dominion machines could easily be confirmed by independent audits and hand recounts of paper ballots, as has been done repeatedly since the election. Defendants also knew that these lies were being rebutted by an

increasingly long list of bipartisan election officials, election security experts, judges, then-Attorney General William P. Barr, then-United States Director of the Cybersecurity and Infrastructure Security Agency Christopher C. Krebs, Election Assistance Commissioner Benjamin Hovland, Republican Georgia Governor Brian P. Kemp, Republican Georgia Secretary of State Brad Raffensperger, and Republican former Colorado Secretary of State Wayne Williams, to name a few—not to mention some within Fox itself.

7. Defendants likewise knew, as set forth in detail below, there was no evidence whatsoever to support the Venezuela or “kickbacks” claims. Yet, even after Fox and Dobbs were put on specific written notice by Dominion and Smartmatic of the facts, they stuck to the inherently improbable and demonstrably false preconceived narrative and continued broadcasting the lies of facially unreliable sources—which were embraced by Fox’s own on-air personalities such as Dobbs—because the lies were good for Fox’s and Dobbs’ business. It is in that context that Defendants falsely alleged that Mr. Khalil was the “COO” of the non-existent election plot.

8. Private individuals such as Mr. Khalil should not be subject to brazen, false alleged association with a non-existent scheme to rig a United States Presidential election or incendiary, false accusations of participating in a non-existent “cyber Pearl Harbor” and “electoral 9-11.” Today it is Mr. Khalil being falsely accused. Tomorrow it could be another individual of foreign origin who is falsely accused simply because he or she is “foreign” or an “other.” The Court should impose liability and severe sanctions for such deplorable and illegal conduct by a purported “news” outlet, former anchor, and officer of the Court who carry ethical responsibilities and should have known better. Defendants failed miserably to discharge those duties and seriously damaged Plaintiff and intended collateral damage through their defamatory scheme and false propaganda.

PARTIES

8. Plaintiff Majed Khalil is a Venezuelan businessman. At times, Plaintiff has been referred to as “Khalil Majed Mazoud.” As alleged here, Mr. Khalil was referred to by Defendants on December 10, 2020 as “Khalil Majed Mazoud.” Plaintiff has at no time had any business dealings or affiliation with either Dominion or Smartmatic.

9. Defendant Fox Corporation is Delaware corporation with its principal place of business in New York. Fox Corporation owns Foxcorp Holdings LLC (100% ownership), Foxcorp Holdings LLC owns Fox Television Holdings LLC (100% ownership), Fox Holdings LLC owns Fox Television Stations LLC (100% ownership), and Fox Television Stations LLC owns Fox News Network LLC (100% ownership).

10. Defendant Fox News Network LLC is a Delaware corporation that has its principal place of business in New York. It is wholly owned by Defendant Fox Corporation (together with Fox News Network LLC, “Fox”), a Delaware corporation also headquartered in New York. Fox operates the Fox News Channel, the Fox Business Channel, Fox News Radio, and Fox News Digital, which includes the fox.com, foxnews.com, and foxbusiness.com websites, Fox’s social media accounts, and Fox’s digital subscription services, such as Fox Nation, which it refers to collectively as “Fox News Media.” The Fox News and Fox Business Channels are available in over 80 million American households,³ and Fox has boasted that Fox News Media reaches 200 million people each month.⁴ Fox News also simulcasts its broadcasts, including through SiriusXM. In 2020, the Fox News Channel averaged over 3.5 million viewers during its primetime

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

⁴ *Fox News Digital Surpasses New York Times and Washington Post in Every Performance Metric*, Fox News, <http://press.foxnews.com/2021/03/fox-news-digital-surpasses-new-york-times-and-washington-post-in-every-key-performance-metric/>.

evening news programming and nearly 2 million daytime viewers, while Fox News Digital reported that its “digital network earned **24 billion** multiplatform views” and “**54 billion** total multiplatform minutes.”⁵ Fox repeatedly published defamatory falsehoods about Dominion and Smartmatic, including by broadcasting and rebroadcasting defamatory falsehoods on Defendant Lou Dobbs’ show, and on other Fox shows, as well as by republishing those falsehoods across Fox’s websites, social media accounts, and subscription service platforms. The defamatory statements regarding Mr. Khalil were published and republished on a Fox social media account and on Dobb’s show, and rebroadcast as alleged herein. In December 2020, Fox noted that, as a result of its election coverage, it had reached more than 100 million unique visitors through its digital platforms, including 51 million Facebook users and 23 million Instagram users.⁶

11. Defendant Lou Dobbs is a Fox Business personality who hosted *Lou Dobbs Tonight*, which Fox described as “the #1 program on any business network among total viewers.”⁷ Dobbs presented himself to readers and viewers as a provider of factual information – **not** opinion, rhetoric or spin. However, contrary to his public persona, Dobbs was one of the primary proponents and speakers for the disinformation campaign against Dominion and Smartmatic, and Plaintiff. During the relevant period, his show was broadcast from New York, New York. At all relevant times, Dobbs also has been an agent for Fox, and even after Fox cancelled *Lou Dobbs Tonight* on February 5, 2021, Dobbs remained under contract with Fox.⁸ At all relevant times,

⁵ *Fox News Digital Network Delivers Record Year*, Fox News (Jan. 25, 2021), <http://press.foxnews.com/2021/01/fox-news-digital-network-delivers-record-year> (emphases added unless otherwise noted).

⁶ *Fox News Digital Scores Best November In its History*, Fox News (Dec. 22, 2020), <https://press.foxnews.com/2020/12/fox-news-digital-scores-best-november-in-its-history>.

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

⁸ Zeeshan Aleem, *Fox Business Abruptly Canceled Lou Dobbs Tonight*, Vox (Feb. 6, 2021), <https://www.vox.com/2021/2/6/22269780/lou-dobbs-cancel-fox-business-news>.

Fox broadcast *Lou Dobbs Tonight* from its New York headquarters. Fox aired false statements about Dominion, Smartmatic and Mr. Khalil on *Lou Dobbs Tonight*. Until at least February 5, 2021, Fox operated and exercised control over the Instagram account @loudobbbstonight, the Facebook account “Lou Dobbs” (which links to the @loudobbbstonight Instagram account), and the Twitter account, @LouDobbs, as the official social media accounts for the Fox show *Lou Dobbs Tonight*, as evidenced by the fact that the @LouDobbs Twitter account’s description was, until February 5, 2021, “*Lou Dobbs Tonight*, Fox Business Network, 5, 7 & 10 PM/ET,”⁹ and the fact that tweets were posted to the account during live broadcasts (when Dobbs could not post himself).¹⁰ Fox frequently republished shows and segments from *Lou Dobbs Tonight* on the @loudobbbstonight Instagram, “Lou Dobbs” Facebook, and @LouDobbs Twitter accounts. As alleged here, Dobbs repeatedly advocated the bogus election fraud claim for nearly one month, though put on actual notice by Dominion, Smartmatic and others that the basic factual points he (and Fox) and guests such as Powell were advancing were objectively false. By the time Dobbs hosted, advanced, and repeated Powell’s fabricated and false statements about Plaintiff, and himself promoted such false statements about Plaintiff, Dobbs and Fox already had been warned (and put on express notice) in great detail that the entire underlying hypothesis about Venezuela and Venezuelans being involved in an effort to overturn the 2020 U.S. Presidential election was pure fiction, disinformation and propaganda, as were all the other elements of this election fraud hoax advanced by Defendants.

⁹ Lou Dobbs (@LouDobbs), Twitter (Jan. 31, 2021), <https://web.archive.org/web/20210131165537/https://twitter.com/LouDobbs>.

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

12. Defendant 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.’”¹¹ Powell briefly pursued spurious litigation challenging the 2020 U.S. Presidential Election, beginning on November 25, 2020, but her cases had all been summarily dismissed by federal judges by December 9, 2020. One federal judge thereafter sanctioned Powell for having filed an election fraud case that, according to the judge, was filed in bad faith and for an improper purpose, and further expressed concern, in the sanction ruling, that “Powell is profiting from the filing of this and other frivolous election-challenge lawsuits.”¹² Fox repeatedly hosted Powell on its programming in the weeks and months following the 2020 U.S. Presidential Election to promote falsehoods about Dominion and Smartmatic. Powell regularly appeared on Dobbs’ show, including on December 10, 2020, during which she falsely accused Plaintiff of involvement with the non-existent election fraud. Powell presented herself to readers and viewers as a provider of factual information – not opinion, rhetoric, or spin. However, contrary to her public persona, she was one of the primary proponents and speakers of the disinformation campaign against Dominion and Smartmatic, and Plaintiff.

13. Fox, Dobbs and Powell are collectively referred to as “Defendants” in this Complaint. Defendants agreed to use Fox News’ broadcasting base in New York, New York to disseminate the disinformation campaign, which ensured the story would reach the broadest audience possible.

JURISDICTION AND VENUE

14. The Court has personal jurisdiction over Defendant Fox pursuant to CPLR § 301. New York is the principal place of business of Fox Corporation and Fox News Network LLC. Fox

¹¹ Sidney Powell, <https://www.sidneypowell.com/shop>.

¹² See *King, et al. v. Whitmer, et al.*, Civ. No. 20-13134, 2021 WL 3771875, at *41 n. 85 (E.D. Mich. Aug. 25, 2021)

News Network LLC broadcast the defamatory and disparaging statements (verbal and written/posted) at issue in this Complaint from its operations in New York, New York. Fox News Network LLC used the disinformation campaign to solicit views and readers in New York, New York. New York was the largest television audience market in the United States at the time of the disinformation campaign with over 17 million viewers.

15. The Court has personal jurisdiction over Defendant Lou Dobbs pursuant to CPLR § 302. New York is Dobbs' principal place of business. Dobbs made the defamatory and disparaging statements at issue in the Complaint knowing and intending them to be broadcast (verbal) and published (written/posted) from New York, New York. Dobbs used the disinformation campaign to solicit viewers and readers in New York, New York.

16. The Court has personal jurisdiction over Defendant Sidney Powell pursuant to CPLR § 302 for at least five reasons: (i) Powell made the defamatory and disparaging statements at issue in the Complaint knowing and intending for them to be broadcast (verbal) and published (written/posted) from New York, New York by a New York-based organization; (ii) Powell authorized and approved the broadcasting and publication of her statements to be made from New York through a New York-based news organization; (iii) Powell coordinated with New York-based reporters and employees of Fox News regarding the disinformation campaign and her statements before appearing on the Fox News programs at issue in the Complaint; (iv) Powell used the disinformation campaign she operated through and with Fox and Dobbs to solicit money from individuals and corporations – including those located in New York, New York – for contributions to her so-called “legal defense” fund and Super PAC; and (v) Powell intentionally took advantage of New York's unique resources, including serving as the headquarters and publication center for Fox News, to disseminate the disinformation campaign and profit from the disinformation

campaign. The Court also has personal jurisdiction over Powell pursuant to CPLR § 302 as a co-conspirator with Fox and Dobbs, both of whom committed tortious acts in New York.

17. Venue is proper in New York County pursuant to CPLR § 503(a) and (c). Further, Defendants published and republished the defamatory and disparaging statements at issue in the Complaint from Fox News' operations in New York County. New York County is the county in which a substantial part of the events giving rise to Plaintiff's claims occurred.

FACTUAL ALLEGATIONS¹³

18. Dominion Voting Systems Corporation (Dominion and its affiliates, unless other indicated, are referred to herein as "Dominion") procured its first U.S. contract in July 2009 to provide voting machine technology to numerous counties in the state of New York. After procuring that contract, Dominion established a New York office. For the next several years, Dominion's systems were manufactured in the State of New York.

19. Although in June 2010, Dominion relocated its headquarters to Denver, Colorado, Dominion continued to maintain an office and significant operations in New York to this day. As of the 2020 election, Dominion had contracts to provide voting machine technology in numerous counties in New York. Plaintiff has had no contact with, nor involvement with Dominion at any time.

¹³ The factual allegations set forth herein regarding Defendants are drawn from the public record. In addition, Plaintiff adopts, and incorporates as if alleged herein the factual allegations regarding Defendants' conduct and knowledge, and regarding Smartmatic and Dominion (and their respective affiliates), to the extent not otherwise alleged herein, as set forth in Smartmatic's and Dominion's pending Complaints (and exhibits submitted in such proceedings by Smartmatic and Dominion), entitled *Smartmatic USA Corp., et al. v. Fox Corporation, et al.*, Index No. 151136/21, Supreme Court, New York Cnty.; *US Dominion, Inc., et al. v. Fox News Network, LLC*, Case No. N21C-03-257 (Del. Superior Court); and *US Dominion, Inc., et al. v. Sidney Powell, et al.*, Civ. Action No. 1:21-cv-00040 (D. Columbia)(CJN). Except as to the allegations regarding Plaintiff, which are made on personal knowledge, the allegations herein are made on information and belief.

20. Smartmatic (Smartmatic and its affiliates, unless otherwise indicated, are referred to herein as “Smartmatic”) is an election technology and software company, which was founded in Florida in 2000 to focus, initially, on the banking industry (offering secure online protocols enabling hyper-secure interconnection between digital devices). Since 2003, Smartmatic’s election technology has processed more than 5 billion secure votes worldwide without a single security breach. During the 2020 U.S. election, Smartmatic successfully provided election technology and software for Los Angeles County, and not for any other county or state in the 2020 U.S. election. Smartmatic has provided election services for election commissions in more than 25 countries on five continents.

21. In 2004, Smartmatic’s technology was used in the first automated election in Venezuela. It was the first election in the world to have both an electronic record and a paper trail of every vote made, which could be cross-checked and audited, thus ensuring the accuracy of election totals. Smartmatic ceased participating in elections in Venezuela in 2017. Plaintiff has had no business dealings or affiliation with Smartmatic at any time. Nor did Plaintiff have any involvement in designing or creating any voting machines, election-related software or any other election-related voting tabulation equipment in connection with the 2004 election in Venezuela or any other election in Venezuela, or elsewhere.

22. Plaintiff is not a shareholder in either Smartmatic or Dominion and has never met nor spoken to any of Smartmatic’s or Dominion’s owners, nor, to the best of his knowledge, has Plaintiff ever met or spoken to any of Smartmatic’s or Dominion’s employees.

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

23. For 19 years, Fox News has been the #1 rated cable news network and the go-to cable news network for American conservatives.¹⁴ As Fox describes itself,

FOX News Channel (FNC) is a 24-hour all-encompassing news service delivering breaking news as well as political and business news. The number one network in cable, FNC has been the most watched television news channel for nearly 20 consecutive years. According to a 2021 Brand Keys Consumer Loyalty Engagement Index report, FOX News leads the news industry in both brand loyalty, engagement and expectations. A 2019 Suffolk University poll also named FOX News as the most trusted source for television news or commentary, while a 2019 Brand Keys Emotion Engagement Analysis survey found that FOX News was the most trusted cable news brand. Owned by FOX Corp, FNC is available in 80 million homes and dominates the cable news landscape, routinely notching the top ten programs in the genre.¹⁵

24. In addition to distribution through its television networks, Fox distributes its news content through digital media, including through the Fox News Mobile App, which has approximately 7.5 million users, and through Twitter, Facebook, and Instagram accounts that generate tens of millions of unique visitors each month. Tens of millions of people regularly view Fox news content through those and other digital media platforms, such as YouTube, TikTok, and Tubi. Fox recently announced that it has been “the most engaged news brand on social media” for 78 consecutive months, “with over 51 million Facebook and 20 million Instagram interactions.”¹⁶ Fox claims that the total audience for its news content exceeds 200 million people each month.¹⁷

¹⁴ Mark Joyella, *‘We Passed CNN ... And Never Looked Back’: Fox News Hits Years At #1*, Forbes (Jan. 28, 2020), <https://www.forbes.com/sites/markjoyella/2020/01/28/fox-news-celebrates-18-years-as-number-one-network-in-cable-news/?sh=fc6dccfle997>.

¹⁵ *Corporate Information*, Fox News (last visited Nov.), <http://press.foxnews.com/>.

¹⁶ *Fox News Digital Surpasses New York Times and Washington Post in Every Performance Metric*, Fox News (Mar. 17, 2021), <http://press.foxnews.com/2021/03/fox-news-digital-surpasses-new-york-times-and-washington-post-in-every-key-performance-metric/>.

¹⁷ *Id.*

25. The Murdoch family plays a central and public role in the management and oversight of Fox News. In addition to Lachlan Murdoch's role as CEO, Rupert Murdoch is the Chairman of Fox Corporation.¹⁸ Both Lachlan and Rupert Murdoch, as Fox Corporation executives, are listed as part of the "Fox News Executive Staff."¹⁹

26. President Trump's support of Fox has been central to Fox maintaining its dominance. Rupert Murdoch allied himself with President Trump early in Trump's 2016 campaign, despite holding President Trump in relatively low esteem.²⁰ Reports surfaced that President Trump's son-in-law and White House adviser Jared Kushner helped broker a peace between Murdoch and Trump during Trump's 2016 campaign.²¹ President Trump began chatting with Murdoch by phone,²² as often as daily²³—calls which continued into Trump's presidency.²⁴ The relationship between President Trump and Fox was mutually beneficial. Trump received support from a network with a huge following among his base. And Fox received the support of the President of the United States — "something [Murdoch] had been after for years as well."²⁵

¹⁸ *Id.*

¹⁹ Corporate Information, Fox News, <http://press.foxnews.com/>.

²⁰ David Folkenflik, *With Trump's Loss, Murdoch's Fox News Faces Wrath And Tough Choices*, NPR (Nov. 7, 2020), <https://www.npr.org/2020/11/07/932203022/as-trumps-chances-fade-murdoch-sfox-news-faces-wrath-and-tough-choices>.

²¹ Tom Kludt, *Frenemies with benefits: A brief history of the Trump-Murdoch relationship*, CNN Business (Jan. 17, 2020), <https://money.cnn.com/2018/01/17/media/ruPERT-murdoch-donald-trump/index.html>.

²² *Id.*

²³ Jane Mayer, *The Making of the Fox News White House*, The New Yorker (Nov. 3, 2019), <https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house>.

²⁴ Tom Kludt, *Frenemies with benefits: A brief history of the Trump-Murdoch relationship*, CNN Business (Jan. 17, 2020) <https://money.cnn.com/2018/01/17/media/ruPERT-murdoch-donald-trump/index.html>.

²⁵ *Id.*

Murdoch obtained “direct access to the person at the very top of the pyramid. . . . The person in the Oval Office.”²⁶

27. During Trump’s presidency, Murdoch relied on this direct access to the President to obtain favorable business outcomes for his media empire, including Fox News and Fox Business. For example, in June 2018, after only six months of deliberation, the Trump Administration approved Fox’s bid to sell most of its entertainment assets to Disney for seventy-one billion dollars.²⁷ Murdoch reportedly had a hand in Trump’s nominee to lead the FCC as well.²⁸ As Murdoch himself put it, “it’s useful to have a friend who’s the President, particularly if there are close regulatory calls, and a President who is untroubled by the rules and norms in that regard.”²⁹

28. In exchange for President Trump’s ear and his public support of Fox, Murdoch offered the support of his media outlets and on-air personalities. As has been noted, “Fox Corp.’s most-high-profile division is Fox News, which is in a symbiotic relationship with the president of the United States.”³⁰ Over the course of Trump’s presidency, Fox and the Murdoch family

²⁶ Tom Kludt, *Frenemies with benefits: A brief history of the Trump-Murdoch relationship*, CNN Business (Jan. 17, 2020), <https://money.cnn.com/2018/01/17/media/rupert-murdoch-donald-trump/index.html>.

²⁷ Jane Mayer, *The Making of the Fox News White House*, The New Yorker (Nov. 3, 2019), <https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house>.

²⁸ Tom Kludt, *Frenemies with benefits: A brief history of the Trump-Murdoch relationship*, CNN Business (Jan. 17, 2020), <https://money.cnn.com/2018/01/17/media/rupert-murdoch-donald-trump/index.html>.

²⁹ Jane Mayer, *The Making of the Fox News White House*, The New Yorker (Nov. 3, 2019), <https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house>.

³⁰ Sarah Ellison, Lachlan Murdoch takes control of Fox Corp. But how will he deal with President Trump?, Wash. Post (Mar. 20, 2021), https://www.washingtonpost.com/lifestyle/style/lachlan-murdoch-takes-control-of-fox-corp-but-how-will-he-deal-with-president-trump/2019/03/20/abbb43d6-40ee-11e9-a0d3-1210e58a94cf_story.html.

remained among President Trump's strongest sources of support.³¹ Murdoch also honored President Trump's requests regarding the programming on Fox.

29. Given this history, it is not surprising that although Rupert Murdoch did not believe President Trump's election fraud claims, he nevertheless encouraged on-air personalities to perpetuate these baseless claims. Fox Corp. Executive Chairman and CEO Lachlan Murdoch acknowledged that "our audience was disappointed with the election results."³² And when Fox ratings dipped after the election, Rupert Murdoch stepped in "to call the shots directly," according to a number of reports.³³

30. The Murdochs and Fox have perpetuated these false claims of election fraud despite multiple reports that the Murdochs themselves do not believe the claims. Nevertheless, Fox continued to broadcast those lies to tens of millions of viewers.

31. In the months leading up to the 2020 election, President Trump drew a line in the sand: either he would win or the election would be fraudulently stolen from him. His supporters

³¹ David Folkenflik, *With Trump's Loss, Murdoch's Fox News Faces Wrath And Tough Choices*, NPR (Nov. 7, 2020), <https://www.npr.org/2020/11/07/932203022/as-trumps-chances-fade-murdoch-s-fox-news-faces-wrath-and-tough-choices>.

³² *Transcript of Lachlan Murdoch at Fox Corp. 's 'Investor Day' at 4-5*, Fox Corp. (Mar. 4, 2021), <https://investor.foxcorporation.com/static-files/96a7dbad-e5174bb7-af38-aeb1e83d2a20>.

³³ Margaret Sullivan, *Fox News is a hazard to our democracy. It's time to take the fight to the Murdochs. Here's how.*, Wash. Post (Jan. 24, 2021), https://www.washingtonpost.com/lifestyle/media/fox-news-is-a-hazard-to-our-democracy-its-time-to-take-the-fight-to-the-murdochs-heres-how/2021/01/22/1821f186-5cbe-11eb-b8bd-ee36b1cd18bf_story.html.

must either agree with him or face his wrath. In his own words: “the only way we’re gonna lose this election is if the election is rigged”³⁴ and there “is massive fraud.”³⁵

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

33. Not surprisingly, given these trends, the head of the Fox News Decision Desk correctly predicted that “on election night, we may be looking at states where it seems that President Trump is in the lead, but there’s still 20 or 30 percent of the vote outstanding ... so we’re not [going to be] able to make the call in those states.”³⁶ He correctly recognized—and Fox widely and repeatedly reported before the election—that this would occur because President Trump had criticized mail-in voting and encouraged Republicans to vote in person whereas Democrats had encouraged their supporters to vote by mail.³⁷

³⁴ Morgan Chalfant, *President Donald Trump, Trump Campaign Rally at Oshkosh, WI*, The Hill (Aug. 17, 2020),

<https://thehill.com/homenews/administration/512424-trump-the-only-way-we-are-going-to-lose-this-election-is-if-the>.

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

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

³⁷ *Id.*

34. In other words, well before any false claim that Dominion machines had switched votes, or that Plaintiff had acted as the “COO” of a “cyber Pearl Harbor,” Fox understood the phenomenon the country would later experience come the first week of November: early vote tallies would lean in favor of then-President Trump, whereas later vote tallies from mail-in voting would favor now-President Biden.

35. Despite this knowledge, Fox spent considerable airtime before the election searching for and discussing voter fraud that might occur during the election. As one Fox employee is reported to have stated at the time about one such endeavor, “it feels like [] an attempt to push more baseless conspiracy theories and scare the viewers into thinking the election is being ‘stolen.’ It isn’t.”³⁸ In other words, even prior to any claim about Dominion, Smartmatic or Plaintiff, Fox News already had a preconceived storyline and was on the lookout for “baseless conspiracy theories.” Fox was planting the seed in the minds of its viewers, without any valid basis, that there would be wide-spread election fraud so that Fox could reap the benefits in the event that then-President Trump lost the election, as many pollsters predicted he would.

November 7-12, 2020:

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

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

37. The very next morning – November 8 – Fox began by connecting Dominion with the false election fraud narrative. Specifically, Fox invited Defendant Sidney Powell on the

³⁸ See, e.g., Lloyd Grove, et al., Fox News Pushes ‘Brain Room’ to Find Evidence for Trump’s Voter Fraud Claims, Insiders Say, The Daily Beast (October 13, 2020), <https://www.thedailybeast.com/fox-news-pushing-brain-room-to-lend-credibility-to-trumps-voter-fraud-paranoia-insiders-say>.

Sunday Morning Futures show. Powell declared that there was “a massive and coordinated effort to steal this election from We the People of the United States of America, to delegitimize and destroy votes for Donald Trump, to manufacture votes for Joe Biden.” In a few days, as set forth below, Fox would expand its false claims to include Smartmatic, claiming falsely that Smartmatic owned Dominion and itself was formed by three Venezuelans to fix elections.

38. And who was responsible for supposedly fixing the 2020 U.S. Presidential election, according to this Fox broadcast? None other than Dominion. The Fox host of the *Sunday Morning Futures Show* asked Powell: “Sidney, we talked about the Dominion software. I know that there were voting irregularities. Tell me about that.” And Powell responded: “That’s putting it mildly. . . . That is where the fraud took place, where they were flipping votes in the computer system or adding votes that did not exist. . . . That’s when they had to stop the vote count and go in and replace votes for Biden and take away Trump votes.”

39. In the face of intense backlash over Fox having declared Joe Biden the winner of the Presidential election and viewers beginning to flee to rival networks, Fox understood that it needed to embrace and amplify the lies that had begun to circulate about Dominion.

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

41. To fan the flames, Fox turned increasingly to Sidney Powell, who was promoting a baseless defamatory campaign against Dominion (and thereafter, also against Smartmatic), claiming that the election had been stolen by vote-flipping algorithms in Dominion machines that had been created in Venezuela to rig elections for Hugo Chávez. As Fox well knew, Powell's alleged sources were facially unreliable and their claims were ludicrous, inherently improbable, and technologically impossible. Powell's claims about this alleged Venezuelan voting scheme and more generally the role of Dominion and Smartmatic were so inherently improbable and outlandish that those very same lies resulted in Tucker Carlson publicly mocking her for failing to produce evidence to support them. In private, Lou Dobbs himself is reported to have "raised questions about Powell's claims to others."³⁹ As one Republican official stated, "It's an insane story."⁴⁰ Even the Trump Campaign publicly distanced itself from her, with Trump then-loyalist Chris Christie calling her claims a "national embarrassment," and Republican senators calling the White House to say she seemed "unhinged." Indeed, at the White House itself, officials stated that Powell's claims were "nonsense."⁴¹ Those close to Trump said that Powell's theories were "crazy" and the White House Counsel was "pushing back" on any notion that Powell could be trusted.⁴²

³⁹ Seung Min Kim, Josh Dawsey & Toluse Olorunnipa, *Republicans plunge into open battle over attempts to overturn Trump's loss to Biden*, Wash. Post (Dec. 22, 2020), https://www.washingtonpost.com/politics/trump-republicans-election-fight/2020/12/22/fa0c2744-446b-11eb-b0e4-0f182923a025_story.html.

⁴⁰ Phillip Rucker, Ashley Parker, Josh Dawsey & Amy Gardner, *20 days of fantasy and failure: Inside Trump's quest to overturn the election*, Wash. Post (Nov. 28, 2020), https://www.washingtonpost.com/politics/trump-election-overturn/2020/11/28/34f45226-2f47-11eb-96c2-aac3f162215d_story.html.

⁴¹ Toluse Olorunnipa, Josh Dawsey, Rosalind S. Helderman & Emma Brown, *Trump's assembles a ragtag crew of conspiracy-minded allies in flailing bid to reverse election loss*, Wash. Post (Dec. 21, 2020), https://www.washingtonpost.com/politics/trump-assembles-a-ragtag-crew-of-conspiracy-minded-allies-in-flailing-bid-to-reverse-election-loss/2020/12/21/d7674cd2-43b2-11eb-b0e4-0f182923a025_story.html.

⁴² Seung Min Kim, Josh Dawsey & Toluse Olorunnipa, *Republicans plunge into open battle over attempts to overturn Trump's loss to Biden*, Wash. Post (Dec. 22, 2020),

For her part, Powell used her appearances on Fox and Dobbs' show to advance her bogus election conspiracy theories and solicit financial donations. Powell began asking for donations as early as November 10, 2020, a week after the election, telling viewers on *Lou Dobbs Tonight* that she had started a website called "defendingthepublic," where they could make donations. According to a recent report, Powell's organization, which apparently was not formed until weeks later, may currently be under federal investigation.⁴³

42. In addition, as Defendants well knew, the alleged Venezuela-Chávez connection, a lie that was used as the platform on which to allege Plaintiff's involvement as the COO of a non-existent scheme, was based on a pyramid of verifiably false claims, such as that Dominion is owned by Smartmatic—a completely separate company that competes against and does not own Dominion, as was readily apparent from information in the public domain since well before the November 3, 2020 election.⁴⁴

43. Yet, with Fox's ratings in freefall and Fox viewers fleeing to other networks such as Newsmax and OAN at then-President Trump's behest, Fox, through its most prominent on-air personalities, cynically exploited these lies to lure viewers back. Fox decided to tell its current and former viewers a false set of facts about the election, rather than the actual or true facts regarding the outcome of the election. For example, from November 8-12, 2020, Lou Dobbs repeatedly hosted Powell on his Fox programs *where Dobbs also endorsed and repeated guests'*

https://www.washingtonpost.com/politics/trump-republicans-election-fight/2020/12/22/fa0c2744-446b-11eb-b0e4-0f182923a025_story.html.

⁴³ See Isaac Stanley-Becker, Emma Brown and Rosalind S. Helderman, *Prosecutors demanded records of Sidney Powell's fundraising groups as part of criminal probe*, Wash. Post, (Nov. 30, 2021), <https://www.washingtonpost.com/politics/2021/11/30/sidney-powell-defend-the-republic-criminal-probe/>

⁴⁴ Georgia Secretary of State, *Elections Security Is Our Top Priority: Security Focused Tech Company, Dominion Voting to Implement New Verified Paper Ballot System*, <https://sos.ga.gov/securevoting/>.

lies about the election scheme.

44. Before hosting Powell, Fox and Dobbs at a minimum recklessly disregarded the fact—and indeed knew—that voters had used paper ballots that could be recounted by hand, and that Dominion was not owned by Smartmatic, rendering the fantasy of a vote-flipping-machine made for a deceased Venezuelan leader nonsensical and verifiably false. Despite all this, Fox, through its on-air talent, misrepresented alleged “dumps” of Biden votes and prompted Powell to falsely attribute those so-called “dumps” to “algorithms and the Dominion software” that “flip[ped] votes in the computer system or add[ed] votes that did not exist.”⁴⁵ Again, Fox at a minimum recklessly disregarded the fact—and indeed knew—that Powell was unreliable and that those claims were false. In truth, Fox knew why the so-called “dumps” of Biden votes had occurred: President Trump himself had previously told another Fox host on Fox’s airwaves that he was encouraging Republicans to vote in-person rather than by mail, such that later-counted mail-in ballots would lean heavily for Biden. And large metropolitan areas in several of the key swing states historically had taken longer to tabulate results. Yet such other Fox host deliberately omitted these facts during her interviews of Powell, so as not to undermine the false narrative that the “dumps” of Biden votes were evidence of vote-flipping algorithms in Dominion machines.

November 12-15:

Dominion Sends Fox the Facts Further Disproving the Falsehoods, But Fox and Dobbs Stick with their Lies, and Expand the Disinformation Campaign to Include Smartmatic

45. By November 12, 2020, The Trump Administration’s own Cybersecurity & Infrastructure Security Agency (“CISA”) confirmed that there was ***“no evidence that any voting***

⁴⁵ *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.

*system deleted or lost votes, changed votes, or was in any way compromised.*⁴⁶ This widely-reported public announcement from the Trump Administration's own experts on election security removed any conceivable remaining doubt and disproved the election-rigging lies.

46. Also on November 12, 2020, Dominion began circulating a regular email titled "SETTING THE RECORD STRAIGHT: FACTS & RUMORS."⁴⁷ The emails were complete with links to independent sources disproving the false claims being made about the company, including:

- CISA's November 12 statement that there was "no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised;"⁴⁸
- 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;"⁴⁹
- 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;⁵⁰ and

⁴⁶ Cybersecurity & Infrastructure Security Agency, *Joint Statement From Elections Infrastructure Government Coordinating Council & The Election Infrastructure Sector Coordinating Executive Committees* (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

⁴⁷ According to Dominion, it maintained a distribution list of those who received these and other emails from Dominion. As soon as a new individual was added to the distribution list, per Dominion, that individual received all emails that had been previously sent to the list.

⁴⁸ Cybersecurity & Infrastructure Security Agency, *Joint Statement From Elections Infrastructure Government Coordinating Council & The Election Infrastructure Sector Coordinating Executive Committees* (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

⁴⁹ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 12, 2020); Secretary of State Jocelyn Benson, *Fact Checks*, https://www.michigan.gov/sos/0,4670,7-127-1633_100423_102534_102535---,00.html.

⁵⁰ Georgia Secretary of State, *With 8,197 Votes Out, Officials Focused on Getting it Right*, https://sos.ga.gov/index.php/elections/with_8197_votes_out_officials_focused_on_getting_it_right.

- 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."⁵¹

47. Dominion sent the "SETTING THE RECORD STRAIGHT" emails to Fox's reporters and producers, including those who oversaw and managed content for Fox's *Lou Dobbs Tonight* and numerous other Fox shows, on November 12, 2020 and again on November 13 and 14, 2020, along with additional facts disproving the lies being promoted by Fox.⁵²

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

The reality is that this was *the most secure election we've ever had* and it was one of the most well run elections we've ever had. ... [A]nd this is about facts, this is about truth, this is about respecting our democracy, respecting elections, and focusing on what has really occurred. The American people made their voice heard. And when we spread conspiracy theories and we don't back those up with facts, it has an impact.⁵³

49. Professor J. Alex Halderman, the Director of the University of Michigan's Center for Computer Security & Society, also told Fox explicitly, "There is absolutely no evidence, none, that Dominion Voting Machines changed any votes in this election."⁵⁴

50. Yet, on November 12, 2020, Dobbs hosted Rudy Giuliani on *Lou Dobbs Tonight* to spread the disinformation campaign to millions of viewers. This appears to have been Fox News' first broadcast that falsely tied Smartmatic to Dominion, and falsely tied them both, via Smartmatic, to Venezuela and Venezuelan leaders Chávez and Maduro. This Fox show was broadcast and rebroadcast at least four times. Dobbs was in full alignment with the false story that

⁵¹ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 12, 2020).

⁵² SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 12, 13, & 14, 2020).

⁵³ Eric Shawn, *Cuba, China, Venezuela ...and those Dominion voting machines*, Fox News (Nov. 14, 2020), https://video.foxnews.com/v/video-embed.html?video_id=6209856840001.

⁵⁴ *Id.*

Giuliani and Powell wanted to spread. In response to Giuliani's false statements – that Smartmatic “was formed by three Venezuelans, who were very close to [] [former leader] Chávez, of Venezuela,” that Smartmatic was formed “in order to fix elections,” that Smartmatic “owns Dominion,” that “we are using a foreign company that is owned by Venezuelans who are close to, were close to Chávez, are now close to Maduro, have a history, they were founded as a company to fix elections,” and that “the votes actually go to Barcelona, Spain” – Dobbs embellished this false narrative. Dobbs falsely stated that Smartmatic and Dominion sent votes out of the country so the voting was not auditable. He had no evidence of this assertion, and Secretaries of State had stated the opposite. Dobbs closed this broadcast with an endorsement of Giuliani's statements about the election being stolen by Smartmatic. He said: “And Rudy we're glad you're on the case and pursuing what is the truth and straightening out what is a very complicated and difficult story. And by the way, it's not only difficult, it has the feeling of a cover up in certain places, you know, putting the servers in foreign countries, private companies, we don't have transparency with those serves. This is, this is an election nightmare, as well as a battle.”

51. On November 14, Dobbs tweeted: “Read all about Dominion and Smartmatic voting companies and you'll soon understand how pervasive this Democratic electoral fraud is, and why there's no way in the world the 2020 Presidential election was either free [or] fair.”

52. On the morning of November 15, one of Dominion's representatives sent Fox host Maria Bartiromo an email attaching and referencing Dominion's November 14 “SETTING THE RECORD STRAIGHT” email,⁵⁵ which included the same facts from the earlier emails, along with the following additional facts:

⁵⁵ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 14, 2020).

- OAN had retracted a story about “the deletion of 2.7 million pro-Trump votes” nationwide;⁵⁶
- A link to the Associated Press’s November 12, 2020 Fact Check, reporting as *false* the claim that Dominion “deleted” Trump votes or “switched” votes from Trump to Biden and including a statement by Open Source Election Technology (OSET) Institute voting technology expert Eddie Perez that there was no “systemic issue related to problems with Dominion software that would affect the tabulation of results” that he was aware of;⁵⁷
- A link to a release from Edison Research President Larry Rosin stating that the firm had never created any report or made any statements about “anomalies in the voting data,” and declaring that “There is no evidence to support claims of widespread voter fraud;”⁵⁸ and
- The fact that Dominion is a nonpartisan U.S. company that is not owned by Smartmatic.⁵⁹

53. Intentionally disregarding, among other known facts, the true explanation of why President Trump’s early “leads” had disappeared, CISA’s findings, and the fact that paper ballots obviously cannot be changed by a computer “algorithm” or in a cyber-attack, not to mention all the facts and evidence from the numerous independent sources that Dominion had sent directly to Fox and its hosts, reporters, producers, and content managers, Fox continued to promote the known lies on its most prominent and widely viewed broadcasts and on Fox’s websites, social media

⁵⁶ OAN Newsroom, *Report: Millions Of Votes Lost Through Dominion System Glitches*, One America News Network (Nov. 12, 2020), previously available at <https://www.oann.com/report-millions-of-votes-lost-through-dominion/>.

⁵⁷ Ali Swenson & Amanda Seitz, *AP FACT CHECK: Trump Tweets a Tall Tale of ‘Deleted’ Votes*, Associated Press (Nov. 12, 2020), <https://apnews.com/article/fact-check-trump-tweets-tall=tale=votes-13c104367924b8192b4fcec334f7806>.

⁵⁸ Alec Dent, *Did Edison Research Find That Dominion Deleted Trump Votes or Switched Votes to Biden?*, The Dispatch (Nov. 12, 2020), <https://factcheck.thedispach.com/p/did-edison-research-find-that-states>.

⁵⁹ SETTING THE RECORD STRAIGHT: FACTS & RUMORS (Nov. 14, 2020); see also *Did Edison Research Find That Dominion Deleted Trump Votes or Switched Votes to Biden? No*, The Dispatch (Nov. 12, 2020), <https://factcheck.thedispach.com/p/did-edison-research-find-that-states>.

accounts, and subscription service platforms. Defendant Dobbs also continued hosting Powell, thereby giving Powell a platform to widely disseminate and repeat their lies about election fraud and a supposed Venezuelan-led election scheme to a national (and, indeed, a global) audience, and embracing those lies as his own by endorsing and repeating them.

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

55. Following up a few days later, Fox published the following false statement to the @loudobbs Twitter account:⁶⁰ “Read all about Dominion and Smartmatic voting companies and you’ll soon understand how pervasive this Democrat electoral fraud is, and why there’s no way in

⁶⁰ Lou Dobbs (@LouDobbs), Twitter (Nov. 14, 2020, 11:27 am), <https://twitter.com/loudobbs/status/1327649331789385728>.

the world the 2020 Presidential election was either free or fair.”



56. Powell expanded her brazen claims of fraud to allege that Dominion had bribed Georgia officials, giving kickbacks to Georgia's Republican Governor Kemp and Secretary of State Raffensberger in exchange for a contract to provide voting machines to the state. The false accusation that Dominion had bribed Georgia officials—a claim for which Powell never offered a shred of evidence—was manufactured out of whole cloth in order to discredit Georgia Republicans after they publicly rebutted Powell's and her allies' false claims attacking Dominion and Georgia's elections results. Fox repeatedly published and republished these “kickback” claims as its own.

57. The Georgia Secretary of State website, in fact, included voluminous public records showing that Dominion won the Georgia contract after scoring the highest in a competitive bid process where it competed *against Smartmatic* and Election Systems & Software (“ES&S”) for the contract.⁶¹ Nevertheless, Fox endorsed Powell's false claims on a November 15 broadcast, accusing Dominion of bribing government officials, while also further amplifying the other lies Fox had, by this time, repeatedly broadcast about the company's ownership: “[S]o much news on the software that was used on the voting machines on election night. There is much to understand about Smartmatic, which owns Dominion Voting Systems.”⁶²

November 16-19, 2020:

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

58. A Dominion representative thereafter reached out to Fox's CEO Suzanne Scott and President and Executive Editor Jay Wallace to address Fox's false statements about Dominion.

⁶¹ Georgia Secretary of State, *Elections Security Is Our Top Priority: Security Focused Tech Company, Dominion Voting to Implement New Verified Paper Ballot System* <https://sos.ga.gov/securevoting/>.

⁶² *Fox and Friends Sunday*, Media Matters for America (Nov. 15, 2020), <https://www.mediamatters.org/media/391956>.

Both Scott and Wallace responded, and on November 17, 2020, Wallace spoke with Dominion's representative and was expressly informed of the voluminous facts rebutting Fox's false claims.

59. Dominion also continued sending new and updated versions of the "SETTING THE RECORD STRAIGHT" emails to Fox, including over 90 of its reporters, producers, and anchors on November 16, 17, 19, and 20.

60. Separate and apart from the information being provided directly by Dominion, on November 16, 2020, fifty-nine specialists in election security publicly and forcefully rebutted the lies about Dominion, explaining that they "have never claimed that technical vulnerabilities have actually been exploited to alter the outcome of any US election."⁶³ They further explained that "*no credible evidence* has been put forth that supports a conclusion that the 2020 election outcome in any state has been altered through technical compromise."⁶⁴ Furthermore, on November 16, Smartmatic responded to an email from Fox Business Network (sent by Dobbs' coordinating producer) to Smartmatic's communications contact. Smartmatic's communications director told Dobbs' coordinating producer (at Fox News), among other things, that during the 2020 U.S. Presidential election, Smartmatic provided technology and software only to Los Angeles County ballot marketing devices.

61. That same day (November 16), Dobbs again hosted Powell on his show, where he knowingly gave her a platform to falsely claim that Smartmatic had been created in Venezuela for the purpose of rigging elections for Hugo Chávez and that "Smartmatic owns Dominion."⁶⁵ This

⁶³ See Tony Adams et al., *Scientists Say No Credible Evidence of Computer Fraud in the 2020 Election Outcome, But Policymakers Must Work with Experts to Improve Confidence*, Matt Blaze (Nov. 16, 2020), <https://www.mattblaze.org/papers/election2020.pdf>.

⁶⁴ *Id.* (emphasis added).

⁶⁵ Lou Dobbs Tonight, Fox Business (Nov. 16, 2020), https://archive.org/details/FBC_20201116_220000_Lou_Dobbs_Tonight/start/504/end/564; Lou Dobbs, Sidney Powell, Facebook (Nov. 16, 2020),

Fox show was broadcast and rebroadcast at least four times. Powell falsely claimed that she had a “witness” who was present when Smartmatic, allegedly at the direction of the late Hugo Chávez, who died on March 5, 2013, had software and hardware “designed in a way...that the system could change the vote of each voter without being detected.” In all, Fox would broadcast at least thirteen reports, which Fox repeated in articles and social media postings, falsely stating and/or implying that Smartmatic had stolen the 2020 U.S. election. Instead of trying to stop Powell from spreading this disinformation, Dobbs heartily embraced and endorsed Powell’s bogus claims. As Dobbs and Fox knew—including from the information and substantial documentation cited in the “SETTING THE RECORD STRAIGHT” emails that Dominion had sent to Dobbs’ producers and which his producers shared with him—that accusation is demonstrably false. Yet, despite the fact that Dobbs and Fox knew, or at a minimum recklessly disregarded the fact, that these outlandish accusations were false, Fox not only published those claims to its live audience, it chose to republish them on its websites and social media accounts, including Dobbs’ Twitter feed, after the live broadcast had run.⁶⁶

62. On November 17, 2020, shortly after being contacted, Smartmatic’s communications director told Dobbs’ coordinating producer (at Fox News) that Smartmatic did not provide any input to CISA (referring to CISA’s November 12 statement disputing allegations of election fraud), noting that “[o]nly members of the CISA Executive Committee...would have been eligible to give input to its drafting.” The Editorial Board for *The Wall Street Journal*, also on November 17, 2020, published a piece that refuted false claims about Dominion and stated,

<https://www.facebook.com/115777632950/videos/1625726320970976;>
 (@LouDobbs), Twitter (Nov. 16, 2020,
[https://twitter.com/LouDobbs/status/1328469195550576645.](https://twitter.com/LouDobbs/status/1328469195550576645)

Lou Dobbs
 5:45 pm),

⁶⁶ *Id.*

“there’s no good evidence of voting problems that would come close to” calling into question Biden’s leads in the swing states.⁶⁷ Dominion sent a link to that article to Fox host Bartiromo as well as at least 60 other Fox producers, anchors, and content managers.⁶⁸

63. On November 18, 2020, Dobbs hosted Giuliani on *Lou Dobbs Tonight* and began by repeating a false claim that Powell had touted two days prior about a witness allegedly establishing that Smartmatic rigged the 2020 U.S. Presidential election the same way it had allegedly rigged an election in Venezuela. Dobbs did so even though he had obvious reason to doubt the veracity of the “unidentified whistleblower,” namely, the lack of any evidence or facts substantiating what the witness had to say. In response to Giuliani’s false assertion that Smartmatic was “founded in 2005 in Venezuela for the specific purposes of fixing elections” and the alleged ties of Smartmatic to Dominion, Dobbs did not correct Giuliani, but stated: “It’s outrageous, and it’s all the more outrageous because Dominion and Smartmatic were denied use in the State of Texas, which called them out for what they are. They have a clear record.” This Fox show was broadcast and rebroadcast at least four times.

64. On November 19, 2020, Dobbs continued his role in the disinformation campaign on *Lou Dobbs Tonight*. He started his program by playing portions of a now infamous press conference held by Giuliani and Powell earlier that day, during which among other false statements made, Powell told a global audience that Dominion was “created in Venezuela at the direction of Chávez to make sure he never lost an election” and that Dominion flipped votes from Trump to Biden by running an algorithm that automatically flips all votes. Dobbs introduced clips from the November 19 press conference where Giuliani and Powell made the same outlandish and false

⁶⁷ The Editorial Board, *Rage Against the Voting Machine*, The Wall Street Journal (Nov. 17, 2020), <https://www.wsj.com/articles/rage-against-the-voting-machine-11605656036>.

⁶⁸ “WSJ Editorial Board Debunks Dominion Rumors” Email (Nov. 17, 2020).

statements as they had personally made on Dobbs' show, and then interviewed Powell where she made similar false statements about the alleged use of Dominion voting machines and Smartmatic software to fix the 2020 U.S. Presidential election, Smartmatic sending votes to foreign countries for manipulation during the 2020 U.S. election, and Smartmatic and Dominion (in the words of Powell) being "inextricably intertwined" and "hav[ing] the same history from inception." Dobbs ended his discussion with Powell with an endorsement of her statements that Smartmatic and Dominion had stolen the election. This Fox show was broadcast and rebroadcast at least four times.

65. On November 19, 2020, Georgia completed its **100% hand audit recount of all the ballots** cast in Georgia in the 2020 election. Following that statewide 100% hand audit recount, Georgia's Republican Secretary of State Brad Raffensperger reported that "Georgia's historic first statewide audit reaffirmed that the state's new secure paper ballot voting system accurately counted and reported results."⁶⁹ As a result of the 100% hand audit, Fox called Georgia for Biden.⁷⁰

66. Intentionally disregarding the explanations of CISA and election security experts, as well as the fact that Arizona's audit and Georgia's hand recount of paper ballots had confirmed the accuracy of the vote tallies by Dominion machines, all of which were communicated directly to Dobbs' producers, Dobbs brought Powell on the Fox airwaves on November 19, 2020 to falsely claim, again, that Dominion and Smartmatic, using Dominion voting machines with

⁶⁹ Georgia Secretary of State, *Historic First Statewide Audit of Paper Ballots Upholds Result of Presidential Race*, https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race.

⁷⁰ Digital Team, *Fox News, AP Calls Georgia for Biden as State Finalized Hand Recount Audit*, Fox 5 (Nov. 19, 2020), <https://www.fox5atlanta.com/news/ap-calls-georgia-for-biden-as-state-finalized-hand-recount-audit>.

Smartmatic software, had rigged the election by changing votes.⁷¹ Dobbs even previewed and endorsed, on November 19, 2020, at 5:32 p.m., why Powell was coming back on the show: to “provid[e] more details on how Dominion voting machines and Smartmatic software were used to help Joe Biden.”

67. On November 20, 2020, Dominion sent a retraction demand letter to Fox.⁷² Dominion, underscored, in particular, that “[h]osts such as Lou Dobbs choose to adopt some of these defamatory statements and repeatedly regurgitate them as their own.” Dominion specifically identified Dobbs as a primary Fox purveyor of disinformation and identified materially false information presented by Powell (and others), including the false allegations that Dominion was involved in changing votes in Venezuela, that Dominion was owned by Smartmatic, and other false attacks made on Dobbs’ shows. In that letter, Dominion once again put Fox, and therefore Dobbs, on formal written notice of facts, which Fox already knew from some of its own reporters, Dominion’s “SETTING THE RECORD STRAIGHT” emails, and documents and other information in the public domain, that demonstrated that the claims Fox had been broadcasting,

⁷¹ *Lou Dobbs Tonight*, Fox Business (Nov. 16, 2020), https://archive.org/details/FBC_20201116_220000_Lou_Dobbs_Tonight/start/504/end/564; Lou Dobbs, *Sidney Powell*, Facebook (Nov. 16, 2020), <https://www.facebook.com/115777632950/videos/1625726320970976>; Lou Dobbs (@LouDobbs), Twitter (Nov. 16, 2020, 5:45 pm), <https://twitter.com/LouDobbs/status/1328469195550576645>; *Trump’s Legal Team Still in Evidence Collection Process or Election Challenges*, Fox Business (Nov. 19, 2020), <https://video.foxbusiness.com/v/6211050624001#sp=show-clips>; Lou Dobbs, *Sidney Powell*, Facebook (Nov. 19, 2020), <https://www.facebook.com/watch/?v=880692419336775>; Lou Dobbs (@LouDobbs), Twitter (Nov. 19, 2020, 5:32 pm), <https://twitter.com/LouDobbs/status/1329553227046588417>; Lou Dobbs (@LouDobbs), Twitter (Nov. 19, 2020, 4:55 pm), <https://twitter.com/ouDobbs/status/1329543810867671044>; Lou Dobs Tonight (@loudobbstonight), Instagram (Nov. 19, 2020), <https://www.instagram.com/p/CHylMiTBGIs/>.

⁷² Letter from Dominion to Fox News General Counsel Lily Claffee (Nov. 20, 2020) (“Dominion’s First Retraction Demand Letter”).

publishing, rebroadcasting, and republishing about Dominion and Smartmatic were false, including:

- Dominion's voting systems are designed and certified by the federal government, and all of its vote tallies are 100% auditable.⁷³
- Election officials in Arizona released a letter explaining that "[t]he evidence overwhelmingly shows the system used in Maricopa County is accurate and provided voters with a reliable election. . . . The Dominion tabulation met mandatory requirements during logic and accuracy testing . . . [a]nd after [the] 2020 elections, the hand count audit showed the machines generated an accurate count."⁷⁴
- On November 9, 2020, the Michigan Secretary of State had declared that the errors in Antrim County, Michigan were the result of user error, and she explained further that Dominion's "equipment and software did not malfunction and all ballots were properly tabulated."⁷⁵
- 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. In fact, Smartmatic had filed two separate lawsuits against Dominion more than 10 years ago.⁷⁶
- Votes are counted and reported by municipal, county and state election officials—not by Dominion or any other election technology company. Dominion equipment is used by municipal, county and state officials to tabulate ballots. All vote tallies are 100% auditable. Dominion's voting systems are designed and certified by the U.S. government to be closed and do not rely on network connectivity.⁷⁷

⁷³ SETTING THE RECORD STRAIGHT: FACTS & RUMORS emails.

⁷⁴ Letter from Clint Hickman to Maricopa County Voters (Nov. 17, 2020), <https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters>.

⁷⁵ Michigan Secretary of State Jocelyn Benson, False Claims from Ronna McDaniel Have No Merit (Nov. 6, 2020), <https://www.michigan.gov/sos/0,4670,7-127-93094-544676--,00.html>.

⁷⁶ Dominion's First Retraction Demand Letter; Ali Swenson, Smartmatic Does Not Own Dominion Voting Systems, Associated Press (Nov. 17, 2020), <https://apnews.com/article/fact-checking-afs:Content:9740535009>.

⁷⁷ 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>.

- Dominion's source code is subject to review by independent third-party labs that test for, among other things, accuracy and security as part of the federal and state certification process.⁷⁸
- No software updates were made on the eve of the 2020 presidential election.
- Georgia Republican Secretary of State Brad Raffensperger declared that "Georgia's historic first statewide audit reaffirmed that the state's new secure paper ballot voting system accurately counted and reported results."⁷⁹
- Congresswoman Carolyn Maloney's 2006 letter on election integrity made no reference whatsoever to Dominion.⁸⁰

68. Fox received but never responded to Dominion's November 20, 2020 letter.

69. Also on November 20, Rupert Murdoch's *The Wall Street Journal* once again stated that the accusations against Dominion were false and that the Georgia recount had confirmed the accuracy of Dominion's machines.⁸¹

⁷⁸ See, e.g., *How the U.S. Election Assistance Commission Facilitates Fair and Secure Elections*, EAC, <https://www.eac.gov/news/2020/12/03/how-us-election-assistance-commission-facilitates-fair-and-secure-elections/> ("Before voting machines and election management systems are used in elections, the systems undergo rigorous hardware and software testing by laboratories accredited by the EAC and the National Institutes of Standards and Technology (NIST). The testing encompasses security, accuracy, functionality, accessibility, usability, and privacy based on requirements in the EAC's Voluntary Voting System Guidelines (VVSG)"); *Frequently Asked Questions*, EAC, <https://www.eac.gov/voting-equipment/frequently-asked-questions> ("the test labs will examine the source code to ensure compliance with the voluntary voting system guidelines"); *Testing & Certification Program Manual, Version 2.0*, EAC (May 31, 2015), https://www.eac.gov/sites/default/files/eac_assets/1/28/Cert%20Manual%207%208%2015%20FINAL.pdf (the VSTL [Voting System Test Laboratory] must complete the source code review of the software delivered from the manufacturer for compliance with the VVSG [Voluntary Voting System Guidelines]").

⁷⁹ Dominion's First Retraction Demand Letter; Georgia Secretary of State, *Historic First Statewide Audit of Paper Ballots Upholds Result of Presidential Race* (Nov. 19, 2020), https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race.

⁸⁰ 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].

⁸¹ The Editorial Board, *Georgia Certifies: Donald Trump Lost*, Wall Street Journal (Nov. 20, 2020), <https://www.wsj.com/articles/georgia-certifies-donald-trump-lost-11605915757>.

70. On November 21, 2020, the day after Fox received Dominion's letter, Fox resumed the attack on Dominion and Smartmatic, and continued to advance the bogus Venezuelan election conspiracy, with Fox host Jeanine Pirro, a former New York Westchester County judge no less, shamelessly repeating and amplifying a Giuliani's never-made-in-litigation claim, closely mirroring Powell's claims, that Dominion was an "organized criminal enterprise" "started in Venezuela with Cuban money" that could and did "flip[] votes" "with the assistance of Smartmatic software," thus creating the "stunning" ballot "dump[s]" in the early morning of November 4 that "fill[ed] in" votes for Biden. In order to drive home the lies about Dominion and Smartmatic, Pirro rhetorically asked, "why was there an overnight popping of the vote tabulation that cannot be explained for Biden?"⁸² Also on November 21, Dobbs also appeared on *Watters' World*, another program broadcast by Fox News, to spread the disinformation campaign's theme that the 2020 U.S. Presidential election had been stolen by a cyber-attack. In addition to being blatantly false, this statement was a prelude to the equally false accusation that Plaintiff was involved in the claimed (but non-existent) cyber-attack on the 2020 U.S. Presidential election.

November 22-26, 2020:

Prominent Republicans and the Trump Campaign Disavow Sidney Powell, Calling Her Evidence-Less Accusations a "National Embarrassment," Yet Fox and Dobbs Continue to Peddle the Election Lies

71. On November 22, 2020, on ABC News's *This Week*, then-Trump ally Chris Christie gave an interview in which he called out Powell's and Giuliani's misinformation campaign, stating, "If you've got the evidence of fraud, present it. . . . The conduct of the President's legal

⁸² Jeanine Pirro, *Opening Statement*, Facebook (Nov. 21, 2020), <https://www.facebook.com/judgejeaninepirro/videos/3424348634350374>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 21, 2020, 9:15 pm), <https://twitter.com/JudgeJeanine/status/1330333931028115456>; Jeanine Pirro (@JudgeJeanine), Twitter (Nov. 21, 2020, 9:16pm), <https://twitter.com/JudgeJeanine/status/1330334182732484611>.

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."⁸³

72. Around that time, Republican senators called the White House, warning that Powell seemed "unhinged" and that the Trump Campaign should distance itself from her.⁸⁴

73. On November 22, 2020, the Trump Campaign itself disavowed 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."⁸⁵

74. On November 24, Dominion sent an email to more than 90 Fox reporters, producers, and anchors, including producers and other content managers for *Lou Dobbs Tonight* and other Fox shows. The email outlined statements—with links—made by conservative leaders over the last 24 hours debunking the false claims about Dominion: former DHS Deputy Assistant Secretary under George W. Bush, Paul Rosenzweig; former Assistant United States Attorney for the Southern District of New York under Rudy Giuliani, Andrew McCarthy; and Republican Ohio Senator and co-chair of Trump's Ohio campaign, Rob Portman.⁸⁶

75. Intentionally disregarding the explanations of CISA, election security experts, independent audits and hand recounts of paper ballots, publicly available documents about

⁸³ Paul Kane & Felicia Sonmez, *Chris Christie Calls the Conduct of Trump's Legal Team a 'National Embarrassment,'* Wash. Post (Nov. 22, 2020), https://www.washingtonpost.com/politics/republicans-christie-trump-concede/2020/11/22/05c280e6-2cda-11eb-bae0-50bb17126614_story.html.

⁸⁴ Aaron C. Davis, Josh Dawsey, Emma Brown & Jon Swaine, *For Trump Advocate Sidney Powell, A Playbook Steeped in Conspiracy Theories,* Wash. Post (Nov. 28, 2020), https://www.washingtonpost.com/investigations/sidney-powell-trumpkraken-lawsuit/2020/11/28/344d0b12-2e78-11eb-96c2-aac3f162215d_story.html.

⁸⁵ 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>.

⁸⁶ November 24, 2020 Email, Conservative leaders' comments on election fraud.

Dominion's origins, and Dominion's emails and letter putting Fox on specific written notice of the facts—and despite the fact that prominent Republicans and the Trump Campaign itself had publicly disavowed Powell—on November 24 and 25, 2020, Fox again hosted Powell (and Giuliani) on its most-watched shows, where its on-air talent endorsed their false claims that Dominion had been created in Venezuela to rig elections for Hugo Chávez, and had rigged the 2020 U.S. Presidential election with vote-changing software.⁸⁷

76. On November 26, 2020, Dominion sent another email to more than 90 Fox reporters, producers, anchors, hosts, and content managers with the same sets of facts from the earlier “SETTING THE RECORD STRAIGHT” emails, as well as additional specific facts debunking claims that Dominion had rigged the election in Pennsylvania, including that Dominion serves only 14 of Pennsylvania's 67 counties, that Trump exceeded his 2016 vote percentage in 11 of those 14 counties, that Trump won 12 of those 14 counties, and that “*Dominion doesn't operate in Philadelphia County, Allegheny County, or other highly contested districts.*”⁸⁸

77. Nonetheless, on November 26, 2020, Dobbs continued the disinformation campaign on *Lou Dobbs Tonight*. Dobbs used his program to undermine the joint statement that had been issued by the Elections Infrastructure Government Coordinating Council and the Election Infrastructure Sector Coordinating Executive Committees, which had reported that the 2020

⁸⁷ *Lou Dobbs Tonight*, Fox Business (Nov. 24, 2020), https://archive.org/details/FBC_20201124_220000_Lou_Dobbs_Tonight/start/1080/end/1140; Lou Dobbs (@LouDobbs), Twitter (Nov. 24, 2020, 5:37 pm), <https://twitter.com/LouDobbs/status/1331366325629968386>; Lou Dobbs, *Sidney Powell Breaking News*, Facebook (Nov. 24, 2020), <https://www.facebook.com/115777632950/videos/381418186402867>; *Lou Dobbs Tonight* (@loudobbs tonight), Instagram (Nov. 24, 2020), https://www.instagram.com/p/CH_ZbqTBHSE/; Lou Dobbs (@LouDobbs), Twitter (Nov. 25, 2020, 6:17 pm), <https://twitter.com/loudobbs/status/1331738732228173825>.

⁸⁸ November 26, 2020 Email, FACT SHEET: Dominion Voting Systems in Pennsylvania.

United States election was the most secure in the country's history. This Fox show was broadcast and rebroadcast at least fifteen times.

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

78. Fox's pounding repetition of the baseless narrative that Dominion and Smartmatic rigged the election paid off big time. On November 29, 2020, after almost an entire month of endorsing and promoting the lie that Dominion and Smartmatic had stolen the election from then-President Trump, President Trump—who just weeks before had lambasted Fox for accurately reporting that he lost the election—agreed to appear for an exclusive interview on *Sunday Morning Futures with Maria Bartiromo*, his first interview since he lost the election.

79. At the same time, on November 29 and November 30, 2020, Dominion sent fact sheets to more than 90 Fox reporters, producers, content managers, hosts, and anchors. The fact sheets included external links to independent websites disproving claims that Dominion had rigged the election in Arizona and Michigan.⁸⁹

80. On November 30, 2020, Powell repeated her falsehoods on a Fox program, falsely stating that Dominion machines “ran an algorithm that shaved off votes from Trump and awarded them to Biden. And they used the machines to trash large batches of votes that should have been awarded to President Trump. And they used the machines to inject and add massive quantities of votes for Mr. Biden.”

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

⁸⁹ November 29, 2020 Email, FACT SHEET: Dominion Voting Systems in Arizona; November 30, 2020 Email, FACT SHEET: Dominion Voting Systems in Michigan.

servers, has no understanding of the software, because it's 'proprietary.' It is the most ludicrous, irresponsible, and rancid system imaginable in the world's only superpower."⁹⁰

Early December 2020:

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

82. 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."⁹¹

83. Meanwhile, Dominion sent another fact sheet—this time specifically debunking claims that Dominion rigged the election in Georgia—to more than 90 Fox reporters, producers, content managers, hosts, and anchors. The fact sheet detailed the independent audits, hand recounts, and other measures taken by Georgia's Republican administration that had verified that Dominion's machines had accurately tabulated votes in Georgia's 2020 election.⁹²

84. Nevertheless, for more than a week after that, Fox continued to deliberately provide Powell and Giuliani a platform to lie about Dominion and Smartmatic. Far from challenging the now repeatedly and affirmatively debunked lies, Fox continued to endorse them.⁹³

⁹⁰ Lou Dobbs, *Sidney Powell*, Facebook (Nov. 30, 2020), <https://www.facebook.com/watch/?v=830918901055891>; Lou Dobbs (@LouDobbs), Twitter (Nov. 30, 2020, 6:03 pm), <https://twitter.com/LouDobbs/status/1333547266032984064> *Lou Dobbs Tonight* (@loudobbstonight), Instagram (Nov. 30, 2020), <https://www.instagram.com/p/CIO6-KVBKb8/>.

⁹¹ Michael Balsamo, *Disputing Trump, Barr Says No Widespread Election Fraud*, Associated Press (Dec. 1, 2020), <https://apnews.com/article/barr-no-widespreadelection-fraud-b1f1488796c9a98c4b1a9061a6c7f49d>.

⁹² December 3, 2020 Email, FACT SHEET: Dominion Voting Systems in Georgia.

⁹³ See Lou Dobbs, *Sidney Powell*, Facebook (Nov. 30, 2020), <https://www.facebook.com/watch/?v=830918901055891>; Lou Dobbs (@LouDobbs), Twitter

85. And throughout this timeframe, Fox and Dobbs continued pushing a fraud narrative that, based on Defendants' prior false statements, was entirely dependent upon Dominion and Smartmatic. One analysis found, for example, that "[i]n the two-week period after Fox News declared Joe Biden the president-elect, the network questioned the results of the election or pushed conspiracy theories about it at least 774 times."⁹⁴ Fox had already linked Dominion with the false claims of fraud and as a key part of the fictitious story that the election was "rigged." As Fox itself reported during the mid-December timeframe, "[s]eventy percent of Republicans think the election was rigged because of voter fraud."⁹⁵

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

⁹⁴ Tyler Monroe, Rob Savillo & Lis Power, *Fox News has cast doubt on or pushed conspiracy theories about the election results nearly 600 times*, Media Matters for America (Nov. 18, 2020), <https://www.mediamatters.org/fox-news/fox-news-hascast-doubt-or-pushed-conspiracy-theories-about-election-results-nearly-600>.

⁹⁵ *The Next Revolution with Steve Hamilton*, Fox News (Dec. 14, 2020), https://archive.org/details/FOXNEWSW_20201214_050000_The_Next_Revolution_With_Steve_Hilton/start/60/end/120.

Fox Arranges For Powell To Appear On Lou Dobbs Tonight And Defendants Falsely Identify Mr. Khalil As The COO Of The Alleged Vote Rigging Conspiracy

86. On December 10, 2020, Fox again scheduled Powell to appear on *Lou Dobbs Tonight*. Dobbs provided Powell with a powerful platform to continue to peddle the false claims that Fox and Dobbs knew, prior to December 10, 2020, had been conclusively disproven and rejected by election security experts, President Trump's appointees, prominent Republicans, and government officials, among others.

87. It appears that, just prior to Powell's appearance on Dobbs' show on December 10, 2020, counsel to Smartmatic (J. Erik Connolly of Benesch, Friedlander, Coplan & Aronoff LLP) sent a twenty-page single spaced demand letter seeking retraction of the false and defamatory statements that had been made on Fox, including on Dobbs' show by email (and federal express) to the general counsel of Fox News Network LLC. The letter, entitled "Legal Notice and Retraction Demand from Smartmatic USA Corp.," made the following points, among others: (i) Fox had engaged in a "concerted disinformation campaign against Smartmatic;" (ii) Fox falsely told "millions of viewers and readers that Smartmatic was founded by Hugo Chávez, that its software was designed to fix elections, and that Smartmatic conspired with others to defraud the American people and fix the 2020 U.S. election by changing, inflating and deleting votes;" (iii) Smartmatic is not a Venezuelan company, and while it did "election projects" in Venezuela from 2004 to 2017, it stopped doing business in Venezuela in 2017; (iv) Smartmatic had no ties to George Soros; (v) Smartmatic had a limited role, in one county (Los Angeles), in the 2020 U.S. election; and (vi) Smartmatic has had no corporate relationship with Dominion.⁹⁶

⁹⁶ See *Smartmatic, et al. v. Fox, et al.*, *supra*, NYSCEF Doc. No. 79. While Mr. Connolly's letter does not indicate the precise time on December 10, 2020 that it was sent via email to the general counsel of Fox News Network LLC, Mr. Connolly's letter (which details a litany of "broadcasts, articles, and postings regarding Smartmatic" during the period "November 2020 through today")

88. At approximately 4:56 p.m. on December 10, 2020, Fox, through the @LouDobbs account, tweeted a detailed promotion for the December 10 *Lou Dobbs Tonight* show later that evening. The tweet, which was the first Fox publication to identify the Plaintiff, stated: “The 2020 Election is a cyber Pearl Harbor: The leftwing establishment have aligned their forces to overthrow the United States government #MAGA #AmericaFirst #Dobbs.” The tweet identified four individuals or “names,” including Plaintiff, as perpetrating the alleged “cyber Pearl Harbor,” and stated that “[p]eople need to get familiar with four names.” Plaintiff also was identified as one of “[t]wo political leaders.” Plaintiff is neither a political leader, nor a politician. The tweet described Plaintiff as “a Venezuelan of Lebanese origin, who is the right hand and business front man of Jorge Rodriguez. He has been the effective ‘COO’ of the election project, under Chávez and Maduro. Khalil is a liaison with Hezbollah.” Also named were three other individuals: Jorge Rodriguez and two “technical experts” (Antonio Mujica, identified as the CEO of Smartmatic and Gustavo Reyes Zumeta, identified as an “American-born Venezuelan, who came up with the idea, and designed, and created the programs”). By this tweet, Fox and Dobbs falsely told their millions of followers that Plaintiff engaged in a plot with three other individuals to attack the U.S. democratic system by manipulating the 2020 U.S. Presidential election results.

89. Embedded within the tweet was a two-page, type-written document that falsely stated:

does not make specific reference to the election-related statements made by Fox and Dobbs on December 10, 2020, suggesting that this email was sent by Mr. Connolly and received by Fox prior to the December 10 defamatory tweets, broadcast and re-broadcasts that are set forth below, all regarding Plaintiff. Put another way, prior to the defamatory tweets and broadcasts of December 10, 2020, it appears that both Dominion and Smartmatic had put Fox and Dobbs on notice, in great detail, that all the factual underpinnings of the alleged election conspiracy by Dominion and Smartmatic, which was the alleged predicate to publicly add Plaintiff by name to this nonexistent election conspiracy, were themselves entirely bogus and without any factual basis whatsoever.

We have a warning to the mainstream media: you have purposely sided with the *forces that are trying to overthrow the US system*. These four people [including Plaintiff] and their collaborators *executed an electoral 9-11 against the United States*, with the cooperation and collusion of the media and the Democrat Party and China. *It is a cyber Pearl Harbor*. We have identified, roles, and background of *Dominion*. Smartmatic people. This will turn into a massive RICO filing. It is Smartmatic, *Dominion Voting Systems*, Sequoia, SGO. ... *We have technical presentations that prove there is an embedded controller in every Dominion machine*. ... We have the architecture and systems, that show how the machines can be *controlled from external sources, via the internet*, in violation of voting standards, Federal law, state laws, and contracts.⁹⁷

⁹⁷ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 4:56 pm), <https://twitter.com/LouDobbs/status/1337154346795012098> (emphasis added).



90. The document, tweeted out from the official *Lou Dobbs Tonight* Twitter account, had no markings on it beyond the typewritten statements accusing Plaintiff, in cahoots with Smartmatic and Dominion of perpetrating an “electoral 9-11” and “cyber Pearl Harbor” to steal the election from President Trump. The document had no indication of having originated from any source other than Defendants. Indeed, the content of the document previews false claims that Defendants would subsequently make on the December 10, 2020 *Lou Dobbs Tonight* show, including a graphic shown multiple times during the broadcast listing “Four Names You Need to Know According to Sidney Powell.”

91. With respect to Mr. Khalil, the document was false in at least the following respects: (i) Mr. Khalil is not a “political leader;” (ii) Mr. Khalil is not the “right hand and business front” of Jorge Rodriquez; (iii) Mr. Khalil at no point was involved in any election project in the United States, and was not “the effective ‘COO’ of the election project under Chávez and Maduro;” (iv) Mr. Khalil was not a “collaborator” in the “execut[ion of] an electoral 9-11 against the United States,” as no such “electoral 9-11” occurred; (v) Mr. Khalil is not “a liaison with Hezbollah;” and (vi) Mr. Khalil has had no business dealings or affiliation with either Smartmatic or Dominion.

92. The @LouDobbs December 10 pre-broadcast tweet — including the two-page typewritten memorandum accusing Plaintiff, in cahoots with Dominion and Smartmatic, of a “cyber Pearl Harbor” and rigging the 2020 election—was republished by Fox to the over 2 million Twitter followers of @LouDobbs and on Fox’s digital platforms.⁹⁸

⁹⁸ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 4:56 pm), <https://twitter.com/LouDobbs/status/1337154346795012098>; Sidney Powell raises questions about security of voting machines, Fox Business (Dec. 10, 2020), <https://video.foxbusiness.com/v/6215520845001/#sp=show-clips>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:51 pm), <https://twitter.com/LouDobbs/status/1337168084541575171>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:52 pm), <https://twitter.com/LouDobbs/status/1337168397398921217>; Lou Dobbs, Sidney Powell, Facebook (Dec. 10, 2020), <https://www.facebook.com/watch/?v=681543625896199>; Lou Dobbs

93. Just over two hours after Fox tweeted this two-page diatribe falsely accusing Mr. Khalil of cyber terrorism and being a “frontman” for Jorge Rodriguez in connection with the alleged Smartmatic/Dominion election scheme, Fox aired the advertised segment in which Dobbs, aided by Powell, directly promoted the false accusations tweeted out before the show.

94. Dobbs opened his on-air show on December 10, 2020, which Fox broadcast live on television and satellite radio from New York on the Fox Business Channel, by announcing that he would have Powell on the show to address what he referred to as a “Pearl Harbor style cyber attack on the 2020 Presidential election,” a phrase he repeatedly used during the segment. He then proceeded to put a graphic up entitled “Four Names You Need to Know According to Sidney Powell,” which included, on the graphic displayed for Fox’s viewers, the following: “Khalil Majid Majzoub: Rodriguez Frontman.” Dobbs went through the names on the list, falsely referring to “Khalil Majzoub” as “Jorge Rodriguez’s right-hand man.”

95. Dobbs, having introduced Powell on the segment as “a distinguished attorney . . . and as we all know, a great American,” immediately falsely tied Plaintiff, whose name had just been prominently displayed on screen, to the fabricated 2020 Presidential election scheme, with the following statement: “You say these four individuals led the effort to rig this election. How did they do it?” Powell responded, accusing the four individuals, including Plaintiff, of having “designed and developed the Smartmatic and Dominion programs and machines that include a controller module that allows people to log in and manipulate the vote even as it’s happening.”

96. Powell attempted to lend legitimacy to her demonstrably false claims of election fraud, claiming that: “We’re finding more and more evidence of this. We now have reams and

Tonight (@loudobbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/Clo0kAqB6Bq/>; *Lou Dobbs Tonight* (@loudobbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/Clo02XjhD1M/>.

reams of actual documents from Smartmatic and Dominion, including evidence that they planned and executed all of this.” No such “evidence” or “documents” exist, however. Powell has not presented a single document, let alone “reams and reams” of documents, that reflects any role by Plaintiff, let alone by Smartmatic or Dominion, in planning or executing any fraud on the U.S. electoral system

97. Powell continued by invoking additional xenophobic and not-so-thinly-veiled anti-Semitic sentiments to embellish upon her false claims, stating: “We know that \$400 million of money came into Smartmatic from China only a few weeks before the election [and] that there are George Soros connections to the entire endeavor.” In fact, as Smartmatic has pointed out, Smartmatic has not received funding from China, and has not provided election technology or software in connection with any election in China.⁹⁹ Similarly, the reference to George Soros is unfortunate and misleading anti-Semitic innuendo by Powell: Soros has had no involvement with either Dominion or Smartmatic.

98. Powell again falsely claimed “We have evidence of how they flipped the votes, how it was designed to flip the votes, and that all of it has been happening just as we have been saying it has been.” Dobbs again linked this supposed evidence of flipped votes to the “four individuals,” including Plaintiff, asking Powell: “What is the evidence that you have compiled? How have you constructed the architecture of this relationship among these four individuals?” In response, Powell stated that they are still reviewing a “massive amount of documents,” but falsely claimed to have “communications between them and um all different kinds of messages that indicate their involvement in it,” at which point the same graphic showing the “Four Names You Need to Know According to Sidney Powell,” including the Plaintiff’s name, was again displayed while Powell

⁹⁹ See Compl. ¶ 205, *Smartmatic USA Corp., et al. v. Fox Corporation, et al.*, *supra*.

stated that “we will be producing more and more [evidence] it will be coming out more by the day.” Echoing language in the tweet sent prior to this *Lou Dobbs Tonight* show, Powell described the alleged election conspiracy as a “massive cyber Pearl Harbor, as we called it.”

99. With the “Four Names You Need to Know” graphic which identified Plaintiff as “Rodriguez Frontman” still on the screen, Dobbs added to Powell’s embellishments and made his own false pronouncements about the alleged election scheme. Dobbs identified Rodriquez as the “former Venezuelan Communications Minister, ... the ringleader, the CEO of the enterprise as you put it.” Dobbs asked Powell: “What is the evidence that this former Communications Minister could reach into the U.S. electoral system and raise the havoc and commit the fraud that obviously we have witnessed in 2020?” Powell responded, as follows: “Well we’ve known from early on in our independent investigation that the entire system was created for the benefit of Venezuela and Hugo Chávez to rig elections to make sure he continued winning. And then it was passed onto Mr. Maduro to do the same. And we know it was exported to other countries by virtue of some of the Dominion executives that proceeded to go about and essentially sell elections to the highest bidder.” Powell then described Rodriquez as “one of the leaders of the whole election stealing project” and described the alleged conduct of the four individuals (including Plaintiff), together with the alleged conduct of Dominion and Smartmatic, as an “illegal web of conduct . . . focused on rigging the election in this country.” Powell claimed the evidence of this alleged misconduct was “overwhelming” and “troubling.”

100. Dobbs concluded the segment by stating that, when they returned after a short break, he would continue discussions with Powell and the reasons behind, what he described as, a “broadly coordinated effort” to bring down Trump.

101. Dobbs, after the short break, summarized Powell’s presentation and made his own affirmative declaration that Powell “was describing a cyber Pearl Harbor and the 2020 election,

focusing on four names,” which included Plaintiff’s name. Again bringing up the graphic that falsely identified Plaintiff as one of the four individuals allegedly directing the non-existent election fraud, Dobbs embellished upon Powell’s false claims about Plaintiff: “I would also like to put up this element from your investigation if we could have that full screen up so that we could all go through that with the audience. Because it’s important as we look at these four names [which included Plaintiff], we’re talking about very large, a very large foreign intrusion and interference in the, in the election of 2020.” Dobbs then emphasized that while there was already substantial evidence of election fraud, he welcomed Powell providing further evidence: “We will gladly put forward your evidence that supports your claim that this was a cyber Pearl Harbor, we have tremendous evidence already . . . of fraud in this election but I will be glad to put forward on this broadcast whatever evidence you have.” Powell then promised to get Dobbs that “stunning” evidence that same night.¹⁰⁰

102. Of course, Powell never provided any evidence of the so-called “cyber Pearl Harbor” attack on the 2020 election and Dobbs never returned to the airways to display any of the “tremendous evidence” he had so vigorously endorsed. In fact, no evidence of Plaintiff’s alleged involvement in any election fraud has ever been presented by any of the Defendants because no such evidence exists, which Defendants knew full well when they claimed to have such evidence already at the time of the broadcast. Defendants falsely claimed to have “tremendous,”

¹⁰⁰ Sidney Powell raises questions about security of voting machines, Fox Business (Dec. 10, 2020), <https://video.foxbusiness.com/v/6215520845001/#sp=show-clips>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:51 pm), <https://twitter.com/LouDobbs/status/1337168084541575171>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:52 pm), https://twitter.com/LouDobbs/status/133716839_7398921217; Lou Dobbs, Sidney Powell, Facebook (Dec. 10, 2020), <https://www.facebook.com/watch/?v=681543625896199>; Lou Dobbs Tonight (@loudobbbtonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo0kAqB6Bq/>; Lou Dobbs Tonight (@loudobbbtonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo02XjhD1M/>.

“overwhelming,” and “stunning” evidence merely to bolster their salacious and false narrative of an egregious fraud that stole the election away from Trump.

103. Defendants’ identification of the supposed four-person cabal, that included the Plaintiff, similarly served only to further embellish and bolster their false and oft repeated claims that Smartmatic and Dominion election technology was created at the direction of Hugo Chávez to change votes without being detected, a claim which had, at this point, been repeatedly debunked by multiple reliable sources.

104. Since Plaintiff had no connection to Smartmatic and Dominion, the premise of Plaintiff’s involvement in a (non-existent) scheme supposedly executed by these two entities is preposterous. Powell’s embellishment of her previous false claims about Smartmatic and Dominion with specious claims that Plaintiff and three other individuals “led” efforts to rig the 2020 U.S. Presidential election and participated in designing and developing alleged Smartmatic and Dominion programs and machines was equally ludicrous and false. The only true evidence that existed from reliable, verifiable sources concerning the 2020 election demonstrated that everything Defendants said and endorsed in the December 10, 2020 broadcast was false.

105. The central premise of Dobbs’ December 10, 2020 segment with Powell was false and he knew it. Succinctly, with respect to Plaintiff, Plaintiff had no involvement in any respect with the 2020 U.S. Presidential election, nor did he have any affiliation with Dominion or Smartmatic, nor was he a “political” figure, nor was he a “frontman” for Rodriguez.

106. The foregoing December 10, 2020 show was rebroadcast on the Fox Business Channel, and republished on fox.com, foxbusiness.com, Fox Nation and the Twitter account @loudobbs, the “Lou Dobbs” Facebook account, and the Instagram account @loudobbs tonight. Fox made, endorsed, and adopted all of the false and misleading statements made on such broadcast and rebroadcasts.

107. On December 10, 2020, after the show was broadcast, Fox and Dobbs posted a video of the December 10 *Lou Dobbs Tonight* interview of Powell on Twitter, using the caption: “Cyber Pearl Harbor: @SidneyPowell1 reveals groundbreaking new evidence indicating our Presidential election came under massive cyber-attack orchestrated with the help of Dominion, Smartmatic and foreign adversaries” (*i.e.*, including Plaintiff) and a second time on Twitter, using the caption: “Evidence of Fraud: @SidneyPowell1 says the FBI and law enforcement aren’t interested in electoral fraud witnesses and offers to make public evidence of a cyber-attack on the U.S. election system.” That same day, Fox and Dobbs posted the same videos, with the same captions on Facebook and Instagram. Each of these additional postings made further false and misleading statements, including that Powell “reveal[ed]” “groundbreaking new evidence” that the 2020 Presidential election came under a “massive cyber-attack” allegedly orchestrated by Smartmatic, Dominion and “foreign adversaries” (the latter, allegedly including Plaintiff) and that evidence revealing a cyber-attack on the 2020 Presidential election existed. In fact, no such evidence was revealed or even existed.

108. Fox and Dobbs used these platforms (Twitter, Facebook, Instagram) to disseminate the publication of false and defamatory information regarding Plaintiff to the largest possible audience and to ensure republication. Fox further encouraged its affiliates to republish and repeat the claims about Dominion, Smartmatic and Plaintiff that had been made during the national broadcast on December 10, 2020.

109. At no point prior to, during, or after December 10, 2020 did any of the Defendants contact Plaintiff to inquire as to whether he had ever had any contact or association with either Smartmatic or Dominion; nor at any time did any of the Defendants contact Plaintiff to inquire whether he had any involvement in the 2020 U.S. Presidential election; nor did any of the

Defendants contact Plaintiff to inquire whether he had any involvement with any Venezuelan election machinery or software, including any election machinery or software involving Hugo Chávez or Nicolás Maduro; nor did any of the Defendants contact Plaintiff to inquire whether he was a “political” figure or “frontman” for Jorge Rodriquez; nor did any of the Defendants contact Plaintiff to inquire whether he was a “liaison with Hezbollah.” Had any of the Defendants contacted Plaintiff, he would have confirmed that the answer to all of the foregoing was “no.”

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

110. From December 18-20, 2020, having now received a retraction demand letter from Smartmatic, Fox aired a three-minute pre-recorded statement on its shows hosted by Dobbs, Bartiromo, and Pirro: the statement purported to (but did not actually) walk back some of the claims they had made about Dominion’s *competitor*, Smartmatic, and featured a guest saying that it was *his* understanding that Dominion and Smartmatic are two separate companies and that Smartmatic did not send U.S. votes to be tabulated in foreign countries. In plain contrast to its prior peddling of lies about Dominion and Smartmatic, Fox’s on-air talent did not embrace their guest’s statements as their own, nor did the guest’s statements retract any of the lies Fox had been endorsing and broadcasting about Dominion or Smartmatic for the last month and a half, notwithstanding the overwhelming evidence and sources that Defendants’ statements about Dominion and Smartmatic were false. As for Plaintiff, Fox’s on-air talent were silent.

111. For its part, having received no response to its November 20 retraction demand letter, on December 22, Dominion sent a second retraction demand letter to Fox that again detailed facts and evidence in the public domain demonstrating the falsity of Fox’s claims about Dominion. That letter again explained facts and evidence demonstrating that—and why—the people

(including Powell) peddling the lies were entirely unreliable sources.¹⁰¹ Dominion noted that, after Dominion had provided Fox with the facts and requested a retraction, Dobbs repeatedly featured Powell on his show and Dobbs himself “credited and repeated [Powell’s] false claims.” Within that letter, Dominion referenced a publicly-available and widely-disseminated retraction demand letter that its counsel had sent to Powell on December 16, which reiterated, among other thing, that Dominion had no connection to Venezuela nor to Venezuelan elections, and detailed additional facts and evidence debunking her lies and proving that Powell lied about having specific evidence that did not exist.

112. Almost two months after he had begun promoting the falsehood that Dominion had stolen the election, Dobbs made an astonishing admission: despite his best efforts to make the facts conform to his preconceived narrative, he had not been able to find any evidence to support the lies that he had relentlessly promoted and was continuing to promote. On January 4, 2021, Lou Dobbs stated, “we’re 8 weeks from the election and *we still don’t have verifiable tangible support* for the crimes that everyone knows were committed. That is, defrauding other citizens who voted with fraudulent votes ... *we have had a devil of a time finding actual proof*.”¹⁰² Dobbs and Fox, in fact, did not have “verifiable tangible support” well prior to January 4, 2021 for the claims of election fraud they had been peddling, they certainly did not have any “verifiable tangible support” when they made, repeated, and embellished these claims over the prior two months, including the false claims they advanced regarding Plaintiff. Despite knowing that there was no proof, Dobbs

¹⁰¹ Letter from Dominion to Fox News General Counsel Lily Claffee (Dec. 22, 2020).

¹⁰² *Lou Dobbs Tonight*, Fox Business (Jan. 4, 2021), https://archive.org/details/FBC_20210104_220000_Lou_Dobbs_Tonight (emphasis added); Matt Wilstein (@mattwilstein), Twitter (Jan. 4, 2021, 7:00 pm), <https://twitter.com/mattwilstein/status/1346245027932979200>.

then concluded his segment by saying “the fact of the matter is that this President is looking at the prospect of having this election stolen from him.”¹⁰³

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

113. As further evidence that Fox knew that Dominion machines do not flip votes, Fox only endorsed that claim when it supported the narrative that the election had been stolen from then-President Trump. By contrast, when a Republican won an election where votes were counted using Dominion machines, including the numerous down-ballot races at issue in the 2020 election, Fox took the opposite approach.

114. For example: after a Republican won the race for New York’s 22nd Congressional District, the Democrat challenged the results and asked questions about the Dominion machines that had been used in the race.¹⁰⁴ Fox covered the race extensively. Indeed, Fox had the Republican candidate on its programs at least four different times to complain about the Democrat’s challenge of the results.¹⁰⁵ Not a single Fox show or host—including Bartiromo, who interviewed the Republican candidate on February 4, 2021—ever endorsed, promoted, agreed with, or even suggested the potential that the Dominion machine tabulations were incorrect or that Dominion machines had some malicious vote-flipping “algorithm” or had been hacked in the race that the Republican had won.

115. In fact, on February 4, the Republican candidate told Bartiromo that the Democrat’s protest about Dominion’s machines working improperly was “frivolous” and a “desperate

¹⁰³ *Id.*

¹⁰⁴ *Mornings with Maria*, Fox Business (Feb. 4, 2021), https://archive.org/details/FBC_20210204_110000/Mornings_With_Maria_Bartiromo/start/2858/end/2918.

¹⁰⁵ *Id.*

measure.” Instead of responding that Dominion machines flipped votes to rig elections (an assertion Bartiromo had repeatedly made and endorsed when the losing candidate had been President Trump), Bartiromo applauded the Republican’s efforts “fighting” back against the Democrat’s protest. On February 6, the Republican candidate was declared the winner and Fox applauded her victory. That coverage similarly contained no mention of Dominion or its voting machines.¹⁰⁶

Fox Took Affirmative Steps to Ensure Broad Dissemination and Republication of the Defamatory Claims of Election Fraud

116. Fox, through the @LouDobbs and @MariaBartiromo Twitter accounts, routinely tagged Trump in tweets with Fox’s broadcasts, ensuring that Trump’s more than 88 million followers viewed them.¹⁰⁷

117. After Fox had broadcast defamatory falsehoods into millions of homes and posted those falsehoods on its websites and social media accounts, the lies went viral as people tweeted, retweeted, and raged that Dominion, as part of a conspiracy that, according to Defendants, included Mr. Khalil, had stolen their votes. This was completely foreseeable to and intended by Fox.

118. While the “mainstream media” and prominent Trump appointees and allies like Bill Barr, Chris Krebs, Ben Hovland, Brad Raffensperger, Brian Kemp, Chris Christie, and others knew and publicly confirmed that the concerted disinformation campaign was just that, Fox—the

¹⁰⁶ Roman Chiarello, *NY Rep.-Elect Claudia Tenney Reacts to Win in Final Disputed House Race*, Fox News (Feb. 6, 2021), <https://www.foxnews.com/politics/new-york-claudia-tenney-win-disputed-house-race>.

¹⁰⁷ See, e.g., Maria Bartiromo(@MariaBartiromo), Twitter(Dec. 2, 2020, 11:28 am), <https://twitter.com/MariaBartiromo/status/1334172646003650560>; Lou Dobbs, *Sidney Powell*, Facebook(Nov. 30, 2020), <https://www.facebook.com/watch/?v=830918901055891>; Lou Dobbs (@LouDobbs), Twitter (Nov. 30, 2020, 6:03 pm), <https://twitter.com/LouDobbs/status/1333547266032984064>; Lou Dobbs Tonight (@loudobbstonight), Instagram(Nov. 30, 2020), <https://www.instagram.com/p/CIO6-KVBKb8/>.

dominant voice in conservative media—relentlessly continued its attacks on the integrity of the 2020 election. These lies, spread on Fox’s unparalleled platform, deceived millions of people. In the days after Fox’s first broadcast concerning the false claim that an algorithm in Dominion machines had flipped votes away from Trump, 81% of Trump voters believed that fraud had influenced the election outcome.¹⁰⁸

119. These lies, culminating in Defendants’ false claims about Plaintiff on December 10, 2020, did not simply harm Plaintiff. They signaled that anyone – but especially a foreigner with a foreign-sounding name – can be falsely accused on a national platform of perpetrating a fraud on the U.S. electoral system, with impunity, to serve the rich and powerful’s political ends.

***Fox’s Lies About Dominion’s, Smartmatic’s and Plaintiff’s
Alleged Involvement in Election Fraud Was Good For Business***

120. Fox News is “the profit center of Rupert Murdoch’s American media empire.”¹⁰⁹ Indeed, in Fox Corporation’s most recent financial statement, Fox’s cable network programming was responsible for *all* of Fox Corporation’s profits— and then some. In the last three months of 2020, the “segment” Earnings Before Interest, Taxes, Depreciation, and Amortization

¹⁰⁸ Candice Jaimungal, *Three-Quarters of Voters Think Fraud Occurred During the Election*, YouGov (Nov. 12, 2020), <https://today.yougov.com/topics/politics/articles-reports/2020/11/12/voters-think-fraud-occurred-during-elec> (poll available at <https://docs.cdn.yougov.com/9j7sr0my95/econTabReport.pdf>).

¹⁰⁹ Rachel Abrams & Michael M. Grynbaum, *Fox News Fires a Key Player in Its Election Night Coverage*, N.Y. Times (Jan. 19, 2021), <https://www.nytimes.com/2021/01/19/business/media/fox-news-chris-stirewalttrump.html>.

(“EBITDA”) for Fox’s cable network programming was \$571 million. The rest of Fox Corporation lost \$266 million for a total EBITDA of \$305 million across the entire corporation.¹¹⁰

121. In the month following the election, as Defendant Dobbs repeatedly promoted and endorsed the falsehoods about Dominion and Smartmatic, including his promotion and endorsement of false statements regarding Plaintiff, his ratings shot up almost 27%.¹¹¹

122. After nearly a month of Fox relentlessly promoting lies about election fraud, Fox Corporation’s stock had rebounded to its pre-election value.¹¹² Fox Corporation’s Chief Financial Officer stated on December 8, just prior to the Fox/Dobbs tweets and broadcast regarding Plaintiff, that Fox’s “ratings momentum has been extraordinary. It is feeding absolutely into advertising strength, and so we would expect to have a record advertising year at Fox News.”¹¹³

123. On December 8, 2020, after approximately a month of promulgating the lie that Dominion and Smartmatic rigged the election, and two days before its lies specifically about Plaintiff, Fox Corporation Chief Financial Officer Steve Tomsic stated that “Fox News specifically has had a great run.”¹¹⁴ Indeed, Tomsic acknowledged that Fox Corporation has set up additional revenue streams through Fox Nation and elsewhere “to super-serve the Fox News dedicated fans,” and has identified this “super-fan” group as “a much bigger opportunity” for the company.¹¹⁵

¹¹⁰ *Fox Reports Second Quarter Fiscal 2021 Net Income of \$230 Million, Earnings Per Share of \$.37, Revenues of \$4.09 billion, an increase of 8%* at 2, Fox Corp. (Feb. 9, 2021), <https://investor.foxcorporation.com/static-files/129c48a1-e762-4cc4-9fc3c06f2b40c511>.

¹¹¹ *See Lou Dobbs Tonight Ratings, Cable Rankings*, <https://ctv.kwayisi.org/networks/fbn/lou-dobbs-tonight/>.

¹¹² *Fox Corp.*, Business Insider, <https://markets.businessinsider.com/stocks/foxa-stock>.

¹¹³ *Transcript of Steve Tomsic at 2*, Fox Corp. (Dec. 8, 2020), <https://investor.foxcorporation.com/static-files/ae329369-a122-44e8-96a8-2344f064d422>.

¹¹⁴ *Transcript of Steve Tomsic*, Fox Corp. (Dec. 8, 2020), <https://investor.foxcorporation.com/static-files/ae329369-a122-44e8-96a8-2344f064d422>.

¹¹⁵ *Transcript of Steve Tomsic Presentation to Deutsche Bank at 12*, Fox Corp. (Mar. 2021), <https://investor.foxcorporation.com/static-files/ae329369-a122-44e8-96a8-2344f064d422>.

124. On March 4, 2021, Lachlan K. Murdoch, the Executive Chairman and Chief Executive Officer of Fox Corporation, stated that “the margins in our businesses, particularly obviously in Fox News” are “industry-leading.”¹¹⁶ Fox has re-established itself as the dominant media source within its territory.

125. In February 2021, Fox News’s CEO Suzanne Scott was rewarded with a multi-year contract extension.¹¹⁷ Even Defendant Dobbs, whose show was pulled in the days after Smartmatic filed its own lawsuit, remained under contract with full salary. Fox has denied any connection between the termination of his show and his repeated lies about Dominion, Smartmatic, and Plaintiff. Fox remains unrepentant for its behavior.

126. As Fox rewarded those who promulgated the lies, it punished those who told the facts. In January 2021, Fox fired politics editor Chris Stirewalt, one of those who made the decision to call Arizona for Biden, and Bill Sammon, the Washington bureau chief who oversaw the Arizona call, resigned.

COUNT I
DEFAMATION PER SE
(The December 10, 2020, 4:56 p.m. pre-broadcast Tweet)

127. Plaintiff repeats and re-alleges paragraphs 1-126 as if set forth fully herein.

128. On December 10, 2020 at approximately 4:46 pm (ET), Defendants Fox and Dobbs, through the @LouDobbs Twitter account, published a tweet promoting the December 10, 2020 *Lou Dobbs Tonight* show that would take place later that evening (“First Tweet”) featuring an interview with Defendant Powell. The First Tweet is reproduced, *supra* paragraph 89 and can be

¹¹⁶ Transcript of Lachlan Murdoch at Fox Corp.’s ‘Investor Day’ at 2, Fox Corp. (Mar. 4, 2021), <https://investor.foxcorporation.com/static-files/96a7dbad-e517-4bb7-af38-aeb1e83d2a20>.

¹¹⁷ Dade Hayes, *Fox News Media CEO Suzanne Scott Signs Multi-Year Contract Extension*, Deadline (Feb. 9, 2021), <https://deadline.com/2021/02/fox-newssuzanne-scott-renews-contract-1234690236/>.

found at the link cited below.¹¹⁸ The First Tweet stated “The 2020 Election is a cyber Pearl Harbor: The leftwing establishment have aligned their forces to overthrow the United States government #MAGA #AmericaFirst #Dobbs” and included an embedded two page document that, based on the content of the December 10, 2020 *Lou Dobbs Tonight* show, appears to have been prepared by Defendants.

129. The First Tweet contained the following false and defamatory statements and/or implications of or concerning the Plaintiff for which the Plaintiff seeks to hold Defendants liable:

- a. Plaintiff is a “political leader[]” and “has been the effective ‘COO’ of the election project, under Chávez and Maduro.”
- b. Plaintiff “executed an electoral 9-11 against the United States, with the cooperation and collusion of the media and the Democratic Party and China. It is a cyber Pearl Harbor.”
- c. There is “evidence,” including “legal documents, ownership structures, and sales of the companies,” as well as “corporate documents, the names of shareholders and the amounts of stock they own, their schedules and calendars, and their messages to and from one another,” that connects Plaintiff to Dominion, Smartmatic and the alleged “cyber Pearl Harbor.”

130. These statements, which explicitly state and imply that Plaintiff participated in a cyber attack on the U.S. 2020 election, are false:

- a. Plaintiff is not a “political leader” who participated in any “election project” directed at the United States under Chávez or Maduro or had any involvement with securing Chávez’s elections.

¹¹⁸ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 4:56 pm), <https://twitter.com/LouDobbs/status/1337154346795012098>.

- b. Plaintiff has never worked for or had any business dealings or affiliation with Dominion or Smartmatic. Defendants' claims about Dominion and Smartmatic are also false. Far from being created in Venezuela to rig elections for a now-deceased Venezuelan Hugo Chávez, Dominion was created in Toronto, and its voting systems are certified under standards promulgated by the EAC, reviewed and tested by independent testing laboratories accredited by the EAC, and were designed to be auditable and include a paper ballot backup to verify results. Because of this backup, independent audits and hand recounts of paper ballots have conclusively and repeatedly disproven the false claim that votes in Dominion machines were flipped, weighted, deleted, or otherwise manipulated by algorithms, software, cyber-attacks, or otherwise. Hugo Chávez's elections were not handled by Dominion, and Smartmatic is 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. As for Smartmatic, while Smartmatic's technology was used in the first automated election in Venezuela, Smartmatic ceased participating in elections in Venezuela in 2017.
- c. Plaintiff did not participate in any fraud on the U.S. 2020 election. Indeed, as ample reliable sources have confirmed, there was no fraudulent scheme – executed by Dominion, Smartmatic, Plaintiff, or otherwise – that tainted the 2020 election; rather, the 2020 election was the most secure election ever.

- d. There is no evidence, documentary or otherwise, that Plaintiff is a political leader, affiliated with Smartmatic or Dominion, or that Plaintiff participated in any “cyber Pearl Harbor” or “electoral 9-11” in connection with the 2020 U.S. Presidential election. Indeed, there is no evidence, documentary or otherwise, that any “cyber Pearl Harbor” or “electoral 9-11” occurred in connection with the 2020 U.S. Presidential election.

131. Defendants’ statements in the First Tweet are reasonably understood to be statements of fact about Plaintiff, and were understood by people who saw, heard, and read them to be statements of fact about Plaintiff, including, without limitation, because the First Tweet identified Plaintiff by name.

132. At the time the First Tweet was published, Defendants knew the statements contained therein concerning the Plaintiff were false and had, in fact, been warned by Dominion and Smartmatic, and by others, of the falsity of their allegations of electoral fraud that had been made by Defendants prior to publication of the First Tweet on December 10, 2020. Defendants’ investigation of the claims therein, to the extent there was any at all, was grossly inadequate and based upon unreliable and/or previously-debunked sources. Defendants engaged in this knowing and reckless propagation of these falsehoods in order to profit from these lies. In particular, Defendants Fox and Dobbs wanted to continue to protect their broadcast ratings, catering to an audience deeply loyal to President Trump. Defendant Fox similarly sought to aggrandize certain of its most significant advertisers, who were supporters of then-President Donald Trump. Along with the detailed recitation of Defendants’ knowledge and warnings that Defendants had received of the factual falsity of their election fraud conspiracy prior to their defamatory statements regarding Plaintiff on December 10, 2020 set forth *supra*, strong evidence proving Defendants

knew they were spreading lies about 2020 election came from Fox's own on-air talent. For example:

- Fox's then-Politics Editor Chris Stirewalt, for instance, defended the network's Arizona call the day after the election, saying: "[w]e haven't seen any evidence yet that there's anything wrong"¹¹⁹—and was fired two months later.¹²⁰
- Fox anchor Bret Baier reported on November 6, "We are not seeing any evidence of widespread fraud. We are not seeing anything that can change, right now at least, the split in these different States."¹²¹
- By November 10, 2020, Fox's Laura Ingraham had called out Powell on the air for making false statements about Dominion.¹²²
- The morning of November 12, Fox's "America's Newsroom" show concluded that "nothing filed, any challenge so far, appears likely to overturn the results in any state."¹²³
- On November 12, Fox news anchor Eric Shawn called the lies about Dominion "disinformation."¹²⁴
- On November 18, Fox's Brit Hume tweeted a link to a November 17 *Wall Street Journal* editorial chastising Trump and others for blaming the election results on Dominion's systems without any evidence, and added the comment, "Good question President Trump blames the election result on Dominion's systems. Where's the evidence?"¹²⁴
- On November 19, Fox's Tucker Carlson called out Sidney Powell for failing to produce any evidence to support the outlandish and incredible claims she had been making

¹¹⁹ Diana Falzone & Lachlan Cartwright, *Fox News Launches 'Purge' to 'Get Rid of Real Journalists,' Insiders Say*, The Daily Beast (Jan. 19, 2021), <https://www.thedailybeast.com/fox-news-launches-purge-to-get-rid-of-real-journalists.215>.

¹²⁰ Rachel Abrams & Michael M. Grynbaum, *Fox News Fires a Key Player in Its Election Night Coverage*, N.Y. Times (Jan. 19, 2021), <https://www.nytimes.com/2021/01/19/business/media/fox-news-chris-stirewalt-trump.html>.

¹²¹ RNC Chair alleges ballot counting problems in Democratic-led counties in key states, Fox News (Nov. 6, 2020), <https://video.foxnews.com/v/6207779696001#sp=show-clips>.

¹²² Sidney Powell - The Ingraham Angle - 11/10/20, YouTube (Nov. 11, 2020), <https://www.youtube.com/watch?v=hHpKZwCLSeS>.

¹²³ *America's Newsroom*, Fox News (Nov. 12, 2020), https://archive.org/details/FOXNEWSW_20201112_140000_Americas_Newsroom.

¹²⁴ Brit Hume (@brithume), Twitter (Nov. 18, 2020, 7:49 am), <https://twitter.com/brithume/status/1329044145533558787>.

about Dominion on Fox over the last week— claims that Fox, through its agents, had repeated, republished, and endorsed numerous times on television, online, and on social media.¹²⁵ 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.”¹²⁶ When he and his staff kept pressing Powell to present evidence, “she got angry” and told them stop contacting her.¹²⁷ So they checked with others in and around the Trump campaign and people in positions of authority, who said that Powell had “never given them any evidence either.”¹²⁸ ***Carlson concluded that Powell “never demonstrated that a single actual vote was moved illegitimately by software from one candidate to another. Not one.”***¹²⁹

- On November 20, Fox’s Brit Hume again tweeted out facts disproving the lie about Dominion, this time tweeting a thread summarizing a November 20, 2020 article by conservative publication the *National Review* that explained why those who believe the lies about Dominion “have been conned.”¹³⁰ But Fox, knowing the truth about the lies, continued repeating, republishing, and endorsing the con on its most prominent platforms, for the purpose of improving ratings.

133. Defendants had no applicable privilege or legal authorization to make these false and defamatory statements in the First Tweet, or if they did, they abused it.

134. The substantial danger of injury to Plaintiff’s reputation from Defendants’ false statements in the First Tweet is readily apparent. Such statements would tend to harm the reputation of another as to lower him in the estimation and esteem of the community or to deter third parties from associating or dealing with him.

135. By publishing the false statements in the First Tweet, Defendants caused harm to Plaintiff’s reputation.

¹²⁵ 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>.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ Brit Hume (@brithume), Twitter (Nov. 20, 2020, 11:38 am), <https://twitter.com/brithume/status/1329826562888380416>; Jim Geraghty, *Americans Deserves the Truth, Even If It’s Unpleasant*, National Review (Nov. 20, 2020), <https://www.nationalreview.com/the-morning-jolt/americans-deserve-the-truth-even-if-its-unpleasant/>.

136. Defendants' false statements concerning the Plaintiff are defamatory *per se* because they impute to the Plaintiff the commission of a serious crime, specifically, participating in a conspiracy to commit election fraud in the 2020 U.S. election. Plaintiff is, accordingly, entitled to presumed damages.

137. As a direct and proximate result of Defendants' false statements in the First Tweet, Plaintiff suffered damages, including, *inter alia*, injury to his reputation, harm to his ability to carry on his profession, embarrassment, humiliation, and emotional distress.

138. Defendants' actions were malicious, willful, wanton, and evidence a conscious disregard for Plaintiff and his rights. Defendants' injection of Plaintiff's name into their false election fraud conspiracy theory appears to be based solely upon the fact that Plaintiff is a "Venezuelan of Lebanese origin" with a foreign-sounding name. In peddling their false claims of a "cyber Pearl Harbor" perpetrated by Dominion and Smartmatic in the 2020 election, Defendants repeatedly and increasingly invoked what can only be described as conservative "trigger words." For example, Defendants falsely claimed that: the (non-existent) election scheme was in service to Hugo Chávez and Maduro; China had injected millions of dollars into Smartmatic right before the 2020 election; and George Soros, a prominent Democrat, was involved in the (non-existent) scheme to rig the 2020 election. Defendants' identification of Plaintiff as an individual involved in, and acting as "COO" of, the (non-existent) election scheme is an outrageous false embellishment Defendants propounded to invoke the xenophobic ire of their audience and further advance Defendants' own false election scheme.

COUNT II
DEFAMATION *PER SE*
(December 10, 2020 Lou Dobbs Tonight broadcast)

139. Plaintiff repeats and re-alleges paragraphs 1-138 as if set forth fully herein.

140. On the evening of December 10, 2020, Defendant Fox broadcast *Lou Dobbs Tonight*, which featured a segment in which Defendant Dobbs interviewed Defendant Powell (the “Dobbs Broadcast”). A true and correct recording of this segment is available at the link cited below.¹³¹ Defendant Fox broadcast the Dobbs Broadcast live on television and satellite radio from New York on the Fox Business Channel, rebroadcast the Dobbs Broadcast on the Fox Business Channel, and republished the Dobbs Broadcast on fox.com, foxbusiness.com, Fox Nation, the Twitter account @loudobbs, the “Lou Dobbs” Facebook account, and the Instagram account @loudobbstonight.

141. During the Dobbs Broadcast, a graphic titled “Four Names You Need to Know According to Sidney Powell,” which included “Khalil Majid Majzoub: Rodriguez Frontman,” was put up on the screen on at least three separate occasions. During the Dobbs Broadcast, Defendants Dobbs and Powell made the following statements:

Dobbs: You say these four individuals [Jorge Rodriguez, Khalil Majzoub, Gustavo Reyes-Zumeta, Antonio Mugica] led the effort to rig this election. How did they do it? Powell: Well, Lou, they designed and developed the Smartmatic and Dominion programs and machines, that include a controller module that allows people to log in and manipulate the vote, even as it’s happening. We’re finding more and more evidence of this. We now have reams and reams of actual documents from Smartmatic and Dominion, including evidence that they planned and executed all of this. . . . We have evidence of how they flipped the votes, how it was designed to flip the votes. And that all of it has been happening just as we’ve been saying it has been.

Dobbs: What is the evidence that you have compiled? How have you constructed the architecture of this relationship among these four individuals?

¹³¹ *Sidney Powell raises questions about security of voting machines*, Fox Business (Dec. 10, 2020), <https://video.foxbusiness.com/v/6215520845001/#sp=show-clips>.

Powell: Well, we are still reviewing the massive amount of documents that we have, but we have communications between them and um all different kinds of messages that indicate their involvement in it.

...

Powell: [T]he entire system was created for the benefit of Venezuela and Hugo Chávez to rig elections to make sure he continued winning. And then it was passed on to Mr. Maduro to do the same. And we know it was exported to other countries by virtue of some of the Dominion executives that proceeded to go about and essentially sell elections to the highest bidder. . . . It is a very concerning and troubling and illegal web of conduct that all of which focused on rigging the election in this country. And we are seeing the results in multiple states where we're now identifying specific votes flipped, like in a couple of Georgia counties.

...

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

...

Dobbs: We are back now with attorney Sidney Powell. She was describing a cyber Pearl Harbor in the 2020 election focusing on four names. I would also like to put up this element from your investigation if we could have that full screen up so that we could all go through that with the audience. Because it's important as we look at these four names, we're talking about very large, a very large foreign intrusion and interference in the, in the election of 2020.

...

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

Powell: Awesome.

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

...

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

Powell: I'll get you more information that's just stunning tonight.¹³²

142. The Dobbs Broadcast contained the following false and defamatory statements and/or implications of or concerning the Plaintiff for which Plaintiff seeks to hold Defendants liable:

- a. Plaintiff "led the effort to rig this election."
- b. Plaintiff "designed and developed the Smartmatic and Dominion programs and machines, that include a controller module that allows people to log in and manipulate the vote, even as it's happening."
- c. Plaintiff was involved in the creation of an election-rigging system "created for the benefit of Venezuela and Hugo Chávez to rig elections to make sure he continued winning," which was then "passed on to Mr. Maduro to do the same" and "exported to other countries . . . [to] essentially sell elections to the highest bidder."
- d. Plaintiff was involved in a "troubling and illegal web of conduct that all of which focused on rigging the election in this country."
- e. Plaintiff participated in "a broadly coordinated effort to – to actually bring down this President by ending his second term before it could begin."
- f. Plaintiff participated in a "cyber Pearl Harbor in the 2020 election."

¹³² Sidney Powell raises questions about security of voting machines, Fox Business (Dec. 10, 2020), <https://video.foxbusiness.com/v/6215520845001/#sp=show-clips>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:51 pm), <https://twitter.com/LouDobbs/status/1337168084541575171>; Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:52 pm), <https://twitter.com/LouDobbs/status/1337168397398921217>; Lou Dobbs, Sidney Powell, Facebook (Dec. 10, 2020), <https://www.facebook.com/watch/?v=681543625896199>; Lou Dobbs Tonight (@loudobbs Tonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo0kAqB6Bq/>; Lou Dobbs Tonight (@loudobbs Tonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo02XjhD1M/>.

- g. Plaintiff was part of “a very large foreign intrusion and interference in the, in the election of 2020.”
- h. There is “evidence,” including “reams and reams of actual documents,” demonstrating: “the architecture of [the] relationship among these four individuals [including Plaintiff],” including “communications between them and all different kinds of messages that indicate their involvement in it;” “they [including Plaintiff] executed all of this,” “flipped the votes,” and designed machines to flip the votes; and that “all of it has been happening just as we’ve been saying it has been.”
- i. There is “tremendous evidence already” supporting the claim that Plaintiff was involved in a “cyber Pearl Harbor” and that Defendant Powell could provide additional “stunning” evidence “tonight.”

143. The statements in the Dobbs Broadcast, which explicitly state and imply that Plaintiff participated in a cyber attack on the U.S. 2020 election, and there is overwhelming evidence of such participation, are, as set forth *supra* and below, false:

- a. Plaintiff did not lead, let alone participate in, any “effort to rig [the U.S. 2020] election” by participating in the design and development of voting machines for the benefit of Venezuela and Hugo Chávez.
- b. Plaintiff has never worked for or had any business dealings or affiliation with Dominion or Smartmatic, including without limitation in connection with the development or creation of election machines or their software and hardware.
- c. Plaintiff was not a part of any “illegal web of conduct,” “broadly coordinated effort,” or “large foreign intrusion” aimed at perpetrating a “cyber Pearl Harbor” in connection with the U.S. 2020 election. As ample reliable sources have confirmed, and Defendants

knew prior to December 10, 2020, there was no fraudulent scheme – executed by Dominion, Smartmatic, Plaintiff, or otherwise – that tainted the 2020 U.S. election. Rather, the 2020 election was the most secure election ever.

- d. There is no evidence, let alone “reams and reams of documents,” that, *inter alia*, Plaintiff is affiliated or associated with Dominion or Smartmatic or participated in any conduct that interfered with the U.S. 2020 election. In fact, Defendants never disclosed any of the supposed evidence that was discussed on the Dobbs Broadcast.

144. Defendants’ statements in the Dobbs Broadcast are reasonably understood to be statements of fact about Plaintiff, and were understood by people who saw, heard, and read them to be statements of fact about Plaintiff, including, without limitation, because Defendant Dobbs stated Plaintiff’s name and Plaintiff’s name was displayed in a graphic multiple times during the Dobbs Broadcast.

145. At the time the Dobbs Broadcast was broadcast Defendants acted with actual malice and knew the statements contained therein concerning the Plaintiff were false, including, without limitation, for the reasons set forth in paragraph 132, *supra*.

146. Defendants had no applicable privilege or legal authorization to make these false and defamatory statements in the Dobbs Broadcast, or if they did, they abused it.

147. The substantial danger of injury to Plaintiff’s reputation from Defendants’ false statements in the Dobbs Broadcast is readily apparent. Such statements would tend to harm the reputation of another as to lower him in the estimation and esteem of the community or to deter third parties from associating or dealing with him.

148. By publishing the false statements in the Dobbs Broadcast, Defendants caused harm to Plaintiff’s reputation.

149. Defendants' false statements concerning the Plaintiff are defamatory *per se* because they impute to the Plaintiff the commission of a serious crime, specifically, participating in a conspiracy to commit election fraud in the 2020 U.S. election. Plaintiff is, accordingly, entitled to presumed damages.

150. As a direct and proximate result of Defendants' false statements in the Dobbs Broadcast, Plaintiff suffered damages, including, *inter alia*, injury to his reputation, harm to his ability to carry on his profession, embarrassment, humiliation, and emotional distress.

151. Defendants' actions were malicious, willful, wanton, and evidence a conscious disregard for Plaintiff and his rights, including, without limitation, for the reasons set forth in paragraph 138, *supra*.

COUNT III
DEFAMATION *PER SE*
(December 10, 2020 "Cyber Pearl Harbor" Posts)

152. Plaintiff repeats and re-alleges paragraphs 1-151 as if set forth fully herein.

153. On December 10, 2020 at approximately 5:51 p.m. (ET), Defendants Fox and Dobbs, through the @LouDobbs Twitter account, republished the Dobbs Broadcast through a tweet (the "Second Tweet"), which stated: "Cyber Pearl Harbor: @SidneyPowell1 reveals groundbreaking new evidence indicating our Presidential election came under massive cyber attack orchestrated with the help of Dominion, Smartmatic, and foreign adversaries. #MAGA #AmericaFirst #Dobbs." The Second Tweet is reproduced below and can be found at the link cited below.¹³³ Also on December 10, 2020, Defendants Fox and Dobbs, through Lou Dobb's Facebook account, republished the Dobbs Broadcast through a Facebook post (the "Facebook Post"), which

¹³³ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:51 pm), <https://twitter.com/LouDobbs/status/1337168084541575171>.

also included the following caption: “Cyber Pearl Harbor: Sidney Powell reveals groundbreaking new evidence indicating our Presidential election came under massive cyber-attack orchestrated with the help of Dominion, Smartmatic, and foreign adversaries. #MAGA #AmericaFirst #Dobbs.” The Facebook Post can be found at the link cited below.¹³⁴ Also on December 10, 2020, Defendants Fox and Dobbs, through the @LouDobbsTonight Instagram account, republished the Dobbs Broadcast through an Instagram post (the “First Instagram Post” and with the Second Tweet and Facebook Post, the “Cyber Pearl Harbor Posts”), which also included the following caption: “Cyber Pearl Harbor Sidney Powell reveals groundbreaking new evidence indicating our Presidential election came under massive cyber-attack orchestrated with the help of Dominion, Smartmatic, and foreign adversaries. #MAGA #AmericaFirst #Dobbs.” The First Instagram Post can be found at the link cited below.¹³⁵

¹³⁴ Lou Dobbs, Sidney Powell, Facebook (Dec. 10, 2020), <https://www.facebook.com/watch/?v=681543625896199>.

¹³⁵ *Lou Dobbs Tonight* (@loudobbbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo0kAqB6Bq/>.



154. In addition to the false and defamatory statements in the Dobbs Broadcast set forth in paragraphs 141-142, *supra*, which the Cyber Pearl Harbor Posts republished, the Cyber Pearl Harbor Posts contained the following false and defamatory statements and/or implications of or concerning the Plaintiff:

- a. Plaintiff is a “foreign adversary” who participated in a “massive cyber attack” on the U.S. Presidential election.
- b. “Groundbreaking new evidence” was “reveal[ed]” indicating that Plaintiff is a “foreign adversary” that participated in a “massive cyber attack” on the U.S. Presidential election.

155. The statements in the Cyber Pearl Harbor Posts, which explicitly state and imply that Plaintiff participated in a cyber attack on the U.S. 2020 election, and that there is “groundbreaking new evidence” of such participation, are, as set forth *supra* and below, false:

- a. Plaintiff is not a “foreign adversary” that participated in a “massive cyber attack” or “Cyber Pearl Harbor” on the U.S. Presidential election. As set forth *supra*, there was

no cyber attack on the U.S. Presidential election and the 2020 U.S. election was, in fact, the most secure U.S. election ever.

- e. There is no “groundbreaking new evidence” revealing that Plaintiff is a “foreign adversary” that participated in a “massive cyber attack” the U.S. Presidential election.

In fact, Defendants have never disclosed any of the supposed evidence referenced in the Second Tweet.

156. Defendants’ statements in the Cyber Pearl Harbor Posts are reasonably understood to be statements of fact about Plaintiff, and were understood by people who saw, heard, and read them to be statements of fact about Plaintiff, including, without limitation, because in the Dobbs Broadcast, republished in the Cyber Pearl Harbor Posts, Defendant Dobbs stated Plaintiff’s name and Plaintiff’s name was displayed in a graphic multiple times during the Dobbs Broadcast.

157. At the time the Cyber Pearl Harbor Posts were published, Defendants acted with actual malice and knew the statements contained therein concerning the Plaintiff were false, including, without limitation, for the reasons set forth in paragraph 132, *supra*.

158. Defendants had no applicable privilege or legal authorization to make these false and defamatory statements in the Second Tweet, which republished the Dobbs Broadcast, or if they did, they abused it.

159. The substantial danger of injury to Plaintiff’s reputation from Defendants’ false statements in the Cyber Pearl Harbor Posts, which republished the Dobbs Broadcast, is readily apparent. Such statements would tend to harm the reputation of another as to lower him in the estimation and esteem of the community or to deter third parties from associating or dealing with him.

160. By publishing the false statements in the Cyber Pearl Harbor Posts, Defendants caused harm to Plaintiff’s reputation.

161. Defendants' false statements concerning the Plaintiff are defamatory *per se* because they impute to the Plaintiff the commission of a serious crime, specifically, participating in a conspiracy to commit election fraud in the 2020 U.S. election. Plaintiff is, accordingly, entitled to presumed damages.

162. As a direct and proximate result of Defendants' false statements in the Cyber Pearl Harbor Posts, which republished the Dobbs Broadcast, Plaintiff suffered damages, including, *inter alia*, injury to his reputation, harm to his ability to carry on his profession, embarrassment, humiliation, and emotional distress.

163. Defendants' actions were malicious, willful, wanton, and evidence a conscious disregard for Plaintiff and his rights, including, without limitation, for the reasons set forth in paragraph 138, *supra*.

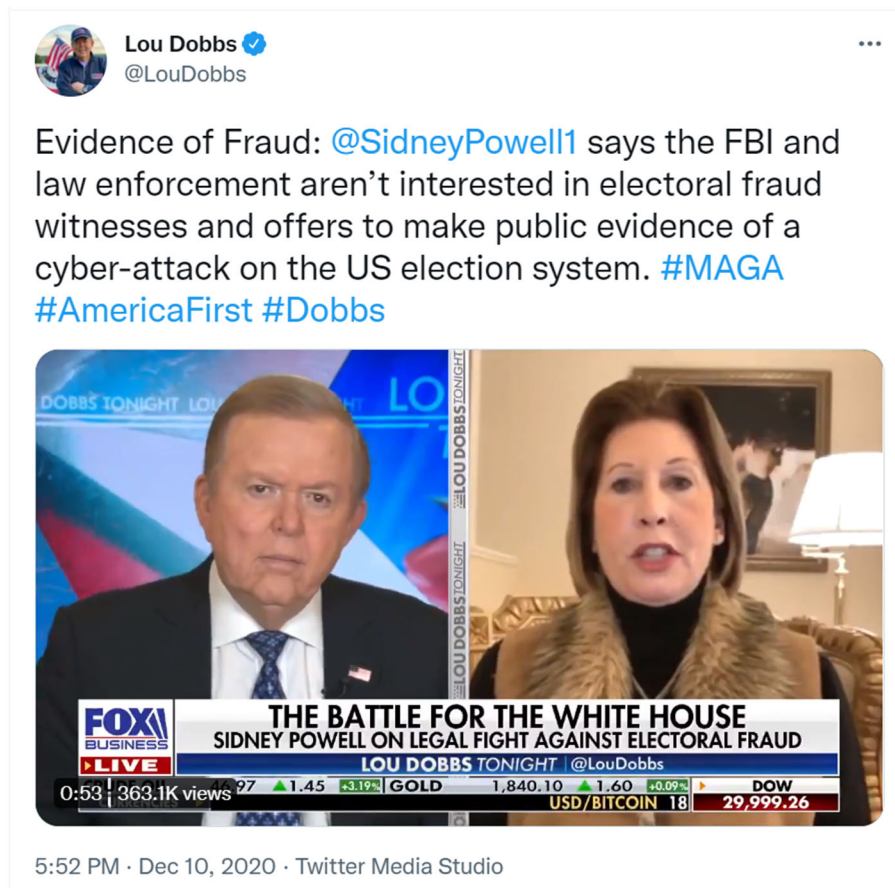
COUNT IV
DEFAMATION *PER SE*
(December 10, 2020 "Evidence of Fraud" Posts)

164. Plaintiff repeats and re-alleges paragraphs 1-163 as if set forth fully herein.

165. On December 10, 2020, at approximately 5:52 p.m. (ET), Defendants Fox and Dobbs, through the @LouDobbs Twitter account, republished the Dobbs Broadcast through a tweet (the "Third Tweet"), which stated: "Evidence of Fraud: @SidneyPowell1 says the FBI and law enforcement aren't interested in electoral fraud witnesses and offers to make public evidence of a cyber-attack on the U.S. election system. #MAGA #AmericaFirst #Dobbs." The Third Tweet is reproduced below and can be found at the link cited below.¹³⁶ Also on December 10, 2020, Defendants Fox and Dobbs, through the @LouDobbsTonight Instagram account, republished the

¹³⁶ Lou Dobbs (@LouDobbs), Twitter (Dec. 10, 2020, 5:52 pm), <https://twitter.com/LouDobbs/status/1337168397398921217>.

Dobbs Broadcast through a post (the “Second Instagram Post” and with the Third Tweet, the “Evidence of Fraud Posts”), which also included the caption: “Evidence of Fraud Sidney Powell says the FBI and law enforcement aren’t interested in electoral fraud witnesses and offers to make public evidence of cyber-attack on the US election system. #MAGA #AmericaFirst #Dobbs.” The Second Instagram Post can be found at the link cited below.¹³⁷



166. In addition to the false and defamatory statements in the Dobbs Broadcast set forth in paragraphs 141-142, *supra*, which the Evidence of Fraud Posts republished, the Evidence of Fraud Posts contained the following false and defamatory statements and/or implications of or concerning the Plaintiff:

¹³⁷ Lou Dobbs Tonight (@loudobbstonight), Instagram (Dec. 10, 2020), <https://www.instagram.com/p/CIo02XjhD1M/>

- a. Plaintiff participated in a “cyber-attack on the US election system.”
- b. There is “evidence” of, and “witnesses” to, Plaintiff’s participation in “electoral fraud” and a “cyber-attack on the US election system” and such evidence and witnesses should be of interest to the FBI.

167. The statements in the Evidence of Fraud Posts, which explicitly state and imply that Plaintiff participated in a cyber attack on the U.S. 2020 election, and there is evidence of and witnesses to such participation, are, as set forth *supra* and below, false:

- a. Plaintiff did not participate in a “cyber-attack on the US election system.” As set forth *supra*, there was no cyber attack on the US election system and the 2020 U.S. election was, in fact, the most secure U.S. election ever.
- b. There is no “evidence” of or “witnesses” to Plaintiff’s participation in a “cyber attack on the US election system.” In fact, Defendants have never disclosed any of the supposed evidence referenced in the Third Tweet.

168. Defendants’ statements in the Evidence of Fraud Posts are reasonably understood to be statements of fact about Plaintiff, and were understood by people who saw, heard, and read them to be statements of fact about Plaintiff, including, without limitation, because in the Dobbs Broadcast, republished in the Evidence of Fraud Posts, Defendant Dobbs stated Plaintiff’s name and Plaintiff’s name was displayed in a graphic multiple times during the Dobbs Broadcast.

169. At the time the Evidence of Fraud Posts were published, Defendants acted with actual malice and knew the statements contained therein concerning the Plaintiff were false, including, without limitation, for the reasons set forth in paragraph 132, *supra*.

170. Defendants had no applicable privilege or legal authorization to make these false and defamatory statements in the Evidence of Fraud Posts, which republished the Dobbs Broadcast, or if they did, they abused it.

171. The substantial danger of injury to Plaintiff's reputation from Defendants' false statements in the Evidence of Fraud Posts, which republished the Dobbs Broadcast, is readily apparent. Such statements would tend to harm the reputation of another as to lower him in the estimation and esteem of the community or to deter third parties from associating or dealing with him.

172. By publishing the false statements in the Evidence of Fraud Posts, Defendants caused harm to Plaintiff's reputation.

173. Defendants' false statements concerning the Plaintiff are defamatory *per se* because they impute to the Plaintiff the commission of a serious crime, specifically, participating in a conspiracy to commit election fraud in the 2020 U.S. election. Plaintiff is, accordingly, entitled to presumed damages.

174. As a direct and proximate result of Defendants' false statements in the Evidence of Fraud Posts, which republished the Dobbs Broadcast, Plaintiff suffered damages, including, *inter alia*, injury to his reputation, harm to his ability to carry on his profession, embarrassment, humiliation, and emotional distress.

175. Defendants' actions were malicious, willful, wanton, and evidence a conscious disregard for Plaintiff and his rights, including, without limitation, for the reasons set forth in paragraph 138, *supra*.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter an award and judgment in his favor, and against Defendants, as follows:

- (a) awarding Plaintiff general compensatory damages in amount to be determined at trial;

- (b) awarding Plaintiff punitive damages in an amount not less than \$ 250 million to be determined at trial;
- (c) awarding Plaintiff pre- and post-judgment interest;
- (d) awarding Plaintiff all expenses and costs, including attorneys' fees; and
- (e) such other and further relief as the Court deems appropriate.

JURY DEMAND

Plaintiff demands a trial by jury on all claims and issues so triable.

Dated: December 1, 2021

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