

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

RUBY FREEMAN and WANDREA MOSS, Plaintiffs, v. RUDOLPH W. GIULIANI, Defendant.	Civil Action No. 21-3354 (BAH) JURY TRIAL DEMANDED AMENDED COMPLAINT
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Plaintiffs Ruby Freeman and Wandrea Moss (“Plaintiffs”), through their attorneys, bring this complaint against Defendant Rudolph W. Giuliani (“Defendant”).

INTRODUCTION

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

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

3. As a result of their vital service, Ms. Freeman and Ms. Moss have become the objects of vitriol, threats, and harassment. They found themselves in this unenviable position not

based on anything they did, but instead because of a campaign of malicious lies designed to accuse them of interfering with a fair and impartial election, which is precisely what each of them swore an oath to protect.

4. Defendant Rudy Giuliani bears substantial and outsized responsibility for the campaign of partisan character assassination of Ms. Freeman and Ms. Moss. He orchestrated a sustained smear campaign, repeatedly accusing Ms. Freeman and Ms. Moss, by name, on television and on the Internet and social media networks of committing election fraud in order to alter the outcome of the 2020 presidential election in Georgia. Specifically, Defendant Giuliani published, caused to be published, and foreseeably led others to publish false accusations that Ms. Freeman and Ms. Moss had committed election fraud by, among other things:

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

5. Defendant Giuliani, a member of former President Donald J. Trump’s 2020 presidential campaign team and a former sometime lawyer to Trump, is a key figure in orchestrating and disseminating the conspiracy theory that the 2020 election was “stolen” from Trump by now-President Joseph R. Biden, Jr. through coordinated large-scale election fraud across key swing states, including Georgia. With knowledge that the allegations against Ms. Freeman

and Ms. Moss were false or with reckless disregard for their falsity, over a period of more than 18 months and continuing even after Plaintiffs initiated this action, Defendant Giuliani has relentlessly, repeatedly, and publicly accused Plaintiffs of engaging in the illegal act of election fraud, among other baseless smears. He has spread these lies in numerous meetings, on television, in conversations with incumbent candidate Trump and other Trump campaign members, and on the Internet, when it was at least reasonably foreseeable that others would repeat these claims as truth.

6. On December 3, 2020, the Trump campaign published an excerpted clip from State Farm Arena security camera video showing grainy images of Ms. Freeman and Ms. Moss (then-unnamed, but later identified on air and on the Internet as Ms. Freeman and Ms. Moss) counting ballots (the “Trump Edited Video”).¹ Defendant Giuliani re-published the Trump Edited Video on his Twitter account that afternoon.

7. Within 24 hours of the original publication by Defendant Giuliani and the Trump campaign of these lies on December 3, 2020, Georgia election officials had publicly and definitively debunked the claims about Ms. Freeman and Ms. Moss. They publicly explained in detail what the misinterpreted video did *not* show: no suitcases; no illegal ballot counting; no election fraud. A full hand recount of Georgia’s election results had already confirmed the election results and, by December 7, so would a second recount requested by the Trump campaign. Through December and January, Georgia’s Republican election officials continued to explain to the public, again and again, that thorough reviews had disproven Defendant’s false claims and had proven that there had been no illegal or improper ballot counting.

¹ The video is edited in the sense that it is excerpted from a much longer tape.

8. Despite knowing that the Georgia election officials had refuted the allegations of wrongdoing, Defendant Giuliani chose to deliberately disregard the truth and instead to use the Trump Edited Video to continue to fabricate and publish lies about Ms. Freeman and Ms. Moss.

9. Defendant Giuliani's character assassination of Ms. Freeman and Ms. Moss was deliberate. Around December 2020, Defendant Giuliani launched a "Strategic Communications Plan" ("Strategic Plan") designed to overturn the 2020 election by engaging in a "[n]ationwide communications outreach campaign to educate the public on the fraud numbers" during the ten-day period between December 27, 2020, and January 6, 2021.² The Strategic Plan's messaging relied on the following call to action: "YOU CANNOT LET AMERICA ITSELF BE STOLEN BY CRIMINALS – YOU MUST TAKE A STAND AND YOU MUST TAKE IT TODAY."

10. Giuliani's Strategic Plan identified Ms. Freeman and Ms. Moss *by name* and falsely accused them of engaging in the criminal act of voter fraud. Under the heading "Election Officials' Illegal Actions," the Strategic Plan stated, "Election Official Ruby Freeman is seen surreptitiously & illegally handing off hard-drives ON CAMERA in the Georgia counting facility." It references the "Video of Ruby and Shay [sic]" at midnight and also stated "Ruby Freeman (woman in purple shirt on video), now under arrest and providing evidence against GA SOS Stacey Abrams and DNC on advanced coordinated effort to commit voter / election fraud" which was then followed by bracketed text acknowledging no basis for the statement: "[*need confirmation of arrest and evidence*]."

² Giuliani Presidential Legal Defense Team, *Strategic Communications Plan* (Dec. 17, 2020), available at <https://perma.cc/VP2S-CJMR>.

11. Giuliani's Strategic Plan listed more than a dozen "CHANNELS TO DISSEMINATE MESSAGING," which included "Presidential Tweets[,] Giuliani Team Tweets[,] Talk Radio[,] Conservative Bloggers[,] YouTube Influencers" and "Social Media Influencers."

12. Defendant Giuliani launched the Strategic Plan, a significant part of which consisted of Defendant Giuliani publishing widely lies about Ms. Freeman and Ms. Moss by name. He amplified his defamatory statements by publishing them on a variety of channels, including on television and on social media. He encouraged those listening to watch and spread the defamatory clips repeatedly. As intended, numerous third-party publishers republished Giuliani's false accusations to millions of viewers and readers, identifying Ms. Freeman and Ms. Moss by name while showing clips from the Trump Edited Video and leveling additional false and malicious accusations of criminal election fraud against them. Defendant Giuliani continued to repeat and republish the false and defamatory statements throughout 2021 and into 2022, including after Plaintiffs initiated this action. With no concern for the truth, or for the real-life consequences of his willful lies, Defendant Giuliani falsely and baselessly portrayed Plaintiffs as traitors who participated in a conspiracy to steal the presidential election in Georgia.

13. Contrary to Defendant Giuliani's widely disseminated lies, at no time did Ms. Freeman or Ms. Moss ever: conspire to clear poll watchers from the room where they were counting ballots, produce secret "suitcases" full of illegal ballots, or illegally count ballots multiple times. There is not, and has never been, any basis for these statements, either in the Trump Edited Video or in any other document, photograph or credible evidence.

14. The lies about Plaintiffs have had prolonged and tragic consequences for their lives and well-being. As a result of Defendant Giuliani's defamatory campaign, Ms. Freeman and Ms. Moss were subjected to an immediate onslaught of violent and racist threats and harassment, and

such threats and harassment continue to appear online to this day. Their personal and professional reputations have been destroyed. From the period after Defendant Giuliani started broadcasting lies about them to the present, Ms. Freeman and Ms. Moss have feared for their physical safety and have suffered a devastating emotional toll.

15. At the height of Defendant's disinformation campaign, Ms. Freeman, at the recommendation of the FBI, fled her home and did not return for more than two months. On at least two occasions, strangers showed up at her grandmother's home, an address where Ms. Moss had once lived, and attempted to push into the house in order to make a "citizens' arrest." On or about January 5, 2021, a group of strangers on foot and in vehicles surrounded Ms. Freeman's house. In addition, Ms. Freeman was forced to shutter an online business because her use of social media resulted in continuing threats and slanders against her.

16. In her subsequent work on Fulton County elections, Ms. Moss suffered continuing personal and professional consequences. At work, harassing and threatening email messages from the public went to a listserv that included Ms. Moss and her colleagues, making her a target at her workplace. She has subsequently been driven to seek new employment.

17. As a result of Defendant's ongoing campaign, the Plaintiffs can no longer live normal lives. If she hears her name called in public, Ms. Freeman is afraid that she will be identified and attacked. Ms. Moss fears even visiting a grocery store, where she might be recognized.

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

integrity. Deliberate efforts to spread disinformation about America's election workers undermine the integrity of American elections, discourage public participation in the electoral process, and accordingly, threaten democracy.

PARTIES

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

20. **Plaintiff Wandrea "Shaye" Moss** worked on Fulton County's absentee ballot operation during the 2020 general election. She worked for the Fulton County Registration and Elections Department beginning in 2012. During the 2020 election, Ms. Moss's position with the County was as a Registration Officer, and her responsibilities included processing voter applications and assisting voters in person and over the phone. She is a citizen of Georgia.

21. **Defendant Rudolph W. Giuliani** is a former politician and government official who has become a podcast and radio show host, a pundit on other channels, and (at times) he was the personal attorney to Donald Trump. Defendant's law licenses have been suspended in his home state of New York and in the District of Columbia (the "District") because of his knowing or reckless falsifications, including his lies about Plaintiffs. He is domiciled in New York but has engaged in a persistent course of conduct in the District relating to the statements at issue and he has admitted in answering the Plaintiffs' first Complaint that he made some of the defamatory statements described below from the District.

JURISDICTION AND VENUE

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

23. This Court may exercise personal jurisdiction over Rudolph Giuliani pursuant to § 13-423 of the District of Columbia Code because he: (i) transacted business within the District of Columbia; (ii) was licensed to practice law in the District of Columbia; (iii) caused tortious injury by acts committed within the District of Columbia, including by making false and defamatory statements about Plaintiffs from within the District of Columbia, and/or, on information and belief, directly to individuals within the District of Columbia; and (iv) caused tortious injury by acts committed outside the District of Columbia while regularly doing business within, engaging in persistent conduct within, and deriving substantial revenue from services rendered within the District of Columbia.

24. Alternatively, this Court has personal jurisdiction over Defendant Giuliani pursuant to D.C. Code § 13-423(a) because Defendant committed acts in the District of Columbia that caused tortious injury to Plaintiffs within the District of Columbia. Defendant made defamatory statements that were produced and published in the District of Columbia. The publication of defamatory content within the District constitutes overt acts that furthered Defendant's common scheme with other individuals. Further, the publication of defamatory content about Plaintiffs, both from within and without the District, was directed, in part, to legislators, officials, and constituents in the District for the purpose of preventing the transfer of power from former President Trump to President Biden and, thereafter, causing power to be transferred back to former

President Trump. As a result, Plaintiffs suffered tortious injury in the District of Columbia by virtue of the publication of defamatory content in the District.

25. Defendant Giuliani does not contest this Court’s exercise of personal jurisdiction over him.

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

BACKGROUND

27. Liability in this case is predicated on a series of defamatory statements which Defendant Giuliani published or caused to be published beginning on December 23, 2020. This background section provides facts and context about the parties and the events in the weeks leading up to those actionable statements.

A. Plaintiffs Serve as Election Workers in the 2020 Election in Fulton County, Georgia.

28. In the lead-up to Election Day 2020, Georgia “emerged as one of the nation’s biggest electoral battlegrounds in the race for the White House.”³

29. The voting process in Georgia began on September 15, 2020, when local officials began mailing out absentee ballots.⁴ Voters could cast early voting ballots in person from October 12, 2020, until October 30, 2020, and they could vote by mail until Election Day, on November 3, 2020.⁵ All told, more than 4 million Georgians cast ballots during early voting or via absentee

³ Greg Bluestein, *Election Day Arrives: 5 Factors That Will Decide Georgia’s 2020 Race*, ATLANTA J.-CONST. (Nov. 3, 2020), <https://perma.cc/MGH2-NUFY>; see also *id.* (noting how “tantalizingly close” Democrats came to winning a statewide official in 2018).

⁴ Ga. Sec’y of State, 2020 State Elections and Voter Registration Calendar, <https://perma.cc/XKQ4-6QAF> (last visited Dec. 22, 2021).

⁵ Claire Simms et al., *Voting in Georgia 2020: Registering to Vote, Absentee Ballots, and More*, Fox 5 Atlanta (Oct. 28, 2020), <https://perma.cc/4SAD-8KH6>.

ballot in the 2020 election.⁶ On Election Day, when another 975,540 people cast votes,⁷ Georgia Secretary of State Brad Raffensperger observed, “We are having a successful election in Georgia today.”⁸

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

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

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

33. On November 13, 2020, NBC, ABC, CBS, and CNN declared Joe Biden the projected winner of Georgia,⁹ followed by Fox News and the Associated Press on November 19, 2020.¹⁰

34. From November 11 through November 19, 2020, county election officials carried out a risk-limiting audit, which included a full manual tally of all votes cast, and confirmed Biden had won Georgia’s election: “Audit boards from all 159 Georgia counties examined 41[,]881 batches, hand-sorting and counting each ballot as part of the process, which was the largest hand

⁶ November 3, 2020 General Election, *President of the United States*, Ga. Sec’y of State, <https://perma.cc/VM2L-5JPZ> (last visited Mar. 17, 2022).

⁷ *Id.*

⁸ Kate Brumback & Sudhin Thanawala, *Despite A Few Hiccups, Voting in Georgia Goes Smoothly*, Associated Press, Nov. 3, 2020, <https://perma.cc/77K9-QBYS?type=image>.

⁹ *AP: Trump Wins North Carolina but Georgia Too Close to Call*, ABC10.com (Nov. 13, 2020), <https://perma.cc/D3A5-G9DG>.

¹⁰ *FOX News, AP calls Georgia for Biden As State Finalized Hand Recount Audit*, FOX 5 Atlanta (Nov. 20, 2020), <https://perma.cc/V8FB-TQRD>.

count of ballots in United States history.”¹¹ According to the audit report, “no individual county showed a variation in margin larger than 0.73%.” Moreover, “103 of the 159 counties showed a margin variation of less than 0.05%.”¹² It concluded “the correct winner was reported.”¹³

35. On November 20, 2020, Secretary of State Raffensperger certified Biden’s victory.¹⁴ That same day, Republican Governor Brian Kemp certified Georgia’s election results.¹⁵

36. President Trump requested a recount, which was conducted using scanners that read and tallied the votes.¹⁶ The recount was the third tally of votes in the Georgia presidential race and the third tally to conclude that President Biden had won the election.¹⁷ On December 7, 2020, Georgia officials recertified President Biden’s victory of the state’s 16 electoral votes.¹⁸

B. Defendant Giuliani and Trump’s Campaign Team Spread the Lie That Election Workers Had Illegally Instructed Observers to Leave and Counted Thousands of Fraudulent Ballots Unobserved.

37. On December 3, 2020, Trump Campaign surrogates testified before the Georgia Senate, alleging that fraud and misconduct had occurred during Georgia’s November 2020 election.¹⁹

¹¹ Ga. Sec’y of State, *Risk-Limiting Audit Report: Georgia Presidential Contest, November 2020* (Nov. 19, 2020), <https://perma.cc/3CT8-W9BC>.

¹² *Id.*

¹³ *Id.*

¹⁴ Kate Brumback, *Georgia Officials Certify Election Results Showing Biden Win*, Associated Press (Nov. 20, 2020), <https://perma.cc/4LMY-ZL52?type=image>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Beau Evans, *Georgia Senate Panel Hosts Trump Attorney Giuliani As Election Officials Dispute Fraud Claims*, Augusta Chron. (Dec. 3, 2020), <https://perma.cc/T8ZS-4F8V>.

38. At the hearing, a lawyer assisting the Trump campaign played snippets of the Trump Edited Video²⁰ while a campaign surrogate claimed that Republican observers had been asked to leave the arena in contravention of Georgia law and that, once they were gone, Plaintiffs and other election workers produced and counted 18,000 hidden, fraudulent ballots—more than the margin of victory in the Georgia presidential race.²¹ The surrogate referred to “suitcases of ballots [stored] under a table, under a tablecloth;” identified the election workers in the room as “the lady in purple,” “two women in yellow,” and “the lady with the blond braids also, who told everyone to leave;” and stated “one of them had the name Ruby across her shirt somewhere.”²²

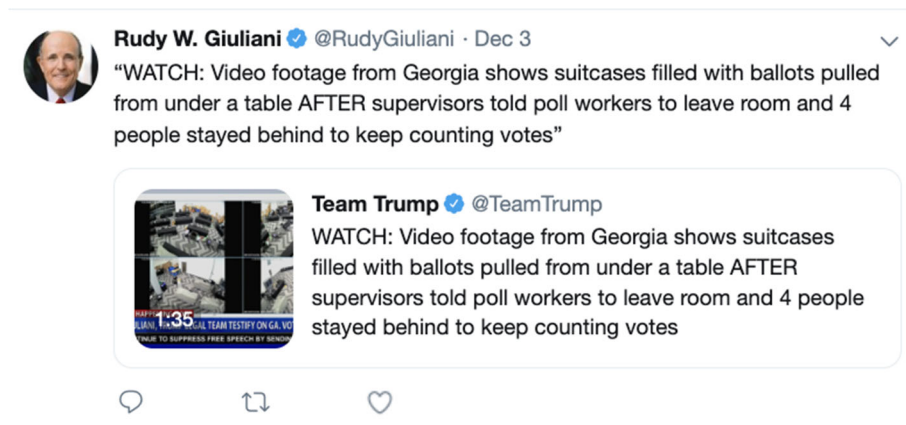
39. That same day, the Trump Campaign published the Trump Edited Video on Twitter and tweeted that it showed “suitcases filled with ballots pulled from under a table AFTER supervisors told poll workers to leave room and 4 people stayed behind to keep counting votes.” On December 3 and 4, Defendant Giuliani repeatedly broadcast the lie on his own Twitter account²³:

²⁰ 11Alive, *Second Georgia Senate Election Hearing*, YouTube (Dec. 3, 2020), <https://perma.cc/GM2R-HX44?type=image> (showing Trump campaign volunteer Jacki Pick’s commentary on the surveillance footage from 33:27 to 50:26).

²¹ Angelo Fichera, *Video Doesn’t Show ‘Suitcases’ of Illegal Ballots in Georgia*, FactCheck.org (Dec. 7, 2020), <https://perma.cc/Z3P2-A3DC>. For video of the hearing, see also 11Alive, *Second Georgia Senate Election Hearing*, YouTube (Dec. 3, 2020), <https://perma.cc/GM2R-HX44?type=image>.

²² 11Alive, *Second Georgia Senate Election Hearing*, YouTube (Dec. 3, 2020), <https://perma.cc/GM2R-HX44?type=image>.

²³ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 3, 2020), *available at* <https://perma.cc/2DTZ-LGVP>; *see also* Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 3, 2020, 1:48 PM), <https://perma.cc/EGH5-NJK7?type=image>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 3, 2020, 10:14 PM), <https://perma.cc/PSL3-KBPP?type=image>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 4, 2020, 9:12 AM), <https://perma.cc/H5SN-SGL2>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 4, 2020, 5:03 PM), <https://perma.cc/TE8Y-MA5U>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 4, 2020, 6:23 PM), <https://perma.cc/7N5Z-CNXA>.



C. The Lie About Georgia Election Fraud Was Promptly and Authoritatively Refuted.

40. Both the Office of the Georgia Secretary of State (led by a Republican who endorsed former President Trump during the 2020 campaign) and the Georgia Bureau of Investigation immediately investigated Defendant’s claims. They reviewed the security videotape in its entirety, interviewed all witnesses who were present at the time of the alleged misconduct, and found no evidence whatsoever to substantiate any of the claims.²⁴

41. At 5:41 a.m. on December 4, 2020, the Voting Implementation Manager for the State of Georgia, Gabriel Sterling, refuted the false claims of election fraud on Twitter: “The 90 second video of election workers at State Farm arena, purporting to show fraud was watched in its entirety (hours) by @GaSecofState investigators. Shows normal ballot processing. Here is the fact check on it.”²⁵

42. Mr. Sterling’s tweet shared a link to a fact-check published by Lead Stories, a fact-checking website that identifies false or misleading stories. It demonstrated that the Trump Edited

²⁴ See Response of the Georgia Secretary of State to the Court’s Order of September 20, 2021 (“McGovern’s Resp.”), *Favorito v. Wan*, Civ. No. 2020CV343938 (Fulton Cnty. Ga. Super. Ct. Oct. 12, 2021), <https://perma.cc/PYU3-G5K4>.

²⁵ Gabriel Sterling (@GabrielSterling), Twitter (Dec. 4, 2020, 5:41 AM), <https://perma.cc/7KMR-EJ4B>.

Video did not show suitcases full of ballots being pulled from under a table, and that poll watchers were not told to leave.²⁶ The fact-check quotes Georgia election officials explaining that the containers in the video contained ballots that were processed for counting earlier in the night, that the vote count data and voter verifications negated the claim that thousands of fraudulent ballots had been introduced into the count, and that it was not illegal for election workers to count ballots in the observers' absence.²⁷

43. On December 4, 2020, Georgia Public Broadcasting published its own article fact checking the election fraud claims made during the Georgia Senate hearing the previous day. The article directly refuted the Trump legal team's claims concerning the contents of the Trump Edited Video. It reported that the video showed a normal tabulation process, which both state and county officials had verified. It also reported that no observers had been asked to leave, but Republican monitors and the press did leave when some election employees stopped their work for the night. And it clarified that Georgia law does not require poll monitors to be present for the ballot-counting process.²⁸

44. Also on December 4, 2020, in a roughly 17-minute televised Newsmax segment, Mr. Sterling again explained why the video did not show any fraud:

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

²⁶ Alan Duke & Hallie Golden, *Fact Check: Video from Georgia Does Not Show Suitcases Filled with Ballots Suspiciously Pulled from Under a Table; Poll Watchers Were Not Told to Leave*, Lead Stories (Dec. 3, 2020), <https://perma.cc/MF7H-AV2P>.

²⁷ *Id.*; see Angelo Fichera, *Video Doesn't Show 'Suitcases' of Illegal Ballots in Georgia*, FactCheck.org (Dec. 4, 2020), <https://perma.cc/Z3P2-A3DC>.

²⁸ Stephen Fowler, *Fact Checking Rudy Giuliani's Grandiose Georgia Election Fraud Claim*, Georgia Public Broadcasting (Dec. 4, 2020, 8:27 AM), <https://perma.cc/84FL-XCTY>.

working. There are cutters—the people who are opening the envelopes—and then there’s the people who are scanning, which is the ones we see on the video.

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

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

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

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

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

We have to ask ourselves in that period of time, I think it was about three to five thousand votes that were scanned, and did this elections crew of, you know, medium-paid, tired elections workers

suddenly become the Ocean's Eleven crew as part of a theft of an election? Or is it more likely they were tired and irritated?

You see when the SEB monitor gets there, and when the investigator gets there, the armed investigator, they keep doing the exact same thing they were doing. They don't even pay him any mind because it's just—they're doing their regular processes.

And the problem we have is people don't understand this, and when people whip people's emotions up, it goes back to the issue I was talking about before of threats being against these thousands of workers across the country.²⁹

45. On December 4, 2020, PolitiFact—a nonprofit website that checks the accuracy of claims made by elected officials and others—published another fact-check of the claim repeatedly made by Defendant that video footage from Georgia showed suitcases filled with ballots being illegally counted after election monitors were told to leave. The PolitiFact article confirmed the conclusions of Lead Stories and Georgia Public Broadcasting that the claim was plainly false. It featured a statement from Fulton County Registration and Elections Director Richard Barron, who confirmed that no announcement was made telling people to leave. Rather, certain staff members left as their work was finished. Mr. Barron himself told the workers scanning the ballots to keep working. Mr. Barron also confirmed that it was normal to keep containers under the tables near the scanners.³⁰

46. On December 5, 2020, Defendant continued to publish and amplify the lies about the Plaintiffs.³¹

²⁹ Monkey Savant, *Gabriel Sterling & Chad Robichaux on Newsmax Discuss the GA Ballot Fraud Situation 12/04/20*, YouTube (Dec. 4, 2020), <https://perma.cc/5X7N-8FYS?type=image>.

³⁰ Bill McCarthy, *No, Georgia Election Workers Didn't Kick Out Observers and Illegally Count 'Suitcases' of Ballots*, PolitiFact (Dec. 4, 2020), <https://perma.cc/JAT3-Y4FQ>.

³¹ OAN, *President Trump's Legal Team Presents Evidence of Alleged Voter Fraud in Ga.*, YouTube (Dec. 5, 2020), <https://perma.cc/4ETA-TR4K?type=image>; OAN, *Georgia Senate Hearing Shares Surveillance Footage Revealing Potential Ballot Stuffing*, Rumble (Dec. 5, 2020), <https://perma.cc/Z7PF-RDAN>; OAN (@OANN), Twitter (Dec. 5, 2020, 11:31 AM),

47. On December 6, 2020, in *Pearson v. Kemp*, Civ. No. 1:20-cv-04809-TCB (N.D. Ga.), Georgia Governor Brian Kemp filed a sworn affidavit from Frances Watson, chief investigator for the Georgia Secretary of State, further refuting these lies.³² Governor Kemp filed this affidavit in response to claims by a group of presidential electors for former President Trump of widespread election-related misconduct. The affidavit detailed the results of an investigation by Ms. Watson into the alleged events at the State Farm Arena. Ms. Watson attested that her investigative team interviewed witnesses and reviewed the entire security footage. Her investigation found that (i) observers and members of the press were *not* told to leave, but exited the room after seeing a group of workers responsible for opening envelopes leave; and (ii) no ballots were brought in from an unknown location and hidden under a table. She also stated that the video showed opened but uncounted ballots being placed in boxes and stored under the table, and later showed the boxes being reopened so the workers could scan the ballots when the counting resumed later that night.

48. The Watson affidavit's submission and its content were widely reported in the press on December 6 and 7, 2020.³³

49. On December 7, 2020, Georgia Secretary of State Brad Raffensperger held a widely covered press conference to announce that Georgia was re-certifying the results of the 2020

<https://perma.cc/23FQ-WE9W>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 5, 2020, 12:49 PM), <https://perma.cc/RT9Y-CDQW>.

³² Decl. of Frances Watson, *Pearson v. Kemp*, Civ. No. 1:20-cv-04809-TCB (N.D. Ga. Dec. 6, 2020), ECF No. 72-1, available at <https://perma.cc/4WAJ-H3MV>.

³³ See, e.g., Daniel Chaitin, *Chief Georgia Investigator: No 'Mystery Ballots' Seen in Security Video*, Wash. Examiner (Dec. 6, 2020), <https://perma.cc/6TTM-KXEY>; Ronn Blitzer, *No 'Mystery Ballots' Hidden under Table in Fulton County, Georgia Investigator Swears in Affidavit*, Fox News (Dec. 7, 2020), <https://perma.cc/VBQ5-ZLY8>; Peter Weber, *Georgia's Top Election Investigator Debunks a Vote Fraud Conspiracy Involving 'Suitcases' of Ballots, a Urinal*, Yahoo News (Dec. 7, 2020), <https://perma.cc/S734-R6Y2>.

election.³⁴ After announcing the recertification, Secretary Raffensperger introduced Mr. Sterling, who once more refuted the lies about the Trump Edited Video that Defendant Giuliani was continuing to spread. Mr. Sterling yet again confirmed that the surveillance video showed that the containers taken from under a table held valid, uncounted ballots that had been stored by workers who thought they were leaving for the night. After realizing that they were staying, the workers unpacked the ballots from the containers and resumed scanning them.³⁵

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

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

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

Sterling: Well if it, if it counted it five times, guess what, it would have shown up in the hand count. Because if you do the same batch, let's say—I don't even know how many there were, a hundred, two hundred, whatever it was—and let's say you do it three times, they would have been 600 off on that on the hand count. They weren't. I mean, it's just, as I've said, and y'all have heard me say it before, it's a ridiculous game of whack-a-mole.³⁶

51. Sterling's press conference and his refutation of the lie that Plaintiffs illegally scanned ballots multiple times were widely reported.³⁷

³⁴ *Georgia Final 2020 Presidential Recount Results*, C-SPAN (Dec. 7, 2020), <https://perma.cc/6NET-C29R?type=image>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *See, e.g.*, Nick Corasaniti, *Top Georgia Election Official Debunks 'Ridiculous' Claims about Election Fraud*, N.Y. Times (Dec. 7, 2020), <https://perma.cc/7TYA-AWYL>.

D. By December 7, 2020, the Truth of What Had Happened – and What Did Not Happen – at the State Farm Arena on the Evening of November 3 Had Been Widely Reported.

52. As described above, beginning on December 3, 2020, the Georgia Secretary of State and Georgia Bureau of Investigation immediately investigated Defendant Giuliani's claims. As of December 7, 2020, from the reported results of their investigations, along with widely disseminated independent fact-checks and the reported results of the two recounts, including a hand recount and a machine recount, generally available public information had definitively established that:

- a) the water leak reported at the State Farm Arena on November 3 turned out to be an overflowing urinal;
- b) the flooding did not affect the counting of votes;
- c) no announcement was made telling monitors, members of the press, or others to leave on election night;
- d) no ballots were brought into the arena from an unknown location;
- e) the supposed "suitcases" of illegal ballots were not suitcases, but regular ballot containers filled with valid, uncounted ballots;
- f) those ballots were not "hidden," but stored, and no one tampered with those ballots;
- g) there was no evidence that Plaintiffs had illegally counted ballots multiple times, because they did not—if anyone had done so, there would have been a significant discrepancy between results of the hand count and the results on election night, and there was no such discrepancy;
- h) the ballot processing in the Trump Edited Video was, in fact, entirely normal; and
- i) neither Plaintiffs nor anyone else committed election fraud in Fulton County that altered the results of the election, and there was no credible evidence of any conspiracy to commit such fraud.

53. On information and belief, Defendant Giuliani learned of the numerous, authoritative refutations of the lies about Plaintiffs in real time or he recklessly disregarded them.

As described more fully below, he was certainly aware of them no later than December 7, 2020. Nevertheless, he continued to publish lies about Plaintiffs, including on December 9 and 10.³⁸

54. No later than December 30, 2020, Secure the Vote, a website maintained by the office of the Georgia Secretary of State, posted a detailed timeline to fact-check the claims about what is depicted in the Trump Edited Video³⁹; Secure the Vote subsequently added descriptions to the timeline, documenting the events from November 3, 2020 actually shown on the Trump Edited Video, including the following⁴⁰:

5:22 AM	Workers arrive at State Farm Arena and discover a water leak. They immediately move tables and ballots away from the leak to prevent any water damage.
6:30 AM	Workers can be seen moving tables, but not tampering with ballots.
7:11 AM	Workers are seen vacuuming and drying the floors.
8:22 AM	Workers begin rearranging the room to its original layout. They move tables and ballot containers. The table under which a “suitcase” full of ballots was allegedly stashed is moved, revealing nothing hidden there.
9:57 PM	Poll workers prepare to stop work for the night and empty ballot containers are brought into the room. Workers then fill the containers with uncounted ballots.
10:06 PM	Poll workers store the containers with uncounted ballots under the table for the night while there are still many people in the room.

³⁸ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 9, 2020, 11:26 AM), <https://perma.cc/3GL9-5B4E>; Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 10, 2020), available at <https://perma.cc/RL93-ZS57> (re-tweeting Trump Edited Video); see also Stephen Fowler, *At Georgia House Hearing, Republicans’ Baseless Claims of Voting Fraud Persist*, Ga. Pub. Broadcasting (Dec. 10, 2020, 11:25 AM), <https://perma.cc/5YS4-KGU5>.

³⁹ *Fact Check*, Secure the Vote, <https://perma.cc/Z7E2-57NU> (last visited Dec. 22, 2021).

⁴⁰ *State Farm Arena*, Secure the Vote, <https://perma.cc/22F2-8MQU?type=image> (last visited Dec. 22, 2021).

11:02 PM	After the Secretary of State ⁴¹ told poll workers they should continue working through the night, they remove the containers with uncounted ballots from underneath the table and resume their counting.
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55. Moreover, these facts were widely reported again in the aftermath of President Trump’s January 2, 2021, call with Secretary Raffensperger, and that call prompted additional fact-checks described more fully below.

56. Notwithstanding the immediate, authoritative, and repeated fact-checks, and Defendant’s awareness of those fact-checks, Defendant has spent the last 18 months defaming Plaintiffs as described below and has never retracted his lies.

THE ACTIONABLE DEFAMATORY STATEMENTS

A. In December 2020, Defendant Giuliani Orchestrates, Coordinates, and Implements a Campaign to Defame Plaintiffs.

57. The Strategic Plan orchestrated by Defendant Giuliani identified the time period between December 27, 2020, and January 6, 2021, as the “10 Days To Execute This Plan & Certify President Trump.”⁴² Although styled as the “Presidential Legal Defense Team,” Defendant Giuliani was not a government lawyer and it is clear from the document that the authors worked on behalf of the Trump Campaign and aimed to further the Trump Campaign’s private political goals. The Strategic Plan became public in January 2022 as part of the work performed by the

⁴¹ The Voting Implementation Manager for the State of Georgia, Gabriel Sterling, reported that Georgia’s Secretary of State Brad Raffensperger ordered election workers to continue counting ballots through the night. Maggie Astor, *A Georgia Election Official Debunked Trump’s Claims of Voter Fraud, Point by Point*, N.Y. Times (Jan. 4, 2021), <https://perma.cc/5F4K-LADG>.

⁴² Giuliani Presidential Legal Defense Team, *Strategic Communications Plan* (Dec. 17, 2020), available at <https://perma.cc/VP2S-CJMR>.

congressional Select Committee to Investigate the January 6th Attack on the United States Capitol.⁴³

58. The stated goal of the Giuliani Strategic Plan was: “Nationwide communications outreach campaign to educate the public on the fraud numbers, and inspire citizens to call upon legislators and Members of Congress to disregard the fraudulent vote count and certify the duly-elected President Trump.”

59. The first of the “Issues” the Giuliani Strategic Plan identified was “MASSIVE CORRUPTION IN THE ELECTION PROCESS LED TO A VOTE TALLY THAT IS FRAUDULENT” and under the heading “**Fraudulent Ballots**” stated, “Fulton County, GA, video of suitcases of fraudulent ballots.”

60. Under the headline “**Election Officials’ Illegal Actions,**” the Giuliani Strategic Plan identified Plaintiff Freeman by name: “Election Official Ruby Freeman is seen surreptitiously & illegally handing off hard-drives ON CAMERA in the Georgia counting facility.”

61. The Giuliani Strategic Plan goes on to identify suggested “MESSAGING,” to include asking “What do you elections officials have to hide?” and to tell “EVERYONE” that “***YOU CANNOT LET AMERICA ITSELF BE STOLEN BY CRIMINALS – YOU MUST TAKE A STAND AND YOU MUST TAKE IT TODAY.***”⁴⁴

62. As one of the “SUPPORTING DOCUMENTS” that were “Presented by the Giuliani Team,” the Giuliani Strategic Plan included a series of “VOTER FRAUD HIGHLIGHTS

⁴³ The document was produced by former New York City police commissioner and ally of Giuliani Bernard Kerik as part of the investigation. See Nicholas Wu & Kyle Cheney, *Bernard Kerik Provides Batch of Documents to Jan. 6 Select Committee*, POLITICO (Dec. 31, 2021), <https://perma.cc/59QR-R7T7>.

⁴⁴ *Id.* at 4-5.

FOR THE 2020 US ELECTION” organized by state. The “GEORGIA” “VOTER FRAUD HIGHLIGHT[]” began by identifying Plaintiffs by name:⁴⁵

GEORGIA

Margin: 10,000 votes

- Video of Ruby and Shay at midnight
 - That is the time of the 200,000 vote bump
 - Similar interruptions at same time in other states
 - No Watermain Break – a lie to get the Republican observers and media to leave at 10:30pm

63. The Giuliani Strategic Plan also identifies the “TOP 10 WORST FRAUD INCIDENTS BY STATE,” and identifies Plaintiff Freeman by name as the first one under “GEORGIA” and claimed she is “under arrest” for being part of a “coordinated effort to commit voter/election fraud”:⁴⁶

GEORGIA

1. **"Suitcase Gate"** - Video of "ballot stuffing" when "suitcases" (container type) filled with ballots (approximately 6,000 in each container) were rolled out from under table at GA arena and placed in tabulation machines (one batch repeatedly tabulated at least 3 times) by [X number] of poll workers who remained AFTER all Poll Watchers (GOP and the like), press and all third parties were required to leave the premises per announcement at or about [__ AM] until [__ AM] in violation of election laws enacted by GA state legislature. Ruby Freeman (woman in purple shirt on video), now under arrest and providing evidence against GA SOS Stacey Abrams and DNC on advanced coordinated effort to commit voter / election fraud [*need confirmation of arrest and evidence*].

The face of the document itself acknowledges that despite making the claim, there was no confirmation of any “arrest” or supporting “evidence.”

64. The Giuliani Strategic Plan directs and targets the defamatory statements about Plaintiffs to the District, including by identifying: the “**FOCUS OF CAMPAIGN**” to be “Republican Members” of the United States Congress; influential individuals in the District, including “Freedom Caucus Members” and Trump Advisor “Peter Navarro Team,” as “**KEY**

⁴⁵ *Id.* at 9.

⁴⁶ *Id.* at 20.

TEAM MEMBERS”; planning “Protests in DC” as part of the “Targets” for “**RALLIES AND PROTESTS.**”⁴⁷ It also indicates that Giuliani was working closely with President Trump and his campaign, located in the District.

B. Defendant Giuliani Executes the Plan to Defame Plaintiffs.

65. As he carefully planned, Defendant repeatedly defamed Plaintiffs across multiple widely viewed media platforms.

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

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

There’s a video recording in Fulton County, Georgia, of what is obviously, without any doubt, the theft of votes. You have to be a naive child or a completely dishonest partisan not to realize that **the observers are being thrown out of the room. A phony excuse of a water main break was used. They still were thrown out of the room, didn’t want to leave. Once they were all left and a last check was done around the hall, the workers for Atlanta—for Fulton County—the five or six, one of whom has a history of voter fraud participation, Ruby Freeman, uh, they scurry under these desks.** Hardly where you would keep ballots, right? And they start taking ballots out and then put them on a wheelbarrow sort of thing and wheel them around. And you can see the ballots don’t really look like, like absentee ballots that are in envelopes; they look more like pristine pieces of paper. And then they’re given out and very quickly are being counted, counted, counted, counted, there are times in which it appears that they were being counted more than one time—three, four, five, six, seven times, eight times. . . . **[I]t’s quite clear no matter who they’re doing it for, they’re cheating. It looks like a bank heist.**⁴⁸

⁴⁷ *Id.* at 1, 6-7.

⁴⁸ Rudy Giuliani’s Common Sense, *Christmas Is Not Canceled, It’s Vital This Year* | Rudy Giuliani | Ep. 96, Rumble (Mar. 22, 2021), <https://perma.cc/T9VY-LPU7>; Rudy Giuliani, *Christmas Is Not Canceled, It’s Vital This Year* | Rudy Giuliani | Ep. 96, RudyGiulianics.com (Dec. 23, 2020), <https://perma.cc/FY6G-EEJD>.

67. Giuliani and others amplified these lies on social media. For example, One America News Network's ("OAN") social media post about the December 23 episode of *Common Sense* linked to an article from the OAN Newsroom.⁴⁹

68. That episode remains available on Giuliani's website.⁵⁰

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

69. Two days later, on his Christmas Day episode of *Common Sense*, which had 1.3 million views on YouTube as of February 22, 2021,⁵¹ Giuliani repeated the same defamatory claims and again identified Ms. Freeman by name:

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

...

⁴⁹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 23, 2020, 10:12 PM), <https://perma.cc/KN77-B4W2?type=image>; OAN, One America News Network, Facebook (Dec. 25, 2020),), <https://perma.cc/K7CJ-MZ49>. The link from OAN's Facebook page takes one to a page that has now been taken down. But an archived version of that page (with the same link) is available at: *Giuliani: New Developments in Election Fraud Case Coming Up*, OAN (Dec. 25, 2020), available at <https://perma.cc/N5DT-YDU3?type=image> (last visited Dec. 22, 2021).

⁵⁰ Rudy Giuliani, *Christmas Is Not Canceled, It's Vital This Year | Rudy Giuliani | Ep. 96*, RudyGiulianics.com (Dec. 23, 2020), <https://perma.cc/FY6G-EEJD>.

⁵¹ Rudy W. Giuliani, *Who Will Be Our President? The Current State of Our Country | Rudy Giuliani | Ep. 97*, YouTube (Dec. 25, 2020), available at <https://perma.cc/AY9K-3RP3?type=image> (last visited Dec. 22, 2021).

[J]ust look at the tape. That accounts for anywhere from 40 to 80,000 votes. The number then when we look at it on, was like 138,000 for Biden and 2,000 for Trump. Take those out of their numbers— Trump won Georgia honestly. We want honest votes here.⁵²

70. That episode remains available on Giuliani’s website, and he amplified it on social media.⁵³

December 30, 2020, Rudy Giuliani Interview by OAN’s Chanel Rion

71. On December 30, 2020, Defendant Giuliani promoted the lie in an interview by Chanel Rion, an OAN staffer based in Washington, D.C., and broadcast on OAN. In the segment, Ms. Rion asks Defendant Giuliani, “Talk about Georgia for a second. How important is Georgia right now?” With the Trump Edited Video depicting Ms. Freeman and Ms. Moss playing on screen as he spoke, Giuliani responded:

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

⁵² *Id.*; Rudy Giuliani’s Common Sense, *Who Will Be Our President? The Current State of Our Country* | Rudy Giuliani | Ep. 97, Rumble (Mar. 22, 2021), <https://perma.cc/7FWT-6V3V>.

⁵³ Rudy Giuliani, *Who Will Be Our President? The Current State of Our Country* | Rudy Giuliani | Ep. 97, RudyGiulianics.com (Dec. 25, 2020), <https://perma.cc/8XLB-SS62>; Rudy Giuliani, *Who Will Be Our President? The Current State of Our Country* | Rudy Giuliani | Ep. 97, RudyGiulianics.com (Dec. 25, 2020), available at <https://perma.cc/7FWT-6V3V> (last visited Dec. 22, 2021); Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 25, 2020, 3:47 PM), <https://perma.cc/KU2W-XX9Y>.

will live for a hundred years. **For a hundred years, this film will show that the, the 2020 presidential election, there was an attempt to steal it.**⁵⁴

72. Ms. Rion stated that it “seems that the Georgia legislators are very much on board with having looked at the evidence you and your team presented, having watched the videos, looked at the data, they’re onboard, they want to do something about this. But we have an obstacle.”⁵⁵ Defendant Giuliani responded:

I’ve heard Democratic senators get on television and say it’s espionage to say that it was fraud. You’re not gonna tell me that. **I see, I can see the fraud, it’s in front of my eyes. What am I supposed to do, close my eyes and make believe that in Fulton County, Georgia, when they closed the doors, and they got rid of the public, and they started triple counting ballots and it ends up being 120,000 for, for Biden and 3,000 for Trump? They weren’t cheating? Am I stupid?**⁵⁶

73. The video was promoted on OAN’s Twitter account on the day it aired.⁵⁷ OAN’s posts on its Facebook page from December 31, 2020, to January 3, 2021, also indicate that OAN re-broadcast Ms. Rion’s interview with Giuliani in part or in full on January 2 and/or January 3, 2021.⁵⁸

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ OAN (@OANN), Twitter (Dec. 30, 2020, 12:24 PM), <https://perma.cc/9XET-RLFY?type=image>.

⁵⁸ OAN, *One America News Network*, Facebook (Dec. 31, 2020, 12:50 PM), <https://perma.cc/E65T-FNTM>; OAN, *One America News Network*, Facebook (Dec. 31, 2020, 12:51 PM), <https://perma.cc/DL65-JMZD>; OAN, *One America News Network*, Facebook (Jan. 2, 2021, 8:49 AM), <https://perma.cc/5B3U-5UTE>; OAN, *One America News Network*, Facebook (Jan. 2, 2021, 9:16 PM), <https://perma.cc/56G6-JFSS>; OAN, *One America News Network*, Facebook (Jan. 3, 2021, 10:01 PM), <https://perma.cc/9SKY-T25B>.

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

74. In his December 30, 2020, episode of *Common Sense*, Giuliani again reprised his lies about ballot counting in Fulton County on election night:

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

...

[T]he first thing that the election workers do . . . is they, um, move out the observers. . . . [T]hey make sure there's no one around, they make sure the doors are locked so nobody else can come in, and then at a certain point they look around again, and they go under a table covered by a black, like a black blanket, and they start pulling out ballots. Now we begin with, why are ballots under a table? And then they start distributing those ballots for counting to three or four different areas where there are counting machines. And you can see it's done very hurriedly; it's done in a way suggesting that they are nervous about what they're doing, and by the way, even if these ballots were legitimate ballots, which I doubt they are, this would be entirely illegal. And every one of those ballots would be declared null and void because each one of these ballots is being counted in violation of the law of Georgia that in fact there must be the public present when ballots are being counted [I]t looks an awful lot like a bank heist, doesn't it?⁵⁹

75. The video recording of the podcast episode then played the Trump Edited Video of Ms. Freeman and Ms. Moss as Defendant Giuliani narrated. He said: "[The videotape is] just this one piece of evidence. So don't tell me there wasn't fraud in this election. And don't tell me I can't use the word 'fraud'"⁶⁰

⁵⁹ Rudy Giuliani's *Common Sense, I Can't Say This on National Television | Rudy Giuliani | Ep. 98*, Rumble (Mar. 22, 2021), <https://perma.cc/2UX6-WRGY>; Rudy Giuliani, *I Can't Say This on National Television | Rudy Giuliani | Ep. 98*, RudyGiulianics.com (Dec. 30, 2020), <https://perma.cc/79AK-Y6QU>.

⁶⁰ *Id.*

76. That episode, which Giuliani further disseminated on social media, remains available on Giuliani’s website.⁶¹

January 2, 2021 Telephone Call Between Incumbent Candidate Trump and Georgia Secretary of State

77. On information and belief, Defendant Giuliani published defamatory claims about Plaintiffs directly to Donald Trump, members of the Trump campaign, and other individuals in Washington, D.C. prior to January 2, 2021.

78. On January 2, 2021, then-President Trump—acting in his personal capacity as a presidential candidate—held a call with Georgia Secretary of State Raffensperger, and others, in which Mr. Trump asked Secretary Raffensperger to “find 11,780 votes” to flip the Georgia result in his favor.

79. On information and belief, Mr. Trump was re-publishing comments made to him by Defendant Giuliani, and Defendant Giuliani encouraged Trump to make the call.

80. During that call, Mr. Trump used Ms. Freeman’s name no less than 19 times, reiterating Defendant Giuliani’s false claims about Plaintiffs.⁶² For example, near the beginning of the call, Mr. Trump stated:

We had at least 18,000 that’s on tape – we had them counted very painstakingly – 18,000 voters having to do with Ruby Freeman. She’s a vote scammer, a professional vote scammer and hustler, Ruby Freeman. That is – that was the tape that’s been

⁶¹ Rudy W. Giuliani (@RudyGiuliani), Twitter (Dec. 30, 2020, 6:02 PM), <https://perma.cc/UYL8-3VTR>; Rudy Giuliani, *I Can’t Say This on National Television | Rudy Giuliani | Ep. 98*, RudyGiulianics.com (Dec. 30, 2020), <https://perma.cc/79AK-Y6QU>.

⁶² *Trump’s Georgia Call: Listen to the Audio and Read a Full Transcript*, Wall St. J. (Jan. 3, 2021), <https://perma.cc/G7JW-AKQ8>; see also Amy Gardner & Paulina Firozi, *Here’s the full transcript and audio of the call between Trump and Raffensperger*, Wash. Post (Jan. 5, 2021), <https://perma.cc/6S2T-8XTE> (transcript of the same call not behind a paywall but with Ms. Freeman’s name replaced with “[name]”); Allie Bice et al., *Trump’s Pressure on Georgia Election Officials Raises Legal Questions*, Politico (Jan. 3, 2021), <https://perma.cc/EBT9-32U2>.

shown all over the world that makes everybody look bad – you, me, and everybody else – where they got – number one, they said – **they said very clearly and it's been reported that they said there was a major water main break.** Everybody fled the area. And then they came back – Ruby Freeman, her daughter, and a few people. There were no Republican poll watchers. Actually, there were no Democrat poll watchers. I guess they were them. But there were no Democrats, either. And there was no law enforcement. Late in the morning, they went – early in the morning, they went to the table with the black robe – the black shield and they pulled out the votes. **Those votes were put there a number of hours before. The table was put there – I think it was – Brad, you would know. It was probably eight hours or seven hours before, and then it was stuffed with votes.** They weren't in an official voter box. They were in what looked to be suitcases or trunks – suitcases, but they weren't in voter boxes. The minimum number it could be – because we watched it, and they watched it for certified in slow motion, instant replay if you can believe it. **But it had slow motion and it was magnified many times over, and the minimum it was was 18,000 ballots, all for Biden.**

81. Mr. Trump continued:

. . . we're so far ahead – **we're so far ahead of these numbers, even the phony ballots of Ruby Freeman – known scammer.** You know the internet? You know what was trending on the internet? “Where's Ruby,” because they thought she would be in jail. “Where's Ruby.” It's crazy. It's crazy. That was – the minimum number is 18,000 for Ruby, but they think it's probably about 56,000. **But the minimum number is 18,000 on the Ruby Freeman night where she ran back in there when everybody was gone and stuffed – she stuffed the ballot boxes. Let's face it, Brad. I mean, they did it in slow-motion replay magnified, right? She stuffed the ballot boxes. They were stuffed like nobody's ever seen them stuffed before.** So there's a term for it when it's a machine instead of a ballot box, but she stuffed the machines. **She stuffed the ballot – each ballot went three times. They were showing here's ballot number one, here it is a second, third time, next ballot.**

I mean, look. Brad. **We have a new tape that we're going to release. It's devastating.** And by the way, that one event, that one event is much more than the 11,000 votes that we're talking about. It's, you know, that one event was a disaster. And it's just, you know, but it was, it was something, it can't be disputed. And again, we have a version that you haven't seen, but it's magnified. It's

magnified, and you can see everything. For some reason, they put it in three times, each ballot, and I don't know why. I don't know why three times. Why not five times, right? Go ahead.

82. In response, Secretary Raffensperger stated: “You’re talking about the State Farm video. **And I think it’s extremely unfortunate that Rudy Giuliani or his people, they sliced and diced that video and took it out of context.**”⁶³

83. Mr. Trump ignored Secretary Raffensperger and continued to claim there was election fraud in Georgia, including to again accuse Ms. Freeman of wrongdoing. Secretary Raffensperger again refuted the accuracy of what President Trump (and previously Defendant Giuliani) claimed the Trump Edited Video showed:

Mr. Trump: And remember, her reputation is – she’s known all over the internet, Brad. She’s known all over. I’m telling you, “Where’s Ruby” was one of the hot items – Ruby, they knew her. “Where’s Ruby.” So, Brad, you know, there can be no justification for that. And, you know, I give everybody the benefit of the doubt, but that was – and, Brad, why did they put the votes in three times? **You know, they put them in three times.**

Raffensperger: Mr. President, they did not put that. **We did an audit of that, and we proved conclusively that they were not scanned three times.**

Mr. Trump: Where was everybody else at that late time in the morning? Where was everybody? Where were the Republicans? Where were the security guards? Were the people that were there just a little while before when everyone ran out of the room. How come we had no security in the room. Why did they run to the bottom of the table? Why do they run there and just open the skirt and rip out the votes. I mean, Brad. And they were sitting there, I think for five hours or something like that, the votes.

Raffensperger: Mr. President, we’ll send you the link from WSB.

Mr. Trump: I don’t care about the link. I don’t need it. Brad, I have a much better —

⁶³ See WSJ Staff, *Trump’s Georgia Call: Listen to the Audio and Read a Full Transcript*, Wall St. J. (Jan. 3, 2021), <https://perma.cc/G7JW-AKQ8>.

84. During the call, Ryan Germany, lawyer for Georgia secretary of state's office, also told Mr. Trump the statements about Plaintiffs were inaccurate:

Mr. Trump: **And the minimum – there were 18,000 ballots but they used them three times. So that's, you know, a lot of votes. And that one event – and they were all to Biden, by the way; that's the other thing we didn't say. You know, Ruby Freeman, one thing I forgot to say which was the most important. Do you know that every single ballot she did went to Biden? You know that, right? Do you know that, by the way, Brad? Every single ballot that she did through the machines at early – early in the morning went to Biden. Did you know that, Ryan?**

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

Mr. Trump: Huh. What is accurate?

Germany: The numbers that we are showing are accurate. We picked – we picked –

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

Germany: No, not specifically.

Mr. Trump: Did you ever check?

Germany: We did what I described to you earlier.

Mr. Trump: No, no, no. Did you ever check the ballots that were scammed by Ruby Freeman, known – a known political operative, ballotteer? Did you ever check who those votes were for?

Germany: We've looked into that situation that you described –

Mr. Trump: **No, they were 100 percent for Biden. One hundred percent. There wasn't a Trump vote in the whole group.** Why don't you want to find this, Ryan? What's wrong with you? I heard – I heard your lawyer is very difficult, actually, but I'm sure you're a good lawyer. You have a nice last name.

But I'm just curious, why wouldn't – why do you keep fighting this thing? It just doesn't make sense. We're way over the 17,779, right. **We're way over that number, and just if you took just Ruby Freeman we're over that number by five or six times when you multiply it out times three, and every single ballot went to Biden.** And you didn't know that but now you know it.⁶⁴

85. Major news outlets, including *The Washington Post*, *The Wall Street Journal*, and *The New York Times* published audio recordings and transcripts of the call.⁶⁵

86. Some outlets, including *The Wall Street Journal* and *The Gateway Pundit*, also published the audio recording and transcript but without redacting Ms. Freeman's name.⁶⁶

January 6, 2021, Insurrection

87. Ahead of January 6, 2021, Defendant Giuliani led the Trump Campaign's "war room," which was located at the Willard Hotel in Washington, D.C.⁶⁷

88. On January 6, 2021, Defendant Giuliani joined Mr. Trump for a campaign rally, during which Mr. Trump repeated the lies about Plaintiffs that Defendant Giuliani began publishing the month prior, including:

In Fulton County, Republican poll watchers were ejected, in some cases, physically from the room under the false pretense of a pipe

⁶⁴ See WSJ Staff, *Trump's Georgia Call: Listen to the Audio and Read a Full Transcript*, Wall St. J. (Jan. 3, 2021), <https://perma.cc/G7JW-AKQ8>.

⁶⁵ Amy Gardner & Paulina Firozi, *Here's The Full Transcript and Audio of the Call Between Trump and Raffensperger*, Wash. Post (Jan. 5, 2021), <https://perma.cc/6S2T-8XTE>; WSJ Staff, *Trump's Georgia Call: Listen to the Audio and Read a Full Transcript*, Wall St. J. (Jan. 3, 2021), <https://perma.cc/G7JW-AKQ8>; Transcript: *President Trump's Phone Call With Georgia Election Officials*, N.Y. Times (Jan. 3, 2021), <https://perma.cc/G7JW-AKQ8>.

⁶⁶ WSJ Staff, *Trump's Georgia Call: Listen to the Audio and Read a Full Transcript*, Wall St. J. (Jan. 3, 2021), <https://perma.cc/G7JW-AKQ8>; Jim Hoft, *HUGE: TRUMP DROPS A BOMB DURING PHONE CALL! Tells Raffensperger 'Vote Scammer and Hustler' Ruby Freeman Was Behind Alleged 18,000 FRAUDULENT VOTES in Suitcase Scandal! (VIDEO)*, Gateway Pundit (Jan. 3, 2021, 6:20 PM), <https://perma.cc/8QKG-FFEN?type=image>.

⁶⁷ Jacqueline Alemany et al., *Ahead of Jan. 6, Willard Hotel in Downtown D.C. Was a Trump Team 'Command Center' for Effort to Deny Biden the Presidency*, Wash. Post (Oct. 23, 2021), <https://perma.cc/LHG4-TDSD>.

burst. Water main burst, everybody leave. Which we now know was a total lie.

Then election officials pull boxes, Democrats, and suitcases of ballots out from under a table. You all saw it on television, totally fraudulent. And illegally scanned them for nearly two hours, totally unsupervised. Tens of thousands of votes. This act coincided with a mysterious vote dump of up to 100,000 votes for Joe Biden, almost none for Trump. Oh, that sounds fair. That was at 1:34 AM.⁶⁸

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

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

I mean, they pretty much censored it while it was going on, so they would love to turn the page on it. I mean, **I get banned from any of the big tech things when I say that not only was there voter fraud, I have evidence of it, I've seen it, I have a motion picture of it. I can show you the voter fraud in living color. It was done in Fulton County, Georgia, it was well over 30,000 ballots were stolen. They were attributed to Biden instead of Trump.** Had they been caught and held to account for it, Trump would have won Georgia.⁶⁹

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

90. On or about June 14, 2021, Defendant appeared on OAN's *The Real Story with Natalie Harp* during an edition dedicated to discussing "every red state that went blue, due to election-changing amounts of fraud."⁷⁰ During that interview, Defendant Giuliani stated:

**But for sure there was fraud, you can't say there wasn't fraud.
... The law of Georgia is that the ballots have to be counted in**

⁶⁸ Brian Naylor, *Read Trump's Jan. 6 Speech, a Key Part of Impeachment Trial*, NPR (Feb. 10, 2021), <https://perma.cc/ECA7-UE86>; Allison Durkee, *Giuliani Claims His Call for 'Trial By Combat' on Jan. 6 Shouldn't Have Been Taken Literally as Legal Woes Mount*, Forbes (May 18, 2021), <https://perma.cc/NS8N-XYJT>.

⁶⁹ See OAN, *1/18/2021 - Rudy Giuliani, Rep. Marjorie Taylor Greene, Brandon Tatum, Anna Paulina Luna & Peter Roff*, Spotify (Jan. 19, 2021), <https://perma.cc/HZ6F-WQ5Z>.

⁷⁰ OAN, *The Real Story - OAN Uncovering the Crime of the Century with Rudy Giuliani*, Rumble (June 14, 2021), <https://perma.cc/6KZB-EBT3>.

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

91. The interview continues with the following exchange:

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

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

be put under oath as to what they were doing. . . .
Republicans, Democrats, reporters, and everyone else.
**You see them unceremoniously ushered out. And
then you see the woman check out the whole place to
make sure there's nobody there and that's when they
get the ballots from under the table, and that's when
they start counting the ballots under the table.**⁷¹

92. While the Trump Edited Video of Ms. Freeman and Ms. Moss played, the interview continued:

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

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

93. That video was promoted on social media, and remains available on OAN's channels today.⁷²

⁷¹ *Id.*

⁷² OAN (@OANN), Twitter (June 15, 2021, 11:37 AM), <https://perma.cc/TGC3-LKLD>; Natalie Harp (@nataliejharp), Twitter (June 15, 2021, 12:50 PM), <https://perma.cc/J9VP-WTHQ?type=image>.

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

94. On or about July 23, 2021, Defendant Giuliani appeared on OAN's *The Real Story with Natalie Harp*. OAN host Natalie Harp asked Giuliani for his reaction to the late former U.S. Senator Bob Dole's statement that, with respect to alleged election fraud during the 2020 presidential election, "there's nothing to see here." With the chyron "The Real Story on the 2020 Presidential Election Scam" displayed, Defendant Giuliani claimed that there were people "pushed away, and all of a sudden these ballots were brought in, and they all were Biden."⁷³ He continued:

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

Harp: Right. We have this proof.

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

95. That video was circulated on social media and remains available on OAN's channels today.⁷⁴

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

96. On December 10, 2021, Defendant Giuliani again promoted lies about Plaintiffs on OAN's *The Real Story with Natalie Harp*. In that interview, Giuliani said:

⁷³ OAN, *The Real Story - OAN Ballots in Suitcases with Phill Kline*, Rumble (June 21, 2021), <https://perma.cc/9PWJ-2CRW>.

⁷⁴ OAN, *The Real Story—OAN Exposing Disinformation with Rudy Giuliani*, Rumble (July 23, 2021), <https://perma.cc/EC3V-TGDH>; OAN, *The Real Story—Exposing Disinformation with Rudy Giuliani*, OAN (July 28, 2021), <https://perma.cc/H6YP-K4MG?type=image>; Natalie Harp, *The Real Story with Natalie Harp*, Facebook (July 23, 2021), <https://perma.cc/888E-ND4Q>; Natalie Harp (@nataliejharp), Twitter (July 24, 2021, 3:29 PM), <https://perma.cc/7PY9-ZBU6?type=image>.

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

97. That video remains available on OAN's channels today.⁷⁵

January 12, 2022, Episode of Giuliani's Common Sense

98. On January 12, 2022—nearly three weeks *after* Plaintiffs filed this lawsuit—Defendant Giuliani hosted John Solomon on his video podcast to discuss “fraud” in Georgia during the 2020 election.⁷⁶ Mr. Solomon is a former conservative opinion contributor for various outlets, including *The Washington Times* and *Fox News*, who Mr. Giuliani described as “one of the best investigative reporters” with whom he has ever dealt.

99. During the January 12, 2022 conversation, Giuliani continued to push lies about the Trump Edited Video, even as Solomon attempted to explain to Giuliani that there was no truth to claims that the ballots were fraudulent:

Giuliani: So can you take us back to take us back to to uh uh Atlanta for a moment.

⁷⁵ OAN, *The Real Story - OAN Pennsylvania Shenanigans with Rudy Giuliani*, Rumble (Dec. 11, 2021), <https://perma.cc/NJE9-BYGY>.

⁷⁶ Rudy Giuliani's Common Sense, *Listen to What John Solomon Found Out about the Presidential Election!* | Rudy Giuliani | Ep. 204, Rumble (Jan. 12, 2022), <https://perma.cc/9HRD-2SGN>.

Solomon: Sure.

Giuliani: **So you remember, remember the, the very famous video of the whole day of the, there was a, uh, the arena had a, had a, had a security camera that was unknown to the participants. So several days, if not weeks, after the election the, the, uh, company came forward with tapes of this very suspicious activity where the people were thrown out of the arena, the observers. All the doors were locked—**

Solomon: That should never have been done.

Giuliani: **All the doors were locked. They then for about 15 minutes cased the place and made sure everyone was gone. Then they opened up this big blanket and under all the whole, all these ballots and then with no one observing in violation of the law they very seriously tried to count all these votes.** Now is there any, any further evidence— now they, they have said of course that that tape was doctored, done by Russians, uh, that I doctored— I actually haven't touched it so— it was given to me.

Solomon: So I dug into that a lot. So first off there are two parts to this. One is the expulsion of the vote observers. That is, that was an awful—

Giuliani: Well you can't challenge that. It's very important.

Solomon: It should never have happened. Uh, they should never have jettisoned, uh, those observers. You're not supposed to count without, uh, bipartisan observers. So that act clearly happened. It was improper. People have said that was an improper act and there was some vote counting that occurred after. Now the famous video tape where the video, uh, the ballots come out from underneath the table, those were actual real ballots, most of them, I'm told from the reporting I did. They were military absentee ballots. They had been processed earlier in the day—put in the suitcase. Probably a bad idea to put it under a table, again not a secure way of holding and transporting ballots. That's one of the things that Brad Raffensperger's guy said. **But the actual ballots in that box—I've interviewed multiple people**

including people who worked in the FBI, the GBI. Those ballots turned out to be real ballots, lawful ballots. They weren't fake ballots. Most of them were military absentee ballots, as has been described to me. But those were real ballots that were counted. They shouldn't have been stored under a table. They should have been in a secure location until the moment and they shouldn't have been counted until observers were there. But the fact—I don't think those—my reporting indicates those were real ballots, not fraudulent ballots, just ballots that were mishandled and that's one of the reasons now why the Sec—uh, the State Elections Board in Georgia wants to take over Fulton County: they want to stop those shenanigans.⁷⁷

100. After Mr. Solomon told Defendant Giuliani that the “ballots were processed the proper way” based on statements of the state election clerks, Defendant Giuliani said that “we are trying to rely on, relying on people who have lied in the past” and continued to claim that the ballots were “hidden” and that “it looks like ballots were thrown away during that process and it also looks like ballots were counted three or four times.”⁷⁸

101. That episode remains available on Defendant Giuliani's channels today.⁷⁹

DEFENDANT GIULIANI PUBLISHED HIS STATEMENTS ABOUT PLAINTIFFS WITH KNOWLEDGE OF OR RECKLESS DISREGARD FOR THEIR FALSITY.

102. Defendant Giuliani knew that his statements about Ms. Freeman and Ms. Moss were not true or published them with reckless disregard for their truth.

103. Defendant Giuliani learned of or recklessly disregarded the authoritative and immediate fact-checks, described above and incorporated herein, of his lies in real time, including before he published any of the Actionable Statements.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

104. Before publishing any of the Actionable Statements, Defendant was aware of the numerous statements by Georgia and federal officials disproving the portrayal of misconduct that had been advanced by the Trump Campaign, and he also knew and knows that multiple fact-checking organizations have confirmed the facts as presented by the Georgia and federal officials.

105. No later than December 8, 2020, Defendant Giuliani was specifically aware of the affidavit filed by the chief investigator for the Georgia Secretary of State refuting his lies.

106. Defendant Giuliani learned of additional refutations and evidence refuting his lies about Plaintiffs.

107. On January 4, 2021, Georgia election officials held yet another press conference to refute the already-debunked election fraud allegations that President Trump raised in his January 2, 2021, call with Secretary Raffensperger.⁸⁰ Mr. Sterling once again described the events that occurred on Election Day at State Farm Arena, explained how they represented entirely normal ballot processing, and directed listeners to the Georgia Secretary of State's website for a detailed timeline matched to the surveillance footage.⁸¹ Mr. Sterling reiterated for the assembled reporters the actual series of events:

Late in the evening, after the water main break had been fixed, election workers prepared to go home for the night and followed standard procedures to store ballots securely: placing them in containers and affixing numbered seals. But when Mr. Raffensperger found out that they were closing up shop, he ordered them to continue counting through the night—so the workers retrieved the containers and resumed counting ballots.⁸²

⁸⁰ 11Alive, *Georgia Senate Runoffs | Secretary of State's Office Addresses Election Day, Claims*, YouTube (Jan. 4, 2021), <https://perma.cc/A7PQ-YBDY?type=image>.

⁸¹ *Fact Check*, Secure the Vote, <https://perma.cc/22F2-8MQU?type=image> (last accessed Nov. 7, 2021).

⁸² Maggie Astor, *A Georgia Election Official Debunked Trump's Claims of Voter Fraud, Point by Point*, N.Y. Times (Jan. 4, 2021), <https://perma.cc/5F4K-LADG>.

108. Mr. Sterling expressed his great frustration that the Defendant Giuliani, among others, “had the entire tape” revealing these facts, and nevertheless “intentionally misled the State Senate, the voters and the people of the United States about this.”⁸³

109. PolitiFact published a fact-check article about the Raffensperger call that same day, finding that the events described by Mr. Sterling lined up with previous reports from PolitiFact and other fact-checkers. This article repeated PolitiFact’s earlier assessment that the arena surveillance video showed no wrongdoing and provided no evidence of election fraud. It rated former President Trump’s claim that Georgia election workers pulled 18,000 ballots from suitcases and counted them for President Biden as “Pants on Fire!” false.⁸⁴

110. On January 7, 2021, the fact-checking website Lead Stories debunked the claims that the same ballots were tabulated multiple times. The article quotes Richard Barron, Fulton County Registration and Elections Director, who said, “She did not accept the ballots she had run, (but) instead re-ran them before accepting the batch. It (is) no different than with paper jams in a copier and you have to pull it out and rerun it.”⁸⁵

111. On January 12, 2021, Carter Jones—who was appointed by the Office of the Georgia Secretary of State to serve as an independent election monitor as part of a consent agreement between the state and Fulton County—submitted his official report about the 2020 general election to the state election board. Mr. Jones was present at State Farm Arena on election

⁸³ *Id.*

⁸⁴ Bill McCarthy, *Trump Rehashes Debunked Claim About ‘Suitcases’ of Ballots in Georgia Phone Call*, PolitiFact (Jan. 4, 2021), <https://perma.cc/W996-EH9G>.

⁸⁵ Hallie Golden, *Fact Check: Video From Georgia Does NOT Show Election Official Improperly Scanning The Same Ballots Multiple Times*, Lead Stories (Jan. 7, 2021), <https://leadstories.com/hoax-alert/2021/01/video-from-georgia-does-not-show-election-official-improperly-scanning-the-same-ballots-multiple-times.html?fbclid=IwAR3WCa-B0VKqOAlxYz9huNdtctwx8KxGGJBz7q10NW31b-Y-2F2ezT1s-Vc>.

night⁸⁶; in his report, he denied observing any double-counting of ballots or other election-worker malfeasance in Fulton County:

From October to January, I spent nearly 270 hours at various locations observing every aspect of Fulton County's election processes. At no time did I ever observe any conduct by Fulton County election officials that involved dishonesty, fraud, or intentional malfeasance. During my weeks of monitoring, I witnessed neither "ballot stuffing" nor "double-counting" nor any other fraudulent conduct that would undermine the validity, fairness, and accuracy of the results published and certified by Fulton County.⁸⁷

112. Even when directly rebutted on his own podcast, Defendant Giuliani refused to stop lying about Plaintiffs. Defendant continued to consciously avoid the truth and had no credible basis for the false allegations he continued to make.

113. In his June 14, 2021, interview on OAN's *The Real Story with Natalie Harp*, Defendant Giuliani stated that he knew what he was saying on OAN, he "couldn't say on any, any network television in America" and that *The Wall Street Journal* would not print his comments about election fraud.⁸⁸

114. On June 24, 2021, a New York appellate court stripped Giuliani of his law license. *In re Giuliani*, 197 A.D.3d 1, 146 N.Y.S.3d 266 (1st Dep't 2021). Among the bases for that decision was the Court's finding that Giuliani knowingly spread the lies about Plaintiffs at issue here.

⁸⁶ John Solomon and Daniel Payne, *Georgia Investigator's Notes Reveal 'Massive' Election Integrity Problems in Atlanta*, Just the News (June 19, 2021), <https://justthenews.com/politics-policy/elections/ga-investigators-election-day-notes-reveal-chaotic-unsecured-ballot>.

⁸⁷ *State Election Board Report – Post-Election Executive Summary*, Seven Hills Strategies (Jan. 12, 2021), <https://perma.cc/7U3Z-DX2J>.

⁸⁸ OAN, *The Real Story - OAN Uncovering the Crime of the Century with Rudy Giuliani*, Rumble (June 14, 2021), <https://perma.cc/6KZB-EBT3>.

115. In its decision, the Supreme Court of the State of New York, Appellate Division, First Judicial Department discussed Giuliani’s representations that the Trump Edited Video “depicted Georgia election officials engaging in the illegal counting of mail-in-ballots.” The Court explained:

The gist of his claim was that illegal ballots were being surreptitiously retrieved from suitcases hidden under a table and then tabulated. In fact, the entirety of the videos shows the “disputed” ballots were among those in a room filled with people, including election monitors, until about 10:00 pm. At about 10:00 p.m., the boxes – not suitcases – containing the ballots were placed under a table in preparation for the poll watchers to leave for the evening. Those boxes were reopened and their contents retrieved and scanned when the state official monitor intervened, instructing the workers that they should remain to tabulate the votes until 10:30 p.m. that evening. **When viewed in full context and not as snippets, the videos do not show secreting and counting of illegal ballots. Based upon the claim, however, the Georgia Secretary of State conducted an investigation. The video tapes were viewed in their entirety by the Secretary’s office, law enforcement, and fact checkers who, according to Secretary of State Brad Raffensperger, all concluded that there was no improper activity.**

Respondent’s argument with respect to the video is that a reasonable observer could conclude that there was an illegal counting of the mail-in ballots. **If, as respondent claims, he reviewed the entire video, he could not have reasonably reached a conclusion that illegal votes were being counted. We disagree that the video can be viewed as evidence of illegal conduct during the vote tabulation process or that it provided a reasonable basis for respondent’s conclusions.**

116. The Court summarized that Defendant Giuliani “showed the snippets of video and/or made false statements regarding its content on at least the following occasions: the podcast *Rudy Giuliani’s Common Sense* on December 4, 2020, the radio show *Uncovering the Truth* on December 6, 2020 and then again on the same radio show on December 27, 2020 and January 3, 2021; on December 3, 2020 at a hearing before the Georgia State Legislature; and yet again on

December 8, 2020 and December 10, 2020 on respondent's Chat with the Mayor radio program, and on December 19, 2020, and January 5, 2021 as a guest on the *War Room* podcast."

117. The Court concluded that Giuliani violated New York Rule of Professional Conduct 4.1, which prohibits "knowingly mak[ing] a false statement of fact or law to a third person," and Rule 8.4(c), which prohibits "engag[ing] in conduct involving dishonesty, fraud, deceit or misrepresentation."

118. On information and belief, Defendant learned of the decision immediately.

119. On October 12, 2021, the Georgia Secretary of State submitted a court-ordered statement about the investigations by the Secretary and the Georgia Bureau of Investigation into alleged fraudulent or counterfeit absentee ballots in the 2020 general election in Fulton County. The same day, the *Atlanta Journal-Constitution* published the full statement.⁸⁹ Secretary Raffensperger addressed the allegations about counting ballots multiple times:

Witnesses told investigators that the ballot scanners were frequently jamming, requiring them to make multiple attempts to clearly scan all of the ballots in each batch. In order to tabulate the ballots, the scanners must first get a clear scan of the entire batch of ballots. Scanning is simply one step in the tabulation process. Once a batch of ballots is scanned clearly and free of errors, the elections worker has to click on a separate button on a computer monitor in order to tabulate the ballots. Investigators reviewed the activity logs for the scanners to corroborate the statements of the witnesses, and the paper jams reported by witnesses and shown in the video footage were confirmed by the scanner activity logs. Based upon this evidence, investigators found no evidence of wrongdoing.⁹⁰

120. Secretary Raffensperger's statement incorporated as Exhibit A portions of the transcript of the May 5, 2021 deposition of James Callaway, the Deputy Chief Investigator in the

⁸⁹ Mark Niesse, *No Counterfeit Ballots Found by Georgia Election Investigators*, The Atla. J.-Const. (Oct. 12, 2021), <https://perma.cc/ZGH6-7NHK/>.

⁹⁰ McGovern Resp. at 6–7, *Favorito v. Wan*, No. 2020-cv-343938 (Ga. Super. Ct. Oct. 12, 2021), available at <https://perma.cc/PYU3-G5K4>.

Office of the Secretary of State, in *Jeffords v. Fulton County*, No. 2020-cv-343938 (Ga. Super. Ct. May 5, 2021). In his deposition, Mr. Callaway explained how he determined that Plaintiffs *did not* illegally count ballots multiple times:

Q. Okay. So you see Ms. Ruby takes them off the scanner after scanning them?

A. Uh-huh. (indicating in the affirmative) They're not tabulated.

Q. Huh?

A. They're not tabulated.

Q. What are they doing there?

A. Jammed up. You have to push a button on here to accept it, and she never did that. That's what I was watching.

Q. Okay. You see she's—

A. That, she's loading it. It jams up. She never pushes accept. She reloads them and does it again.

Q. Okay. So she's putting them back on again?

A. ...[W]hen they're scanning like that, it's not record—it's not tabulating. It doesn't tabulate until you get your batch down correctly. You know, you could scan 25 different times, and you're not tabulating until you hit the "accept" button.⁹¹

121. In an effort to attempt to mitigate the harm caused by the publication of the false statements in Defendant's stories, Plaintiffs sent Defendant Giuliani a letter on December 16, 2021, demanding that he retract and take down the numerous defamatory statements he has published and continue to publish about Ms. Freeman and Ms. Moss.

⁹¹ See McGovern Resp. Ex. A at 30–31, 34, *Favorito v. Wan*, No. 2020-cv-343938 (Ga. Super. Ct. Oct. 12, 2021), available at <https://perma.cc/PYU3-G5K4>.

122. Defendant has not responded to that letter, and still has not retracted any of his statements about Plaintiffs.

123. As described above, on January 12, 2022, Mr. Solomon informed Giuliani during an interview on Giuliani's podcast that the ballots stored under the table that appear in the Trump Edited Video were not fraudulent.

124. On March 8, 2022, Trump's former Attorney General William Barr published an account of his time in office. It included a passage explaining how the Department of Justice had looked into and found no evidence to support the false allegations against Ms. Freeman and Ms. Moss—"that video footage from Fulton County, Georgia, showed a box of bogus ballots being insinuated into the vote count while poll watchers were absent"—by December 2020.⁹²

125. Mr. Barr explained:

Throughout the rest of November and into December, the relevant US attorneys' offices, with the FBI's assistance, worked diligently to assess the major fraud claims. In Atlanta, our able US attorney B. J. Pak—coordinating with the Georgia Bureau of Investigation, which was conducting its own investigation—assessed the claim that illegal votes had been insinuated into the vote count in the absence of poll watchers. All the video evidence was reviewed, and numerous interviews were conducted. He, along with all the others investigating the matter, found no evidence of fraud. Contrary to allegations, the evidence showed that the ballots counted during the relevant period were legal ballots and were not double counted, as had been alleged.⁹³

126. On information and belief, Defendant Giuliani learned of this book in real time.

127. Even after former AG Barr confirmed there was no evidence to support his claims about the Plaintiffs, Defendant Giuliani did not retract his false claims.

⁹² William Barr, *One Damn Thing After Another: Memoirs of an Attorney General* 541 (2022); see *id.* at 3, 541–42.

⁹³ *Id.* at 542.

128. On information and belief, at no point in publishing his false statements about Ms. Freeman and Ms. Moss did Defendant Giuliani attempt to contact Plaintiffs to obtain their account of the events being reported. Nor did Defendant Giuliani contact for corroboration other obvious available sources, and he specifically avoided contacting sources who had evidence to disprove their lies.

129. Defendant Giuliani ignored the truth, and continues to ignore it, because he had decided in advance to disseminate a false narrative about election fraud that would continue to benefit his preferred candidate, Donald Trump.

130. Defendant also advanced this predetermined fictitious storyline in the face of the facts because he believed it to be personally advantageous to do so. He was motivated to publish lies about Plaintiffs because lying about the election results was more profitable than reporting the truth.

131. Defendant consciously avoided the truth in order to increase his profile and to profit from the repeated publication of scandalous material. Defendant's publications about voter fraud throughout the 2020 election cycle increased his media reach and engagement. His broadcasts about voter fraud, in particular, performed well, and, on information and belief, he earned increased advertising revenue by publishing and republishing such well-performing falsehoods about Plaintiffs.

132. Defendant additionally hoped that repeating his preconceived narrative would have the effect of overturning the outcome of the presidential election. In particular, Defendant directed his media appearances to state and federal legislators within and without the District of Columbia, as well as their constituents, and to state and federal officials within and without the District with the goal of pressuring those legislators and officials to act unlawfully to refuse to certify electors

for President-elect Biden, de-certify electors for President-elect Biden, unlawfully certify electors for Trump, recognize only those electors for Trump, and/or to refuse to recognize electors for President-elect Biden.

133. Defendant's lies about Plaintiffs were inherently improbable from the start and became far more so over time, as no evidence ever emerged to support his claims and all of the evidence that did emerge proved those claims false.

DEFENDANT GIULIANI CAUSED PLAINTIFFS SUBSTANTIAL HARM WITH HIS FALSE STATEMENTS ABOUT MS. FREEMAN AND MS. MOSS THAT CONSTITUTE DEFAMATION PER SE.

134. Defendant Giuliani's defamatory campaign published or caused the publication of statements that assert and/or imply that, among other things, (i) Ms. Freeman and Ms. Moss engaged in a criminal conspiracy, along with others, to illegally exclude observers during the counting of ballots "under false pretenses" so that they could engage in election fraud; (ii) Ms. Freeman and Ms. Moss criminally and/or fraudulently introduced "suitcases" of illegal ballots into the ballot-counting process; (iii) Ms. Freeman and Ms. Moss fraudulently counted the same ballots multiple times; (iv) Ms. Freeman and Ms. Moss were involved in surreptitiously passing around flash drives that were not supposed to be placed in Dominion voting machines; and (v) that Ms. Freeman and Ms. Moss committed crimes and other fraud.

135. These claims are false and constitute defamation *per se*.

136. Defendant Giuliani is directly responsible for the reputational harm that Ms. Freeman and Ms. Moss experienced. Defendant Giuliani launched and executed a Strategic Plan that specifically included naming Ms. Freeman and Ms. Moss and widely disseminating statements accusing them of committing crimes.

137. Defendant Giuliani’s statements, and those published as a result of his Strategic Plan, reached millions of people. For example, he was a frequent guest on OAN, which claimed to have had 35 million subscribers and that its total viewers at any given time could range from “about 150,000 to upwards of half a million.”⁹⁴

138. On December 1, 2020—before Defendant began to defame Ms. Freeman and Ms. Moss—Georgia Voting Implementation Manager Sterling had made clear what he believed were the likely consequences of the continued attacks on Georgia’s election system. “Someone’s going to get hurt, someone’s going to get shot, someone’s going to get killed,” he had stated in a news conference.⁹⁵

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

A. Defendant’s Conduct Has Harmed Ms. Freeman.

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

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

⁹⁴ David Smith, *Trump Has a New Favourite News Network – and It’s More Rightwing than Fox*, Guardian (June 15, 2019), <https://perma.cc/SV32-AYU2?type=image>.

⁹⁵ Stephen Fowler, *‘Someone’s Going To Get Killed’: Ga. Official Blasts GOP Silence On Election Threats*, NPR (Dec. 1, 2020), <https://perma.cc/73W2-P967>.

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

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

144. The level of harassment Ms. Freeman received at her home led the FBI to conclude that she would not be safe in her home beginning on January 6, 2021, the date of former President Trump’s rally and the subsequent insurrection at the U.S. Capitol, and continuing at least through Inauguration Day, January 20, 2021.

145. On or about January 5, 2021, a crowd surrounded Ms. Freeman’s house, some on foot, some in vehicles, others equipped with a bullhorn. Fortunately, Ms. Freeman had followed the FBI’s advice and had temporarily relocated from her home. She was not able to return for two months.

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

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

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

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

150. To this day, Ms. Freeman continues to be the subject of threatening communications.

B. Defendant's Conduct Has Harmed Ms. Moss.

151. The day after Defendant's campaign of falsehoods began, Ms. Moss's then-fourteen-year-old son informed her that numerous calls were coming into Ms. Moss's old phone, which he was using at the time. When he answered the calls, he was bombarded with racial slurs and threats of violence. One caller stated that her son "should hang alongside [his] nigger momma."

152. These harassing calls continued for months.

153. Defendant's defamation also caused Ms. Moss to suffer an onslaught of online harassment. She received dozens of messages through Facebook, LinkedIn, and Pinterest, many of which threatened violence. These messages did not merely suggest Ms. Moss should lose her job but insisted that she deserved to die and would be killed in retribution for her "treason." She has since deleted her LinkedIn account.

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

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

156. The impacts of Defendant's lies also followed Ms. Moss at work. The general email addresses used by the public to contact the Fulton County elections offices would forward incoming emails to Ms. Moss and many of her colleagues. As a result, Ms. Moss and her colleagues received, directly in their work in boxes, harassing emails sent to those public email addresses that specifically referenced Ms. Moss.

157. Inspired by the demonstrably false conspiracy theory Defendant pushed, strangers have protested about Ms. Moss outside of her Fulton County workplace, demanding she be fired from her job.

158. The harassment and widespread (false) perception that Ms. Moss committed election fraud left Ms. Moss feeling fearful in an office where she began work in 2012. Before the 2020 general election, she generally enjoyed the parts of her job that allowed her to work with and assist the public. But since Defendant's defamatory campaign, even when she was assisting constituents over the phone, she would begin to sweat and feel anxious if they asked her name. She became afraid that when people heard her name, they would think she is a fraud and a cheater.

159. Ms. Moss's workplace became a toxic environment. Her closest friends at work were warned to "watch the company they keep." The toxic environment led her to seek alternative employment.

160. Like her mother, Ms. Moss is now fearful whenever people recognize her in public. As a result, Ms. Moss has largely retreated from social and public life. She has gone as far as to

avoid the grocery store, opting to have groceries delivered in order to avoid it. She feels trapped by the unshakable fear that there are unknown people after her who want her dead.

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

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

FIRST CLAIM
(Defamation/Defamation *Per Se*)

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

164. Plaintiffs are private figures.

165. Defendant Giuliani published, caused to publish, or reasonably could have foreseen the publication of a series of false and defamatory statements of fact about Ms. Freeman and Ms. Moss, including by and through his agents making the statements themselves; and by republishing the statements on his website and social media accounts, as detailed extensively above. As a reasonably foreseeable—and intended—result of Defendant's statements and actions, others repeated and amplified these false and defamatory statements. The false implications were intentionally made through the false statements, by other statements that were misleading due to material omissions, by presenting misleading juxtapositions of statements, and when taking into account the context of each publication. The false implications were also made through the disinformation campaign as a whole. The defamatory meanings of Defendant's false statements

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

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

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

167. Each of these statements and implications is false and defamatory per se.

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

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

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

171. Defendant had both financial and political motives for promulgating lies about Plaintiffs.

172. Defendant did not neutrally report the allegations about Ms. Freeman and Ms. Moss that were advanced by fellow members of the Trump campaign and promptly disproven by Georgia election officials. Nor did he acknowledge the actual facts. Rather, he endorsed and adopted the false allegations as his own, publishing and republishing them for months with full knowledge of their falsity or reckless disregard for their truth.

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

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

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

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

177. As a direct and proximate result of Defendant's conduct, Ms. Freeman and Ms. Moss have suffered significant general, actual, consequential, and special damages including, without limitation, impairment of reputation and standing in the community, personal humiliation,

mental anguish and suffering, emotional distress, stress, anxiety, lost earnings, and other pecuniary loss. Among other things, Ms. Freeman has lost income.

SECOND CLAIM
(Intentional Infliction of Emotional Distress)

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

179. Defendant Giuliani's campaign of false and defamatory accusations directed specifically at Ms. Freeman and Ms. Moss was malicious, wanton, and intentional.

180. Defendant's wrongful conduct is so outrageous in character and so extreme in degree that it is beyond all possible bounds of decency and is to be regarded as atrocious and utterly intolerable in a civilized community. Defendant Giuliani carried out his campaign with actual malice, as he either knew that his accusations were false or published them with reckless disregard for their truth.

181. Defendant's wrongful conduct was extreme and outrageous, and it was calculated to cause harm to Ms. Freeman and Ms. Moss.

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

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

184. Defendant's wrongful conduct has inflicted severe emotional distress on Plaintiffs. They have suffered mental reactions including fright and fear for their safety; horror and helplessness in the face of the intense hatred directed at them by Defendant and by his viewers, listeners, and readers; anger; anxiety; sleeplessness; shame; and humiliation. The emotional distress Defendant caused to be inflicted on Ms. Freeman and Ms. Moss was so severe that no reasonable person could be expected to endure it.

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

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

THIRD CLAIM
(Civil Conspiracy for All Alleged Torts)

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

188. Defendant Giuliani agreed to intentionally and maliciously participate in a civil conspiracy with other individuals, the purpose of which was to commit the torts of Defamation, Defamation *Per Se*, and Intentional Infliction of Emotional Distress.

189. Throughout the course of the conspiracy, Defendant, acting in concert with other individuals, coordinated in furtherance of the common scheme.

190. Defendant agreed to launch a campaign to defame Plaintiffs, as evidenced by the Giuliani Strategic Plan document laying out this strategy, and his decision to repeatedly plan,

record, produce, and publish segments on the topic of election “fraud” in Georgia focused on Defendant’s false claims about Plaintiffs.

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

PRAYER FOR RELIEF

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

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

Dated: May 10, 2022

Respectfully submitted,

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**Pro hac vice application forthcoming*

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