IN THE CIRCUIT COURT
FOR MONTGOMERY COUNTY, MARYLAND

CHRISTOPHER C. KREBS,

Plaintiff,

v.

JOSEPH E. diGENOVA,

SERVE: **Joseph E. diGenova**
5807 Hillburne Way
Chevy Chase, MD 20815-5530

DONALD J. TRUMP FOR PRESIDENT, INC.,

SERVE: **Manager**
Donald J. Trump for
President, Inc.
725 Fifth Avenue
New York, NY 10022

and NEWSMAX MEDIA, INC.,

SERVE: **Registered Agent**
Cogency Global Inc.
115 North Calhoun St., Suite 4
Tallahassee, FL 32301

Defendants.

Case No. _____

JURY DEMAND

COMPLAINT

(Defamation; Intentional Infliction of Emotional Distress; Aiding and Abetting; Civil Conspiracy)

Plaintiff Christopher C. Krebs, by and through his undersigned counsel, brings this action seeking monetary damages and equitable relief against Defendants Joseph E. diGenova ("Defendant diGenova"), Donald J. Trump for President, Inc. (the "Defendant Campaign"), and Newsmax Media, Inc. ("Defendant Newsmax"), as follows:

Introduction

1. This lawsuit seeks remedies and relief against the Defendants for a calculated and pernicious conspiracy to defame and injure Plaintiff Christopher C. Krebs ("Plaintiff")—and Republican Party members like him—for speaking truth and conscientiously performing their public duties without servile regard to "party loyalty." In retaliation for Plaintiff's faithful performance of his duties in line with his constitutional oath, the Defendants issued an unlawful and inflammatory "call to action" for Plaintiff to suffer the fate of a convicted traitor: to be "**drawn and quartered**" or "**shot at dawn**." As a direct consequence, Plaintiff has been injured by a barrage of threats and harassment from those acting in accordance with Defendants' incendiary directive, and, as he is acutely aware, faces a genuine risk of imminent harm from persons who may seek to act upon the Defendants' call for violence.

2. Plaintiff is an American patriot who has loyally served our country and its democracy in the various important positions he has held in public service.

3. Plaintiff is also a lifelong member of the Republican Party.

4. In March 2017, Plaintiff left a well-paid and prestigious position with an international technology company to return to public service—first as a Senior Counselor to John Kelly, then the Secretary of the Department of Homeland Security ("DHS"), and by November 2018, as the first Director of the Cybersecurity and Infrastructure Security Agency ("CISA"), a Senate-confirmed role.

5. Among other responsibilities as CISA Director, Plaintiff was charged with ensuring the security of the American electoral system, which had been targeted by Russian cyber-attacks and disinformation campaigns in the lead-up to the 2016 presidential election.

6. Plaintiff performed his duties with honor and excellence, building and overseeing a team of highly qualified cybersecurity professionals, and working alongside partners in federal, state, and local governments to collectively protect and defend the nation's election infrastructure.

7. Thanks to the hard work of this collective, the 2020 election was the most secure in American history.

8. After the results of the election became clear, the Defendant Campaign and its emissaries and agents, including Defendant diGenova, spread, stoked, and instigated unfounded allegations of system-wide voter fraud, abuse, and interference—without proffering any evidence deemed credible by any state or federal court—in a naked and politically motivated effort to undermine public confidence in the election.

9. On November 12, 2020, a group of federal, state, and local officials, and their private sector partners, released a public statement (the "Joint Statement") in coordination with CISA.[1] The Joint Statement provided the perspective of professionals with the most direct experience running and securing the election.

10. In the Joint Statement, these election security professionals declared that the 2020 election "**was the most secure in American history**" and, contrary to the false rumors then circulating, there was "**no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised**." The Joint Statement concluded:

> **While we know there are many unfounded claims and opportunities for misinformation about the process of our elections, we can assure you we have the utmost confidence in the security and integrity of our elections, and you should too.**

[1] *Joint Statement From Elections Infrastructure Government Coordinating Council & the Election Infrastructure Sector Coordinating Executive Committees*, CISA, Nov. 12, 2020, https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election.

> **When you have questions, turn to elections officials as trusted voices as they administer elections**.

11. In furtherance of his duties, Plaintiff posted a message on his then-official Twitter account on November 12, 2020, which included the Joint Statement, adding: "**Election Infrastructure Subsector – [the] Joint Statement on the 2020 Election. TLDR: America, we have confidence in the security of your vote, you should, too. #Protect2020**."[2]

12. In retaliation for Plaintiff's Twitter message, President Donald J. Trump declared, using his @realDonaldTrump Twitter handle, that "**[t]he recent statement by Chris Krebs on the security of the 2020 Election was highly inaccurate, in that there were massive improprieties and fraud**."[3] The President proceeded to announce that, "**effective immediately, Chris Krebs has been terminated**" as Director of CISA.[4]

13. Following President Trump's public termination of Plaintiff by tweet, the Defendant Campaign, via its agent and lawyer, Defendant diGenova, took even more egregious and dangerous action against Plaintiff.

14. Plaintiff brings this Complaint seeking monetary and equitable redress for a vile and inflammatory call for violence directed at him personally by Defendant diGenova, who was acting in his capacity as a lawyer for the Defendant Campaign while appearing on a cable television talk show that aired on November 30, 2020 on the cable channel Newsmax TV, which is owned by Defendant Newsmax.

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[2] Christopher C. Krebs (@CISAKrebs), TWITTER (Nov. 12, 2020, 7:34 PM), https://twitter.com/CISAKrebs/status/1327047087024984064.

[3] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 17, 2020, 7:07 PM), https://twitter.com/realDonaldTrump/status/1328852352787484677.

[4] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 17, 2020, 7:07 PM), https://twitter.com/realDonaldTrump/status/1328852354049957888.

15. Appearing on Defendant Newsmax's The Howie Carr Show, Defendant diGenova, speaking on behalf of the Defendant Campaign to promote its fanciful claims of election fraud and stop what he claimed was a "**coup**," declared that Plaintiff should receive the penalty historically reserved for treason: "**He should be drawn and quartered. Taken out at dawn and shot.**"

16. These incendiary remarks, made by a member of the bar and a former United States Attorney, were shockingly irresponsible and dangerous—even more so as they were released into the current climate of political toxicity and instability, in which public officials across the country (as further detailed below) are being targeted with acts and threats of violence simply for performing their public duties.

17. Defendant diGenova's call to execute Plaintiff was received, as Defendant diGenova intended, by numerous angry Newsmax viewers as confirmation that Plaintiff was one of the "traitors" who was stealing the election from President Trump. An angry mob immediately bombarded Plaintiff with a barrage of death threats and harassment, which continue to this day. The Defendants' threats have upended Plaintiff's life, as well as his family's security, and caused serious fear, distress, suffering, and even physical damage.

18. Upon information and belief, the Defendants hoped to promote and encourage unlawful threats toward, and actual violence upon, Plaintiff—and Republicans like him—for speaking truth and performing his constitutional duties without regard to "party loyalty." As explained further below, this objective—retaliating against Republicans who publicly rejected the "rigged election" narrative—was, upon information and belief, a central element of the Defendants' conspiracy to use unlawful means to: (a) deter other Republicans from diverging from the Defendant Campaign's desired narrative; (b) discredit and intimidate public servants, including Plaintiff, who are potential witnesses in ongoing litigation, who have critical information

concerning the integrity of the 2020 election; and (c) fraudulently entice the Defendant Campaign's supporters to donate money for its future political activities.

19. For these reasons, and as further described below, Plaintiff is entitled to monetary damages and equitable relief based on the Defendants' tortious acts.

Parties

20. Plaintiff Christopher C. Krebs served as the Director of CISA from November 16, 2018 through November 17, 2020, when he was fired from that position via tweet by President Trump. Plaintiff is domiciled in Virginia.

21. Defendant Joseph E. diGenova is an individual domiciled in Chevy Chase, Montgomery County, Maryland. He is a lawyer and an active member of the bar of the District of Columbia. Via tweet on November 14, 2020, President Trump announced that Defendant diGenova was part of the legal team representing the Defendant Campaign.

22. Defendant Donald J. Trump for President, Inc. is a Virginia corporation whose purpose, upon information and belief, is to support Mr. Trump's candidacy for President of the United States.

23. Defendant Newsmax Media, Inc. is, upon information and belief, a multimedia broadcasting and digital publishing company incorporated in the State of Nevada and headquartered in Florida. Upon information and belief, Defendant Newsmax operates cable news channel Newsmax TV, which it broadcasts to customers in Maryland pursuant to contracts with local cable networks and satellite distributors. Defendant Newsmax also operates a print magazine called Newsmax and a news and opinion website: newsmax.com.

24. Defendant Newsmax distributes its cable news platform, Newsmax TV, directly into homes in Maryland, according to its website, through the following providers: Antietam Cable – HD Ch. 866 (SD Ch. 104); Armstrong – HD Ch. 118 (SD Ch. 76 or 79); Atlantic Broadband

(Chesapeake) – HD Ch. 576 (SD Ch. 76); Atlantic Broadband (Cumberland) – HD Ch. 777 (SD Ch. 77); Atlantic Broadband (Grasonville) – HD Ch. 576 (SD Ch. 76); Atlantic Broadband (Perryville) – HD Ch. 576 (SD Ch. 76); Bay Country Comm. – HD Ch. 196 (SD Ch. 96); Easton Utilities – HD Ch. 307 (SD Ch. 123); FiOS – HD Ch. 615 (SD Ch. 115); Mediacom – Ch. 277; Schurz Comm. – HD Ch. 603 (SD Ch. 104); WOW! TV (Baltimore) – Ch. 84; and Xfinity – Ch. 1115. Upon information and belief, Defendant Newsmax has paid each of these cable providers for the right to broadcast the content of its Newsmax TV programming directly into Maryland homes via inclusion in local cable packages.

25. Newsmax TV frequently invites contributors to appear on its shows. Defendant diGenova has appeared as a regular guest commentator on The Howie Carr Show.

26. Upon information and belief, Defendant Newsmax is aware that Defendant diGenova resides in the State of Maryland and regularly participates in Newsmax TV programming from his residence in this State. Upon further information and belief, Defendant Newsmax was aware that when Defendant diGenova dialed into The Howie Carr Show on November 30, 2020, he did so from his home in Maryland.

Jurisdiction and Venue

27. This Court has jurisdiction over Plaintiff's claims against Defendants pursuant to Maryland Code Annotated, Courts & Judicial Proceedings ("MD Code Ann., Cts. & Jud. Proc.") § 1-501.

28. The Court may exercise personal jurisdiction over Defendant diGenova pursuant to MD Code Ann., Cts. & Jud. Proc. § 6-102 because Defendant diGenova is a resident of, and is domiciled in, Montgomery County, Maryland. The Court may also exercise personal jurisdiction over Defendant diGenova pursuant to MD Code Ann., Cts. & Jud. Proc. § 6-103(b)(1) and (5)

because diGenova transacts business and/or performs work in Maryland and has an interest in, uses, or possesses real property in Maryland.

29. The Court may exercise personal jurisdiction over the Defendant Campaign pursuant to MD Code Ann., Cts. & Jud. Proc. § 6-103(b)(1), as the Defendant Campaign transacts business and/or performs work in Maryland through, among other ways, the actions of its agent, Defendant diGenova.

30. The Court may exercise personal jurisdiction over Defendant Newsmax pursuant to MD Code Ann., Cts. & Jud. Proc. § 6-103(b)(1), (2), and (4), as it regularly transacts business within the State of Maryland through local Maryland cable providers and, upon information and belief, it invited Defendant diGenova to call into its program, The Howie Carr Show, on November 30, 2020 from Maryland.

31. Venue is proper in this Court pursuant to MD Code Ann., Cts. & Jud. Proc. § 6-201 because Defendant diGenova resides in this County.

Statement of Facts

I. Plaintiff's Background and Public Service

32. Plaintiff is a lawyer and cybersecurity professional who has held positions of immense responsibility in both the public and private sectors.

33. After earning his Bachelor of Arts degree in environmental sciences from the University of Virginia in 1999, he received a Juris Doctor degree in 2007 from George Mason University's School of Law (now known as Antonin Scalia Law School).

34. Plaintiff has a rich history of public service and cybersecurity experience that began with his appointment as Senior Advisor to the Assistant Secretary of Homeland Security for Infrastructure Protection, serving in the DHS in the administration of President George W. Bush from 2007 to 2009.

35. From 2009 to 2017, Plaintiff worked in the private sector, advising industry and government clients on a range of cybersecurity and risk management issues.

36. From 2014 to 2017, Plaintiff served as the Director for Cybersecurity Policy for Microsoft, where he led Microsoft's U.S. policy work on cybersecurity and technology issues.

37. In March 2017, Plaintiff was named Senior Counselor to the United States Secretary of Homeland Security under President Trump.

38. Within months of Plaintiff's return to public service, the President appointed Plaintiff to be Assistant Secretary for Infrastructure Protection, and also directed him to perform the duties of Under Secretary for the National Protection and Programs Directorate ("NPPD") within DHS.

39. On February 7, 2018, President Trump formally nominated Plaintiff to fill the Under Secretary position of NPPD. In support of his nomination, various luminaries from government and the private sector offered glowing statements about Plaintiff's qualifications. Among others, Jonathan Spalter, President and CEO of USTelecom, said the following: "**The nomination of Chris Krebs is a clear signal of the determination and focus that our government assigns to this vital mission. Mr. Krebs has been an exceptional leader in both the public and private sectors and will bring keen instincts and expertise to the position. Most importantly, he recognizes the value of working in close partnership with innovators in industry and especially the broad Internet ecosystem to sustain the global digital infrastructure**."[5]

[5] Jonathan Spalter, *Statement: Nomination of Christopher Krebs*, USTELECOM. Feb. 8, 2018, https://www.ustelecom.org/ustelecom-statement-on-the-nomination-of-christopher-krebs/.

40. When considering Plaintiff's nomination on April 25, 2018, Senator Ronald Johnson, a Republican from Wisconsin and Chairman of the Homeland Security and Government Affairs Committee, said: **"[T]here is no doubt about it, we are very fortunate to have such a qualified candidate**."[6] Senator Claire McCaskill, a Democrat from Missouri, remarked: "**I am thrilled that you have agreed to serve. I have reviewed your background, and I think you are—and I will tell you that staff that interviewed you came back and said, 'He is the real deal. He really knows what he is talking about.' We need you in this job . . . .**"[7]

41. On June 12, 2018, the Senate confirmed Plaintiff for the Under Secretary position in NPPD, the predecessor to CISA, by unanimous consent.

42. In November 2018, Plaintiff became the first Director of CISA, the nation's premier cybersecurity agency, when the President signed into law the Cybersecurity and Infrastructure Security Agency Act of 2018. In his position as CISA Director, Plaintiff oversaw the agency's efforts to defend civilian networks, manage systemic risk, and work with stakeholders to raise the country's cyber and physical infrastructure security. He was also the administration's most senior cybersecurity official responsible for the security of the 2020 presidential election.

43. Plaintiff led CISA in spearheading three key initiatives to ensure election security in 2020. First, CISA coordinated with state and local officials, as well as private partners, to create a "vibrant election security community of practice," including establishing the Election Infrastructure Information Sharing and Analysis Center ("ISAC"). Second, CISA led efforts

[6] Nomination of Christopher C. Krebs to be Under Secretary, National Protection and Programs Directorate, U.S. Department of Homeland Security: Before the Comm. on Homeland Sec. and Gov't Affairs, 115th Cong. 2 (2018), https://www.govinfo.gov/content/pkg/CHRG-115shrg32455/html/CHRG-115shrg32455.htm.

[7] *Id.* at 6.

across the country to improve the security and resilience of election systems, networks, and computers to protect them from cyber-attacks. Third, CISA coordinated with agencies across the federal government to monitor and promote election security with a unified front.

44. In addition, under Plaintiff's leadership and at his direction, CISA created a much-heralded website, Rumor Control (https://cisa.gov/rumorcontrol), to provide facts about election administration and security controls in place for elections across the nation, with the purpose of countering disinformation during elections.

45. Plaintiff led CISA in the creation of the Rumor Control website because he foresaw that the heightened political division within the country, as well as the history of disinformation campaigns during the 2016 presidential election, could stoke violent unrest, undermine the then-upcoming elections, and place serious strains on our democratic institutions.

46. Plaintiff was highly regarded by his superiors within the Trump Administration, as well as by Republicans, Democrats, and Independents alike. On Election Day 2020, the then-Acting Secretary of Homeland Security, Chad F. Wolf, praised Plaintiff's work, especially his Rumor Control effort.[8] Senator Richard M. Burr, a Republican from North Carolina, called Plaintiff a "**dedicated public servant who has done a remarkable job during a challenging time.**"[9] Senator Mark Warner of Virginia, the top Democrat on the Senate Intelligence Committee, after noting the "**great job**" done by Plaintiff in "**protecting our elections**," referred to him as

[8] David E. Sanger & Nicole Perlroth, *Trump Fires Christopher Krebs, Official Who Disputed Election Fraud Claims*, N.Y. TIMES, Nov. 17, 2020, https://www.nytimes.com/2020/11/17/us/politics/trump-fires-christopher-krebs.html.

[9] *Id*.

"**one of the few people in [the Trump] Administration respected by everyone on both sides of the aisle**."[10]

47. And, on November 9, 2020, Senate Majority Leader Mitch McConnell said on the Senate floor: "**According to the Director of the Cybersecurity and Infrastructure Security Administration, 'we have no evidence any foreign adversary was capable of preventing Americans from voting or changing vote tallies**.'"[11]

II. The 2020 Election

48. The United States presidential election was held on November 3, 2020, and it was unprecedented in several ways.

49. For one, notwithstanding the global pandemic, the election involved a record overall turnout: more than 155 million total votes were cast.[12]

50. Additionally, the election saw a record volume of mail-in and pre-election-day voting. Over 101 million ballots were cast by mail-in voters or early voters pursuant to the

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[10] Christopher Bing, et al., *Exclusive: Top official on U.S. election cybersecurity tells associates he expects to be fired*, REUTERS, Nov. 12, 2020, https://www.reuters.com/article/us-usa-cyber-officials-exclusive/exclusive-top-official-on-u-s-election-cybersecurity-tells-associates-he-expects-to-be-fired-idUSKBN27S2YI.

[11] *McConnell on Elections: "We Respect the Rule of Law and Trust Our Institutions,"* U.S. SENATE, Nov. 9, 2020, https://www.republicanleader.senate.gov/newsroom/remarks/mcconnell-on-elections-we-respect-the-rule-of-law-and-trust-our-institutions-.

[12] *Presidential Election Results: Biden Wins*, N.Y. TIMES, https://www.nytimes.com/interactive/2020/11/03/us/elections/results-president.html.

procedures adopted and approved by the respective states.[13] As widely reported, President Trump was one such early voter.[14]

51. On Saturday, November 7, 2020, most major news outlets (including Fox News, ABC, CBS, NBC, CNN, the Associated Press, and Bloomberg) announced that, based on the votes tallied as of that day, former Vice President Joseph R. Biden, Jr. was likely to receive at least 270 votes in the electoral college, and therefore was the presumptive winner of the 2020 presidential election.

52. As of the filing of this Complaint, Mr. Biden—who received approximately 81.3 million votes overall (51.3%), compared to approximately 74.2 million votes for Mr. Trump (46.9%)—received a majority of the vote in states or state voting districts that account for 306 votes in the electoral college, representing a majority of the electoral college's 538 total votes.

53. As of this date, the government agencies responsible for election oversight in the so-called "battleground" states of Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin have each certified the election results in their states and have each declared Mr. Biden to be the winner of those states' electoral votes.[15]

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[13] Lazaro Gamio, et al., *Record-Setting Turnout: Tracking Early Voting in the 2020 Election*, N.Y. TIMES, Nov. 12, 2020, https://www.nytimes.com/interactive/2020/us/elections/early-voting-results.html.

[14] *See, e.g.*, Sam Gringlas, *Trump Votes Early In Florida 'For A Guy Named Trump'*, NPR, Oct. 24, 2020, https://www.npr.org/2020/10/24/927427383/trump-votes-early-in-florida-says-he-voted-for-a-guy-named-trump.

[15] *See* Maggie Astor, et al., *Biden Secures Enough Electors to Be President*, N.Y. TIMES, Dec. 5, 2020, https://www.nytimes.com/interactive/2020/11/20/us/politics/2020-election-certification-tracker.html.

III. The Defendant Campaign Makes Unfounded Allegations of Voter Fraud

54. Even as all major news outlets were announcing Mr. Biden's electoral victory based upon actual vote tallies, the Defendant Campaign and its agents, among them Defendant diGenova, engaged in an effort to undermine public confidence in those results by alleging that the election was "rigged" and tainted by a purported vast fraudulent conspiracy. Lacking any unified legal theory and making a hodge-podge of unsupported factual claims (including many from dubious—and ultimately discredited—sources), the Defendant Campaign stoked fear, hawked conspiracy theories, and essentially claimed a vast criminal conspiracy that would have included thousands of Republican and Democratic officials and poll workers, who, it alleged, flipped the election against the President even as Republicans often prevailed in down-ballot races. For example:

a. On November 2, 2020, Defendant diGenova claimed in a pre-election interview: "**The Democrats from day one have set out to have this election delegitimized by using mail-out balloting. . . . This is a prescription for a fraudulent election. This is classic Eastern European, Russian election engineering**."[16]

b. On November 4, 2020, the day after the election, President Trump tweeted: "**We are up BIG, but they are trying to STEAL the Election. We will never let them do it. Votes cannot be cast after the Polls are closed**!"[17]

[16] Alex Walker, *Trump ally diGenova falsely claims Democrats will steal Pennsylvania using 'a classic vote count scheme'*, MEDIAMATTERS, Nov. 2, 2020, https://www.mediamatters.org/voter-fraud-and-suppression/trump-ally-joe-digenova-falsely-claims-democrats-will-steal.

[17] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 4, 2020, 12:49 AM), https://twitter.com/realDonaldTrump/status/1323864823680126977.

c. On November 9, 2020, President Trump tweeted: "**Nevada is turning out to be a cesspool of Fake Votes. @mschlapp & @AdamLaxalt are finding things that, when released, will be absolutely shocking!**"[18]

d. On November 12, 2020, President Trump tweeted: "**REPORT: DOMINION DELETED 2.7 MILLION TRUMP VOTES NATIONWIDE. DATA ANALYSIS FINDS 221,000 PENNSYLVANIA VOTES SWITCHED FROM PRESIDENT TRUMP TO BIDEN. 941,000 TRUMP VOTES DELETED. STATES USING DOMINION VOTING SYSTEMS SWITCHED 435,000 VOTES FROM TRUMP TO BIDEN**."[19]

e. On November 21, 2020, referring to the state of Michigan, President Trump tweeted: "**We will show massive and unprecedented fraud**."[20]

f. On November 22, 2020, the Defendant Campaign held a press conference at which it was represented by several lawyers, including Rudy Giuliani, Defendant diGenova, Victoria Toensing (Defendant diGenova's wife), Sidney Powell, and Jenna Ellis. At that press conference, Mr. Giuliani claimed there was "**a plan from a centralized place to execute these various acts of voter fraud, specifically focused on big cities and**

[18] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 9, 2020, 2:54 PM), https://twitter.com/realdonaldtrump/status/1325889532840062976. .

[19] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 12, 2020, 11:34 AM), https://twitter.com/realDonaldTrump/status/1326926226888544256.

[20] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 21, 2020, 8:13 AM), https://twitter.com/realDonaldTrump/status/1330137267680186371.

specifically focused on, as you would imagine, big cities controlled by Democrats, and particularly focused on big cities that have a long history of corruption."[21]

g. On November 23, 2020, Defendant diGenova, in his capacity as a member of the Campaign legal team, gave an interview to radio station WMAL in which he claimed that there were issues of "**illegal and unconstitutional curing of ballots**"; "**systematic exclusion of counting observers from the counting areas so that they couldn't see envelopes**"; "**dozens of other claims of dead people voting, and of course statistical analysis of these hundreds of thousands of votes that came into each city after the circuit breaker went into effect at midnight to 4 a.m.**"[22]

h. Defendant diGenova also claimed to "**know the election was stolen**" and that there was "**tons of evidence of illegal, unconstitutional, and irregularities [sic] beyond the pale and again, no doubt that the President won this election on Election Night**." He further claimed that "**statistical analysis**" shows that "**these anomalies are simply impossible to achieve without fraud**." Defendant diGenova claimed that "**we will be presenting this analysis in various courts throughout the country**."[23]

i. On November 26, 2020, Defendant diGenova, identified as a member of the Defendant Campaign's legal team, gave an interview on One America News Network

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[21] *Rudy Giuliani Trump Campaign Press Conference Transcript November 19: Election Fraud Claims*, REV, Nov. 19, 2020, https://www.rev.com/blog/transcripts/rudy-giuliani-trump-campaign-press-conference-transcript-november-19-election-fraud-claims.

[22] *Mornings on the Mall 11.23.20*, WMAL, https://www.wmal.com/2020/11/23/mornings-on-the-mall-11-23-20-trevor-matich-joe-digenova-sean-spicer-kim-spivack-janice-dean.

[23] *Id.*

during which he claimed: "**The amount of fraud and deception that went on in Pennsylvania is truly staggering**."[24]

j. On November 28, 2020, President Trump tweeted: "**The number of ballots that our Campaign is challenging in the Pennsylvania case is FAR LARGER than the 81,000 vote margin. It's not even close. Fraud and illegality ARE a big part of the case. Documents being completed. We will appeal!**"[25]

55. Upon information and belief, this conspiracy to undermine Americans' confidence in the election through false information predated the election and began when the Defendant Campaign first recognized that the President could not garner an electoral lead in mail-in votes, which would heavily favor his Democratic rival.

a. Thus, the conspirators intended to sow distrust and disseminate false information, using that effort to raise money to both retire debt and finance future political activities.

b. The plan included an agreement among the conspirators to discredit and defame dissenting Republicans by labeling them as "traitors," "cowards," "liars," or similar terms to retaliate against them directly, and to chill others from speaking out against the conspirators' chosen narrative by threatening them with unlawful violence.

c. This conspiracy is a continuing one, as the conspirators are using these same illicit plans in Georgia at the time of this filing, pressuring the key Republican candidates

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[24] *Attorney DiGenova Says Fraud, Deception In Pa. Election Is 'Truly Staggering'*, OANN, Nov. 26, 2020, at 03:51, https://www.oann.com/attorney-digenova-says-fraud-deception-in-pa-election-is-truly-staggering.

[25] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 28, 2020, 3:49 PM), https://twitter.com/realDonaldTrump/status/1332788716818010114.

for the Senate to support the narrative of a stolen presidential election, and unlawfully retaliating against other Republicans who challenge this narrative or refuse to use their official positions to further its purposes.

d. In furtherance of that plan, agents of the Defendant Campaign—including its legal advisers and President Trump himself—have baselessly accused members of the Republican Party of being "traitors," "liars," and other similar terms for: (a) challenging the Defendant Campaign's false rhetoric regarding alleged widespread vote manipulation, supposedly resulting in a "stolen election," and (b) refusing to use their official powers to overturn election results.

e. For example, after GOP leadership in the Pennsylvania House of Representatives unequivocally stated in a memo that state legislators had no authority to ignore certified election results and appoint Pennsylvania's delegates to the Electoral College themselves, despite repeated calls from the President and some within their own party to do so, the Defendant Campaign's lawyers Rudy Giuliani and Jenna Ellis responded with scathing tweets.[26]

f. Mr. Giuliani accused the Pennsylvania Republicans of "**covering up for Dem[ocrat] crimes**" and misleading the President.[27] He said he was ashamed of them for

[26] Kyle Cheney, *Top Pennsylvania Republicans pressure congressional delegation to challenge Biden's victory*, POLITICO, Dec. 4, 2020, https://www.politico.com/news/2020/12/04/pennsylvania-republicans-biden-challenge-442972; Jeremy Roebuck, *After Trump team calls them 'cowards' and 'traitors,' state GOP leaders urge Congress to reject Pa. election results*, PHILA. INQUIRER, Dec. 4, 2020, https://www.inquirer.com/news/pennsylvania-election-results-trump-general-assembly-supreme-court-mike-kelly-20201204.html.

[27] Rudy Giuliani (@RudyGiuliani), TWITTER (Dec. 4, 2020 1:27 PM), https://twitter.com/RudyGiuliani/status/1334927363403026434.

"**let[ting] down America**."[28] Ms. Ellis retweeted an earlier posting calling unsupportive Republicans "**liars**," "**cowards**," and "**traitors**."[29]

g. Similarly, after Arizona Republican Governor Doug Ducey certified Mr. Biden's win, President Trump tweeted that Governor Ducey "**has betrayed the people of Arizona,**"[30] despite earlier praising Governor Ducey for doing a "**fantastic**" and "**incredible**" job.[31] President Trump also accused Governor Ducey of "**rushing to put a Democrat in office, especially when so many horrible things concerning voter fraud are being revealed**," and further threatened political payback by tweeting, "**What is going on with @dougducey? Republicans will long remember!**"[32]

h. President Trump also attacked Republican Governor Brian Kemp of Georgia, telling Fox News that he was "**ashamed**" for endorsing the Republican Governor and tweeting, "**Why won't Governor @BrianKempGA, the hapless Governor of Georgia, use his emergency powers, which can be easily done, to overrule his obstinate Secretary of State, and do a match of signatures on envelopes. It will be a 'goldmine'**

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[28] Rudy Giuliani (@RudyGiuliani), TWITTER (Dec. 4, 2020, 1:32 PM), https://twitter.com/RudyGiuliani/status/1334928653889761281.

[29] Bernard Kerik (@BernardKerik), TWITTER (Dec. 4, 2020, 1:37 PM), https://twitter.com/BernardKerik/status/1334929713287090176 (re-tweeted).

[30] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 30, 2020, 6:40 PM), https://twitter.com/realDonaldTrump/status/1333556458575818754.

[31] *Remarks by President Trump in a Meeting with Governor Ducey of Arizona*, WHITE HOUSE, Aug. 5, 2020, https://www.whitehouse.gov/briefings-statements/remarks-president-trump-meeting-governor-ducey-arizona/.

[32] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 30, 2020, 6:39 PM), https://twitter.com/realDonaldTrump/status/1333556242984431616.

of fraud."[33] President Trump followed up with a pair of tweets on December 5, 2020, referring to both Governor Ducey and Governor Kemp and writing that, "**[i]f they were with us, we would have already won both Arizona and Georgia…Republicans will NEVER forget this.**"[34]

i. In addition, President Trump decried Georgia Secretary of State Brad Raffensperger as an "**enemy of the people**" during his Thanksgiving remarks because Secretary Raffensperger had not bowed to Trump's demands that the Georgia election results be thrown out so that he could be declared the winner in the state.[35]

56. Upon information and belief, the Defendant Campaign or its emissaries have filed at least 50 lawsuits in multiple jurisdictions challenging the election results. All but one failed and none has changed the election outcome in any state.[36] Nevertheless, on information and belief,

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[33] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 30, 2020, 8:59 AM), https://twitter.com/realDonaldTrump/status/1333410418119864320; Emma Hurt, *Trump Targets "Hapless" Georgia Governor, Urges Him to Overrule His Secretary of State*, WABE Nov. 30, 2020, https://www.wabe.org/trump-targets-hapless-georgia-governor/.

[34] Donald J. Trump (@realDonaldTrump), TWITTER (Dec, 5, 2020, 5:33 PM), https://twitter.com/realDonaldTrump/status/1335351629810286592; Donald J. Trump (@realDonaldTrump), TWITTER (Dec, 5, 2020, 5:33 PM), https://twitter.com/realDonaldTrump/status/1335351633459310593.

[35] Tim Kephart, *Trump calls Ga. Secretary of State "Enemy of the People*, CBS46, Nov. 27, 2020, https://www.cbs46.com/news/trump-calls-ga-secretary-of-state-enemy-of-the-people/article_917de492-30c5-11eb-a89b-6f888a101160.html; Jon Ward, *McConnell shrugs as Georgia Republicans excoriate Trump and Washington over bogus election claims*, YAHOO! NEWS, Dec. 1, 2020, https://news.yahoo.com/mc-connell-shrugs-as-georgia-republicans-excoriate-trump-and-washington-over-bogus-election-claims-010528369.html.

[36] Jeremy W. Peters & Alan Feuer, *How Is Trump's Lawyer Jenna Ellis 'Elite Strike Force' Material?*, N.Y. TIMES, Dec. 3, 2020, https://www.nytimes.com/2020/12/03/us/politics/jenna-ellis-trump.html; Stephanie Becker & Katelyn Polantz, *Nevada judge rejects GOP's latest attempt to upend results of presidential election*, CNN, Dec. 4, 2020, https://www.cnn.com/politics/live-news/biden-trump-us-election-news-12-04-20/h_4f2870efb83296ad887e28887652c3af

the Defendant Campaign made many calls to current and former employees of various companies that provide election services and software, demanding—at times, through threats—that these workers publicly accuse their former or current employers of participating in the "fix."

IV. The Joint Statement on Election Security

57. In the midst of this relentless effort by the Defendant Campaign to undermine confidence in the election through baseless allegations of voter fraud, on November 12, 2020, CISA distributed the Joint Statement from members of several government organizations responsible for overseeing the fairness of the nation's elections. The statement included the following:

> **The November 3rd election was the most secure in American history. Right now, across the country, election officials are reviewing and double checking the entire election process prior to finalizing the result. . . .**
>
> **There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised. . . .**
>
> **While we know there are many unfounded claims and opportunities for misinformation about the process of our elections, we can assure you we have the utmost confidence in the security and integrity of our elections, and you should too. When you have questions, turn to elections officials as trusted voices as they administer elections.**[37]

V. Trump Fires Plaintiff Expressly Because of the Joint Statement

58. On November 17, 2020, five days after the release of the Joint Statement, President Trump fired Plaintiff via Twitter. In his tweet, President Trump acknowledged that he did so in retaliation for the Joint Statement released by CISA, the agency Plaintiff oversaw.

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[37] *Joint Statement From Elections Infrastructure Government Coordinating Council & the Election Infrastructure Sector Coordinating Executive Committees*, CISA, Nov. 12, 2020, https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election.

59. President Trump tweeted:

> **The recent statement by Chris Krebs on the security of the 2020 Election was highly inaccurate, in that there were massive improprieties and fraud - including dead people voting, Poll Watchers not allowed into polling locations, "glitches" in the voting machines which changed . . . votes from Trump to Biden, late voting, and many more. Therefore, effective immediately, Chris Krebs has been terminated as Director of the Cybersecurity and Infrastructure Security Agency**.[38]

60. The President's decision to fire Plaintiff was met with bipartisan criticism and outrage. For example:

a. Senator Ben Sasse, a Republican from Nebraska, remarked that "**Chris Krebs did a really good job — as state election officials all across the nation will tell you — and he obviously should not be fired.**"[39]

b. Senator Shelly Moore Capito, a Republican from West Virginia, likewise disagreed with the decision to fire Plaintiff, noting that she was "**appreciative of all his work**."[40]

c. Senator Mike Rounds, a Republican from South Dakota, said that he was "**very disappointed**" when he found out that Plaintiff "**had been terminated**."[41]

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[38] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 17, 2020, 7:07 PM), https://twitter.com/realDonaldTrump/status/1328852352787484677.

[39] Allison Pecorin, *GOP senators blast Trump's firing of election security official: 'A terrible mistake'*, ABC NEWS, Nov. 18, 2020, https://abcnews.go.com/Politics/gop-senators-blast-trumps-firing-election-security-official/story?id=74278635.

[40] Grace Segers, *Republican senators criticize Trump's firing of cybersecurity official Chris Krebs*, CBS NEWS, Nov. 18, 2020, https://www.cbsnews.com/news/republican-senators-criticize-trumps-firing-of-cybersecurity-official-chris-krebs.

[41] *Id*.

d. Senator Angus King, an Independent from Maine, who led a commission on improving cyber defenses, said of the firing: "**Of all the things this president has done, this is the worst**," calling Plaintiff one of the most competent people he had met in the government.[42]

e. House Intelligence Committee Chairman Representative Adam Schiff, a Democrat from California, wrote on Twitter: "**Director Krebs worked diligently to safeguard our elections from interference and misinformation. He protected our democracy. And spoke truth to power. That's why Trump retaliated and fired him.**"[43]

61. On December 1, 2020, United States Attorney General William Barr effectively confirmed the conclusions set forth in the Joint Statement when he declared that the United States Department of Justice had uncovered no evidence of widespread voter fraud that could change the outcome of the 2020 election.[44]

62. Security officials within the Executive Branch similarly vouched for the integrity of the election.[45]

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[42] David E. Sanger & Nicole Perlroth, *Trump Fires Christopher Krebs, Official Who Disputed Election Fraud Claims*, N.Y. TIMES, Nov. 17, 2020, https://www.nytimes.com/2020/11/17/us/politics/trump-fires-christopher-krebs.html.

[43] Allison Pecorin, *GOP senators blast Trump's firing of election security official: 'A terrible mistake'*, ABC NEWS, Nov. 18, 2020, https://abcnews.go.com/Politics/gop-senators-blast-trumps-firing-election-security-official/story?id=74278635.

[44] Michael Balsamo, *Disputing Trump, Barr says no widespread election fraud*, AP, Dec. 1, 2020, https://apnews.com/article/barr-no-widespread-election-fraud-b1f1488796c9a98c4b1a9061a6c7f49d.

[45] *See, e.g.*, Jeff Seldin, *US Officials Confident in Secure Election, Turn Focus to Disinformation*, VOA NEWS, Nov. 4, 2020, https://www.voanews.com/2020-usa-votes/us-officials-confident-secure-election-turn-focus-disinformation; Jerry Dunleavy, *Spy chief says*

VI. The Toxic Atmosphere

63. By November 17, 2020, when President Trump fired Plaintiff, the political and cultural environment in the United States had become infected with toxicity and hostility to a degree unprecedented in modern times. President Trump himself has been the country's most influential moving force behind much of this environment. In fact, ABC News reported in May 2020 that its reporters had identified "**at least 54 criminal cases where Trump was invoked in direct connection with violent acts, threats of violence or allegations of assault**."[46]

64. The ABC News report included criminal cases based on incidents that occurred in Virginia, where Plaintiff resides. For instance, on February 21, 2018, a grand jury indicted William Patrick Syring of Arlington, Virginia, for threats of violence. A week after President Trump was inaugurated in January 2017, Syring wrote in an email: "**It's time for ethnic cleansing of Arabs in America. Elections have consequences. President Trump will cleanse America of . . . all Arab American terrorists**."[47]

65. In other criminal cases reported by ABC News, the threats of violence escalated into concrete actions. For example:

a. In 2018, "MAGA Bomber" Cesar Sayoc sent 16 mail bombs to 13 people around the United States, including leading critics of President Trump such as former

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intelligence doesn't show foreign foes or criminal groups can change vote totals, WASH. EXAMINER, Dec. 04, 2020, https://www.washingtonexaminer.com/news/spy-chief-says-intelligence-doesnt-show-foreign-foes-or-criminal-groups-can-change-vote-totals.

[46] Mike Levine, *'No Blame?' ABC News finds 54 cases invoking 'Trump' in connection with violence, threats, alleged assaults*, ABC NEWS, May 30, 2020, https://abcnews.go.com/Politics/blame-abc-news-finds-17-cases-invoking-trump/story?id=58912889.

[47] *Id*.

President Barack Obama, former Vice President Biden, former Secretary of State Hillary Clinton, actor Robert De Niro, and financier George Soros.[48]

b. On November 1, 2019, Milwaukee police arrested Clifton Blackwell for allegedly throwing acid on a Peruvian-American man after accusing him of "invading" the United States and "not respecting" the country's laws. During their investigation, police discovered that Blackwell was an enthusiastic supporter of President Trump, who had himself used similar language as the acid thrower to lambast immigrants.[49]

66. Throughout his term as President, Trump has often refused to condemn violence by his supporters or has equivocated on the subject. This, among other of President Trump's conduct, has led many of his supporters to believe that they have his tacit support to commit acts of violence.[50] As such, over his four years as President, Trump has contributed to fomenting a political and cultural environment of toxicity, with a heightened risk of political violence, in the United States.

67. As the 2020 election approached, this toxicity reached its zenith, and the risk of serious violence marring the election became a regular theme or topic of news stories. In an October 27, 2020 story, for example—reporting that firearm purchases were skyrocketing—The

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[48] *Id*.

[49] *Id*.

[50] Rachael Levy, *Who Are the Proud Boys? The Group Trump Told to 'Stand Back and Stand By'*, WALL ST. J., Nov. 6, 2020, https://www.wsj.com/articles/who-are-proud-boys-11601485755.

New York Times quoted a voter in Texas: "**Maybe I'm just looking at the news too much, but there are hints of civil war depending on who wins**."[51]

68. The heightened risk of political violence was evident on October 8, 2020—less than a month before the election—when the FBI announced the arrest of 13 members of a paramilitary group accused of plotting to kidnap and execute the Governor of Michigan, Gretchen Whitmer, who by then had become a regular target of President Trump's vitriolic attacks. The members of the paramilitary group reportedly met to discuss the plot at one of the suspect's homes, which had signs supporting Trump's reelection efforts in the front yard.[52] The suspects also reportedly discussed kidnapping Governor Ralph Northam of Virginia—Plaintiff's state of residence—who had criticized President Trump's handling of the coronavirus pandemic.[53]

69. After the election itself, fueled by the baseless claims of a "rigged election" peddled by the Defendant Campaign, "**[a]cross the nation, election officials and their staff have been bombarded . . . with emails, telephone calls and letters brimming with menace and threats of violence, the result of their service in a presidential election in which the defeated**

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[51] Dionne Searcey & Richard A. Oppel, Jr., *A Divided Nation Agrees on One Thing: Many People Want a Gun*, N.Y. TIMES, Oct. 27, 2020 (updated Nov. 30, 2020), https://www.nytimes.com/2020/10/27/us/guns-2020-election.html.

[52] *13 men charged in alleged kidnapping plot, any with troubled pasts*, DETROIT FREE PRESS, Oct. 11, 2020, https://www.freep.com/in-depth/news/investigations/2020/10/11/men-charged-michigan-kidnapping-plot-marked-troubled-pasts/5939254002/.

[53] Kayla Ruble, et al., *Whitmer plotters also discussed kidnapping Virginia Gov. Ralph Northam, FBI agent testifies*, WASH. POST, Oct. 13, 2020, https://www.washingtonpost.com/national-security/ralph-northam-gretchen-witmer-kidnapping-plot/2020/10/13/26b4e31a-0d5f-11eb-b1e8-16b59b92b36d_story.html.

candidate's most ardent followers have refused to accept the results."[54] Upon information and belief, the Defendants knew of this crescendo of violent polemics and calls to violent action.[55]

70. Threats upon election officials have risen to unprecedented levels. Just days ago, on December 2, 2020, a Republican official in the Office of the Georgia Secretary of State, Gabriel Sterling, held a stunning press conference during which he described the rash of death threats and other calls for violence that have been directed in the prior days and weeks against Georgia's election officials and private contractors who supported the election efforts. He concluded by saying: "**It has to stop. Mr. President, you have not condemned these actions or this language. Senators, you've not condemned this language or these actions. This has to stop. We need you to step up and if you're going to take a position of leadership, show some**."[56]

71. As a news media consumer by profession—indeed, Plaintiff's prior position as CISA Director required that he understand the threats, real or perceived, to our nation's infrastructure and democratic institutions—Plaintiff followed stories on these subjects carefully and was fully aware of the widespread fear of political violence in connection with the election. After President Trump fired Plaintiff on November 17, 2020, Plaintiff feared not only that the

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[54] Michael Wines, *Here Are the Threats Terrorizing Election Workers*, N.Y. TIMES, Dec. 3, 2020, https://www.nytimes.com/2020/12/03/us/election-officials-threats-trump.html.

[55] And, in fact, violent activity toward election officials has not stopped. Just before the filing of this Complaint, on December 6, 2020, the Michigan Secretary of State Jocelyn Benson—a favorite target of the Defendant Campaign's irresponsible rhetoric—reported that an armed mob showed up at her home while she was placing Christmas decorations with her son. *See* Tim Stelloh, *Michigan secretary of state says armed protesters gathered outside her home*, NBC NEWS, Dec. 6, 2020, https://www.nbcnews.com/politics/2020-election/michigan-secretary-state-says-armed-protesters-gathered-outside-her-home-n1250178.

[56] Jane C. Timm, *'This has to stop': Harassed and threatened, GOP election officials urge party leaders to take stand*, NBC NEWS, Dec. 2, 2020, https://www.nbcnews.com/politics/elections/has-stop-harassed-threatened-gop-election-officials-urge-party-leaders-n1249769.

country had become a veritable tinderbox, but moreover, that violence could be directed toward him personally, as President Trump's supporters may perceive him to be the President's adversary based on his public termination by the President via Twitter.

VII. Defendant Newsmax

72. Defendant Newsmax has opportunistically seized on the current political unrest and capitalized on the anger of Trump loyalists to boost its ratings and viewership, and, thus, its ad sales and revenue. Like all media platforms, Defendant Newsmax is incentivized to draw in viewers in order to boost profits through advertising, and its CEO has himself stated that Defendant Newsmax "**would like to overtake Fox News in the next 12 months, and I think it's do-able**."[57] In fact, one media analyst reported that if a competing network took 20% of Fox News's audience, it could sap about $200 million in annual profit from the company.[58]

73. Leading up to and following the election, Defendant Newsmax earned its reputation as an ultra-conservative alternative to Fox News, and has targeted Trump loyalists—and Trump himself—by ramping up its conspiratorial rhetoric, promoting the Defendant Campaign's unsupported claims of widespread vote manipulation, and refusing to concede President Trump's loss to President-elect Biden. Indeed, as recently as November 27, 2020, Newsmax TV host Greg Kelly referred to Mr. Biden's "**alleged victory**," and turned to an analyst who gave Trump a "**35**

[57] Charlotte Klein, *Newsmax is Going All-in on Trump to Try and "Overtake Fox News,"* VANITY FAIR, Nov. 16, 2020, https://www.vanityfair.com/news/2020/11/newsmax-pro-trump-fox-news-competition.

[58] Tara Lachapelle, *Fox News is Holding More Cards Than Trump Realizes*, Dec. 2, 2020, WASH. POST, https://www.washingtonpost.com/business/fox-news-is-holding-more-cards-than-trump-realizes/2020/12/02/67323ba2-349e-11eb-9699-00d311f13d2d_story.html.

to 40 percent chance that he wins this."[59] Yet another host, Grant Stinchfield, announced that "**the momentum seems to be shifting back to the president's favor**," as he interviewed a lawyer for the Defendant Campaign, Jenna Ellis.[60]

74. Defendant Newsmax has not only promoted a parade of conspiracy theories and false allegations of voter fraud, but to boost ratings and pull in even more viewers, it has further fanned the fire by inviting guest appearances by members of the legal team of the Defendant Campaign who further promote the debunked theories, including Ms. Ellis, Rudy Giuliani, (now) former Campaign lawyer Sidney Powell, and Defendant diGenova.[61] Indeed, when Defendant Newsmax's CEO was asked by the New Yorker whether he felt any responsibility for President Trump's continuing erosion of faith in democracy by publishing baseless voter fraud claims, the CEO said: "**At the end of the day, it's great for news. The news cycle is red-hot, and Newsmax is getting one million people per minute, according to Nielsen, tuning into Newsmax TV**."[62]

75. Defendant Newsmax's efforts are apparently working: its prime-time ratings, which averaged 58,000 viewers before Election Day, increased to 182,000 viewers during election week, and soared to 1.1 million afterward for its top show. Media outlets have attributed the overall increase in Newsmax viewership in part to its refusal to project President-elect Biden as the winner

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[59] Ben Smith, *The King of Trump TV Thinks You're Dumb Enough to Buy It*, N.Y. TIMES, Nov. 29, 2020, https://www.nytimes.com/2020/11/29/business/media/newsmax-chris-ruddy-trump.html.

[60] *Id.*

[61] David Folkenflik, *Newsmax Rises on Wave of Resentment Toward Media—Especially Fox News*, NPR, Nov. 30, 2020, https://www.npr.org/2020/11/30/939030504/newsmax-rises-on-wave-of-resentment-toward-media-especially-fox-news.

[62] Isaac Chotiner, *Why Newsmax Supports Trump's False Voter Fraud Claims*, NEW YORKER, Nov. 24, 2020, https://www.newyorker.com/news/q-and-a/why-newsmax-supports-trumps-false-voter-fraud-claims.

of the election—despite every other major news network, including Fox News, making that projection by November 7, 2020—and Trump loyalists' outrage at Fox News for its early projection in Arizona.[63]

76. Defendants Newsmax, the Campaign, and diGenova have a symbiotic relationship: Defendant Newsmax disseminates and amplifies the Defendant Campaign's and Defendant diGenova's attacks on perceived political threats and allegations of election stealing, which pleases viewers, prompts endorsements from President Trump, increases ratings, supports the political goals of the Defendant Campaign, and helps raise more money from duped supporters. In this effort, Defendant diGenova—through his many appearances on Defendant Newsmax—has been an enthusiastic conspirator.

77. While the willingness of Defendant Newsmax to tell its viewers what they want to hear may serve Defendant Newsmax's ratings and viewership, its "news" content not only risks eroding faith in our country's democracy, but it also toes a dangerous line when such remarks call for violence against innocent individuals such as Plaintiff and other Republicans, who refuse to subserviently hew to the Defendant Campaign's false narratives.

78. With these motivations, Defendant Newsmax partnered with the Defendant Campaign by giving its legal representative, Defendant diGenova, the platform to cross that dangerous line.

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[63] Michael M. Grynbaum & John Koblin, *Newsmax, Once a Right-Wing Also-Ran, Is Rising and Trump Approves*, N.Y. TIMES, Nov. 22, 2020, https://www.nytimes.com/2020/11/22/business/media/newsmax-trump-fox-news.html; Brian Stelter, *Trump voters are flocking to a TV channel that claims Biden is not president-elect*, CNN, Nov. 12, 2020, https://www.cnn.com/2020/11/12/media/fox-news-newsmax-reliable-sources/index.html.

VIII. Defendant diGenova

79. Defendant Joseph E. diGenova is a Republican activist and Washington-based attorney who was the United States Attorney for the District of Columbia from 1983 to 1988.

80. Known for promoting conspiracy theories about the Department of Justice and the Federal Bureau of Investigation, Defendant diGenova has fabricated claims about the Benghazi terrorist attack, alleged that the FBI manufactured the Russia scandal as part of an anti-Trump plot, and stated on Fox News that George Soros controls the U.S. State Department. Defendant diGenova did not appear on Fox News for a month following the George Soros comment.

81. On November 14, 2020, President Trump announced via Twitter that Defendant diGenova (among others) would be joining his Campaign's legal team to challenge the results of the 2020 presidential election: "**I look forward to Mayor Giuliani spearheading the legal effort to defend OUR RIGHT to FREE and FAIR ELECTIONS! Rudy Giuliani, Joseph diGenova, Victoria Toensing, Sidney Powell, and Jenna Ellis, a truly great team, added to our other wonderful lawyers and representatives**."[64]

82. In late November, Defendant diGenova appeared at a "**wild press conference**"[65] with Rudy Giuliani and other attorneys for the Defendant Campaign, during which the legal team

[64] Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 14, 2020, 10:11 PM), https://twitter.com/realDonaldTrump/status/1327811527123103746.

[65] Joe Walsh, *Trump Campaign Lawyer Suggested Executing Ex-DHS Staffer Chris Krebs*, FORBES, Dec. 1, 2020, https://www.forbes.com/sites/joewalsh/2020/11/30/trump-campaign-lawyer-suggested-executing-ex-dhs-staffer-chris-krebs/.

made "**extreme, baseless claims**" about the election, including claims about "**communist Venezuela and George Soros supposedly interfering in [it]**."[66]

83. Defendant diGenova is a frequent guest on Newsmax TV, having appeared on the channel multiple times in connection with the 2020 presidential election, during which he propagated false claims about the election and promoted the election conspiracy theories of the Defendant Campaign.[67]

IX. Defendant diGenova's Dangerous Incitement to Violence

84. Defendant diGenova has been a regular guest on The Howie Carr Show every Monday afternoon, joining the show as a member of the Defendant Campaign's legal team.

85. On November 30, 2020, Defendant diGenova joined the show for a telephone interview with Howie Carr.

86. Upon information and belief, Defendant diGenova called in to the show from his home in Montgomery County, Maryland.

87. After introducing Defendant diGenova as a former United States Attorney for the District of Columbia and an attorney "**on the President's legal team**," Carr explained that he

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[66] Tara Subramaniam, et al., *Fact-checking Giuliani and the Trump legal team's wild, fact-free press conference*, CNN, Nov. 20, 2020, https://www.cnn.com/2020/11/19/politics/giuliani-trump-legal-team-press-briefing-fact-check/index.html.

[67] *See, e.g.*, Tauren Dyson, *Joe diGenova to Newsmax TV: Joe Biden Was Involved in 'Major Kickback Scheme'*, NEWSMAX, Oct. 29, 2020, https://www.newsmax.com/newsmax-tv/JoediGen0va-joebiden-hunterbiden/2020/10/29/id/994411/ (appearance by diGenova on Newsmax less than a week before the election during which diGenova claimed baselessly that Democratic presidential nominee Joseph R. Biden, Jr. was involved in "a criminal enterprise" and "RICO as well"); Brian Trusdell, *Joe diGenova to Newsmax TV: GOP Senate Results a 'Miracle'*, NEWSMAX, Nov. 4, 2020, at 04:45, 05:08, https://www.newsmax.com/newsmax-tv/joe-digenova-senate-gop-miracle/2020/11/04/id/995453/ (appearance by diGenova on Newsmax the day after the election during which diGenova claimed falsely that Trump "got almost 50% of the popular vote" and predicted that, as a result of Trump's legal challenges, "we're gonna have Trump in the White House").

"**wanted to check in**" with Defendant diGenova regarding the "**multi-front battle**" related to vote-counting in the 2020 presidential election.[68]

88. Defendant diGenova then provided updates on the progress of multiple lawsuits filed to advance the Defendant Campaign's spurious allegations of election fraud. He also railed against those conspiring to "**corrupt**" the election and execute a supposed "**coup**" against President Trump.[69]

89. Throughout the interview, Defendant diGenova referred to the attorneys working for the Defendant Campaign as "**we**." For example:

a. "**We are working in the States to see whether or not State legislatures will step up** . . . ."[70]

b. "**[P]eople like me and my wife Victoria who are working for free on this night and day don't get any sleep and we had the satisfaction of knowing we are right and President is gonna win**."[71]

c. "**We are working non-stop**."[72]

90. Toward the end of the interview, after discussing supposed "**coup plotters,**" the following exchange took place:[73]

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[68] *The Howie Carr Show*, NEWSMAX TV, Nov. 30, 2020, at 16:36, https://www.newsmaxtv.com/Shows/The-Howie-Carr-Show/vid/1_dfe3lpsh.

[69] *Id.* at 28:18.

[70] *Id.* at 19:16.

[71] *Id.* at 21:26.

[72] *Id.* at 21:54.

[73] *Id.* at 28:49.

diGenova: **Mail-in balloting is inherently corrupt and this election proved it. This was not a coincidence. This was all planned and, you know, anybody who thinks that this election went well like that idiot Krebs, who used to be the head of—**

Carr: [Laughing out loud] **Oh yeah, the guy that was on 60 Minutes last night—**

diGenova: **That guy is a class A moron. He should be drawn and quartered. Taken out at dawn and shot.**

91. As explained in a November 30, 2020 Newsweek article about Defendant diGenova's call for violence:

> "**Drawn and quartered" refers to a medieval punishment in which a person's body was dragged behind a horse and "drawn" to the place of execution. There, the person's genitals were cut off and their intestines pulled out of their body cavity while still alive. Afterward, the executioner would cut off the person's head and then "quarter" the body into four pieces, each containing one of the major limbs.**
>
> **This particular style of public execution was typically reserved as a punishment for high treason and attacks on the monarchy. It was carried out in public, with the victim's body parts publicly displayed afterward, as a warning for other people who would dare challenge a king or queen's power**.[74]

92. As Defendant diGenova made his outrageous threat, which effectively accused Plaintiff of treason (the crime for which drawing and quartering was historically reserved), Defendant Newsmax immediately cut to a video of Plaintiff appearing on 60 Minutes, as referenced by Carr, lest there be any doubt in the viewers' minds about whom Defendant diGenova was threatening.

[74] *See* Daniel Villarreal, *Trump Lawyer Calls for Ousted Cybersecurity Chief to Be 'Taken Out at Dawn and Shot'*, NEWSWEEK, Nov. 30, 2020, https://www.newsweek.com/trump-lawyer-calls-ousted-cybersecurity-chief-taken-out-dawn-shot-1551337.

93. Indeed, the *immediacy* with which Defendant Newsmax cut to the video of Plaintiff, merely seconds after Defendant diGenova's offensive comments, is a tell-tale sign, revealing Defendant Newsmax's role in this conspiracy. The speed with which Defendant Newsmax inserted the video into the newscast suggests one of two things, both implicating Defendant Newsmax: either (1) the network coordinated with Defendant diGenova *in advance* about his reference to Plaintiff, such that it had the video at the ready; or (2) the show was pre-recorded and, rather than cutting Defendant diGenova's threatening words when it had the opportunity to do so, Defendant Newsmax instead *chose* to double down on the provocation by amplifying it with the 60 Minutes video clip.

94. Further demonstrating the coordination between Defendant Newsmax and Defendant diGenova is a tweet sent by Defendant Newsmax's White House Correspondent, Emerald Robinson, who wrote earlier that same morning that Plaintiff (whom she referred to as the "**disgraced CISA chief**") was "**obviously not smart enough to be a computer expert**."[75] Defendant diGenova echoed that line of attack when he told Howie Carr's viewers later that day that Plaintiff was a "**class A moron**."

95. The seriousness and wrongfulness of Defendant diGenova's conduct is demonstrated by the swift and widespread condemnation it has evoked. For example, the day after he called for Plaintiff's murder, Defendant diGenova was forced to resign from the Gridiron Club, an elite Washington organization of which he had been a member for over 25 years.[76]

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[75] Emerald Robinson (@EmeraldRobinson), TWITTER (Nov. 30, 2020, 5:42 AM), https://twitter.com/EmeraldRobinson/status/1333360764745359360.

[76] *See* Elahe Izadi, *Joseph diGenova resigns from Gridiron Club after saying fired cybersecurity official should be shot*, WASH. POST, Dec. 2, 2020, https://www.washingtonpost.com/media/2020/12/02/joseph-digenova-gridiron-club/.

96. No doubt because of that condemnation, after Defendant diGenova made his threat, he claimed, in a statement published by the Defendant Campaign, that his comments were made "in jest"[77]—a claim that is belied by the record and common sense. Regardless, his listeners demonstrated that they did not take it that way, as they have bombarded Plaintiff with threats on a consistent basis both before and after Defendant diGenova claimed to be joking. *See infra*, ¶¶ 99-105. Moreover, as Defendant diGenova no doubt anticipated, far fewer people are likely to have heard his claim that he was joking than heard his original call for Plaintiff's execution.[78]

97. On December 3, 2020, Plaintiff's counsel sent a letter to Defendant Newsmax demanding that it remove the offensive content forthwith from its website. To date, Defendant Newsmax has not responded and has not removed the material from its website.

X. Reaction to Defendant diGenova's Threat

98. After President Trump publicly fired Plaintiff via Twitter, Plaintiff was aware of the risk that the President's supporters could deem him an adversary of the President. Plaintiff's worst fears were then confirmed when Defendant diGenova, representing the Defendant Campaign, made his outrageous call for violence against Plaintiff, demanding that he suffer the consequences for treason.

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[77] Mairead McArdle, *Trump Lawyer Says Krebs Should Be 'Taken Out at Dawn and Shot' for Defending Election*, NAT'L REV., Nov. 30, 2020 (updated subsequently), https://www.nationalreview.com/news/trump-lawyer-says-former-cybersecurity-chief-should-be-executed-for-saying-election-was-secure/.

[78] *See* Alexis Sobel Fitts, *We still don't know how to stop misinformation online*, COLUM. J. REV., Oct. 9, 2014, https://archives.cjr.org/behind_the_news/corrections_dont_go_viral.php (noting studies showing that corrections to the record receive much less attention than the original publication).

99. Predictably, Defendant diGenova's comments led to an avalanche of despicably offensive and frighteningly threatening statements directed toward Plaintiff, as Defendant diGenova's threat was widely shared and reported by most all major media outlets.[79]

100. On the same day as the interview, @MartinezBuildrz tweeted "your day is coming @C_C_Krebs # MAGA 2020" with an attached image calling for Plaintiff's death by hanging.

101. Building on the Defendants' call to action, numerous Twitter accounts referred to Plaintiff as a "**traitor**," echoing Defendant diGenova's call for the punishment reserved for treason. For example:

a. On November 30, 2020, @Thinkingshared tweeted: "**#ChrisKrebs is a TRAITOR AND LIAR!!!**"

b. On November 30, 2020, @Mindarelli21 tweeted: "**Chris Krebs is a fraud and a traitor to the United States**."

c. On November 30, 2020, @Malthusian_Trad tweeted: "**Chris it's obvious you lied. It's been corroborated by several top experts that Dominion systems do connect their data to the internet. You are caught – and we're gonna find out more soon, traitor**."

d. On December 3, 2020, @xLight56 tweeted: "**Chris Krebs is a traitor**."

e. On December 4, 2020, @Hitch41418076 tweeted: "**@realDonaldTrump Americans want Traitor Chris Krebs in jail**."

[79] The below-cited offensive, harassing, and threatening messages directed toward Plaintiff are appended to this Complaint as **Exhibit A** (Twitter posts), **Exhibit B** (Parler posts), and **Exhibit C** (emails and text messages).

f. On December 4, 2020, @Nostalia_R_Us tweeted: "**Hey I thought you said the dominion machines weren't connected to the internet? Just more proof you were an incompetent traitor. You don't deserve a job bagging groceries at this point.**"

g. On December 4, 2020, @jamaimone tweeted: "**Ridiculous that diGenova had to apologize for this. What Krebs did is called treason and guess what the punishment is for treason. That's right, it is death!**"

102. Likewise building on the Defendants' call to action, many users on the social media site Parler also referred to Plaintiff as a "**traitor**" and called for his punishment, echoing Defendant diGenova. For example:

a. On or about December 1, 2020, @Fixitwm posted: "**Traitors that are treasonous should be shoot [sic]. No if about it**!"

b. On or about December 1, 2020, @Gordonpoole0 posted: "**Why waste a bullet, just smash his head in with rock**."

c. On or about December 1, 2020, @Planejane37 posted: "**He said you should be shot & I agree**."

d. On or about December 1, 2020, @Spraguep36 posted: "**Shoot him at dawn**."

e. On or about December 1, 2020, @Prtsmnn1 posted: "**By his own comments he has put himself in the line of fire! We know now that he did lie when he said there had been no cyber interference with the election. Under this evidence alone he should be tried for treason and shot as a trader [sic]**."

f. On or about December 1, 2020, @JHHenry2112 posted: "**Can I pull the trigger??? Pretty please, please please please???**"

g. On or about December 1, 2020, @CPA6792 posted: "**He should be shot at dawn that's an accurate statement**."

h. On or about December 1, 2020, @Tbsviralmedia posted: "**Can't sue when you have been shot by a firing squad**."

i. On or about December 1, 2020, @Nickstiffler24 posted: "**Chris krebbs [sic] will be tried for treason by fire [sic] squad hopefully**."

j. On or about December 1, 2020, @TnTQuinn posted: "**If we make an example of one of these traitors then we might get rid of all the rats that are still hiding in the darkness**."

k. On or about December 1, 2020, in response to an article about Plaintiff potentially taking legal action against Defendant diGenova in response to Defendant diGenova's threat, @Littlebit8966 posted: "**Traitors should be shot!**"

l. On or about December 1, 2020, similarly in response to an article about Plaintiff potentially taking legal action against Defendant diGenova, @Cttrapp posted: "**It would be hard to sue if you are dead!!**"

m. On or about December 1, 2020, similarly in response to an article about Plaintiff potentially taking legal action against Defendant diGenova, @Jameskeilman posted: "**Barr and the rest of them should be shot!**"

n. On or about December 1, 2020, @Chrischloe posted: "**You're lucky you are still alive you dirty swamp dwelling rat!**"

o. On or about December 1, 2020, @Luminatix posted: "**Cry more Chris Kreb [sic] you Twatwaffle. Drawn and quartered...F your quick death**."

p. On or about December 1, 2020, @iamtriskiadeka posted: "**Anyone allowed to quiet this guy? Is there anyone else that's tired of all these people lying? #chriskrebs is a liar[.] Maybe I'm getting very cruel and mean in my older age…. But these people just need to be treated like traitors!**"

q. On or about December 1, 2020, @StandUnited posted: "**The penalty for treason has not changed. His time is near.**"

r. On or about December 1, 2020, @bLtq posted: "**The old saying 'If it ain't true, why get upset about it'. Seems to me he knows he should be shot for treason**."

s. On or about December 1, 2020, @Kenazdeb17 posted: "**He didn't get shot at dawn. He should consider himself lucky.**"

t. On or about December 1, 2020, @Nathanbluedog posted: "**So it was just a threat? Geez, let's bring back firing squads for treasonous crimes! It's time!**"

u. On or about December 1, 2020, in response to an article about Defendant diGenova's threats, @Wjallen207, posted: "**Isn't that what they do to traitors?**"

v. On or about December 1, 2020, in response to an article about Defendant diGenova's threats, @Sellersbonus posted: "**That's what traitors get!**"

w. On or about December 1, 2020, @Annefreelances posted: "**Do yourself a favor go quietly and quickly!**"

x. On or about December 1, 2020, @Ecburke1972, referring to Plaintiff, posted: "**Another traitor to hang.**"

y. On or about December 1, 2020, in response to a video stating that Plaintiff is a "**professional conman**," @tattertatro posted: "**What sort of inhuman dignity could ever let ones tongue laps OUT that much crap and not call it what it is the language**

of A SATIN FOLLOWING PEDOPHILES LYING LOWER THAN SNAKE SNAKE TREASONOUS CONSPIRACY LINKED DINK DOES HE THINK WE ARE , TAR AND FEATHER HIM NO I HAVE GREAT REGARD FOR MY TY FOR SECOND FAVORITE PRESIDENT JOHN ADAMS THE FOUNDATION OF OUR COUNTRY AND HIS MOST TRUSTED ADVISER WAS HIS WIFE ITS THE LAW THAT MUST PREVAIL TO ITS MOST PROFOUND TASK AND DELIVER SENTENCING FOR THE CHARGES TO MANY TO PUT HERE IN PLAIN VIEW FOR THE WORLD TO SEE PLEASE PRESIDENT TRUMP DO THIS FOR THE WORLD."

z. On or about December 3, 2020, @Holmesvdb posted: "**I think Crabs [sic] should be taken outback [sic] and shot**."

103. Plaintiff has demanded, and will continue to demand, that Twitter and Parler remove postings that threaten violence against him and suspend the accounts of the users that posted them in furtherance of the objectives of the Defendants' conspiracy.

104. The harassment Plaintiff has endured has not been limited to social media platforms. Plaintiff has also received threatening emails—like the social media posts, all coming *after* and in support of the threatening and inciteful actions of Defendant diGenova—directly to his personal email account.

a. On December 2, 2020, Plaintiff received an email from "Mike S" (snakebike05@gmail.com) with the subject line "**Do you have a security detail**," stating, "**Based on the rumblings I'm hearing you need to get a security detail for you and your family I'm very concerned for you this is a heads up for you**."

b. On December 3, 2020, Plaintiff received an email from David Siebert (davidsiebert1003@comcast.net) with the subject line "**Chinese traitor**," stating, "**Krebby, How will it feel to be arrested for sedition. Are you going to give up the ones above you or are you going to take the execution route. American Patriot**."

c. On December 3, 2020, Plaintiff received an email from Tammy Janzen (TJanzen@radioeng.com) with the subject line "feedback," stating, "**You are a LIAR and a traitor to your country. This election was NO WAY the most secure, AND the machines WERE connected to the internet. WE SEE YOU**."

105. And perhaps most frighteningly, he has also received a threatening text transmitted directly to his cell phone from an anonymous tormentor. On November 30, 2020, at 11:52 p.m. (the evening of Defendant diGenova's threatening statement), Plaintiff received the following text from the number (817) 716-6258: "**Pretty sure youre [sic] fucked buddy**."

106. Threatening comments directed toward Plaintiff, such as the illustrative examples set forth above, demonstrate that Defendant diGenova's call for violence against Plaintiff—as if he were guilty of treason—has created a genuine risk of actual harm to Plaintiff.

107. When Defendant diGenova—on behalf of the Defendant Campaign and facilitated by Defendant Newsmax—uttered the outrageous threat, the Defendants lit a match over a gasoline-soaked tinderbox, which was their very intent.

XI. The Toll on Plaintiff

108. The toll on Plaintiff—stemming directly and proximately from the offensive and dangerous incitement leveled at him by Defendant diGenova, on behalf of the Defendant Campaign, as knowingly enabled by Defendant Newsmax—has been heavy.

109. The unrelenting fear experienced by Plaintiff, especially for the safety of his family, immediately upon learning of Defendant diGenova's threats, has been staggering. Among his first thoughts after hearing the threats was that, given the current toxic environment, it was entirely possible that one or more lunatics would hear Defendant diGenova's despicable threats as a clarion call to action, and attempt to make plans similar to those of the fringe extremists who were arrested for plotting to assassinate Governor Whitmer and Governor Northam several weeks earlier.

110. Plaintiff's fears were shared by his wife and several of his five young children, including his ten-year old, who piercingly asked: "Daddy's going to get executed?" No parent should ever have to hear those words, and Plaintiff did not take them lightly. Seeing the pain and fear in those closest to him has only elevated his own pain and fear.

111. Nor has the fallout been solely internalized. Plaintiff and his family were compelled to leave their residence for some period of time to take shelter elsewhere, as they feared that they were not safe in their home.

112. Plaintiff spent time with law enforcement officers and local government officials, reporting the threat. He was compelled to retain a private security firm for extra protection. He and his wife have had to provide his inquisitive neighbors an explanation for all of the attention and unusual activity in his neighborhood. And he and his wife had to inform their children's educators about the issue.

113. Plaintiff now fears for his life when he ventures out in public.

114. Plaintiff has endured tremendous personal distress upon watching the trauma and fear experienced by his wife, and the potential risks posed to his family.

115. The severe stress and anxiety have had physical manifestations as well: since Defendant diGenova's threatening statement, Plaintiff has suffered from insomnia and epistaxis, or nosebleeds, both conditions induced by stress.

116. Indeed, every morning at dawn—the time of day when Defendant diGenova said that Plaintiff should be "taken out and shot"—Plaintiff feels especially heightened anxiety.

117. Plaintiff constantly thinks to himself: "Will I have to walk with eyes in the back of my head for the rest of my life?"

Count I: Defamation
(Against Defendants diGenova and Campaign)

118. Plaintiff repeats and realleges the allegations in paragraphs 1 to 117 as if fully set forth herein.

119. Defendant diGenova defamed Plaintiff by slanderously implying that he had committed the capital crime of treason, defined in the Constitution as "adhering to [the] enemies" of the United States or "giving them aid and comfort."

120. Echoing the refrain of Defendants Campaign and Newsmax, that traitors have sought to deny President Trump his election victory, Defendant diGenova argued—both in and outside his interview with Howie Carr—that there has been a conspiracy to steal the 2020 election, amounting to an attempted "coup." As part of his rant against those who are allegedly trying to steal the election, Defendant diGenova asserted on air that Plaintiff—who has publicly rebutted President Trump's claims of election fraud—should be "drawn and quartered," a unique form of execution that was historically reserved for traitors. In Defendant diGenova's eyes, by denying the Defendants' false narrative about election fraud (and the purported role therein of mail-in

ballots), Plaintiff was a traitor giving aid to enemies of the United States, and therefore deserving of execution by firing squad or drawing and quartering.

121. Countless listeners heard this unmistakable allegation of treason and proceeded to violently threaten and harass Plaintiff for being a "traitor."

122. Allegations and implications that Plaintiff has committed treason, or anything close to it, are false and defamatory.

123. Defendant diGenova, as well as the Defendants Campaign and Newsmax, knew that this claim of treason was false (as there is no factual or legal support for it), but nonetheless propagated the lie with the intention of harming Plaintiff, inflaming President Trump's supporters, undermining confidence in the fairness of the election, increasing ratings, and generally advancing their political and financial interests.

124. Defendant diGenova made the threats against Plaintiff with actual malice. Defendant diGenova was fully aware that Plaintiff had committed no criminal conduct of any sort, let alone treason, so as to call for him to be "drawn and quartered." On information and belief, Defendant diGenova knew that his inflammatory statements would cause a media frenzy and an outpouring of animosity toward Plaintiff. Moreover, on further information and belief, Defendant diGenova knew that, in the current political environment—where, as set forth above, there is a heightened risk of political violence—his "call to action" would create a clear risk of imminent physical harm directed toward Plaintiff and his family.

125. When Defendant diGenova impliedly accused Plaintiff of treason, he acted within the scope and in furtherance of his agency relationship with the Defendant Campaign. Thus, under principles of agency law and/or *respondeat superior*, the Defendant Campaign is vicariously liable for Defendant diGenova's tortious conduct.

126. As a result of Defendant diGenova's defamatory statements, Plaintiff has suffered significant financial, professional, emotional, reputational, and other damages.

Count II: Intentional Infliction of Emotional Distress
(Against Defendants diGenova and Campaign)

127. Plaintiff repeats and realleges the allegations in paragraphs 1 to 117 as if fully set forth herein.

128. Defendant diGenova engaged in extreme and outrageous conduct that was both calculated to cause, and did cause, Plaintiff severe mental and emotional distress. Specifically, Defendant diGenova appeared on The Howie Carr Show as an attorney for the Defendant Campaign, intentionally stoked the anger of the show's heavily Trump-supporting audience by arguing that "coup plotters" had corrupted the 2020 election, and then, in graphic detail, called for Plaintiff's execution.

129. Given the slash-and-burn rage of the present political climate, in which angry and often unstable individuals are regularly harassing and seeking violence against public servants who have been branded as enemies of the state, there is no question that Defendant diGenova, a savvy and experienced political operative, intended his call for violence to severely injure Plaintiff. Indeed, that was the point: to cause Plaintiff so much pain and suffering that he—and those who might consider crossing the Defendant Campaign in the future—fall in line.

130. Defendant diGenova's statements had their intended injurious effect. They unleashed an immediate and unceasing avalanche of death threats and vicious harassment against Plaintiff and created a genuine risk of imminent harm from persons who may seek to act upon Defendant diGenova's call for violence.

131. Defendant diGenova's call for Plaintiff's execution, and the ensuing bombardment of violent threats from numerous deranged listeners, has taken an incalculable toll on Plaintiff's

psyche and sense of security. It has caused unimaginable stress and anxiety, not only because Plaintiff fears for his own safety, but also because he has had to worry about the safety and mental health of his wife and five children, who are rightfully concerned that people will attempt to harm him. Although Plaintiff—motivated by his strong sense of civic duty—has refused to be silenced in the face of such overwhelming stress, it has prevented him from sleeping, eating, venturing freely outside, allowing his children to play outside, handling his mail, and otherwise living a normal life.

132. Defendant diGenova's conduct in calling for violence against a public servant while acting in his capacity as an agent of the Defendant Campaign, and in the specific current political environment—in which President Trump's stoking of division has created a heightened risk of political violence, with many of President Trump's supporters prepared to act on calls of violence such as those made by Defendant diGenova here—was so extreme, it exceeded all possible bounds of decency, must be regarded as atrocious, and cannot be tolerated in a civilized society. Indeed, such conduct tears at the fabric of American democracy itself.

133. Defendant diGenova made the threats against Plaintiff with actual malice. Defendant diGenova was fully aware that Plaintiff had committed no criminal conduct of any sort, let alone treason, so as to call for him to be "drawn and quartered." On information and belief, Defendant diGenova knew that his inflammatory statements would cause a media frenzy and an outpouring of animosity toward Plaintiff. Moreover, on further information and belief, Defendant diGenova knew that, in the current political environment—where, as set forth above, there is a heightened risk of political violence—his "call to action" would create a clear risk of imminent physical harm directed toward Plaintiff and his family.

134. At all times relevant to this action, Defendant diGenova represented the Defendant Campaign as a member of its legal team. He appeared on The Howie Carr Show as an agent and representative of the Defendant Campaign to discuss the work that he and other members of the legal team had been performing in connection with the 2020 election and to advance the Defendant Campaign's agenda.

135. When Defendant diGenova then called for Plaintiff's execution, he acted within the scope and in furtherance of his employment relationship with, and his actual or apparent authority as an agent of, the Campaign.

136. Under principles of agency law and/or *respondeat superior*, the Defendant Campaign is vicariously liable for Defendant diGenova's tortious conduct.

Count III: Aiding and Abetting
(Against Defendant Newsmax)

137. Plaintiff repeats and realleges the allegations in paragraphs 1 to 117 as if fully set forth herein.

138. Defendant Newsmax aided, abetted, encouraged, and perpetuated Defendant diGenova's defamatory statements and intentional infliction of emotional distress.

139. Defendant Newsmax was not only aware that Defendant diGenova would attack and falsely smear Plaintiff—based on diGenova's past performances on The Howie Carr Show and his history of incendiary attacks against perceived opponents of the Campaign—it was eager for him to do so. As Defendant Newsmax's CEO revealed in a recent interview with The New York Times, feeding viewers' rage over the 2020 election and pleasing the Campaign are two key

ingredients to Defendant Newsmax's financial success.[80] Alleging treason and calling for Plaintiff's execution advanced both of these interests.

140. The advancement of these interests explains why the host of The Howie Carr Show reacted with joy and amusement—not resistance—when Defendant diGenova called for Plaintiff to be executed for treason. It is also why diGenova is a regular guest on The Howie Carr Show.

141. Defendant Newsmax invited Defendant diGenova to attack public servants who publicly disagreed with the Campaign's claim of widespread voter fraud. And it eagerly supplied Defendant diGenova the ideal platform on which to inflict maximum emotional distress on Plaintiff, who was arguably the highest priority target of Newsmax and the Campaign, due to the fact that he was the most credible and knowledgeable authority to have publicly vouched for the integrity of the election.

142. In addition, rather than cut the portion of the interview in which Defendant diGenova advocated for Plaintiff's murder as punishment for treason, Defendant Newsmax instead chose to air it, *and has since continued to disseminate it on various platforms*.

143. In short, Defendant Newsmax intentionally armed Defendant diGenova with the tools to defame and cause Plaintiff extreme emotional distress, and then, by broadcasting Defendant diGenova's defamatory incitement of violence on its website and other platforms, has itself further defamed and inflicted emotional distress upon Plaintiff.

144. Defendant Newsmax's conduct was both calculated to cause, and did cause, Plaintiff significant financial, professional, emotional, reputational, and other damages.

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[80] *See* Ben Smith, *The King of Trump TV Thinks You're Dumb Enough to Buy It*, N.Y. TIMES, Nov. 29, 2020, https://www.nytimes.com/2020/11/29/business/media/newsmax-chris-ruddy-trump.html.

Count IV: Civil Conspiracy
(Against All Defendants)

145. Plaintiff repeats and realleges the allegations in paragraphs 1 to 117 as if fully set forth herein.

146. Defendants diGenova, the Campaign, and Newsmax engaged in a conspiracy to defame and inflict severe emotional distress on Plaintiff.

147. United by a common desire to incite outrage over the 2020 election and those who would defend its integrity, Defendants worked in concert to attack and punish Plaintiff for informing the public that the election was secure.

148. In order to effectively accomplish that shared goal, and in furtherance of their conspiracy, Defendants agreed that Newsmax would broadcast on air and online the interview of Defendant diGenova in which he claimed that the election had been corrupted and that Plaintiff should be executed for treason. Defendant Newsmax aired the interview on November 30, 2020 and has been disseminating it on Defendant Newsmax's website ever since.

149. As a result of the Defendants' coordinated conduct, Plaintiff has become the target of violent threats and harassment and suffered significant financial, professional, emotional, reputational, and other damages.

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests that the Court award:

i) a mandatory injunction ordering Defendant Newsmax to remove any video recording of the threats made by Defendant diGenova;

ii) money damages against all Defendants in an amount to be determined at trial, exceeding $75,000;

iii) punitive damages against all Defendants in an amount no less than three times the actual damages;

iv) pre-judgment interest, costs, attorneys' fees; and

v) such other relief as the Court deems just and proper.

Dated: December 8, 2020

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Attorneys for Plaintiff Christopher C. Krebs

JURY DEMAND

Plaintiff hereby demands a trial by jury on all counts and claims for relief so triable.

Charles S. Fax

Exhibit A

Offensive, Harassing, and Threatening Twitter Posts

Paragraph 100

@MartinezBuildrz

MartinezBldrz,LLC
@MartinezBuildrz

Replying to @Stonewall_77 and @C_C_Krebs

your day is coming @C_C_Krebs #MAGA2020 #BidenCheated



3:31 PM · Nov 30, 2020 · Twitter for Android

Paragraph 101

a. @Thinkingshared



b. @Mindarelli21



c. @Malthusian_Trad



d. @xLight56



e. @Hitch41418076



f. @Nostalia_R_Us



g. @jamaimone

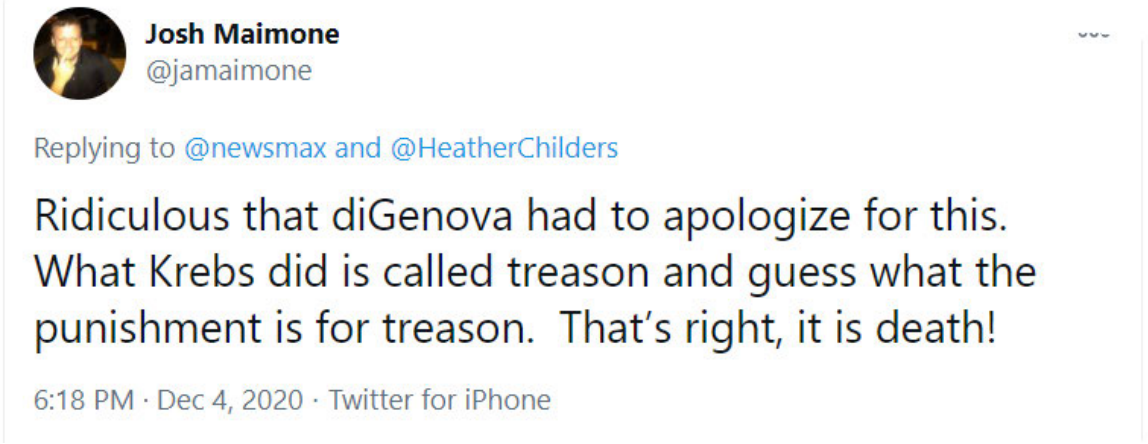
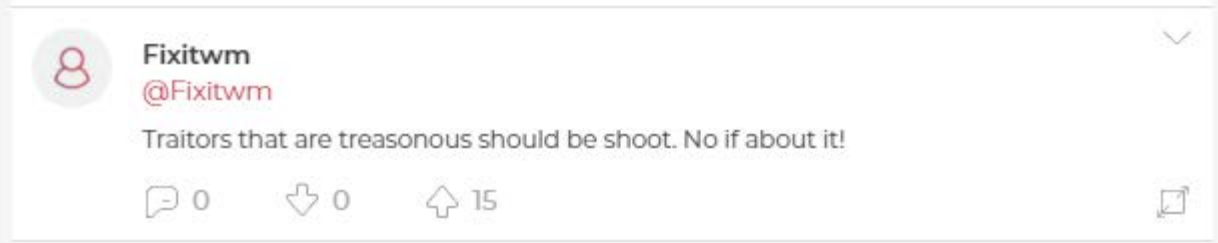


Exhibit B

Offensive, Harassing, and Threatening Parler Posts

Paragraph 102

a. @Fixitiwm



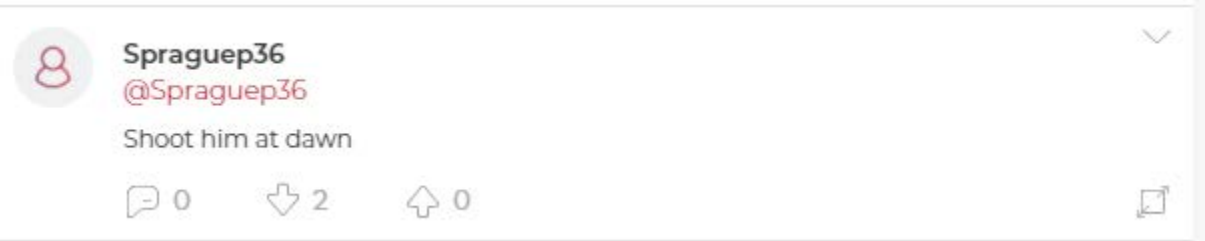
b. @Gordonpoole0



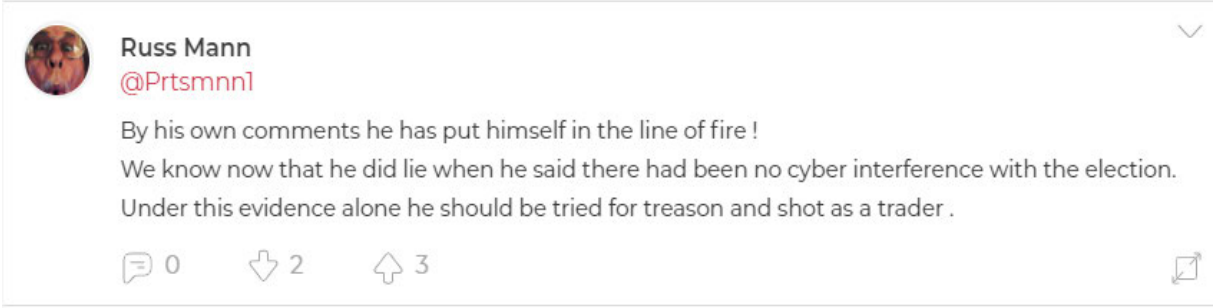
c. @Planejane37



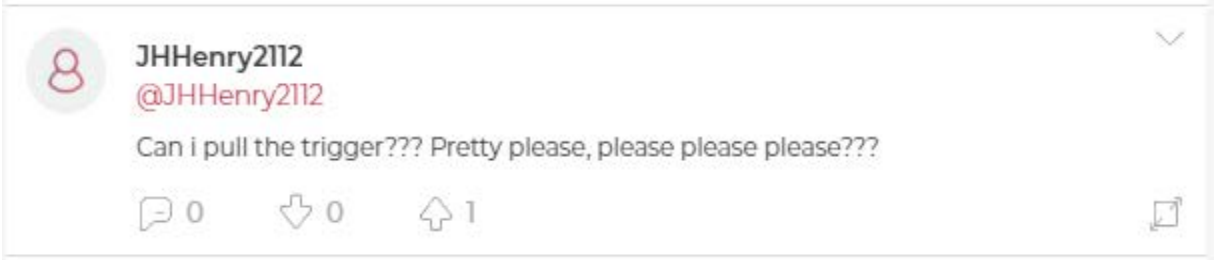
d. @Spraguep36



e. @Prtsmnnl



f. @JHHenry2112



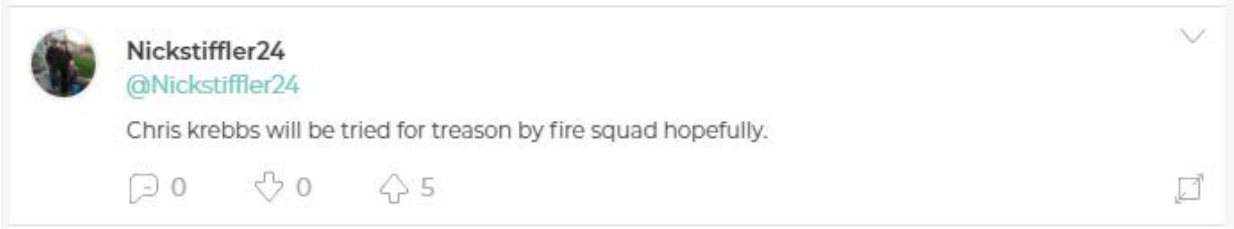
g. @CPA6792



h. @Tbsviralmedia



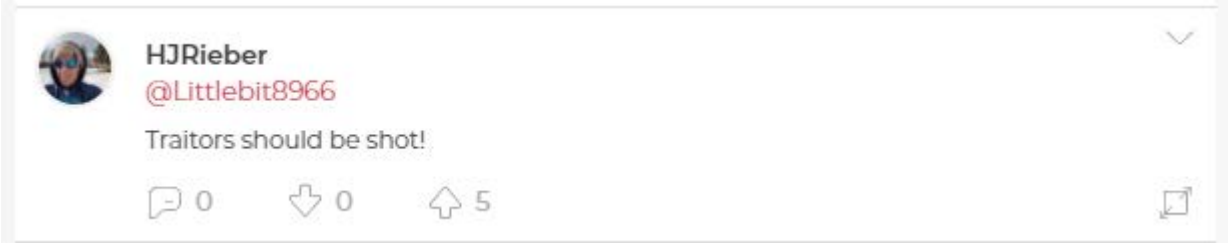
i. @ Nickstiffler24



j. @TnTQuinn



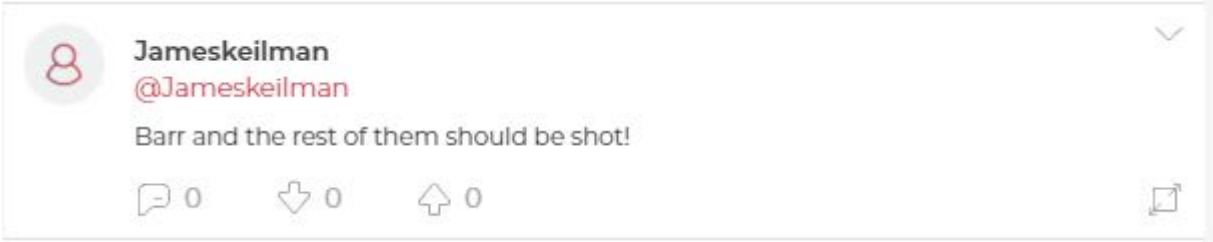
k. @ Littlebit8966



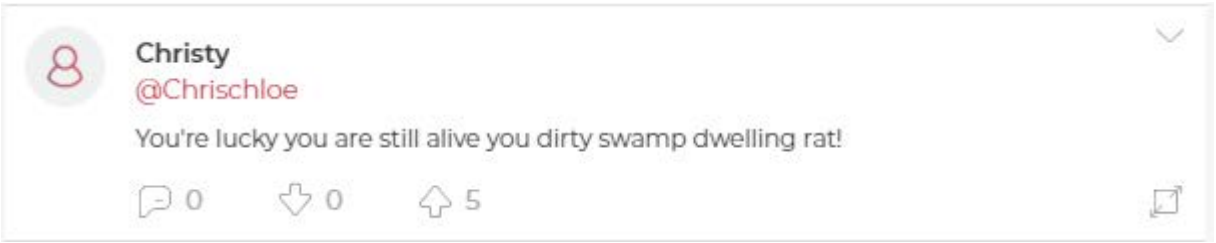
l. @Cttrapp



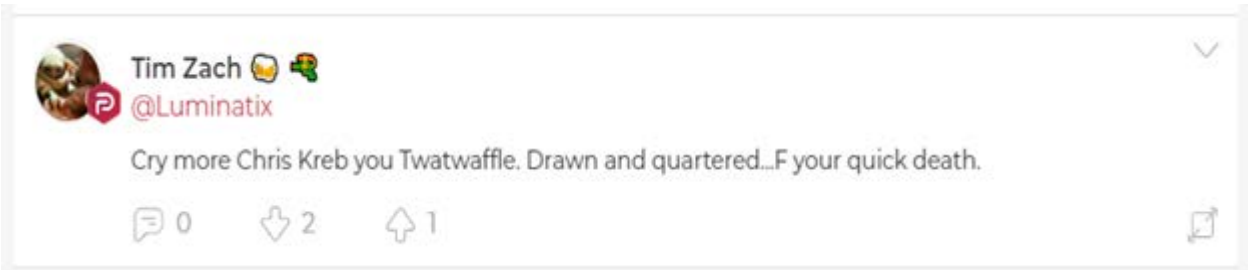
m. @Jameskeilman



n. @Chrischloe



o. @Luminatix



p. @iamtriskiadeka



q. @StandUnited



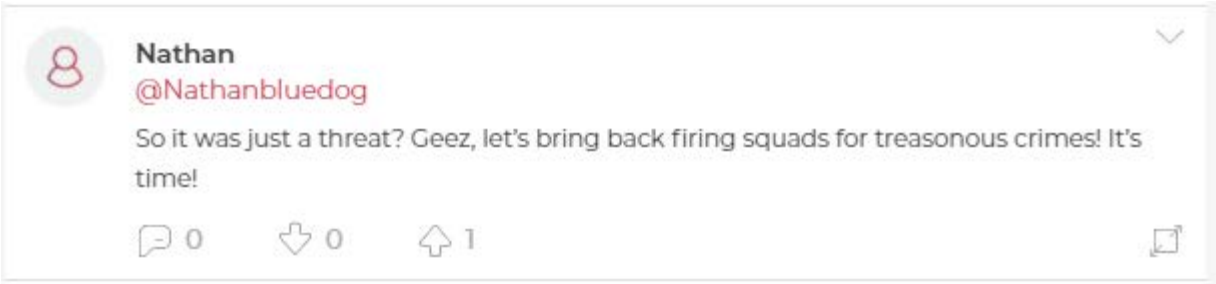
r. @bLtq



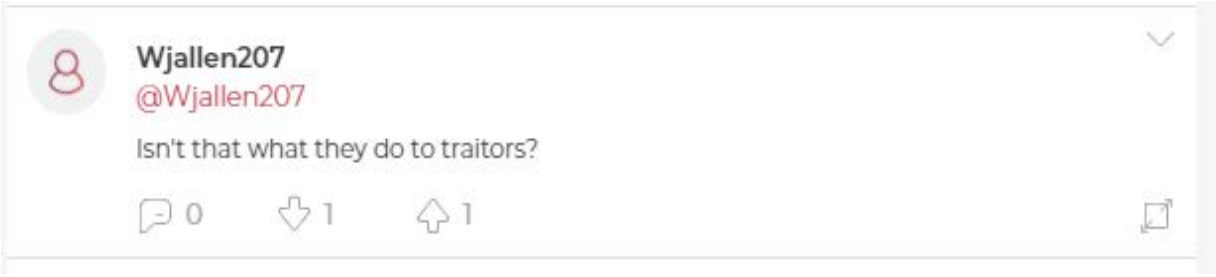
s. @Kenazdeb17



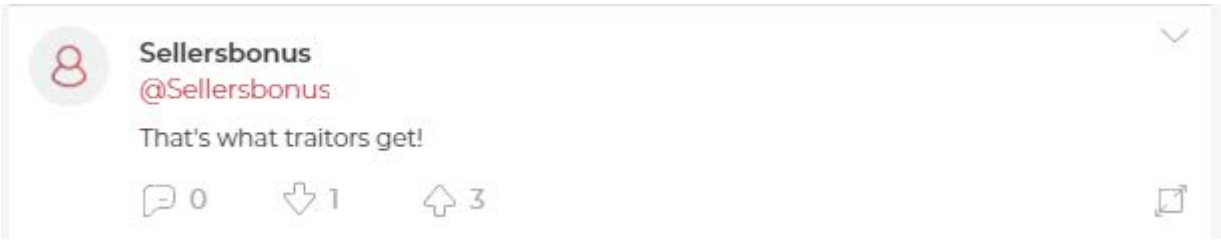
t. @Nathanbluedog



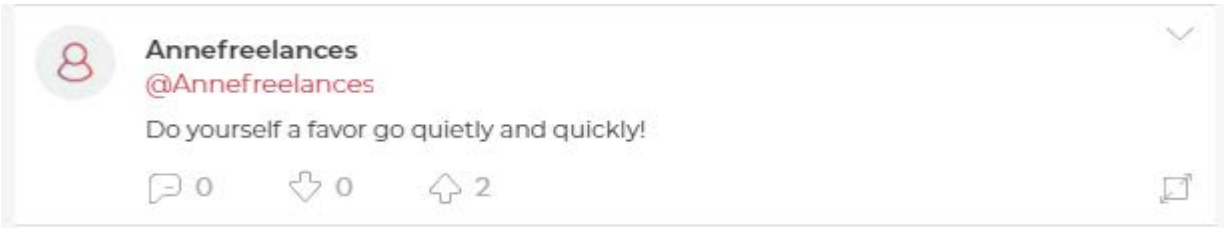
u. @Wjallen207



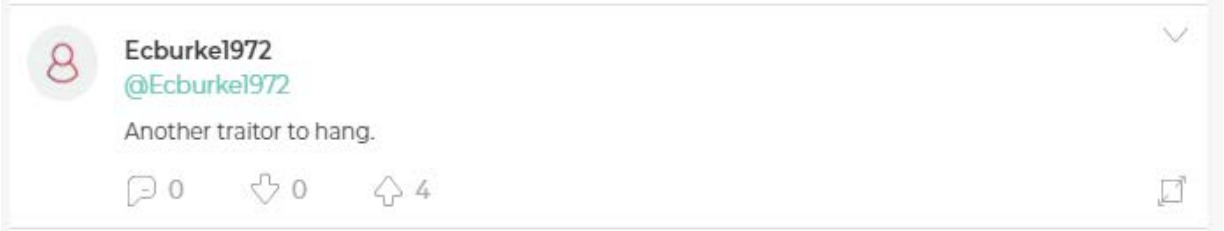
v. @Sellersbonus



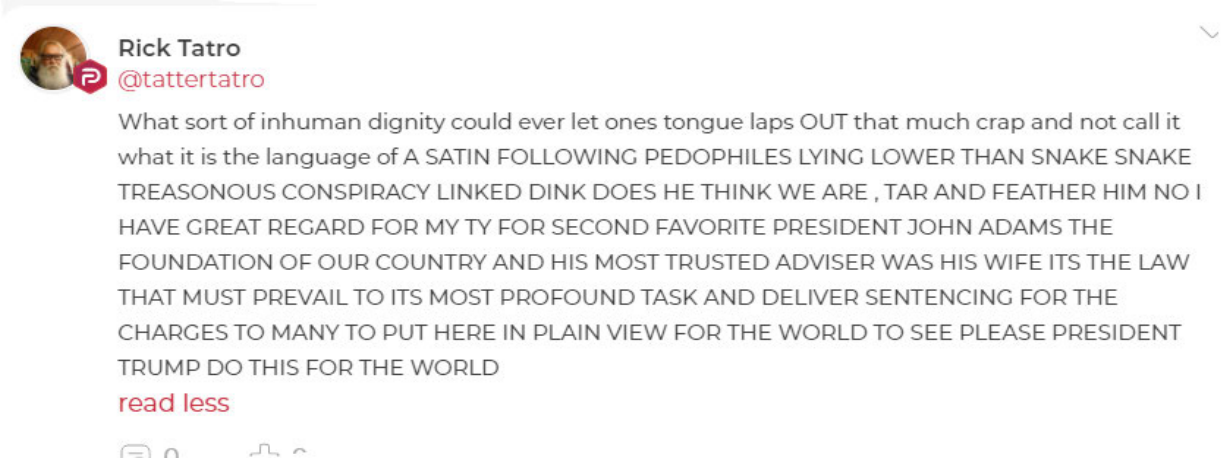
w. @Annefreelances



x. @Ecburke1972



y. @tattertatro



z. @Holmesvdb

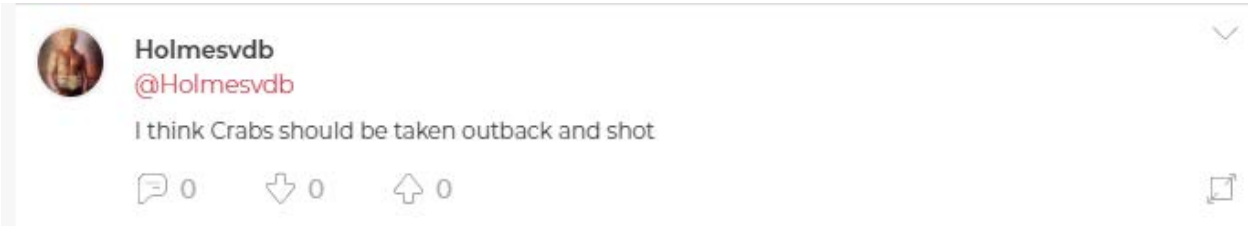


Exhibit C

Offensive, Harassing, and Threatening Emails and Text Message

Paragraph 104(a)

Email from Mike S (snakebike05@gmail.com) to Plaintiff

From: Mike S <snakebike05@gmail.com>
Sent: Wednesday, December 2, 2020 2:25 PM
To: [redacted]
Subject: Do you have a security detail

Based on the rumblings I'm hearing you need to get a security detail for you and your family I'm very concerned for you this is a heads up for you

Paragraph 104(b)

Email from David Siebert (davidsiebert1003@comcast.net) to Plaintiff

From: David Siebert <davidsiebert1003@comcast.net>
Sent: Thursday, December 3, 2020 10:55 AM
To: [redacted]
Subject: Chinese traitor

Krebby,
How will it feel to be arrested for sedition. Are you going to give up the ones above you or are you going to take the execution route.
American Patriot

Sent from my iPhone

Paragraph 104(c)

Email from Tammy Janzen (TJanzen@radioeng.com) to Plaintiff

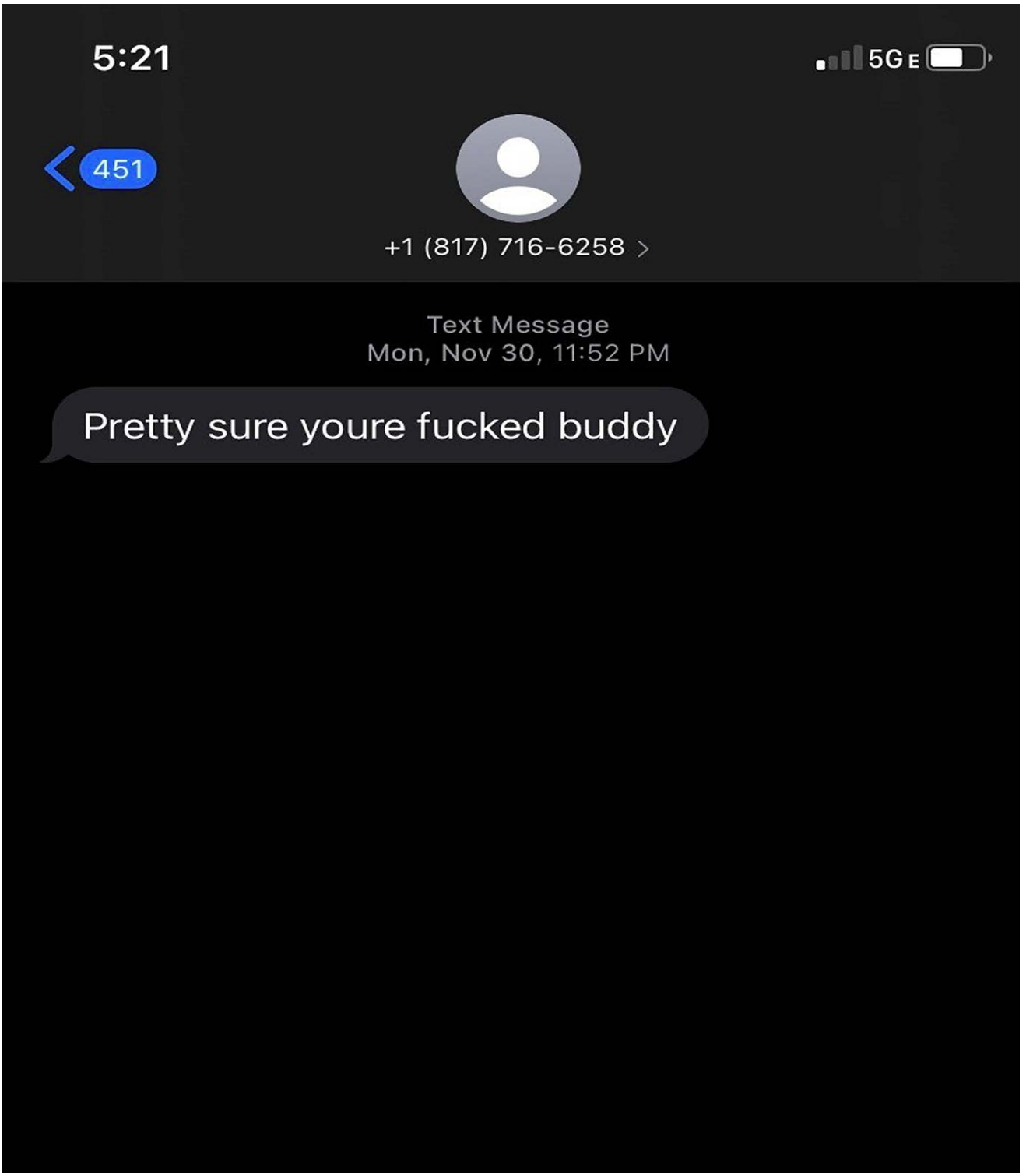
From: Tammy Janzen <tjanzen@radioeng.com>
Sent: Thursday, December 3, 2020 10:06 AM
To: [redacted]
Subject: feedback

You are a LIAR and a traitor to your country. This election was NO WAY the most secure, AND the machines WERE connected to the internet. WE SEE YOU.

--Tammy

Paragraph 105

Text Message from +1 (817) 716-6258 to Plaintiff


5:21
5G E
451
+1 (817) 716-6258
Text Message
Mon, Nov 30, 11:52 PM
Pretty sure youre fucked buddy