

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 22-cv-01129-NYW-SBP

ERIC COOMER,

Plaintiff,

v.

**MICHAEL J. LINDELL;
FRANKSPEECH, LLC; and
MY PILLOW, INC.,**

Defendants.

**REPORTER'S TRANSCRIPT
(JURY TRIAL - DAY 10)**

Proceedings before the HONORABLE NINA Y. WANG,
Judge, United States District Court, for the District of
Colorado, commencing at 8:47 a.m. on the 13th day of June,
2025, Alfred A. Arraj United States Courthouse, Denver,
Colorado.

A P P E A R A N C E S

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*DARLENE M. MARTINEZ, RMK, CRR
United States District Court
For the District of Colorado*

1 **JUNE 13, 2025**

2 (Outside the presence of the jury.)

3 THE COURT: Thank you. Please be seated.

4 All right. On the record in 22-cv-1129-NYW-SBP,
5 Coomer v. Lindell, et al.

6 Could I have appearances of counsel, and please
7 introduce anybody at the table with you.

8 MR. CAIN: Good morning, Your Honor, I am Charlie
9 Cain, and this is Brad Kloewer, Ashley Morgan, David
10 Beller, and Dr. Eric Coomer for plaintiffs.

11 THE COURT: Good morning.

12 MR. KACHOUROFF: Good morning, Your Honor, Chris
13 Kachouroff and Jennifer DeMaster for defense. And
14 Mr. Lindell and Mr. Duane will be coming later.

15 THE COURT: What issues do we have to discuss
16 before the jury arrives, anything?

17 MR. CAIN: I heard what you asked. I am sorry,
18 Your Honor, I am trying to listen and review --

19 MS. DEMASTER: May I bring up one question?

20 MR. CAIN: -- the update to the verdict form. I
21 understand.

22 THE COURT: Okay.

23 MR. CAIN: And I shouldn't have stood up, because I
24 am not exactly sure what it is.

25 THE COURT: Ms. Morgan.

1 MS. MORGAN: Your Honor, from our discussion
2 yesterday, we had indicated that there were some
3 iterations where paragraph 28 was repeated, and there
4 would be an update to the forms to reference the exhibit
5 containing a statement of Tina Peters. So that was the
6 only issue, Your Honor. We are hoping to make sure our
7 version of the final form matches with what the Court has.

8 THE COURT: I will have you work with my law clerk
9 to make sure everything is changed.

10 MS. MORGAN: Thank you.

11 MS. DEMASTER: Very quick question, Your Honor. We
12 were wondering about the Court's preference regarding in
13 closing, if there is a slide or something, maybe on an
14 iPad, if it is a demonstrative from one of the parties, if
15 we are able to draw on that during closing.

16 THE COURT: No. My standing order prohibits you
17 from creating demonstratives during the closing or at any
18 time. So you can -- maybe I am misunderstanding. Are you
19 highlighting things and blowing them up?

20 MS. DEMASTER: Highlighting things, yeah, from an
21 actual demonstrative page.

22 THE COURT: Are you adding words?

23 MS. DEMASTER: I don't need to, but highlighting
24 would be okay.

25 THE COURT: You can take something and highlight

1 it, underline it. You cannot create a new demonstrative
2 by adding words or pictures or timelines or things like
3 that.

4 MS. DEMASTER: Thank you, Your Honor. That's all.
5 Thank you.

6 THE COURT: All right. Anything else?

7 MR. KACHOUROFF: Yes, Your Honor. Mr. Lindell
8 would like two minutes on the stand to be recalled for the
9 sole purpose of addressing Dr. Frank's credentials,
10 because yesterday, in a matter of just a few moments,
11 Dr. Halderman expressed his disdain for Dr. Frank as "a
12 high school math teacher." And Mr. Lindell would give his
13 knowledge about Dr. Frank and why he was hired, and he'd
14 be on and off within two to three minutes of testimony.

15 THE COURT: All right. What is Plaintiff's
16 response?

17 MR. CAIN: We object, Your Honor, on 611 grounds.
18 Mr. Lindell has already been on the stand twice, and he
19 already had his opportunity to describe the experts that
20 he relied upon. So to reopen this for that purpose, that
21 limited purpose, (A) I don't think it really moves the
22 needle from an evidentiary standpoint but, (B) on 403
23 grounds. I would argue that it is prejudicial to put him
24 back on. Lastly, I would say that Mr. Lindell, with all
25 due respect, doesn't confine his responses to limited

1 subjects, and so I think that lends to my argument that it
2 is likely to be prejudicial.

3 MR. KACHOUROFF: Your Honor, if I may be heard
4 briefly in response.

5 THE COURT: You may.

6 MR. KACHOUROFF: Exhibit 230 was excluded by the
7 Court, which had Dr. Frank's credentials in it. They
8 opened the door to allow us to at least address the notion
9 that he was just a high school teacher. He was in the
10 electromagnetic service industry. He was a Nobel prize
11 nominee. He has over 60 peer-reviewed publications.

12 So he is not just some person off the street, as
13 was insinuated by the Plaintiff's expert, Dr. Halderman,
14 who apparently doesn't know anything about him. I think
15 it is only fair that he has a chance to rebut that very
16 narrow limited topic, and that would be it.

17 THE COURT: All right. The request is denied. No
18 footage of Dr. Frank has been shown as admissible evidence
19 in this case. There is only indirect testimony with
20 respect to how Mr. Lindell relied upon him or to the
21 extent that he relied upon him.

22 Dr. Halderman was cross-examined with respect to
23 that issue and, accordingly -- and Mr. Lindell has had
24 over two-and-a-half days to present testimony throughout
25 the presentation. He was asked directly by counsel -- his

1 own counsel, as well as plaintiff's counsel, what experts
2 upon whom he relied and what the basis for his reliance
3 was and what their credentials were. So the request is
4 denied.

5 Anything else outside the province of the jury that
6 we need to address?

7 MR. CAIN: Nothing from us.

8 MR. KACHOUROFF: I presume we would take up
9 judgment as a matter of law motions before or after the
10 charging conference.

11 THE COURT: We need to do it before the charging of
12 the jury if you have one.

13 MR. KACHOUROFF: I do.

14 THE COURT: Okay. So we need to take care of that.
15 What else do we have?

16 MR. KACHOUROFF: Nothing else from the defense.

17 MR. CAIN: We don't have anything.

18 THE COURT: All right. Then other than the
19 modification with respect to the jury verdict form that we
20 discussed this morning, do the parties pass on the
21 instructions?

22 MS. MORGAN: We sent an email last night, Your
23 Honor, that there were two references to categories of
24 damages in the actual damages' instruction. I believe
25 that it is stipulated to remove "loss of income" and the

1 "hospital expenses" from the definition of "actual
2 damages," but I wanted to make sure we raise that issue
3 now.

4 THE COURT: We have actually removed it from the
5 final versions of the jury instructions.

6 MS. MORGAN: Thank you, Your Honor.

7 THE COURT: Anything else with respect to the jury
8 instructions on the parties' behalf at this point?

9 MS. MORGAN: No, Your Honor, not from us.

10 MR. KACHOUROFF: Nothing from the defense, Your
11 Honor.

12 THE COURT: All right. So it seems like we need to
13 bring the jury in, the defense needs to rest its case
14 formally, then we need to take the jury out and handle any
15 motions outside of the province of the jury. And then, to
16 the extent the motions are not granted, then we move to
17 closing instructions and closing; is that accurate?

18 MR. KACHOUROFF: Yes, Your Honor.

19 THE COURT: All right. So, madam deputy, if you
20 can check with our jury to see if they are ready, we will
21 take a recess until they are ready to go, and proceed
22 accordingly.

23 (A break is taken from 8:55 a.m. to 9:10 a.m.)

24 THE COURT: Thank you. Please be seated.

25 All right. Counsel, are we ready for the jury?

1 MR. CAIN: Yes, Your Honor.

2 MR. KACHOUROFF: Yes, Your Honor. By way of
3 appearance, Mr. Duane is with us.

4 MR. DUANE: Good morning.

5 MR. KACHOUROFF: Your Honor, we are resting our
6 case, then we are clearing the jury out, is my
7 understanding.

8 THE COURT: Correct. But I need the jury here so
9 you can rest your case.

10 MR. KACHOUROFF: Understood, Your Honor.

11 THE COURT: I assume Ms. Martinez has asked you
12 this, but has each side agreed not to require her to
13 transcribe the final instructions and to rely on the
14 printed version? That is all right with everyone?

15 MR. KACHOUROFF: Yes, Your Honor.

16 MS. MORGAN: That was a yes from me. Sorry, I
17 nodded.

18 THE COURT: Thank you, Ms. Morgan.

19 (In the presence of the jury.)

20 THE COURT: Thank you. Please be seated.

21 All right. Mr. Kachouroff, anything else on behalf
22 of the defendants?

23 MR. KACHOUROFF: Your Honor, the defense rests.

24 THE COURT: All right. Anything on behalf of
25 plaintiff?

1 MR. CAIN: No, Your Honor.

2 THE COURT: All right. Ladies and gentlemen, the
3 evidence in this case has closed. We have a few matters
4 that we need to take care of outside your province. I
5 know you just got comfortable, but now you have to go back
6 out.

7 Just for fair warning and logistics, this is the
8 only break we will take in the morning, so we will take
9 care of what we need to take care of. To the extent that
10 you come back for instructions and closing arguments, you
11 should be prepared to go forward with those until the
12 lunch break.

13 Madam deputy.

14 (Outside the presence of the jury.)

15 THE COURT: All right. Thank you. Please be
16 seated counsel.

17 MR. KACHOUROFF: Your Honor, may it please the
18 Court, we are moving for judgment as a matter of law on
19 several issues. The first issue is there has been no
20 showing of liability on the part of Frankspeech.
21 Frankspeech is a platform like YouTube, like Rumble, like
22 Twitter, and is covered by the Communications Decency Act.

23 There has been no evidence today, nor in this
24 trial, that Frankspeech, itself, created content. You
25 heard that Lindell TV was the first -- one of the first

1 broadcasts on Frankspeech was the Brannon Howse interview
2 on May 3rd. We believe that they actually sued the wrong
3 entity. They should have sued Lindell TV, and they did
4 not.

5 There has been no evidence that Frankspeech acted
6 as an agent for Lindell sufficient to remove it from the
7 CDA, as I will call it, or the Communications Decency Act.

8 The second issue for judgment as a matter of law is
9 that we ask for judgment as a matter of law on Tina
10 Peters' statement because it was not published by Mike, he
11 had no control over that issue, and neither did any of the
12 defendants, for that matter. There is a tendency to group
13 all of the defendants together, but there has actually
14 been no individual showing, for example, that Frankspeech
15 or My Pillow actually controlled or engaged in the
16 publication of Tina Peters.

17 The second, and I think this is perhaps the easiest
18 issue on the judgment as a matter of law, is that there is
19 absolutely no conspiracy. There was no agreement. In
20 fact, the plaintiff himself admitted that he had no
21 evidence orally or in writing to suggest that Frankspeech
22 conspired with Lindell and My Pillow or any combination
23 thereof.

24 In fact, it would be kind of hard to think that
25 Lindell, as a majority shareholder of My Pillow and

1 Frankspeech, would conspire with himself, because that is
2 essentially what the conspiracy claim is. Surprisingly,
3 we would have thought that there would have been mention
4 of a conspiracy between Tina Peters, Joe Oltmann, and the
5 Lindell entities, but there was not.

6 So I think as a matter of law you can't have
7 Mr. Lindell conspiring with himself, so to say. So I
8 think that is a very easy issue and, in fact, I believe in
9 their other cases, the conspiracy claim likewise failed
10 for similar reasons.

11 The second, and the other issue is that they failed
12 to prove by a preponderance that the plaintiff was damaged
13 by the defendants' statements. Dr. Coomer unequivocally
14 admitted on cross-examination that his reputation was
15 utterly shattered and destroyed as of January 2021. And
16 so they have not proven that Mike Lindell has done
17 anything to cause further damage to a reputation that was
18 already destroyed.

19 And, finally, the plaintiff has failed to prove by
20 clear and convincing evidence that Mike Lindell and My
21 Pillow and Frankspeech knew the statements were false or
22 had serious doubts about the truth of the statements.
23 That has to be by clear and convincing evidence, and they
24 haven't come close to that standard.

25 So for those reasons and those issues, we would ask

1 the Court for a judgment as a matter of law.

2 THE COURT: All right.

3 MR. KLOEWER: Good morning, Your Honor. I will try
4 to address these issues in the order that Mr. Kachouroff
5 raised them.

6 I will note at the outset, I did not hear
7 Mr. Kachouroff refer the Court to any law with respect to
8 any of their issues that were raised. So just to sort of
9 lay the groundwork for the standard under Federal Rule of
10 Civil Procedure 50, "A district court may enter judgment
11 as a matter of law if a party has been fully heard on an
12 issue during a jury trial and the Court finds that a
13 reasonable jury would not have a legally sufficient
14 evidentiary basis to find for the party on that issue."
15 That is Rule 50(a)(1).

16 The Tenth Circuit has construed this rule to mean
17 that judgment as a matter of law is appropriate "only if
18 the proof is all one way or so overwhelmingly preponderant
19 in favor of the movement as to permit no other rational
20 conclusion." That comes from *Wilson v. Schlumberger*
21 *Technology Corporation*, 80 F.4th 1170, at 1180, Tenth
22 Circuit, 2023. The *Wilson* court was citing *J.I. Case*
23 *Credit Corp. v. Crites*, 851 F.2d 309, 311.

24 So this is a very high burden by which, as I just
25 indicated, the proof has to be all one way or so

1 overwhelmingly preponderant as to permit no other rational
2 conclusion. The defendants have not presented argument to
3 meet these standards.

4 So turning to the specific issues they have raised,
5 the first argument largely turns on Section 230 arguments,
6 primarily with respect to arguing that Frankspeech is like
7 Rumble, Twitter, or YouTube. We haven't seen any evidence
8 from the defendants to establish this -- the sort of
9 manner in which this platform operates. These are just
10 conclusory statements from counsel or from Mr. Lindell's
11 testimony presumably, but even then, this doesn't clear
12 the hurdle.

13 Section 230 establishes different definitions for
14 different types of entities and where liability can be
15 ascribed. Specifically it creates a distinction between
16 what it refers to as "interactive computer services,"
17 which are defined by Section 230(f)(2). Those are defined
18 as "any information service, system, or access software
19 provider that provides or enables computer access by
20 multiple users to a computer service, including
21 specifically a service or system that provides access to
22 the internet."

23 We haven't seen an evidentiary showing to establish
24 Frankspeech as meeting this definition. But for purposes
25 of liability, this is contrasted with Section 230(f)(3)

1 with respect to information content providers. And the
2 statute defines those as "any person or entity that is
3 responsible, in whole or in part, for the creation or
4 development of information provided through the internet
5 or any other interactive computer service." And it is not
6 binary; the Tenth Circuit is clear that it is a
7 fact-specific inquiry, and a party can meet both
8 definitions.

9 I would refer the Court specifically to *FTC v.*
10 *Accusearch*, that is 570 F.3d 1187, at 1197, that is a
11 Tenth Circuit case from 2009 addressing Section 230. It
12 noted that "an interactive computer service that is also
13 an information content provider, certain content is not
14 immune from liability arising from publication of that
15 content." And the Court in *Accusearch* really focused on
16 these provisions of the statute relating to creation or
17 development of content.

18 And it noted that -- excuse me, I am a little
19 confused in my notes. The Court really focused on this
20 aspect of transforming unknown information into a publicly
21 available commodity.

22 With respect to *Frankspeech*, we have a substantial
23 evidentiary basis, which I will get into, to establish
24 that they were the publishers of this information. The
25 *Accusearch* court case also addressed the definition of

1 "publisher" as "one that makes public, the producer of the
2 work intended for public consumption," and it went on to
3 cite the Restatement (Second) of Torts, Section 577,
4 noting that "publication of defamatory matter means both
5 the communication of and failure to remove the relevant
6 content."

7 So in this case, we can look simply to the
8 stipulations of the parties to establish that Frankspeech
9 did act as a publisher with respect to much of this
10 information. I will refer the Court specifically to
11 Stipulations 26, 28, 34, 40, and 43, all of which affirm.

12 I will just quote a few of those stipulations. 26,
13 with respect to the May 3 interview, an interview that
14 aired on Frankspeech. Stipulation 28, an interview that
15 aired on Frankspeech. Stipulation 34, Cyber Symposium was
16 livestreamed on Frankspeech. Each of these stipulations
17 affirms that Frankspeech played an active role in
18 promoting and publishing the content at issue.

19 Beyond that, we also have the testimony of
20 Mr. Howse that was played for the jury. The Court has
21 those transcripts of his deposition. I would refer to a
22 few specific portions of Mr. Howse's testimony that are
23 relevant here. Specifically, with respect to page 118,
24 line 21, through page 119, line 6, the question to
25 Mr. Howse was:

1 "This one is interesting to me in that it just says
2 Frankspeech.com across the bottom. That is not a Lindell
3 TV banner. Do you know why that would have been?"

4 Mr. Howse responds, "What was the date of this?"

5 And the question, "Well, it was May 3, 2021."

6 He responds, "And when was Lindell TV formed?"

7 And the question, "I believe June 2nd. So I just
8 want to confirm is -- would that be because at this time
9 this is a publication of Frankspeech only?"

10 And Mr. Howse responds "That -- that is what I
11 understand."

12 He went on to reaffirm this later in his testimony,
13 page 163, lines 16 to 25, again, referring to the dates of
14 the publications. "The question was with respect to the
15 May 9th publication."

16 And he said, "So this would have been a general
17 Frankspeech broadcast because Lindell TV is not formed,
18 and I am doing Brannon Howse live by then."

19 So we haven't seen any evidence from the defendants
20 with respect to any of the entities that Mr. Kachouroff
21 suggested were responsible for these publications. But in
22 any case, as the statute makes clear, there can be
23 multiple publishers of the same information.

24 With respect to the Cyber Symposium, Mr. Howse also
25 testified, and the images of the symposium are clear, they

1 include a Frankspeech.com insignia emblazoned on the back.
2 I asked Mr. Howse in his deposition, which was also played
3 for the jury, "Were you aware that the event was being
4 promoted as a Frankspeech affiliated event?"

5 His answer, "Yes, I think that was -- yeah, I think
6 that was exactly what it was."

7 And the question, "Why was that?"

8 "Answer: I mean, that was what's on the back --
9 banners and everything.

10 "Question: Right. So my question is, do you know,
11 was Frankspeech trying to promote itself by putting on the
12 symposium?

13 "Answer: I think they were trying to make people
14 aware they were now up and running, offering this as a
15 public service."

16 Of course, we have testimony from multiple
17 witnesses, including Mr. Howse, that Frankspeech
18 livestreamed the entire symposium.

19 So going back to the *Accusearch* case, the Court
20 focused on just the development or creation of content as
21 putting an entity in the bucket of an "information content
22 provider," even when it is also an "interactive computer
23 service."

24 So with respect to all these publications, as I
25 have already indicated, we have stipulations that

1 Frankspeech did publish them. And I would refer the Court
2 also to Jury Instruction No. 32, which was stipulated by
3 the parties, which reaffirms this standard that anyone who
4 causes or participates in the publication of a defamatory
5 matter can be liable for the publication.

6 We referred the Court to various authorities for
7 that in our brief that we submitted with respect to direct
8 and indirect liability. All of this evidence establishes
9 that Frankspeech was liable for the publications or, at a
10 minimum, that the jury can certainly find they were,
11 meaning that this is not the matter that is appropriate
12 for judgment as a matter of law in this context.

13 I believe the Tina Peters' discussion also falls
14 under the umbrella of Section 230, although Mr. Kachouroff
15 identified it as a second matter. Again, we have no
16 evidence that Frankspeech did not publish these. And to
17 the extent this is -- they have the burden of establishing
18 that they did not.

19 And this publication was aired on Frankspeech at
20 the time, it has been a part of this case. I would note
21 also that the Court, in issuing its ruling with respect to
22 negative inferences for invocation of the Fifth Amendment
23 by Ms. Peters, itself noted on the record that her
24 statements were aired on Frankspeech at the time. So I
25 don't think that is rightly subject to dispute.

1 Moving on to civil conspiracy, to prevail on a
2 claim for civil conspiracy the plaintiff must prove five
3 elements: "(1) that two or more persons, and for this
4 purpose a corporation is a person; (2) an object to be
5 accomplished; (3) a meeting of the minds on the object or
6 course of action; (4) one or more unlawful overt acts; and
7 (5) damages as the proximate result thereof." That comes
8 from *Walker v. Van Lamingham*, 148 P.3d 391, at 396, a
9 Colorado Court of Appeals case from 2006.

10 A conspiracy is a derivative claim based on
11 unlawful conduct. *Colorado Community Bank v. Hoffman*, 338
12 P.3d 390, 397, a Colorado Supreme Court case from 2013.

13 The defendants have focused on the absence of a
14 written agreement to conspire, but that is not the law.
15 Conspiracy can be implied by "a course of conduct or other
16 circumstantial evidence providing some indicia of
17 agreement." This comes from *Ferraro v. Convercent*, 2017
18 WL 4697499, at page 5, that is a Colorado District Court
19 case from October 19, 2017.

20 The Court has stated that "indeed because few, if
21 any, 'smoking guns' are ever discovered, most conspiracy
22 claims are established by circumstantial evidence." That
23 comes from *Lee v. State Farm*, 249 F.R.D. 662, 669, another
24 district court case from Colorado.

25 It goes on to hold that "circumstantial evidence is

1 not only permissible in determining whether there is
2 illicit conduct or agreement, it is indeed the usual and
3 customary basis for doing so. Direct evidence is seldom
4 available, and few so-called 'smoking guns' are ever
5 discovered. What individuals actually do, and perhaps
6 more significantly, what they do not do, is more
7 probative."

8 So this suggestion that an absence of a written or
9 explicit spoken agreement between Mr. Lindell,
10 Frankspeech, and My Pillow to conspire just doesn't get
11 them there, because the Court and the jury can infer from
12 the course of conduct that these entities did work
13 together. And, in fact, there is a substantial body of
14 evidence in this case that would allow the jury to make
15 that determination.

16 We have coordination between multiple individuals
17 representing all defendants with respect to the Cyber
18 Symposium. For example, Exhibit 117, we see Todd Carter,
19 CTO from My Pillow, who is working to put content on the
20 Frankspeech website, with Mr. Lindell cc'd on those
21 communications. Exhibit 126, the PiDoxa contract again
22 identifies Mr. Carter as the CTO for Frankspeech, as the
23 point of contact -- or as the CTO for My Pillow, as the
24 point of contact for establishing that Frankspeech
25 website.

1 With respect to that Symposium, Exhibit 97 was an
2 ad on mypillow.com for a flashsale where Mr. Lindell
3 stated, "I am having a Cyber Symposium on August 10th and
4 12th. This historical event will be livestreamed 72 hours
5 straight on my new platform Frankspeech. You can help by
6 getting everyone you know to go to Frankspeech.com now.
7 Free shipping on orders over \$150."

8 We saw Exhibit 244, for example, Terri Pietz
9 sending out invitations to the Cyber Symposium from her My
10 Pillow email address. So we have a variety of different
11 individuals that are associated with both Frankspeech and
12 My Pillow working with Mr. Lindell to promote, create, and
13 develop the distribution of these different statements.

14 So there is ample evidence for the jury to
15 determine that these entities were working together. And
16 I would also just note that Mr. Howse testified that while
17 working as an anchor for Frankspeech, he was paid
18 exclusively in pillow codes from My Pillow while
19 interviewing Mr. Lindell on those different interviews.
20 So here again, the defendants just can't meet the burden
21 that is established by Rule 50.

22 The fourth issue Mr. Kachouroff raised was damages,
23 saying that Dr. Coomer's reputation was destroyed before
24 these defendants began any of the statements about him.
25 We also heard testimony from Dr. Coomer that he had hoped

1 after the Newsmax settlement that his image may be
2 rehabilitated and that he might be able to get back into
3 the industry, but that Mr. Lindell's conduct served to
4 completely foreclose that option moving forward.

5 We also have evidence of noneconomic damages,
6 including from Jared Finkell, Dr. Coomer's therapist, that
7 has been admitted as Exhibit 37, showing that in the weeks
8 immediately following the Cyber Symposium, Dr. Coomer, for
9 the first time, requested a prescription for medications
10 to deal with his anxiety, his stress, panic attacks, when
11 he had resisted those efforts before throughout.

12 Dr. Finkell's notes indicate that on August 25,
13 just after the Cyber Symposium, Dr. Coomer's mental health
14 was at the lowest score it had been in the entire time he
15 had been treating him, including in the months directly
16 after the election, which goes to show that the
17 publications at issue here had a substantial and
18 additional impact on Dr. Coomer beyond what had been at
19 issue prior to those times. So the jury can certainly
20 infer damages.

21 And, of course, we have heard from Doug Bania with
22 respect to reputational harm and addressing the specific
23 publications at issue here. Those are economic damages,
24 which are -- which were very specifically targeted at the
25 publications at issue here and how to address the audience

1 that heard those. So the jury can certainly find
2 substantial evidence to find that Dr. Coomer has been
3 damaged by the conduct at issue here.

4 Finally, Mr. Kachouroff suggested that there is no
5 clear and convincing evidence that Lindell knew the claims
6 to be false but, again, that is not the standard. The
7 other standard that they, the jury, can and will rely on,
8 on the basis of the jury instructions that have already
9 been produced, is with reckless disregard for whether the
10 claims were true, and reckless disregard can be
11 established by a variety of different circumstantial
12 evidence, all of which is present here.

13 With respect to this argument that there is no
14 evidence that he knew his claims were false, I would refer
15 the Court to *Solano v. Playgirl, Inc.*, 292 F.3d 1078, at
16 1087, that is a Ninth Circuit case from 2002, but it
17 addresses the standard in a way that is very helpful here.

18 The court noted, "As we have yet to see a defendant
19 who admits to entertaining serious subjective doubt about
20 the authenticity of an article it published, we must be
21 guided by circumstantial evidence. By examining the
22 editor's actions we try to understand their motives."

23 So of course a defamation defendant is never going
24 to admit that they knew what they were doing was false,
25 that is why we look to all these different factors, and

1 this has been established in multiple Colorado Court of
2 Appeals cases, and all of the way up to the Supreme Court,
3 over many years.

4 As the Court is aware, the actual malice standard
5 has come to focus on a variety of factors that the jury
6 can consider in determining whether the defendants acted
7 with reckless disregard for whether the statements were
8 true.

9 As reflected in the jury instructions, which the
10 jury will be receiving, specifically Instruction 31, a
11 number of those factors include the following: A grossly
12 inadequate investigation. A failure to pursue the most
13 obvious available sources of possible corroboration of
14 reputation. The speaker's hostility toward the plaintiff.
15 Inconsistencies in the source's account. Reasons to doubt
16 the veracity of the source. The inherent improbability of
17 the claim or other credible information contradicting the
18 information.

19 Over the last 2 weeks, the jury has heard a
20 substantial body of evidence with respect to all of these
21 circumstantial factors.

22 With respect to grossly inadequate investigation,
23 Mr. Lindell repeatedly affirmed on the stand that he
24 didn't even know Dr. Coomer, didn't even read the
25 Complaint after it was served on him. He continued

1 publishing defamatory content for many months after being
2 served with the Complaint.

3 Failure to pursue the most obvious available
4 sources of possible corroboration of reputation. There
5 was never any attempt by any of these defendants to
6 contact Dr. Coomer to, as I just indicated, to read the
7 Complaint, to even follow up with Joe Oltmann for more
8 information about his claims.

9 The third circumstantial evidence factors here is
10 especially pronounced in this case, the speaker's
11 hostility toward the plaintiff. We have Mr. Lindell
12 deliberately attacking Dr. Coomer after the Newsmax
13 settlement, again, which was a settlement of a defamation
14 case, and his response was to be upset that his pillow
15 sales may have been hurt. And he deliberately targeted
16 Eric Coomer, accusing him of "bringing our country through
17 China" out of anger over an agreement that he knew nothing
18 about.

19 And he has continued that conduct, again without
20 even having bothered to read the Complaint in this case,
21 and nonetheless continued his direct personal attacks on
22 Dr. Coomer over a period of years.

23 We also have inconsistencies in the source's
24 account. These include Joe Oltmann's inconsistencies in
25 his own stories, which were described and discussed for

1 the jury at length. But even Mr. Lindell's own story in
2 this case has -- the jury has heard very conflicting
3 testimony. On one hand, he argued this was all about
4 Dr. Coomer blocking him from pillow sales, but we also
5 have him admitting on the stand that he stands by his
6 claims in accusing Dr. Coomer of a cover-up of the biggest
7 crime in history.

8 So I think the jury can rightfully infer actual
9 malice in the inconsistencies in these accounts. Also the
10 "China" theories and the "Dominion" theories, they're
11 incompatible, and we heard expert testimony from multiple
12 witnesses on this issue.

13 Reasons to doubt the veracity of the source. We
14 have heard plenty of testimony about the myriad reasons
15 why the sources that Mr. Lindell has relied on for his
16 theories are not reliable, including, but not limited to,
17 Joe Oltmann and Dennis Montgomery.

18 Then we proceed to the inherent improbability of
19 the claim. Dr. Halderman testified at length about the
20 numerous reasons why Mr. Lindell's theories are not
21 tenable and are inherently improbable. We also heard
22 relevant testimony from Matt Crane and Dr. Coomer on this
23 issue.

24 And the final factor that is reflected in the jury
25 instructions, credible information contradicting the

1 information. We have heard plenty of that, as well.

2 So with respect to all of these issues, the
3 defendants cannot carry their burden on directed verdict.
4 And just to wrap this up so the Court has a clear record,
5 with respect to all of the actual malice factors I just
6 addressed, many of those are laid out in *Coomer v. Donald*
7 *J. Trump for President*, that is 552 P.3d 552. That is a
8 Colorado Court of Appeals case from 2024, the pincite is
9 591-92. And the Colorado Court of Appeals in that opinion
10 was relying on *St. Amant v. Thompson*, that 390 U.S. 727,
11 at 732, a Supreme Court case from 1968, as well as *L.S.S.*
12 *v. S.A.P.*, 523 P.3d 1280, *Gonzales v. Hushen*, 540 P.3d
13 1268, and *Anderson v. Senthilnathan*, 540 P.3d 1248.

14 So I will leave it at that, but just to reiterate,
15 the jury has ample evidence to find on all of these
16 matters, that plaintiff has sustained their burden, and
17 judgment as a matter of law is not appropriate under Rule
18 50.

19 THE COURT: Mr. Kloewer, you cited a case, *Lee v.*
20 *State Farm*, I believe. Could you give me that citation
21 again.

22 MR. KLOEWER: Certainly, *Lee v. State Farm Mutual*
23 *Auto Insurance Company*, that is 249 F.R.D. 662, pincite
24 669. That is a Colorado District Court case from 2008.

25 THE COURT: All right. Mr. Kachouroff, anything

1 else?

2 MR. KACHOUROFF: Your Honor, I would refer the
3 Court back to much of our case citations in our pretrial
4 memorandum that we filed in response to the plaintiff's
5 pretrial brief.

6 Briefly, my colleague misunderstands the
7 Communications Decency Act. YouTube is a publisher,
8 Rumble is a publisher, but they're expressly exempted from
9 the language of the statute, it could not be more clear.
10 So it is not really whether YouTube or Frankspeech are
11 publishers, they are, they publish in a sense that things
12 are broadcast on their platform.

13 If their interpretation were true, the CDA would
14 effectively be gutted. So it is not whether Frankspeech
15 aired or livestreamed, it did, and so does YouTube and so
16 does Rumble.

17 The key is that Frankspeech, from the evidence you
18 have heard, and the only thing the jury understands, is
19 that they are an online platform that allows users to
20 create accounts and stream content. And they cherry
21 picked a little bit on Mr. Howse's testimony, but he
22 said -- he went through his -- he talked briefly about
23 Brannon Howse Live, that was his TV show, and he was using
24 the Frankspeech platform to air his TV show. And so
25 Frankspeech is an internet platform, it does not produce

1 the actual content. And the fact that it has banners that
2 are displayed is irrelevant. So does YouTube. Why? They
3 want everybody to know that YouTube is an online platform
4 they can use.

5 With respect to the Tina Peters issue -- and for
6 the cases, I would again refer the Court back to our
7 pretrial brief, where even under the CDA, even if an
8 online platform like YouTube or Frankspeech knows that
9 there is defamatory content, they are under absolutely no
10 obligation to remove it. They can voluntarily do it, but
11 even if they are aware of it, it is not something they
12 have to do under the law.

13 With respect to Tina Peters, there is no
14 evidence -- she said that Frankspeech did not publish her.
15 That burden is not ours, they have to prove that
16 Frankspeech published and created that content. There has
17 been absolutely no evidence that Frankspeech created that
18 content.

19 And so to that extent, they can still proceed with
20 their claim against Lindell, if they can make that out,
21 and I don't think they can, and I concede that that is a
22 jury question, but with respect to Frankspeech, they
23 cannot prove it, and the same is true for My Pillow.

24 And this gets us to the civil conspiracy. Sure,
25 implied course of conduct can be used to show an

1 agreement. But to take their rendition of the facts at
2 face value, any advertiser online, anybody online, they
3 would all be considered to have a course of conduct and,
4 therefore, an agreement just because they participated in
5 an activity together.

6 My Pillow did nothing more than advertise, that
7 doesn't mean that it engaged in an agreement, a meeting of
8 the minds to defame people. The same with Frankspeech,
9 there is no meeting of the minds to defame people. But my
10 colleague ignored the fact, and it was a small point I
11 brought up, which is probably dispositive, Mr. Lindell has
12 two entities here; Frankspeech and My Pillow. He controls
13 both those entities.

14 Essentially they are asking the Court to rule that
15 he conspired with himself to do that; that Mr. Lindell, as
16 the CEO of My Pillow, sat down with Mr. Lindell, himself,
17 and also with My Pillow, and said let us engage in this
18 grand conspiracy to go after Dr. Coomer. There is no
19 evidence of that, because you can't conspire with
20 yourself.

21 He brought up the notion that employees used My
22 Pillow email addresses. So what. Mr. Lindell testified
23 that everybody gets a My Pillow email address. That is
24 not a "gotcha" moment. There is no requirement to set up
25 or use multiple email addresses. You heard there was

1 testimony that Lindell management employed Todd Carter,
2 and he would be farmed out to the various entities. It is
3 a cost-sharing, enterprise cost-sharing center, done every
4 day in business.

5 He said there was an ad on My Pillow that My Pillow
6 ran. My Pillow didn't run the ad. The testimony was this
7 was a vendor page that the vendor could use that housed
8 the vendor's ad on My Pillow. So what was being displayed
9 on Frankspeech is of no great moment, because that happens
10 on YouTube.

11 The question that the Court has to decide is who
12 created the content and was responsible for publication.
13 And in that regard, Frankspeech is a publisher, but under
14 the CDA it is immune and not considered a publisher under
15 the CDA. So in the strictest sense of the word and the
16 technical sense of the word, Frankspeech is not a
17 publisher for purposes of the CDA.

18 My colleague also misspoke. He said that Brannon
19 Howse said he worked as an anchor for Frankspeech. I
20 don't recall any such evidence. He was his own program,
21 Brannon Howse Live.

22 Finally, the damages. The damages would amount
23 to -- and what my colleague says is, the evidence from
24 Dr. Finkell is in, there were two to three visits. And
25 Dr. Coomer claimed the event on May 9th was a cataclysmic

1 event, that it was earth shattering, he had to go out of
2 the country at that time because it was so hard for him.

3 The facts were that he started the Fritz, his
4 restaurant, on May 1st. And the two weeks -- the
5 therapist visits two weeks after the May 9th statement by
6 Mr. Lindell is dispositive, the therapist said he is doing
7 well, doing fine, there was no indication otherwise.

8 And Mr. Bania doesn't address reputational harm. I
9 specifically asked him, and he said, I am not quantifying
10 reputational harm, all I'm doing is looking at a program.
11 He avoided any notion that he was giving an opinion on
12 harm.

13 Finally, the clear and convincing standard for
14 reckless disregard, they can't escape the clear and
15 convincing standard for reckless disregard. FOX News
16 settled its case with Dominion for one reason; there were
17 emails, internal emails from their fact check team where
18 FOX News executives specifically stated, "We think the
19 story is false," and they went ahead and published anyway.
20 That is reckless disregard. There is no such evidence
21 here at all.

22 They are trying to hold Mr. Lindell to the standard
23 of a Ph.D. Mr. Lindell has a high school education. He
24 did the best that he could. In fact, he hired over 35
25 experts, that was his testimony. They cherry picked a few

1 they didn't like and they spouted off that it was reckless
2 to rely on these people. They don't provide any evidence
3 it was reckless to rely on the other 30.

4 Finally, the idea that Mr. Lindell continued to
5 publish defamatory content, that is not true, either.
6 After the Complaint was filed, we learned that the
7 instigator -- chief instigator in this case, Dr. Coomer,
8 goaded him by serving him on the Denver Capitol steps
9 while he was making a speech.

10 He made three statements after that, you know,
11 popping off at Dr. Coomer. And Dr. Coomer got his desire,
12 because at the end of the day, that is what he intended to
13 do. The hostility -- there was no hostility against
14 Dr. Coomer until Dr. Coomer attacked him. So Dr. Coomer
15 actually had the hostility, and they are going back and
16 forth with each other.

17 With respect to Joe Oltmann, first we learned there
18 was no phone call; that was their theory. Then we learned
19 we had to rely on Joe Oltmann for the sole corroboration.
20 But fortunately for us they filed the affidavit in this
21 case showing that there actually was a phone call and that
22 Joe Oltmann's story wasn't half-baked apparently.

23 So I would submit, Your Honor, they don't have
24 clear and convincing evidence that Mr. Lindell engaged in
25 reckless disregard, especially when the man spent over \$40

1 million of his own money investigating these claims.

2 The idea that they have tried to conflate here is
3 to take all of these videos, all of his work, and pin it
4 on Dennis Montgomery, was wrong. Well, that is not the
5 evidence. The evidence is each video addressed a
6 different set of data points. And they can't prove by
7 clear and convincing evidence that he recklessly
8 disregarded anything.

9 The only thing they can point to is that CISA came
10 out with a joint statement, but because CISA comes out
11 with a joint statement doesn't mean he disregarded it.
12 Indeed, CISA was being hacked in one of the largest hacks,
13 the SolarWinds hack, that took place while they made the
14 statement, we have a secure infrastructure. So I think we
15 can take that cum grano salis, with a grain of salt.
16 Thank you.

17 THE COURT: Thank you. I will take a brief break.

18 (A break is taken from 9:52 a.m. to 10:05 a.m.)

19 THE COURT: Thank you. Please be seated.

20 All right. This matter is before the Court on the
21 defendant's motion for judgment as a matter of law
22 pursuant to Rule 50(a) of the Federal Rules of Civil
23 Procedure at the close of all evidence, before submission
24 to the jury.

25 Rule 50(a)(1) provides that in general "a party

1 that has been fully heard on an issue during a jury trial
2 and the Court finds that a reasonable jury would not have
3 a legally sufficient evidentiary basis to find for the
4 party on that issue, the Court may, A, resolve the issue
5 against the party and, B, grant a motion for judgment as a
6 matter of law against the party on a claim or defense
7 that, under the controlling law, can be maintained or
8 defeated only with a favorable finding on that issue."

9 A motion for judgment under Rule 50(a) may be made
10 at any time before the case is submitted to the jury. A
11 jury trial in this case commenced on June 2, 2025. At the
12 close of evidence on June 13, 2025, defendants brought an
13 oral motion for a judgment as a matter of law.

14 The defendants raised five issues upon which they
15 are moving for judgment as a matter of law. One,
16 liability for defendant Frankspeech based on Section 230
17 of the Communications Decency Act, also known as the CDA.

18 Two, Tina Peters' statements on Frankspeech,
19 arguing again that Frankspeech did not and cannot be
20 liable for the publication of her speech because it is
21 simply a "content provider."

22 And, three, no conspiracy because Mr. Lindell
23 cannot conspire with himself and there is no evidence that
24 he agreed with anyone else.

25 Four, Dr. Coomer had not established by a

1 preponderance of the evidence any damages attributable to
2 the alleged defamatory statements.

3 And, five, that Dr. Coomer had failed to establish
4 by clear and convincing evidence that defendants acted
5 with actual malice; that is, Mr. Lindell knew of the
6 falsity or had serious doubts about the truth of the
7 statements he was publishing.

8 In its analysis, it is critical for the Court to
9 set out the legal standard that governs such a motion. In
10 the context of Rule 50(a) the Court is required to
11 consider all evidence presented at trial and must review
12 the record "taken as a whole." That is *Reeves v.*
13 *Sanderson*, 530 U.S. 133, 150, 2000.

14 In conducting this review of the evidence "the
15 Court must draw all reasonable inferences in favor of the
16 nonmoving party, and it may not make credibility
17 determinations or weigh the evidence." That is *Reeves*,
18 530 U.S. at 150.

19 "Credibility determinations, the weighing of
20 evidence, the drawing of legitimate inferences from facts
21 are jury functions, not those of the judge." *Anderson v.*
22 *Liberty Lobby, Inc. Inc.*, 477 U.S. 242, 250-251, 1986.

23 "Judgment as a matter of law is cautiously and
24 sparingly granted and only when the Court is certain that
25 the evidence conclusively favors one party such that

1 reasonable jurors could not arrive at a contradictory
2 verdict." *Bill Barrett Corporation v. YMC Royalty Company*
3 *LP*, 916 F.3d 760, 766, Tenth Circuit, 2019.

4 Thus, although the Court reviews the record as a
5 whole, it must disregard all evidence favorable to the
6 moving party that the jury is not required to believe.
7 Plaintiff has brought three causes of action against the
8 defendants: One, defamation. Two, intentional infliction
9 of emotional distress. And, three, conspiracy.

10 Defendants' arguments focus on the defamation claim
11 and the conspiracy claim, although the Court notes that
12 the intentional infliction of emotional distress claim
13 requires that a finding of defamation first be made.

14 So with respect to defendants' arguments that
15 plaintiff has failed to carry his ultimate burden of proof
16 with respect to damages and also with respect to actual
17 malice, those arguments are not well taken because in the
18 context of Rule 50 the burden of proof is not establishing
19 that they have overcome the burden of proof. In the Rule
20 50 context, the Court determines whether or not there is
21 sufficient evidence for a jury to find in favor of the
22 plaintiff. And, again, the Court must, under the
23 appropriate law, avoid any credibility determinations,
24 weighing of the evidence, or drawing legitimate inferences
25 from the facts, which are jury functions and not the

1 function of the Court at a Rule 50 stage.

2 This Court thus turns to applying the Rule 50
3 standard to defendants' arguments, first addressing their
4 arguments that arise under the CDA. Section 230 of the
5 Communications Decency Act provides that "No provider or
6 user of an interactive computer service shall be treated
7 as the publisher or speaker of any information provided by
8 another information content provider." That is 47 U.S.C.
9 Section 230(c)(1).

10 Although the Tenth Circuit Court of Appeals has not
11 addressed whether Section 230 immunity constitutes an
12 affirmative defense, courts across the country treat it as
13 one. See, for instance, *Calise v. Meta Platforms, Inc.*,
14 103 F.3d 732, 738, Ninth Circuit, 2024. *Force v.*
15 *Facebook, Inc.*, 934 F.3d 53, at 72, Second Circuit, 2019.
16 *Klayman v. Zuckerberg*, 553 F.3d 1354, 1357, District of
17 Columbia Circuit, 2014.

18 It is therefore Frankspeech's burden, not
19 plaintiff's, to show that it is entitled to Section 230
20 immunity. See, for instance, *Martell v. X Corp*, Case No.
21 23-cv-5449-SRH, 2024 WL 3011353, at *5, Northern District
22 of Illinois, June 13, 2024.

23 As the Tenth Circuit has explained, Section 230
24 sets out three limits on the immunity provided. *FTC v.*
25 *Accusearch, Inc.*, 570 F.3d 1187, 1196, Tenth Circuit,

1 2009. To assert immunity under Section 230, a defendant
2 must establish that, "1, it is a provider of an
3 interactive computer service. 2, the alleged liability is
4 based on the defendant having acted as a 'publisher or
5 speaker.' And, 3, the information is provided by another
6 'information content provider.'" That is *Roland v. Letgo,*
7 *Inc.* 644 F.Supp 3d 907, 914, District of Colorado, 2022,
8 citing *Accusearch*, 570 F.3d, at 1196.

9 For the purposes of this motion, the Court assumes
10 that defendant Frankspeech meets the first two
11 requirements; that is, Frankspeech is an interactive
12 computer service provider and faces liabilities for its
13 action as an alleged publisher.

14 Accordingly, the Court focuses its analysis on the
15 third requirement under Section 230 immunity; whether the
16 information at issue was provided by another information
17 content provider. Because Section 230 provides immunity
18 only for information provided by another content provider,
19 a service provider cannot assert immunity if the defendant
20 is also a content provider for the information at issue.
21 That is *Accusearch*, 570 F.3d 1197.

22 The CDA defines "information content provider" as
23 "any person or entity that is responsible, in whole or in
24 part, for the creation or development of information
25 provided through the internet or any other interactive

1 computer service." 47 U.S.C. Section 230 (f) (3).

2 In other words, to meet the third requirement for
3 Section 230 immunity, Frankspeech must prove that it is
4 not responsible for the development of specific content
5 that was the source of the alleged liability. *Accusearch*,
6 570 F.3d, at 1198. In *Accusearch*, the Tenth Circuit
7 explained that the "development" of the content involves
8 making the content "visible," "active," or "usable" or
9 making the content "actually available or usable,
10 (something previously only potentially available or
11 usable)."

12 Similarly, to be responsible for the development of
13 offensive conduct, one must be more than a neutral conduit
14 of this content. Applying these principles, the Court
15 finds that the defendants have failed to demonstrate that
16 no reasonable juror could conclude that Frankspeech was an
17 "information content provider" as required in the third
18 element.

19 Plaintiff has presented evidence that Frankspeech
20 livestreamed and promoted the Cyber Symposium where
21 several of the alleged defamatory statements were made.
22 The Frankspeech logo was prominently visible on the
23 backdrop for the onstage presenters at the Cyber
24 Symposium.

25 Mr. Lindell, a Frankspeech executive, was the chief

1 organizer and sponsor of the symposium. Indeed,
2 Stipulation 29 indicates that "On July 4, 2021,
3 Mr. Lindell announced that he would be holding a Cyber
4 Symposium in Sioux Falls, South Dakota, from August 10
5 through 12, 2021."

6 He also stated that he wanted -- this is also
7 stipulated, that he wanted the symposium to be "the
8 biggest livestreamed event in history." And he further
9 stipulated he and symposium organizers invited
10 "journalists, legislators, and cybersecurity experts from
11 across the country to attend this Cyber Symposium."

12 The jury also heard evidence from plaintiff's
13 expert, Doug Bania, who testified that the recordings of
14 Frankspeech's stream of the Cyber Symposium were a major
15 part of the "reach" of the alleged defamatory statements
16 from the symposium, and based on this evidence, a
17 reasonable juror could conclude that Frankspeech
18 "developed" the statements at the Cyber Symposium by
19 making them "actually available or usable."

20 A reasonable juror could also conclude that
21 Frankspeech, in sponsoring, promoting, and streaming the
22 symposium, acted as "more than a neutral conduit" for the
23 statements made during the symposium.

24 Other than their broad invocation of Section 230,
25 the defendants cited no cases or specific statutory

1 subsections in making their oral motion. The defendants
2 referred the Court to defendants' pretrial brief, which is
3 Docket Entry No. 337, which similarly cites Section 230
4 generally but does not provide any additional analysis as
5 to whether or not Frankspeech functioned as an
6 "information content provider" at the Cyber Symposium.

7 Thus, defendants have not persuaded this Court that
8 the legal authority justifies a Rule 50(a) motion in their
9 favor. The single case cited by defendants in their
10 pretrial brief, *Zeran v. America Online, Inc.*, 127 F.3d
11 327, 333, Fourth Circuit, 1997, is inapplicable because it
12 deals with a theory of "notice-based liability" that is
13 not at issue here.

14 There is no evidence to support the conclusion at
15 this point that the -- I am sorry, there is no authority
16 in the defendants' pretrial brief, Docket Entry No. 337,
17 that persuades the Court otherwise.

18 Accordingly, the Court concludes that defendant
19 Frankspeech has failed to meet its burden under Rule 50 to
20 demonstrate that it was not an "information content
21 provider" and is entitled to immunity under Section 230.

22 Similarly, the Court denies the defendants' Rule 50
23 motion with respect to Ms. Peters' alleged defamatory
24 statement on the Frankspeech platform. As previously
25 discussed, the jury could conclude that Frankspeech

1 participated in making that content available as more than
2 just a neutral conduit.

3 Ms. Peters appeared in the Frankspeech interview
4 with Brannon Howse, where Mr. Howse was supported by
5 pillow codes associated with My Pillow. Ms. Peters also
6 participated in the Cyber Symposium sponsored by
7 Frankspeech and Mr. Lindell, and that was livestreamed on
8 the Frankspeech platform. Accordingly, the Court denies
9 the defendants' Rule 50 motion with respect to Ms. Peters'
10 alleged defamatory statements.

11 To prevail on his defamation claim against
12 Mr. Lindell, Dr. Coomer must prove by a preponderance of
13 the evidence that Mr. Lindell published or caused to be
14 published at least one of the above statements in the same
15 or substantially similar words as set forth in the
16 stipulations, and that the published statements caused the
17 plaintiff actual damage.

18 The plaintiff must further prove by clear and
19 convincing evidence that the substance or gist of the
20 statements published by defendant Lindell was or were
21 false at the time that they were published, and at the
22 time of the publication, the defendants knew the
23 statements was or were false and/or made the statements
24 with reckless disregard as to whether they were false.

25 The defendants' argument focuses on whether or not

1 the statements caused actual damage to Dr. Coomer and
2 whether or not Mr. Lindell knew that the statements were
3 false or, in the words of counsel, "had serious doubts
4 about the truth of the statement."

5 The Court first turns to the arguments with respect
6 to damage. Plaintiff has presented evidence through his
7 own testimony and solicited from witnesses offered by the
8 plaintiff from which a reasonable jury could conclude that
9 he suffered actual harm. Regardless of whether or not he
10 was harmed when Mr. Oltmann first stated allegations that
11 he was involved in an Antifa call during which he
12 purportedly was identified as "Eric from Dominion" and
13 stated that he made sure that Trump would not win the
14 election, there is evidence in the record that he
15 continued to suffer harm after the publication of those
16 statements by defendants.

17 Dr. Coomer, himself, testified that his fear arose
18 from the threats specifically by the defendants after the
19 alleged defamatory statements were published by the
20 defendants. He further testified that he moved from his
21 home and continued to move in the course of those
22 statements being published. The jury also heard testimony
23 from Mr. Crane indicating that Dr. Coomer's reputation
24 suffered because of these particular publications.

25 The jury further heard testimony from Mr. Kent that

1 indicated that the "reach" of the alleged defamatory
2 statements attributed to other individuals had been dying
3 down by the time that these defendants made their
4 statements. But he admitted upon cross-examination that
5 republication of any such statements would renew the
6 statements on social media and take them to the top of the
7 feed.

8 The Court further notes that Exhibit 37, page 30,
9 which are Dr. Finkell's treatment notes, note that roughly
10 two weeks after the symposium, the treating therapist
11 notes that plaintiff requested an appointment after
12 experiencing increased mood and anxiety symptoms. And
13 Dr. Coomer, himself, testified that despite other therapy
14 treatment that he had received over his lifetime, that
15 after these statements by defendants were published, that
16 he decided to avail himself of medicine for the first
17 time.

18 Therefore, this Court concludes that a reasonable
19 juror could conclude that Dr. Coomer suffered actual
20 damage and, therefore, will deny the Rule 50(a) motion on
21 that basis, as well.

22 Finally, the Court addresses the prong of actual
23 malice challenged by Defendants' Rule 50(a) motion.
24 First, the Court addresses the appropriate legal standard
25 in determining actual malice; that is whether the

1 defendant knew the falsity or recklessly disregarded the
2 truth of the matter.

3 Here, the Court focuses on the fact that reckless
4 disregard of the truth is a statement of law, and that
5 serious doubts about the truth of the statements does not
6 adequately capture that prong and potentially is more
7 appropriately considered in the context of whether or not
8 Mr. Lindell or any of the other defendants knew of the
9 falsity of the alleged defamatory statements.

10 The evidence presented through Dr. Halderman,
11 Mr. Merritt, Mr. McGuire, and Mr. Crane could be construed
12 as to demonstrating at a minimum that there is a jury
13 question as to whether or not Mr. Lindell and the other
14 defendants recklessly disregarded the falsity of the
15 statements.

16 Mr. Lindell further testified that he made those
17 statements not because of potentially his allegations that
18 he believed that Dr. Coomer rigged the election. Indeed,
19 he repeatedly stated that he had never accused Dr. Coomer
20 of rigging the 2020 presidential election, but that he
21 perceived Dr. Coomer's actions as blocking him from
22 advertising My Pillow on various platforms or attacking My
23 Pillow.

24 This testimony could be construed by the jury as
25 reckless disregard of the falsity, as Mr. Lindell's

1 testimony could be construed as him being focused on
2 whether or not his commercial interests were compromised
3 rather than whether or not the statements herein made were
4 truthful in substance.

5 Finally, the Court turns to the issue with respect
6 to conspiracy. Conspiracy under Colorado law requires
7 Dr. Coomer to prove by a preponderance of the evidence
8 that the defendants agreed by words or conduct to
9 accomplish a goal through unlawful means. Two, one or
10 more unlawful acts were performed to accomplish the goal.
11 Three, plaintiff had damages. And, four, the damages were
12 caused by the acts performed to accomplish the goals.

13 Again, the defendants move for judgment as a matter
14 of law on the first element and argue that plaintiff has
15 failed to present evidence of an agreement. Under
16 Colorado law, a civil conspiracy may be implied by a
17 course of conduct and other circumstantial evidence so
18 long as there is some indicia of agreement as to an
19 unlawful means or end. That is *Rosenblum v. Budd*, 538
20 P.3d 354, 367, Colo. App., 2023.

21 Evidence that statements by others, such as Joe
22 Oltmann, David Clements, Tina Peters, and Phil Waldron on
23 Frankspeech or through the Cyber Symposium; that the Cyber
24 Symposium was supported by Frankspeech and My Pillow
25 perpetuated the contentions that Mr. Lindell also made,

1 may be interpreted by a reasonable juror as an indication
2 or circumstantial evidence of an agreement by these
3 parties and defendants or their agents and representatives
4 to defame Dr. Coomer outside of just Mr. Lindell.

5 Defendants argue that Mr. Lindell cannot conspire
6 with himself, which is true as a matter of law, but
7 Mr. Lindell also testified that he only had a limited role
8 in selecting the speakers that appeared on stage, and that
9 he authorized his attorney, Kurt Olsen, to control who
10 appeared on stage at the symposium.

11 Mr. Olsen also indicated that Mr. Lindell may have
12 selected some of the speakers, and some of the speakers
13 also arrived at the symposium via transportation provided
14 by Mr. Lindell. Thus, there is indicia that Mr. Lindell,
15 as an agent of My Pillow and Frankspeech and himself, of
16 course, Mr. Olsen, and other Cyber Symposium presenters,
17 and other presenters on the Frankspeech platform agreed
18 through their conduct or words that they would publish
19 defamatory statements about Dr. Coomer.

20 Again, the Court focuses on the standard here, not
21 whether or not the plaintiff has proved his case, but
22 whether or not there is sufficient evidence under the Rule
23 50 standard that a reasonable juror could make that
24 conclusion.

25 The elements of each of these claims against

1 defendants Frankspeech, LLC, and My Pillow are
2 substantially similar, so to the extent the Court has not
3 directly addressed them, the Court finds that Dr. Coomer
4 has established sufficient evidence that permits a fact
5 finder to conclude in his favor on all of these issues.

6 Judgment as a matter of law, again, is cautiously
7 and sparingly granted and only when the Court is certain
8 that the evidence conclusively favors one party such that
9 a reasonable juror could not arrive at a contrary verdict.
10 Applying this standard, the Court has not cited all
11 evidence in the record with respect to these various
12 issues, and certainly expects that the parties will
13 vigorously argue in closing arguments that one or the
14 other have not met their burden of proof.

15 But to the extent that the question before the
16 Court is whether or not as a matter of law these issues
17 should go to the jury, the Court respectfully denies
18 judgment as a matter of law under Rule 50(a) as to all of
19 the bases raised by defendants.

20 All right. Counsel, are we ready for the jury?

21 MR. CAIN: Plaintiff is ready.

22 MR. KACHOUROFF: Defense will be ready.

23 THE COURT: Madam deputy.

24 COURTROOM DEPUTY: Yes, Your Honor.

25 (In the presence of the jury.)

1 THE COURT: Thank you. Please be seated.

2 Thank you for your patience, ladies and gentlemen
3 of the jury. We are now ready for final jury instruction.

4 (Jury instructions read in open court but not
5 reported per agreement of counsel.)

6 THE COURT: All right. So we are now at the point
7 after all of that, we are ready for closing arguments.

8 Mr. Cain.

9 **CLOSING ARGUMENT**

10 **BY MR. CAIN:**

11 Did you all get all that? Let me start by just
12 saying thank you on behalf of my trial team. You've got
13 Brad Kloewer; you have got Ashley Morgan, who was awesome;
14 you have David Beller, who has the best hair of our group;
15 and back here, if you noticed, Scotti Beam, who has been
16 our paralegal for 25 years. She is the engine behind our
17 team. Then you have got Hank, and he just goes by Hank,
18 we are not sure what his last name is.

19 And last, but not least, I know Dr. Coomer thanks
20 you. He has noticed how attentive you have been. I have
21 noticed how attentive you have been. I have been doing
22 this 30 years, and you guys have been great. So we know
23 this, no matter how you come out; win, lose, or draw, we
24 are going to get a fair shake from you, and I appreciate
25 that, I really do.

1 As to the case, when we began this case, defense
2 counsel called Dr. Coomer the "chief instigator." He
3 called Dr. Coomer a "serial litigator," and he said
4 Dr. Coomer tried to "bait" Mr. Lindell, "lure" him, and
5 "trigger" him into reacting, so that Dr. Coomer could be
6 defamed again and again for money, presumably.

7 In other words, they told you that Dr. Coomer
8 wished all of this on himself, and as proof they used one
9 text that he sent to his brother after Dr. Coomer had
10 watched *Absolute Proof*, and I suspect you will see that
11 text from the defendants.

12 The defendants have not let the facts get in their
13 way in this case, and this allegation about Dr. Coomer is
14 no different. Frankly, the defense I heard was a lot like
15 the static you heard when we were up doing bench
16 conferences. The reality is that when Dr. Coomer served
17 this lawsuit in Colorado on April 5th of 2022, the
18 defendants had already made four defamatory statements
19 about him, including the ones that you heard at the Cyber
20 Symposium.

21 And you saw that I gave you this chart when we
22 began, so that had already happened before the lawsuit was
23 served. So to suggest that Dr. Coomer instigated this
24 lawsuit to trigger Mike Lindell into defaming him again
25 and again is, in a word, offensive to me.

1 You don't control Mike Lindell. We don't control
2 Mike Lindell. Mike Lindell doesn't control Mike Lindell.
3 Ultimately, the facts in this case show that all of these
4 defendants participated in the making of defamatory
5 statements about Dr. Coomer, both before and after the
6 lawsuit was filed.

7 Now, usually when a lawsuit is filed, there is some
8 sort of deterrence for repeated conduct. For Mike
9 Lindell, though, apparently it served as a license to
10 continue to defame Dr. Coomer. So let me boil down the
11 basic framework of the case that we presented to you.

12 Each defamatory statement that you heard either
13 involved Dr. Coomer confessing to rigging the election or,
14 engaging in criminal conduct with respect to the election.
15 All of these statements were false when they were made.
16 All of these statements were made with either knowledge of
17 their falsity or with reckless disregard of their falsity,
18 and that is Instruction No. 31. You will get the
19 instructions back there, you will read through them, as
20 well, so you don't have to memorize what Judge Wang just
21 said.

22 All of these statements were "published," and that
23 is a keyword, "published" by the defendants, as that term
24 is defined by the Court. So I will talk about what
25 "published" means in a minute, but spoiler alert, it does

1 not mean what Mike Lindell thinks it means. He thinks it
2 means it has to come from him, and that is not the
3 instructions that the Court just gave you.

4 And each statement that was made was made to its
5 own unique audience and caused its own damage. So instead
6 of engaging in this basic framework of the case that I
7 just laid out for you, what you witnessed from the
8 defendants was the jury trial version of Mike Lindell's
9 Cyber Symposium.

10 So what this slide shows you, and everything I am
11 going to show you has been admitted into evidence, is a
12 side by side of the statements that Mike Lindell made
13 leading up to the Cyber Symposium and the statements that
14 Mike Lindell made leading up to the trial. Both of them
15 follow the same pattern; he promised certain things to you
16 in the statement leading up to this trial, including it's
17 all coming down to this: I'm getting exactly what I
18 wanted when I asked these companies to sue me.

19 Now, you heard him say, well, it was some folks who
20 worked for him that put that language in there. But the
21 reality is, is that he used those statements to raise
22 money for this trial. And what he told his donors was
23 this information was going to be finally out in the public
24 in a court of law.

25 Did you see that? Did you see that during this

1 trial? Did Mike Lindell provide you with any of this
2 crucial information that he promised to his donors, some
3 of whom may be in the audience? The people that brought
4 you the evidence about election security are sitting at
5 this table.

6 Most of what I saw from the defense were some old
7 video clips that he apparently watched, and an angry
8 grudge that Mike Lindell held because he thought he
9 couldn't promote his pillows on Newsmax using free air
10 time. Remember, he could always advertise, but he was
11 upset because he didn't get the free air time, and even
12 that wasn't true, because you heard from Chris Ruddy, and
13 Chris Ruddy completely said that was false, he just
14 couldn't go on and continue to spread the lies that you
15 heard.

16 And we've stipulated, Stipulation No. 24, that
17 there was nothing in the Settlement Agreement with Newsmax
18 and Dr. Coomer that involved Mike Lindell. And why would
19 it, this was a dispute with another party, and Mike
20 Lindell wasn't on our radar. The world doesn't revolve
21 around Mike Lindell.

22 When Mike Lindell developed the fundraising website
23 that you see there, 261, he knew that he had not
24 designated a single qualified election expert, and yet he
25 was making these claims. He knew that he couldn't provide

1 you with evidence about how Dr. Coomer supposedly
2 committed treason or otherwise engaged in alleged fraud,
3 or even how Dominion could have done that, or any other
4 voting machine company, with any fraud with respect to the
5 election.

6 The only defense that I saw ultimately from the
7 defendants to our evidence was, in no particular order:
8 Number one, Mike Lindell calls everybody traitors so
9 Dr. Coomer should just take his lumps supposedly. Number
10 two, Dr. Coomer is a blocker. Number three, we are
11 engaging in something called lawfare by bringing this
12 lawsuit. And, number four, that Mike Lindell believed
13 everything he was saying no matter how insane it was.

14 None of those defenses -- and you just heard some
15 of those read in the charge by Judge Wang. None of those
16 defenses are listed in the charge.

17 Now, the Mike Lindell Legal Defense Fund was bad
18 enough for one case, but then you heard about My Pillow's
19 sales promotions during trial, and I don't think I showed
20 that to you, it was admitted into evidence. Mike Lindell
21 announced the "sale of the century," but this time it was
22 at your expense, by using promo code "jury." That is what
23 you see here.

24 Now, yesterday counsel stated that Mr. Lindell did
25 not have a Twitter account, but he does, I guess it is an

1 X account, so maybe that is the distinction. And in any
2 event, we discovered this post-trial, on June the 4th, and
3 I am not going to tell you how you should feel about it,
4 but for me, I find it reprehensible, especially since we
5 have taken 2 weeks of your time to listen to important
6 evidence about election security. We took time away from
7 brewing beer which, frankly, I am jealous about. We took
8 time from sales work. We took time from working at the
9 grocery store. We took time away from healthcare. We
10 took time away from you, the students, who are on the
11 panel, if you are in school, we took time away from you,
12 as well, and teachers.

13 So, ultimately, with all of that backdrop, and what
14 we have seen, I would like to just kind of drill down on a
15 few key aspects of what this case is really about, and
16 that is this guy, Dr. Coomer, and what he has been put
17 through and his resulting damages.

18 And the numbers that you have seen were staggering.
19 When you think about all of the millions of dollars that
20 were thrown around on this, when you think of all of the
21 millions of views about this man being treasonist. So, to
22 summarize what I am going to tell you about, I will focus
23 on the May 9, 2021 statement, the Cyber Symposium, and
24 then the April 22nd defamatory statements.

25 As for the conspiracy claim, their defense is the

1 defendants either did not sit down in silent agreement to
2 conspire with themselves or they did not verbally agree
3 with each other to conspire to harm Dr. Coomer. You heard
4 that self-serving testimony from Mr. Lindell.

5 And just a few questions. If that were all that
6 were required to defend against a conspiracy claim, it
7 would have been an awkward conversation since it would
8 have involved Mike Lindell telling himself he was not
9 going to conspire with the companies that he fully
10 controlled, companies that were operating for an agenda
11 that was inconsistent with true business purposes.

12 But as the Court's charge makes clear, the real
13 issue is whether the defendants agreed by words or
14 conduct. And remember that, "conduct" as it relates to
15 the conspiracy claim. To accomplish a goal through
16 unlawful means, and that one or more unlawful acts were
17 performed to accomplish that goal, that's Instruction 42,
18 also referred to as the circumstantial evidence
19 instruction.

20 So here, the defendants' conduct is what is
21 relevant, and their agreement is self-evident. And the
22 conduct was a coordinated effort with all of the
23 defendants to defame and harm Dr. Coomer. None of this
24 would have happened without this coordinated effort.

25 So the livestreaming by Frankspeech would not have

1 occurred without Mike Lindell's approval. The Cyber
2 Symposium would not have occurred without the joint
3 participation of the defendants, including agents like
4 Kurt Olsen, including people that were invited, like Tina
5 Peters, on the private plane.

6 My Pillow, itself, had its name on everything at
7 the Cyber Symposium in order to profit off of that event.
8 You saw that on Exhibit 81, and we talked about that. I
9 would suggest you look at that exhibit and see the trend
10 leading up to that. But this was what that symposium was
11 about, at least in large part.

12 My Pillow employees who had at least apparent
13 authority -- so Judge Wang gave you an instruction on
14 that -- participated in the coordination, recruitment,
15 execution, and monetization of the event, and you saw that
16 in some of the exhibits. These aren't all of them, but
17 Todd Carter, the chief technology officer, you see him in
18 Exhibit 117.

19 In 244, you saw My Pillow folks inviting
20 legislators to the Cyber Symposium. All of them were
21 involved in the Cyber Symposium in one form or fashion.
22 And then, of course, Mr. Lindell had the express authority
23 to do everything, as he controlled the whole enchilada in
24 terms of these defendants working together.

25 So, yes, the conspiracy claim that you are going to

1 see on the charge, those elements have been met. But as
2 for the defamatory statements, themselves, the May 9th
3 statement was clearly defamatory. Remember, this was the
4 statement that was made after Newsmax publicly aired that
5 retraction, just a day or two before. It was made after
6 members of My Pillow's board of directors were resigning
7 in protest of what Mr. Lindell was doing. And it was made
8 after Mike Lindell's own daughter implored him to stop
9 what he was doing.

10 In the May 9th publication, Mr. Lindell accused
11 Dr. Coomer of "high crimes" in connection with the 2020
12 election by "taking the election through China." It is
13 ridiculous to come before you and say that "this is not
14 about rigging the election." He said that multiple times,
15 "this is not about rigging the election." Of course it
16 was.

17 He said he had the evidence, when you saw that he
18 had none. He said, I have the evidence to prove that, and
19 he had none. He said he had -- excuse me, he had the
20 requisite mental state of reckless disregard, and that is
21 a key definition in this. And he admitted repeatedly that
22 he didn't even know who Dr. Coomer was and he never
23 bothered to find out. Most of the time he couldn't even
24 get his title at Dominion right. It is the director of
25 product strategy and security. It is a mouthful.

1 And Mr. Lindell's motivation in making the
2 statement was not the general concerns -- you heard a lot
3 about the general concerns about the election security
4 issues when we were watching some of those video clips.
5 Mr. Lindell's motivation was based on the false belief
6 that Dr. Coomer was a "blocker," that whole thing about
7 Newsmax.

8 Look at the charge closely, there is not a blocker
9 defense in this charge. You don't get off from defaming
10 someone because you think that they blocked you from
11 making money on Newsmax. And the "blocker" defense, from
12 what I heard, was meant to somehow suggest that we are
13 stifling free speech, so I want to visit with you about
14 that briefly.

15 Of course Mr. Lindell, Dr. Coomer, and everybody
16 else in this country, are guaranteed their First Amendment
17 right to free speech, it is a core American value.
18 Mr. Lindell has always had the right to say that he
19 believes our election voting equipment, our management
20 software are somehow vulnerable to attack. And, of
21 course, there are always potential vulnerabilities, as
22 Dr. Halderman made abundantly clear.

23 Dr. Coomer, himself, was a proponent of what he
24 called the "coordinated vulnerability disclosure program,"
25 where election companies like Dominion could work with

1 people like Dr. Halderman to adapt to these risks.

2 But, incredibly, the new risks that we are seeing
3 are coming from people like Mike Lindell, himself, maybe
4 even more so than foreign actors, in releasing images that
5 were stolen from the Mesa County Clerk's Office, and ended
6 up resulting in Tina Peters getting a 9-year prison
7 sentence. And that is a perfect example of the risks that
8 we are now seeing.

9 And the Judge talked about negative inferences, and
10 that is a little bit of a complicated term, but
11 understand, I asked Tina Peters multiple times about Mike
12 Lindell, the Cyber Symposium, getting to the Cyber
13 Symposium, how she was paid, and all of those she took the
14 Fifth on, and all of those related to this case. That is
15 what it says in the charge, is it related to the case?

16 Now, Dr. Coomer, himself, exercised his First
17 Amendment rights in his private Facebook pages. He was
18 literally questioned and chastised by the defendants about
19 his core political beliefs during this trial, not because
20 of the foul language that he used, which is protected
21 speech, but he is entitled to that form of protected
22 speech, and they were using that against him.

23 But as the Court's charge makes clear in the
24 intentional -- you will see it in the intentional
25 infliction of emotional distress section, insulting

1 someone is generally not actionable. We are not claiming
2 that when Mike Lindell called Eric Coomer "disgusting"
3 over and over again, that that is what the defamation is.
4 You hear that all of the time, you see that online all of
5 the time.

6 It is when Mike Lindell stated that Dr. Coomer
7 committed treason and that he was a traitor to the United
8 States of America and that he had evidence of the claims,
9 that is when Mike Lindell crossed the line into
10 defamation.

11 Defamation law, as you see applied by the Court in
12 this case, this isn't a new concept, it has been around
13 for centuries, and in my view, it is married to the First
14 Amendment. It is compatible with the First Amendment, it
15 is not incompatible with the First Amendment. It protects
16 speech.

17 So the May 9th statement was defamation in its
18 purest form, and it caused, obviously, immeasurable damage
19 to Dr. Coomer. He was accused of a crime, not an alleged
20 crime as you see on the TV news broadcast, but a crime,
21 and that there was evidence of that crime; it is
22 defamation.

23 The Cyber Symposium. So the entire premise of the
24 Cyber Symposium, itself, was, as you saw, technically
25 impossible. Harri Hursti testified about that.

1 Dr. Halderman testified about it. Ashley Morgan showed
2 you the "pew pew" map, as she called it. It was science
3 fiction, as Dr. Halderman said over and over again.

4 The whole concept of that assumed that the Election
5 Management Systems throughout this country are connected
6 to the internet, as Mr. Lindell claimed in *Absolute Proof*.
7 They are not. As Dr. Coomer made clear, the only
8 potential transmission from a county or precinct, when he
9 was involved in the elections through 2022, were through
10 this encrypted cellular transmission of unofficial
11 results, and that is at the election of the county,
12 itself. So if made, that transmission would be from a
13 device that is air gapped, meaning not hooked up to the
14 rest of the voting systems.

15 So you know now from Mike Lindell, going to the
16 symposium, that his own texts with Mary Fanning during the
17 symposium, that he knew that there was no PCAP data. And
18 I apologize for obviously this not being that legible, but
19 he very clearly said contemporaneously that he knew that
20 there was no PCAP data, and he was stalling his invited
21 guests. And as Josh Merritt said, the problem was that he
22 was in for a penny and, therefore, in for a pound, so he
23 went forward.

24 Ultimately, the data that they presented was a
25 complete hoax. As multiple witnesses testified, it was

1 falsified data. It cost Mike Lindell another \$5 million
2 in that arbitration loss, which the Court defined for you.
3 It is unclear whether Mike Lindell included that \$5
4 million in the \$40 million that he had already spent on
5 pushing this fake election claim, but I doubt it.

6 The evidence we presented to you was that
7 Mr. Lindell recklessly relied upon a known con man, Dennis
8 Montgomery, and an unseen internet journalist, Mary
9 Fanning, as the sources for his information, and he did so
10 despite clear warnings, including the one that you saw
11 from Mike Zullo, in the memorandum that was sent to Mike
12 Lindell on his My Pillow email account the week before the
13 symposium. It is a lengthy document, I kind of hit the
14 highlights of it, I strongly suggest you review it in its
15 entirety. So Mike Lindell knew that, but his response was
16 to attack the messenger as opposed to actually look at the
17 information that was being provided to him.

18 So all of the testimony in this case, including
19 from Dr. Coomer, Dr. Halderman, the Red Team members,
20 Mr. Merritt, and Harri Hursti, established that the entire
21 premise of the symposium and the resulting proof that
22 "China stole the election," was a hoax that you saw played
23 out in realtime.

24 Remember, Mike Lindell also mentioned China in that
25 May 9th defamatory statement about Dr. Coomer, thus

1 implying that Dr. Coomer and Dominion were somehow wrapped
2 up in this overall election scheme.

3 Now, during and after the symposium, Mr. Lindell's
4 excuses for not delivering on his promises included that
5 he was attacked in the elevator, that he had concerns over
6 a poison pill, and that, too, was false. And to this day,
7 and years later, he claims that all of this evidence that
8 he's telling his supporters, apparently, that he is going
9 to reveal, he is prevented from doing so because of
10 government secrecy laws, otherwise he would finally reveal
11 this truth to the entire world.

12 So why are these facts about the symposium
13 important? I can't list them all, but here is a few:
14 First, the chaos that ensued resulting -- ended up
15 resulting in unvetted speakers being put onto the stage
16 who, not surprisingly, made defamatory statements about
17 Dr. Coomer.

18 Mr. Lindell said that his whole plan going in was
19 to pitch this PCAP data for three days to the crowd. He
20 claims he lost his voice somewhere on day two, but still
21 retreated to give interviews to the media. And then on
22 day three he magically regained his voice, as you saw.

23 The truth is that the data wasn't there and so
24 Mr. Lindell went to plan B or, perhaps plan C, and he put
25 his attorney, Mr. Olsen, the best that we can tell,

1 because Mr. Olsen equivocated some, but Mr. Olsen was in
2 charge as his agent, of grabbing people ostensibly off the
3 streets to put them on the stage.

4 So the defendants didn't act with just reckless
5 disregard here, they acted with no regard as to who was
6 going to go up on stage and what they were going to say.

7 Second, the entire Cyber Symposium served as a
8 backdrop to give legitimacy to people like Joe Oltmann and
9 David Clements. In this context, Dr. Coomer was promoted
10 as the villain who exploited vulnerabilities that didn't
11 exist as a matter of easily verified facts, and
12 Dr. Halderman was very clear on that point.

13 Third, the event was to the financial benefit of
14 both Frankspeech and My Pillow. And while Mike Lindell
15 was clearly not a detailed person, he was detailed in the
16 tracking of his promo codes, as you saw, and he was
17 detailed in tracking of the viewership while he was
18 launching Frankspeech. Those are the things that mattered
19 most.

20 Whether My Pillow made money on this or not, we
21 will never know the answer to that, we don't have their
22 audited financial statements, but they sure tried. And
23 Mike Lindell's obsession with these promo codes that you
24 saw was a big part of why My Pillow was participating in
25 this event.

1 You can easily conclude from the evidence that we
2 showed you that Mike Lindell acted with reckless disregard
3 or, again, with no regard, to what was being published on
4 his stage, because he was busy doing either damage
5 control, and obviously letting people who knew nothing
6 about what they were claiming, appear on his stage.

7 And, finally, I think it is really important for
8 you guys to realize that the damage that was caused by
9 that symposium, it was not just to Dr. Coomer, it was to
10 others. It was to the entire country.

11 The defendants intentionally released those images
12 from Mesa County. Dr. Halderman talked about the damage
13 that it caused. Mr. Hursti talked about the damage that
14 it caused. And obviously he put a now-convicted felon --
15 he put convicted felon Tina Peters on the stage to
16 literally promote her crime.

17 Now, publications, let me talk about publications.
18 You know, I mentioned that Mr. Lindell thinks it has to
19 come out of his mouth. So as the Court's charge makes
20 clear, Mr. Lindell was not required to make the defamatory
21 statements directly, although he did on six of the ten
22 occasions, those were Mike Lindell.

23 The term "published" is defined in your charge, and
24 it is a key one, it is on slide 9, and it makes clear, as
25 you can see, what the definition is, but focus on the

1 second part, "Anyone who causes or participates in the
2 publication of a defamatory matter can be liable for the
3 publication." "Causes or participates," which Frankspeech
4 and My Pillow participated or caused all of these
5 defamatory statements, all ten. Not six, not four, ten.

6 The evidence showed that all of the defendants,
7 headed by Mike Lindell and Frankspeech, livestreamed the
8 event during this symposium; that is participating in the
9 publication. That is Stipulation 34 as it relates to
10 Frankspeech.

11 So those publications during the symposium are a
12 relatively simple exercise in terms of evaluating. Mike
13 Lindell and My Pillow caused and participated in these
14 publications through their direct support of the event.
15 Mike Lindell wore his My Pillow hat throughout the event.
16 Why else were people watching, which generated eyeballs to
17 his new platform, Frankspeech. My Pillow employees helped
18 organize the event and operate the event, as we saw in
19 slide 5.

20 My Pillow directly supported the event through --
21 in Mr. Lindell's own words, "pitching promo codes"
22 directly from -- and we will get to this, too, he pitched
23 promo codes directly from the stage, but he also announced
24 the Cyber Symposium before it happened, you saw that on
25 this flash sale, where he was "supporting," that is the

1 term he used, he was "supporting" the Cyber Symposium from
2 tip to tail.

3 My Pillow banner ads were used by the networks that
4 were covering this, as My Pillow knew that they would.
5 Mr. Lindell, as the CEO, hosted the event, and even
6 pitched that promo code that I referred to as promo code
7 "audit," directly linking My Pillow to the audit and the
8 election security issues.

9 So there can be no doubt from my perspective that
10 these publications at the symposium would not have
11 occurred but for the combined participation of
12 Frankspeech, My Pillow and, of course, Mr. Lindell.

13 Further, the two statements that were made at the
14 symposium were clearly defamatory. The first one was a
15 recycling of the Joe Oltmann claims about the Antifa call.
16 These claims were made on that stage 9 months -- 9 months
17 after they were originally asserted by Mr. Oltmann. They
18 had 9 months to investigate these claims, and they didn't
19 even try. Had they done so, they would have learned that
20 Joe Oltmann had no business being up on the stage with
21 him.

22 Joe Oltmann's story was, in our view, a naked
23 attempt to interject doubt into the 2020 election prior to
24 its certification. It was based on that unrecorded call,
25 even though his cohost -- remember Mr. McGuire, who was on

1 the video, his cohost, the guy closest to him, testified
2 that Mr. Oltmann usually recorded these calls.

3 Mr. McGuire testified that Mr. Oltmann had -- and I
4 hope you caught this -- he had a habit of "grafting"
5 himself onto other people's calls. That was Mr. McGuire's
6 testimony. And he also said, he said flat out, "I don't
7 believe Mr. Oltmann's story about this call." And he
8 would know, he was the guy doing these podcasts with
9 Mr. Oltmann at that time.

10 And his story makes sense, because at the time Joe
11 Oltmann said he was supposedly investigating these Antifa
12 journalists, and thus he would be recording the calls to
13 try to get to the bottom of whatever conspiracy that was,
14 but he didn't have a recording of this extremely important
15 call that was going to lead to a lot of the events that we
16 saw in this case.

17 And as you heard and saw, Joe Oltmann never even
18 saw this mysterious "Eric from Dominion" on the call, and
19 he admitted -- he admitted that he fabricated that screen
20 shot. Remember the screen shot we showed you, by changing
21 that date to before the election. So he had to go in and
22 clicky clicky change the screen shot date to December
23 26th, when we know from the Google Doodle it was done on
24 November 11th.

25 Now, after that happened, Mr. Oltmann proceeded to

1 hunt down and stalk Dr. Coomer after the election,
2 including doxing him. That is another defined term, one
3 that you all asked about, and promising, as we saw in the
4 Exhibit 34 -- I don't need to read it, it is bad enough.
5 But at the time, that was a few months before you saw the
6 evidence about the introduction between Mr. Oltmann to My
7 Pillow.

8 So he came to the table with this baggage already.
9 And so obviously you heard the testimony from Dr. Coomer
10 about what was going on in his life at that time; he was
11 already in hiding. He would come home from time to time
12 to feed his cats at that point. But this is the man that
13 My Pillow, Mr. Lindell, decided to cozy up to.

14 Obviously Dr. Coomer denied being on that Antifa
15 call from the stand under oath, and no disrespect to
16 Dr. Coomer, but he does not appear to me to be an Antifa
17 mastermind, and he wasn't, despite the satirical post that
18 you saw, which was their tie, apparently, to Antifa.

19 So Joe Oltmann's story was a hoax, just like the
20 PCAP data was a hoax at the Cyber Symposium. And despite
21 the obvious falsities and the indications that it was a
22 hoax, defendants put Oltmann on the air and on the stage
23 as one piece of this election fraud conspiracy puzzle.
24 And they obviously ignored Dr. Coomer's clear denial,
25 published in the Denver Post. I think there was some

1 questions about who reads that outside of Colorado, but if
2 you don't, you can go on the internet, so that is one easy
3 way.

4 The other easy way is to look at The New York Times
5 article that was referenced about Dr. Coomer. So they all
6 had notice that this gentleman was denying this claim flat
7 out. No one contacted him. None of the defendants
8 bothered to investigate any of that. So that was the
9 number one statement that was made from the symposium's
10 stage.

11 The second statement was worse, to the extent that
12 you are weighing these things, that was the one made by
13 David Clements, and that was in Stipulation 36. It
14 accused Dr. Coomer of all sorts of horrific things that
15 you see on this slide.

16 We tried our best to educate you and provide you
17 with the background that you need to evaluate this, and
18 that evidence ultimately was fatal to this claim. In
19 reality, Dr. Coomer improved the adjudication function;
20 that is what he was coinventor of. He was trying to make
21 things better, and he designed and was part of the design
22 team to create an audit trail on the ballot, itself.

23 So this whole situation with the adjudication
24 function, it is not used to flip votes. It is not -- they
25 can't do bulk adjudication. That was what Dr. Halderman's

1 testimony was about, well, if you could mess with
2 adjudication, you would have to get that one fellow in the
3 room by himself to feed ballots one by one through that.
4 He mentioned that very quickly, but the point is, it would
5 be difficult to create any kind of change to an election
6 through adjudication. And certainly the other obvious
7 part of that is, this guy doesn't do that work. He is on
8 the service side. He is not an election official, he is
9 not counting ballots himself.

10 So all of the statements that were made about
11 Dr. Coomer at the symposium were false. And you will see
12 on the charge that the defendants have the ability to
13 prove to you that these statements were, in fact, true,
14 and they didn't even try. They didn't even try that on
15 their side of the table.

16 As for Mr. Oltmann, respectfully, he was one of the
17 least credible witnesses in this case, bested only by
18 Mr. Lindell himself. Actually, Joe Oltmann and Dennis
19 Montgomery probably tied for second in terms of their
20 credibility from what we heard in their testimony.

21 And so, I mean, I guess ultimately, the thought
22 that Dr. Coomer was the triggerman, this goes back to the
23 Clements statement about him, that he "murdered the
24 American vote" is defamatory per se in this case. It
25 accuses him of being directly involved through a function

1 that he helped invent, to help the situation, that he used
2 that to "murder the American people's votes."

3 So defendants knew that those statements were
4 false, or certainly published them with reckless disregard
5 to their falsity. I don't think Mike Lindell respectfully
6 understands any of this technology, and the folks that he
7 hired, which we will talk about, I don't think that they
8 cared about the truth of election technology, and you
9 heard that in spades from Dr. Halderman's testimony.

10 All Mr. Lindell wanted to do is to convince the
11 public that we need to melt down all of the voting
12 machines in the United States of America. The April 2022
13 statements -- and I put a clock on me. How are we doing?

14 COURTROOM DEPUTY: It is time for your 5-minute
15 warning.

16 MR. CAIN: There you go.

17 The April 2022 statements, that is the group of
18 statements that were made by Mike Lindell after he was
19 served on the steps of the Capitol -- or before he went
20 on, it wasn't on the steps. Those statements, along with
21 the May statement and the April 5th and the April 6th
22 statements, those are really at the core of the most
23 egregious statements. So May 9th, April 5th, April 6th.

24 The April 5th statement was -- let's go to slide
25 16, Hank. This one was sponsored by promo code "L66." At

1 that election fraud rally, there Mr. Lindell claimed that
2 the fraud on the 2020 election started right here in
3 Colorado with Dominion and Dr. Coomer, and that Dr. Coomer
4 would be the first one behind bars when the machines were
5 melted down.

6 Mr. Lindell had done no investigation about
7 Dr. Coomer at the time, and appeared to defend against the
8 defamation by claiming, well, he was humiliated because he
9 got served.

10 More likely what happened there is that he was fed
11 the lines that he said by none other than Mr. Oltmann, who
12 we showed you on Exhibit 114, reading the lawsuit prior to
13 Mr. Lindell going on stage. So being embarrassed by being
14 served with the lawsuit is not like the blocker defense
15 that we discussed, a defense to defamation.

16 I am going to go through the April 6th statement,
17 and just given the timing, I will pause it there, and then
18 I will come back, and I will have 15 minutes more, and I
19 will try not to use it all, but to go through at a high
20 level some of the other evidence.

21 But the April 6th statement, I really want you all
22 to focus on that, because that statement, and the
23 motivation behind that statement, was pure retaliation.
24 That statement was aired on Frankspeech, and it was
25 wholesale defamation of Dr. Coomer. Mr. Lindell still

1 didn't even know Dr. Coomer's title at Dominion. He flat
2 out said, without evidence, that "Eric Coomer, you are a
3 criminal. You are part of the biggest crime this world
4 has ever seen. You even said what you" -- understand,
5 that is a reference to what Mr. Oltmann was saying, when
6 Mr. Lindell says, "you even said what you were going to
7 do," that is the whole confession story on this Antifa
8 call.

9 Then, of course, he said, "You committed crimes
10 against the United States and, frankly, all of humanity."
11 Amazingly to me, as it relates to sort of all of this
12 testimony, is that Mr. Lindell has said from the stand
13 multiple times, "I never said that Dr. Coomer rigged the
14 2020 election." Well, what planet is he living on? Just
15 read the words of the stipulations for all of these
16 defamatory statements.

17 And recall when I impeached Mr. Lindell with his
18 deposition testimony, he was asked in response to a
19 question about whether you are claiming that Dr. Coomer
20 rigged the election, his response was, "Absolutely."
21 Absolutely he was claiming that Dr. Coomer rigged the
22 election.

23 So when I come back, I want to visit with you
24 briefly about circumstantial evidence, because in
25 defamation cases, the defendants' state of mind is very

1 important, and obviously here, Mr. Lindell claims that he
2 thought everything he was saying was on the up and up and
3 was true, but we are going to look and get into some of
4 the circumstantial evidence that we have regarding his
5 state of mind, and then we will talk about damages, and
6 then you guys will start deliberating. Thanks.

7 THE COURT: Ms. DeMaster.

8 **CLOSING ARGUMENT**

9 **BY MS. DEMASTER:**

10 Just getting set up here. So, the Judge has given
11 me one hour to talk to you about this, but I'm not going
12 to take one hour. I won't take that long. I have to go
13 through some things to which you may have questions on or
14 want clarification on, certainly with the litany of
15 completely unnecessary and convoluted information the
16 plaintiff has put on and that was just described, which we
17 warned you would happen at the beginning of this.

18 We warned you that this was really a four-day trial
19 that they would turn into ten days, but if you will give
20 me 5 minutes, again I will explain some things. But if
21 you will give me just the first 5 minutes to explain
22 really the only thing that matters, the only thing this
23 will come down to, I can do that, and then that's all you
24 will need to know.

25 The only thing that matters in this case is whether

1 defendant, Mr. Lindell, believed what he was saying was
2 true. Of course there are other things that you will see
3 matter, as well, but this is the crux. This is the crux
4 of our First Amendment.

5 Mr. Lindell, as you have seen, as even plaintiff's
6 counsel, Mr. Cain stated, unequivocally believes
7 everything he said. Even if you think that any statements
8 at all caused the plaintiff's actual damages, which we
9 will go over, because they didn't, by Mr. Lindell or by
10 any defendants, all that matters is whether he believed
11 them.

12 Now, please don't let yourselves be fooled by this,
13 and I wouldn't blame you, but we are going to work through
14 that together. The plaintiff and his team here have tried
15 to convince you that anyone that doesn't stand with the
16 Ministry of Truth, with their "club," is wrong, is
17 defamatory, is false, should be convicted, found guilty.
18 That is absolutely false.

19 This is the First Amendment, ladies and gentlemen,
20 for all of us. At the end of the day, that is all you
21 need to decide, did Mr. Lindell know that his statements
22 were false? Did he have substantial doubts that his
23 statements were false? Plaintiff put on absolutely no
24 evidence that he doubted anything he stated about the
25 government.

1 This is a stringent standard of the First
2 Amendment; the right to free speech. When we say "free
3 speech," we are talking about the right to speak about our
4 governments. Our governments, that includes government
5 agents like the plaintiff, who is not merely a private
6 citizen, but was working for a government contractor,
7 Dominion Voting Systems, who does nothing but contract
8 with the government.

9 He was working with former and somewhat
10 semi-government officials like Matt Crane, who you met,
11 and others. Both of them called this system of government
12 officials, government leaders, and voting machine
13 companies and these clerks associations, and all kinds of
14 other leaders, the "club." It is a "club" we have. A
15 Ministry of Truth Club. And they are going to tell you
16 what you are allowed to say. They are going to tell you
17 what you need to know.

18 None of us, again including the plaintiff's own
19 lawyer, Mr. Cain, thinks that Michael Lindell did not
20 believe everything he was saying. He can call it insane,
21 he can call it crazy, but that's not the standard.

22 Now, the First Amendment doesn't only protect the
23 speech you agree with, take -- I will help you take a lot
24 of breaths and relax about some things you think you are
25 being asked to do. One, you are not being asked to say

1 you agree with Mr. Lindell, with any defendants here. You
2 are not being asked to say you agree with his statements.
3 That, you can very well say you don't agree at all. Thank
4 God the First Amendment does not protect only the speech
5 we agree with. That's what the plaintiff and the "club,"
6 the Ministry of Truth, that is what they want you to do.

7 That's what makes this so important, is they are
8 asking you to create new precedent. The plaintiff,
9 himself, stated that, but that is not what it requires.
10 It requires an investigation; due diligence; looking into
11 this; looking into things; obtaining cast-vote records and
12 voter registration information and data from multiple
13 United States counties, clerks, municipalities; talking to
14 former government officials, military leaders,
15 cybersecurity experts.

16 Now, admittedly, these aren't the experts in the
17 form of government officials that are a part of the
18 "club," they are not, but they are still experts to
19 Mr. Lindell. They are still former government officials
20 to everyone, and Mike Lindell sought them out.

21 There was no reckless disregard. You will hear
22 that term, and you have heard that term thrown around by
23 the plaintiff's counsel here, that is to say if Mike
24 Lindell acted what they considered recklessly, that is
25 enough. But it is not, ladies and gentlemen, it is a term

1 of art, which basically means not what it sounds like, not
2 the way we would use reckless. So, like, they recklessly
3 put this thing together.

4 It means that he had substantial doubts, that he
5 had serious doubts. It means -- reckless disregard would
6 be Mr. Lindell locking himself in a room saying, I believe
7 this, I will not talk to anyone, I will not look at any
8 data. No matter what you tell me, I am going to believe
9 it, shut your mouth, and I am going to tell people. That
10 is not what he did. We all know that is not what he did.

11 He searched out everyone, over 35 experts. He
12 produced three documentaries, three full-length
13 documentaries, as he testified to. And we saw clips from
14 two of those. And in just those two, there were three
15 people that he met with that he talked to, but he
16 interviewed so many more, which he testified to.

17 I think in the history of the world, to look at
18 somebody who actually conducted due diligence to find out
19 if what they believed was true or false about there being
20 fraud in the 2020 election, or about there being something
21 wrong about China potentially hacking or manipulating
22 these machines, or injecting software or doing something,
23 he sought out everybody that he could.

24 He sought out Dr. Halderman, the plaintiff's
25 expert, who ignored him. Mike Lindell's team sought out

1 Matt Crane, a witness for the plaintiff, who not only
2 ignored him, refused to talk to them, but actually
3 negatively responded, "Get away. You are ridiculous."

4 Well, they are in a "club," ladies and gentlemen.
5 They are in a "club," and Mike Lindell was not. His team,
6 he hired people after people to vet, to vet the
7 information that he was getting, the people that were
8 giving him the information. He met Kurt Olsen. I think,
9 again, in the history, we have never seen somebody
10 actually document some of their due diligence in looking
11 into concerns about the 2020 election.

12 He documented it. He videoed it himself at a
13 table, learning from someone, hearing something from
14 someone and saying, "Wow, this is incredible. This is
15 crazy." That is the standard of the First Amendment. He
16 believed it, and he looked into it. He looked into it.

17 And he did talk about blockers. You see, the
18 plaintiff, their team would want you to think that all of
19 these documentaries were just accusing the plaintiff of
20 rigging the entire election. Mike Lindell never once said
21 that. He never once said that.

22 In fact, on many occasions -- and we will go
23 through those somewhat, but he was very clear that it was
24 a group. That it was a group effort. It was a, you know,
25 a crime family. He thought this included Dominion,

1 thought it included Republican Georgia Governor Brian
2 Kemp, or Republican from Georgia, Secretary of State, Brad
3 Raffensperger, that they are part of this group that is
4 trying to silence speech.

5 Because, you see, when Mr. Lindell began to express
6 concerns, when he began to feel these concerns, he started
7 getting some data from what he was talking about, and he
8 was mainly concerned about China and foreign countries
9 having hacked in. And then Dominion Voting Systems starts
10 sending letters out to people that were coming forward
11 with information.

12 Mr. Lindell knew this. They sent over a hundred
13 letters to people, whether they were election workers or
14 others, saying I saw something. I saw something. And
15 they sent them letters and said, shut up. Shut up. Don't
16 say a word. And then they began suing.

17 So Mr. Lindell -- and the plaintiff was part of
18 that. He was an official there. He was part of this.
19 And he calls those "blockers" to suppress your speech, and
20 it is not just regular private citizens that don't like
21 what you say, this is the government.

22 I mean, think of the difference, ladies and
23 gentlemen. The plaintiff would have you believe that he
24 is this typical private citizen, which we will agree he is
25 now, through no fault of Mr. Lindell, at all, which he has

1 admitted, this typical private citizen, and this is just
2 kind of a battle between two private citizens.

3 This is the government, the "club," the Ministry of
4 Truth regarding elections, and they will tell you what to
5 say. They have tried to confuse you, to conflate these
6 issues because they know they can't convince us, so they
7 tried to confuse us.

8 And that is the best way to explain it. That is
9 why we sat through a 2-week trial. And, again, the only
10 thing you have to know is whether they provided any
11 evidence, which they didn't, or any evidence that
12 Mr. Lindell knew what he was saying was false and believed
13 it; that he had substantial doubts, that he refused to
14 interview or investigate anybody about any of this. They
15 cannot.

16 That is the First Amendment standard, especially
17 when it comes to speech about our government. When it
18 comes to speech, these are matters of public concern.
19 Government officials, government agents, matters of public
20 concern about how our government operates. Is this not
21 what the entire crux of the First Amendment is? It is.

22 This is exactly why we have a First Amendment.
23 This is exactly why we are sitting here today, in the
24 beautiful State of Colorado, in this courtroom, because we
25 chose to have a country where we could criticize our

1 government. How many of us have criticized politicians,
2 government officials, the IRS, I don't know, government
3 agencies, people that work with them?

4 Our local governments, they do something -- or
5 don't fill up a pothole, right, we curse at them. The
6 plaintiff wants to say you can't do that anymore. That is
7 what this is about; that we can't say what they tell you
8 not to say. I believe it was exhibit -- well, I will get
9 to that later, I believe he admitted it, that he wanted to
10 establish new precedent.

11 All of the evidence, all of the evidence in this
12 case points to one unassailable conclusion, which is that
13 Mike Lindell was a man pursuing the truth after the 2020
14 election. We all know that people were concerned. We saw
15 spikes in the middle of the night, things were different
16 after COVID and that election. There was a lot more
17 mail-in ballots. There were spikes in the middle of the
18 night. There were some states who just shut down their
19 elections, and when they came up and there were 200,000
20 more votes. So he was concerned. Like many people, he
21 was concerned, so he looked into it.

22 And unlike some of us that might just Google some
23 things or go on social media, he hired countless people.
24 He reached out, he hired attorney Curt Olsen, a man who
25 you saw flew here from Maryland to sit here in person and

1 testify before you that he would trust Mike Lindell with
2 his life. That he is an honest man. That he believes
3 everything he said.

4 And that he hired Kurt Olsen -- because Mr. Lindell
5 admittedly doesn't know computers -- to help to find
6 people that could explain some of this to him. Now, the
7 plaintiff wants you to believe that you need a Ph.D., that
8 you need to understand the intricacies of computer systems
9 just to speak or have an opinion on those. But that's not
10 the standard. You don't need a Ph.D.

11 Again, breathe. Again, we don't need a Ph.D. We
12 don't need a degree in computer science to be able to
13 criticize our government functions. And what government
14 function is more crucial, more dire than our votes and our
15 elections?

16 You heard and you saw videos of Democrats
17 throughout the years, past years, 2016 on, touting how
18 election voting machines, including Dominion, could be
19 hacked, could be manipulated, there could be malware
20 inserted in those. Mike Lindell watched those, and it
21 stuck with him.

22 Some of those starred the plaintiff's witnesses,
23 who wanted you to believe, until we came up and
24 cross-examined them, that it's completely ridiculous to
25 think there could be fraud. Now, they have been claiming

1 that for several years, on which Mr. Lindell relied, but
2 now suddenly, the "club" put a kibosh on the 2020
3 election, on people like Mr. Lindell. Why? Why do that?

4 Now, the next section I will get through, we are
5 just going to go through some of the holes in the
6 plaintiff's case that they put on. We call this the
7 throne of lies, or throne of omissions and
8 misrepresentations. Some of their witnesses, some things
9 you saw, they would say one thing to somebody, and then
10 suddenly retract and correct that when something else was
11 shown.

12 And so we will just quickly go through this. First
13 you have the plaintiff, Dr. Coomer, who admitted that he
14 lied to the police. But it was okay, he told you he only
15 lied to the police for 90 minutes, then later he told the
16 truth. He purposely lied. But that was his excuse, well,
17 it is okay, I stopped lying at some point later.

18 He accused President Trump, regardless of your
19 feelings, of trying to round people up on trains and gas
20 them like Nazis. He called him a "Nazi," a "fascist," a
21 "carnival barker," a "racist" and told any of these people
22 to "unfollow" if you even think about this. That is what
23 he thinks.

24 We confronted him with Tweets. After stating that
25 he didn't have Twitter in 2020, we confronted him with

1 Tweets from 2020 during the time of the election, and he
2 said, okay, fine, those are mine, where he used the word
3 "twat," to the First Lady of the United States, Melania
4 Trump. As a female, "twat" is not okay. We know what
5 that means. It is not the past tense of Tweet. It is not
6 any other word. He said on the stand he didn't know what
7 he meant, he just typed it in. That is not okay to say to
8 any First Lady; Michelle Obama, Dr. Jill Biden, Laura
9 Bush, Melania Trump, nor any woman, for that matter.

10 You see, when confronted with these Facebook posts,
11 again, all leading up and around the time of the 2020
12 election, the plaintiff said it was hyperbole, it is a
13 government official, it is hyperbole. I wasn't actually
14 calling him a fascist or a Nazi, guilty of murdering
15 millions and millions of people, which he was, it was all
16 hyperbole.

17 Now, incredibly, we, Mr. Lindell, agrees with that,
18 it is protected speech. It is. We are not saying that
19 Dr. Coomer, the plaintiff, didn't have a right to post
20 that. He did. This is a government official, government
21 functions. It was disgusting, insulting, it was gross
22 but, I mean, it is our free speech.

23 But the plaintiff says, I can have free speech, I
24 can criticize, I can call him "Nazi," "racist," "fascist,"
25 "xenophobic," "carnival barker" "twat," but he can't. He

1 can't. That is the double standard from this "club," this
2 Ministry of Truth. And we will go through that and we
3 will see that.

4 We gave them opportunities to explain. He didn't.
5 But much of the reason we bring this up is this notion by
6 the plaintiff to try to convince us that he has some grand
7 reputation. In fact, that is the majority of the damages,
8 he is claiming that he had this wonderful reputation he
9 was known by. Is that true?

10 The evidence showed that there were millions of
11 posts. You heard from Peter Kent yesterday, there were
12 millions of post by lots of other people, none of which
13 were the defendants, for months; November, December,
14 January. Everybody was posting about this, and in the
15 context of hearing Mr. Oltmann's story, the context of
16 that going wide, and the context of finding these Facebook
17 posts, all of these posts, this was concerning.

18 This was very concerning, especially somebody whose
19 job is at the pinnacle of our elections -- our elections,
20 how our vote is counted. The adjudication software, it
21 decides the voter intent. You fill out a bubble wrong,
22 the plaintiff has created software to decide how you
23 really wanted to vote.

24 Can you blame citizens for not -- for being nervous
25 about that? Think of it on the other side, all right.

1 Think of it on the other side. If somebody who is in
2 charge of how our votes are tabulated, with security in
3 elections on the other side, say in the 2024 election,
4 loves Trump and hates, hates, let's say, Kamala Harris, he
5 hates Joe Biden, says you are a fascist, a racist pig,
6 anybody who votes for them, don't even talk to me, don't
7 be my friend, and that person is in charge of how our
8 votes are tallied, wouldn't you be concerned? Both sides.

9 All we are saying is that there was no reputation.
10 In fact, the plaintiff admitted he had no reputation left
11 by January of 2021. He admitted that to us. So he is
12 seeking reputational damages, and there is no reputation
13 left by January.

14 And to be clear, Mr. Lindell did not say a single
15 word about him at issue here, did not know he existed,
16 Frankspeech didn't exist until April, May, May 2021, 5
17 months after the plaintiff admitted he had no reputation
18 left. They put on no evidence that his reputation started
19 to get better. There was none, so there is none there.

20 And then we met Harri Hursti by video deposition,
21 and he testified, and they introduced you to him as an
22 expert, as a guy who knows election integrity issues. And
23 you first saw his testimony and thought, wow, this guy
24 says there is no election fraud, that things are okay,
25 that Mr. Lindell is crazy, that all people who talked

1 about this are crazy. How could they think there would be
2 election fraud?

3 They do that, and you listened to that, and you
4 said, this guys seems to be an expert. He goes around to
5 all these places, he went to the Cyber Symposium. And
6 then later in the testimony, we saw Harri Hursti on *Kill*
7 *Chain*, an HBO documentary from 2019, shouting from the
8 rooftop, these machines, including Dominion -- in fact, he
9 said every machine to be used in the 2020 election was
10 hacked, can be hacked, connects to the internet, is
11 vulnerable. He was saying that.

12 Why would the plaintiff have hidden that from you?
13 When I questioned Mr. Hursti about that; why did you make
14 these comments, what changed from the 2019 documentary,
15 from you shouting that this is bad and, look, every
16 machine was hacked, what changed a couple months later?
17 Did somebody get to him? Did the "club" say, don't do
18 this? Because he seems to think that Mr. Lindell was
19 crazy, and that is what they are trying to say. Why do
20 that?

21 Mr. Lindell had relied on him, on those statements
22 in saying "every voting machine that will be used in the
23 2020 election, including Dominion." What is interesting,
24 too, is in that video clip with Harri Hursti and others,
25 you saw information come out, I believe it is Exhibit 247,

1 you saw information come out that they had what they
2 called DEF CON, where hackers come and do this.

3 Now, what is interesting, I believe it was
4 Mr. Hursti, or somebody with him at this DEF CON, that
5 loved the fact that these aren't experts or computer
6 science experts, there wasn't a Ph.D. there, they brought
7 in computer hackers, guys who know how to hack systems to
8 see if they can hack all these machines that would be used
9 in the 2020 election, including Dominion, and every single
10 one of them was hacked.

11 What is more interesting, though, is they said --
12 they said that they reached out to the voting machine
13 companies, hey, come here, come, we are going to hack your
14 machines, we are just going to do it, or we are going to
15 see if we can expose vulnerabilities or see if maybe we
16 can talk to you about ways you can enhance your security
17 on your voting machines.

18 And they received this information at the time that
19 the plaintiff admitted he was working as a top official,
20 the director of security for Dominion Voting Machines, and
21 in that clip you saw that not one single company
22 responded. They did not show up. They didn't want to.

23 But, again, this clip was omitted from you, it was
24 concealed by the plaintiff, who just wanted you to see
25 what Mr. Hursti said in the video about Mr. Lindell being

1 -- how could he think this. Well, partially because he
2 relied on your words. But you saw those words. We had
3 him testify.

4 Now, one of the witnesses -- you know, they brought
5 up, the plaintiff brought up Josh Merritt, who also
6 appeared by video testimony, and astoundingly that is
7 probably the only piece of evidence they have to say that
8 Mr. Lindell knew, not that anything about 2020 election
9 fraud wasn't right, just that these PCAPs data, these
10 transmissions or packet captures or something from foreign
11 countries, again, which has nothing to do with Coomer,
12 with the plaintiff here, but these PCAPs, these data
13 transfers, from a guy that worked in the CIA, the
14 Department of Defense, Dennis Montgomery, were not true.

15 And so Josh Merritt came there. He admits to
16 pulling the fire alarm at the Cyber Symposium, pulling it,
17 which is a crime, by the way, that can lead to loss of
18 life; the fire department is coming. He admits to pulling
19 the fire alarm in his video testimony, and to try to keep
20 a marker when he took hard drives and gave them to Harri
21 Hursti to vet this.

22 We found out he was upset about the money, the
23 payments that he was supposed to get for going there. But
24 then the evidence also showed Mr. Lindell said he wanted
25 the \$5 million, he was upset, so he had a reason maybe.

1 We don't know what was on these hard drives. In fact, the
2 evidence showed, the testimony today showed Mr. Lindell
3 never received whatever hard drive Josh Merritt showed to
4 Harri Hursti or said that he gave to him. We don't know,
5 he has never seen it again.

6 You might be asking yourself, well, Harri Hursti
7 testified, and Josh Merritt, and they had these hard
8 drives, which were never returned to Mr. Lindell, why not
9 bring those to this case to show you? Here is what they
10 were going to show, here is what Mr. Lindell were going to
11 show, these PCAPs. They didn't. Mr. Lindell doesn't have
12 those, they do; Josh Merritt, Harri Hursti.

13 But, again, you heard from Mr. Olsen and
14 Mr. Lindell that there was lots of information coming in,
15 cast-vote records, voter information, other kind of data,
16 there was a lot of things happening at the Cyber
17 Symposium, probably numerous hard drives.

18 Mr. Lindell says he still doesn't know whatever was
19 on that hard drive. Plaintiff would have you think these
20 PCAPs from Dennis Montgomery -- and, again, I go back to,
21 what does Dennis Montgomery's PCAPs have to do with the
22 plaintiff? Nothing. They offered no evidence. There is
23 none.

24 Mr. Lindell never said at any point in the Cyber
25 Symposium that this will show that Eric Coomer did this.

1 No, he just wanted to show this, what he got from
2 somebody, and that he was truly convinced. They showed
3 you this exhibit in their closing, truly convinced that he
4 was CIA. I believe it was Exhibit 83, a letter from
5 Mr. Zullo, says Dennis Montgomery has Mr. Lindell fully
6 convinced of everything.

7 But that's not just it. Mr. Lindell had vetted
8 Mr. Montgomery through multiple people. Of course the
9 plaintiff doesn't want you to know that. Government
10 officials, others, former military that said, yeah, this
11 guy worked for the CIA. Mr. Lindell testified that he
12 took Dennis Montgomery's data, months before the symposium
13 to the White House, to the White House. And the one thing
14 that was never said to him was Dennis Montgomery is a
15 fraud or this data is a fraud. Couldn't get the
16 protective order lifted to show it, but he, at that time,
17 he never was told, they have no evidence he was told by
18 people in the White House that Dennis Montgomery was a
19 fraud.

20 Oh, goodness, then we met Matt Crane. I'd probably
21 refer to him myself as the Colorado Chapter President of
22 the "club" or the Ministry of Truth. Mr. Crane, with not
23 an ounce of credibility or linguistics or anything in the
24 law, sought to explain to you the three terms that we all
25 came to know in this case; misinformation, disinformation,

1 and malinformation.

2 And, you know, I couldn't help but think that so
3 much of the crux of our First Amendment is not allowing
4 the government to pass laws that would make you want to
5 say something about the government or government
6 officials, and then in your head stop and go, oh, oh, I
7 can't say that, the government is going to get mad at me,
8 they are going to sue me, target me, my business, they are
9 going to come after me.

10 That is exactly what those three words are. I will
11 call them, MMM. He sat there and explained to you, well,
12 misinformation; he didn't mean to spread false
13 information. Malinformation; you intended to spread.
14 What is this? I remember when none of these were around.
15 Who gave the "club," this Ministry of Truth, the right to
16 tell us, think before you speak because we might think
17 your words about us, about the government, is
18 misinformation, that is bad. That is bad.

19 It's not. Mr. Crane sat up here and he pretended
20 that he cared about educating the citizens. I want to
21 educate. Leaving out, of course, the fact that he ignored
22 Mr. Lindell, he ignored his group who said, look, we have
23 got information there is an issue with voter registration,
24 we think there is something here. He said "go away." He
25 said no, no. He used terms like "wrong speech,"

1 "dangerous speech," "dangerous rhetoric." All of those
2 are meant to say, shut your mouth unless I tell you when
3 you can speak. That is what he is saying, isn't he? We
4 will tell you.

5 And if you don't say what we say, that is dangerous
6 rhetoric. That is dangerous rhetoric. In fact, much of
7 you, much of us, I know I have, but you hear the 2020
8 election, and you have one thing that comes out of your
9 mouth, and that is, I haven't seen evidence. And then we
10 think, where did that come from? Why is it that I feel
11 the need to say that when somebody brings up the 2020
12 election? It is because of the "club."

13 They have shamed and targeted everybody. And all
14 they have done is come out and shout, no evidence, no
15 evidence. They will show you evidence to show the
16 security inside the machine. They don't present that to
17 the public to say, hey, there was something here that is
18 not okay. They shouted, no evidence of fraud, but then
19 later on cross, even Dr. Halderman, who we will get to
20 says, no, I wrote a report, there was really something
21 wrong. But all it is is "no evidence."

22 Well, Mr. Lindell had evidence. Nobody wanted to
23 see it. Actually, many people did. And then Mr. Crane
24 stated proudly, he admitted it, he stated that 90 percent
25 of Coloradans don't believe there is anything wrong with

1 their elections. 90 percent agree with him; nothing
2 wrong. There is no fraud.

3 What he left out is that leaves nearly 600,000
4 Coloradans questioning and concerned about elections, just
5 like Mr. Lindell. He ignored those people. Those are the
6 people he considers pariahs, along with his fellow club
7 members. Pariahs on society. How dare you question the
8 government and their friends. How dare you. That is what
9 he did.

10 Then, of course, we met Dr. Halderman. And for
11 hours, hours of testimony from the plaintiff's counsel, he
12 came out and said unequivocally, I am an expert on these,
13 on these cybersecurity issues, on these voting machines,
14 and he told you that everything Mike Lindell said was
15 false.

16 He had -- he had seen all of Mr. Lindell's
17 full-length documentaries, all of the dozen or so, dozen,
18 15 or so experts that he interviewed. Mr. Lindell said
19 there were 35 over the course of the year, not just some
20 documentaries, but talking and establishing teams to
21 gather information from clerks and other places, teams of
22 people with far more knowledge of this than he has.

23 And Dr. Halderman said, I watched just these three
24 documentaries, and they are all false. In fact, he
25 said -- and I forget the word he used, but it was

1 something like, every expert that he touted in all his
2 documentaries is completely either debunked or just
3 nonsense, until we showed him a clip of him, himself.

4 You saw, a clip of Dr. Halderman from one of
5 Mr. Lindell's documentaries, *Absolute Interference*, saying
6 not only was he incredibly concerned about 2020, serious
7 security failures, vulnerabilities in machines, but
8 China -- China, Russia, and others, hacking the election,
9 2020.

10 He was one of the ones that Mr. Lindell pointed to
11 in one of those documentaries. Now, he left out the fact,
12 until cross-examination, that he actually hadn't seen all
13 of the documentaries; he maybe saw one, he just decided to
14 lump them together.

15 And then we got into his report on Antrim County.
16 Now, when the plaintiff's lawyer was questioning
17 Dr. Halderman he was so sure in Antrim County, that it was
18 human error, it is the clerk's fault, it is the employees'
19 fault, human error, the machines are fine. Yet we learned
20 on cross that on May -- March 23, 2021, this regarded the
21 November 2020 election, by the way, that on March 3rd,
22 Dr. Halderman had a draft report, and in that draft report
23 of what happened in Antrim County, there were issues on
24 the vote, and we don't have to get into it, none of us are
25 a Ph.D. in computers, but that he extracted what he knew

1 the root cause, the issues with these machines, the root
2 cause, and the root cause was dual on his part. He said
3 some human error, but also some machine, some machine
4 failures, software failures, and that led to a very, very
5 serious issue in the Antrim County results in November of
6 2020. He said that.

7 And then he said other things, but he said this was
8 a voting machine failure, a Dominion voting machine, and
9 human error. And then after March 23rd, Dr. Halderman --
10 which he omitted by the way, from you in his earlier
11 testimony -- but on cross-examination he admitted that he
12 met with the Attorney General of Michigan, Antrim County,
13 Michigan, Dana Nessel, and he met with Dominion CEO John
14 Poulos, he met with them, and three days later he changed
15 his report to say there was no fault of the machines, just
16 human error. He admitted that. He changed his report
17 after meeting them.

18 And what is funny, after bashing Mr. Lindell's
19 *Absolute Proof*, and that everything is nonsense, he forgot
20 to realize that the AG, the Attorney General Dana Nessel,
21 that Dr. Halderman met with right before he changed his
22 report and took out the things about voting machines being
23 a root cause, or Dominion machines being the root cause,
24 that Mr. Lindell had actually raised concerns about Dana
25 Nessel, the Attorney General of Michigan, who you saw on

1 that clip from Exhibit 229, where Mr. Lindell is nervous
2 because the AG of Michigan, Dana Nessel, is saying that I
3 am going to come after the lawyers who try to argue
4 election fraud. You do not do that. You can't. You are
5 going to practice here, I will come after you, come after
6 your license.

7 And he was concerned. He said this is blocking,
8 this is suppression. That very same AG, her office spoke
9 to Dr. Halderman right before he changed his report, which
10 he kept from us. He kept all of that, he kept all of it.
11 I think one of the most telling parts of his testimony was
12 when on cross, I believe it was Mr. Kachouroff asked
13 Dr. Halderman, why would you talk to Eric Coomer, because
14 he went out and he reached out, he reached out to Eric
15 Coomer right after the 2020 election, November 2020, he
16 said, I will do anything I can to help you.

17 Mind you, he reached out before the 2020 election
18 was even certified, I will help you. And Mr. Kachouroff
19 said, why don't you -- what is the difference, why would
20 you reach out to Eric Coomer versus Mr. Lindell?

21 Dr. Halderman audibly scoffed. He scoffed. I heard it.
22 We all heard it. He scoffed, because us peasants are
23 garbage to them. We are garbage to the "club."

24 Mr. Lindell, who Dr. Halderman admitted had a large
25 microphone, wasn't worth his time. They don't want to

1 speak out to us, reach out to us. They will help their
2 fellow "club" members. Dr. Halderman, who we also saw
3 shouting from an ivory tower, shouting for years of
4 vulnerabilities in election machines, very serious
5 concerns in multiple states, about not just all voting
6 machines, about Dominion, as well, saying only paper
7 ballots and auditing would be best, in 2020 gives in.

8 You see, we learn that Dr. Halderman was called an
9 election denier by the "club." He was called an election
10 denier, just like the pillow guy, Mr. Lindell, and he
11 hated that. He hated that because the "club," this
12 official in Georgia who said he is an election denier, he
13 had been saying and raising concerns about potential
14 vulnerabilities and issues in these machines, including in
15 the 2020 election, and he didn't want to be called that,
16 he wanted back in the "club."

17 Really, part of us feels for him because this is a
18 man who clearly knows not only that there was a very, very
19 good chance of fraud in the 2020 election, there likely
20 was, that it's more than reasonable to believe that, but
21 he also -- he also thinks that he needs to be part of the
22 "club." He needs to fall within the misinformation
23 umbrella and say only what they say. Okay. Okay, I will
24 take that out, I will change it.

25 Now, he claims to you that he needed to clarify it.

1 When confronted with videos of himself saying the opposite
2 of what he testified to from plaintiff, and the opposite
3 that we should be very concerned about 2020, he said,
4 no -- and he got visibly angry, he was shaking, he
5 couldn't get sentences out -- "you took it out of
6 context." What out of context is there from somebody that
7 says these machines have gaping vulnerabilities, I have
8 hacked machines and switched -- you can hack machines and
9 inject malware, this is easily done. And he is worried
10 about 2020; that China and Russia, North Korea, what is
11 out of context about that?

12 He never explained once why somebody like
13 Mr. Lindell would not have seen that and gone, oh, my
14 goodness, what is happening? He scoffed at the thought of
15 even reaching out to Mr. Lindell. Why would he, when he
16 can just come here and make sure he is bankrupt and
17 destroyed, which he is.

18 You see, we are not going to be part of their
19 "club," unless we agree with it. We just need to shut our
20 mouths so they don't come after us, call us dangerous.

21 We got to meet Joe Oltmann, who I know the
22 plaintiff raised is at the center of this, who you will
23 notice is not here, he is not a defendant, at least in
24 this case, but in another one. And plaintiff's counsel,
25 Mr. Cain, just told all of us that, that well, he was

1 clearly not credible. Well, that's weird because during
2 the testimony, his questioning from the plaintiff's
3 counsel, they told Mr. Oltmann there was no Antifa call.

4 Mr. Oltmann, you know, he listened in on an Antifa
5 call, he said this, and there was "Eric from Dominion," he
6 took handwritten notes. He wasn't on the call to find out
7 anything about voting machines, he was only on there to
8 try to see what was going on with Antifa or some of these
9 groups related journalists that were maybe doxing or
10 hurting people.

11 And, you know, a lot happened during COVID, and he
12 wanted to see if he could get names as a journalist, as a
13 citizen investigator on this. And we saw that the first
14 time Joe Oltmann went public about the stories, these
15 concerns with Facebook posts that the plaintiff admitted
16 to, we saw Exhibit 30, an email, hours later, from the
17 plaintiff to his bosses at Dominion, he had seen the Joe
18 Oltmann video about the Antifa call, about all of this.

19 Not one place in that email does he say, that is
20 false, I didn't do it. They touted about a month later he
21 had an op-ed in the Denver Post, everybody should have
22 been on notice. Mr. Lindell, others should have sought
23 out, no matter where they live, Google the Denver Post to
24 see if Eric Coomer wrote something about clarifying it,
25 when he didn't say it in an email to his own bosses?

1 Maybe he was waiting to see if Mr. Oltmann had remembered
2 to record or not. Maybe he thought if there is a
3 recording, it is not worth me denying this.

4 But anyway, Mr. Oltmann testified, and at the end,
5 plaintiff's counsel proudly stood up here looked at him
6 and said, "because there was no call, was there?" "There
7 was no Zoom call." We had seen Mr. Oltmann's notes of
8 names on this call, handwritten notes he took of certain
9 details. He said to all of us, this plaintiff's lawyer,
10 "There was no call, was there?" It wasn't right, wasn't
11 true. "There was no call" is what he said.

12 And then, the next day, we discovered the
13 plaintiffs themselves had filed an affidavit, somebody who
14 was on a call, somebody who was on the Antifa call, or a
15 call, this call that Joe Oltmann was talking about. In
16 fact, that affidavit, which was in the plaintiff's
17 possession, which they left out to all of you, by Tay
18 Anderson, mentioned the very same names and subjects that
19 were in Mr. Oltmann's handwritten notes. The plaintiff
20 didn't tell you that.

21 So then, of course, their argument changed with
22 Mr. Oltmann from -- it went from, there was no call, you
23 see, guys, there was no call, to, well, it was a different
24 call, just happened to have all the same people. That was
25 number one. And Joe Oltmann stayed with it. You see,

1 it's the plaintiff's burden in this case to explain to
2 you, to prove to you that this was false, and they didn't.
3 Instead they change their story, and then got up here in
4 closing and said, clearly he wasn't credible.

5 You may recall what plaintiff's lawyer said, Max
6 McGuire, a long-time producer, Mr. Oltmann, and who also
7 appeared in the clips from his deposition, that was his
8 testimony, and to be fair, I would say that the parties,
9 the plaintiff had every right to show testimony by video
10 deposition clips, there is nothing nefarious, you could
11 choose.

12 But Mr. McGuire, who has known Joe for years, Joe
13 testified that he was mad at him for a while, they were in
14 a little bit of a fight over money and issues, and Max
15 didn't say, oh, this never happened. He said, "I don't
16 know." "I don't know." "Yeah, I record some times, but I
17 don't know." And he didn't say Joe likes to put himself
18 in calls or other people's calls. He said sometimes he
19 likes to put himself in other people's stories, but he
20 didn't say he had proof that that happened. He said he
21 didn't know. He didn't know. But he had seen the notes,
22 that is what he saw from that, but other than that, isn't
23 it interesting how nothing about the Tay Anderson
24 affidavit holds up?

25 Lest we forget we got to hear from Heidi Beedle.

1 Heidi Beedle came in, a self-proclaimed member of Antifa,
2 affiliates with these groups, and was also on the call
3 that the plaintiff told you, told all of us, never
4 happened.

5 COURTROOM DEPUTY: You have 13 minutes.

6 MS. DEMASTER: Okay. The call that the plaintiff
7 told you didn't happen, but it did. Heidi Beedle, who
8 stated, of course, that she supports violence, doxing
9 people, that she has done it proudly, and will continue
10 to, said, well, he is not on it. So surely the only thing
11 would be testifying on Mr. Coomer's behalf that he wasn't
12 there.

13 Joe Oltmann was there, he had notes, they matched
14 with the very affidavit of another person on the call that
15 plaintiff claims didn't happen, and said that it did.

16 Then, of course, how can we forget Tina Peters.
17 You know this goes to the crux, we had stated that they
18 couldn't convince us of this, what should have been a
19 four-day case, so they decided to confuse us, and they
20 did. They decided to confuse us. And that meant when a
21 woman, who had already been indicted, Ms. Peters, who is
22 going to take the Fifth Amendment at a deposition, and you
23 can see in her testimony there were two days, she had
24 changed clothes, we all saw that, and the first day she
25 pled the Fifth Amendment.

1 The plaintiff has no case, and so what do they do?
2 What do they do? He discusses anything related to Mike
3 Lindell. They know she is going to plead the Fifth -- and
4 I am sorry, she didn't, her lawyer pled the Fifth
5 Amendment on behalf of every question. Okay, what can we
6 do? Oh, let's ask a bunch of questions about her
7 colluding with Mr. Lindell, a man who she had never met
8 before the symposium, and try to connect them, and then
9 when she pleads the Fifth Amendment, as she did to every
10 question from that day, then we will try to convince
11 everybody that Mike Lindell was in it with her. Come on.
12 We asked Mr. Lindell those questions. No, he said that he
13 didn't know her after he met her, but he didn't plan any
14 of that.

15 Brannon Howse, who the plaintiff's attorney
16 questioned him, you know, he said he was paid a million
17 dollars when Frankspeech came up. But later we found out
18 in the testimony, Mr. Lindell, that Brannon Howse, his
19 company was paid for, helped with the design, the setup of
20 Frankspeech, which was just a platform to post things on,
21 doing customer service, website design, things like that.
22 He didn't pay him for his own show. In fact, Brannon
23 Howse, it was plaintiff's testimony, and Mr. Lindell's,
24 stated that Brannon Howse had his own show. He published
25 it, he decided what he wanted.

1 Think of Instagram or Facebook, you can have
2 employees that work there, maybe in customer service or
3 designing the interface of it, but they also have their
4 own accounts. They can post. Instagram is not
5 responsible for what their employee might post or what
6 somebody who works there might post. Nobody would think
7 that they were. They create their own content and they
8 upload it. That is all Frankspeech was.

9 Now, plaintiff would have you believe that so many
10 of these statements, because they were uploaded to
11 Frankspeech, are Frankspeech's fault. Remember the
12 plaintiff, themselves, admitted in so much of the
13 testimony, and they asked the questions and you heard that
14 some of this content was uploaded to multiple platforms;
15 Facebook, the Brannon Howse Show, or the Joe Oltmann
16 podcast, uploaded to Facebook or Twitter or X, but they
17 didn't sue any of them, just Frankspeech.

18 And they talked about My Pillow. You heard a lot
19 about promo codes, and then certainly we must be at fault.
20 When you look at verdict forms, we will try to go over
21 these quickly, but you will see that only the Cyber
22 Symposium statements, none of which, by the way, were made
23 by Mr. Lindell, but that those are attributable to My
24 Pillow because other places use their promo codes there.

25 They showed an exhibit showing RSVN Network, not

1 the defendant here, using a promo code when they, a
2 separate entity, also streamed the symposium. My Pillow
3 provides promo codes to track which of their -- which
4 influencers are going to use them. Third party RSVN
5 deciding where they want to put those promo codes, not My
6 Pillow.

7 They showed you an email, said, oh, this is My
8 Pillow showing Frankspeech. But at the bottom URL there,
9 you will see that it says, mypillow.com/frankspeech.
10 Mr. Lindell said My Pillow does that for all of the
11 advertisements, whether it is RSVN, CVS, Walgreens,
12 whatever, that they will forward slash that, and it will
13 go to a separate page for that person that is advertising
14 themselves. That page was nothing more than an
15 advertisement of Frankspeech, which is a separate entity
16 and just a platform who didn't publish anything, not in
17 that general sense.

18 So I want to go over a few things in the last few
19 minutes. Remember, some of you are going to be tempted to
20 think that you need to deliberate a long time. This
21 should be 10 minutes, in and out. But you are going to
22 feel tempted because this has been two-weeks of all this
23 nonsense and, oh, gosh, what should we do? We should keep
24 deliberating. We should keep listening to this. And we
25 are going to need to decide this longer, but actually your

1 decision, the right one, is very easy here, the First
2 Amendment still matters. It matters.

3 There has been no evidence that anybody knew or
4 believed that his statements were false. No evidence that
5 these statements even applied to Dr. Coomer. In fact, in
6 every statement that they raise you will be able to see
7 those stipulations, you can look at it, each one there is
8 a reference to what he is talking about.

9 The May 9th statement when Mr. Lindell calls him a
10 "traitor," that is talking about the blockers, he is
11 talking about Brian Kemp, Brad Raffensperger, and he is
12 believing -- he said he called hundreds of people
13 traitors, some of which are still friends. "You are a
14 traitor." Nobody took that seriously.

15 You will see the definition for publication, which
16 plaintiff showed, and that would mean the listener would
17 have to know what he is talking about. And some of the
18 statements by Mr. Lindell in April 2022, he is saying it
19 is criminal, it is criminal what you did to My Pillow.
20 You are a criminal crime family. Who would know what
21 crime he is talking about?

22 Yeah, sure, if it is general election fraud again,
23 hyperbole to the man who posts "Nazi," "fascist," gas
24 chambers of political leaders. We are all entitled to the
25 same First Amendment right. We don't get less because we

1 are not part of the "club." Lest we forget that the
2 plaintiff here said his goal -- what his goal was, I will
3 "shake the money tree," set "new precedent" against public
4 participation.

5 He wanted to "shake the money tree." And
6 specifically related to this lawsuit here, it wasn't
7 because of an injury. In fact, the testimony, he
8 admitted, the plaintiff admitted his reputation was
9 destroyed.

10 Exhibit 37, on page 28, we saw his therapy notes
11 from his therapist, which, by the way, he did not testify
12 during this. You saw no evidence of mental damages or
13 anything except for therapy notes in May, after he told
14 all of us unequivocally, I am so destroyed, distraught
15 from the May 9th statement. That is number two, by the
16 way, I am so destroyed, distraught, he saw his therapist,
17 who says his mood was pretty good.

18 You will never see a single mention of Mr. Lindell
19 in any one of his therapy notes. Remember, the plaintiff
20 here has 20 other lawsuits, he admitted to have 20, 25
21 other people he sued. In fact, he sued those people in
22 September of 2020. Mr. Lindell, none of these defendants
23 were included. He needed a way, he needed a reason to
24 include him, to have him there, and he couldn't have it,
25 he didn't have it after the May 9th statement. He could

1 have added him to the lawsuit of 20 other defendants from
2 2020.

3 And those cases, he admitted, many of those are
4 still ongoing. But they brought their expert up, Doug
5 Bania, to tell you his reputation was destroyed because of
6 all those 20 other defendants in a totally different
7 lawsuits, none of -- most of which have not even been
8 resolved, they are still outstanding.

9 But Bania said that is this part from November and
10 December, and Dr. Coomer said that is when he was
11 destroyed. He was destroyed, he admitted to all of us, my
12 reputation was done by January of 2021. It was done.

13 Just remember, it is not defamation. You will see
14 in your verdict forms, none of these defendants are
15 responsible. Just remember a few last things, my last
16 comment, and I told you I wouldn't go this long, and I
17 did, I am sorry, I really tried.

18 Remember what is not defamation. This is in the
19 Court's charging instructions. It is not defamation if
20 the plaintiff has not proven the defendant published
21 statements that a third party would know what they were
22 talking about, whether they call you a traitor, a criminal
23 or what, it needs to be a publication.

24 It is not defamation. The plaintiff did not prove
25 he was damaged. There is no damage. There was no damage.

1 The damage occurred November and December, and then it was
2 done. He admitted that he left Dominion, he was forced to
3 leave Dominion, having nothing to do with Mr. Lindell,
4 with any defendant here, they don't know who he was, they
5 didn't say anything, that was back in November, Exhibit
6 30.

7 By definition, plaintiff did not prove that it was
8 the type of statement that would harm him. Now, by clear
9 and convincing evidence, you have a preponderance, but by
10 clear and convincing evidence, that is a much higher
11 burden. The preponderance here, clear and convincing is
12 here, okay, it is not quite reasonable doubt, as the
13 Judge's instructions showed, but it is a high burden.

14 And if the plaintiff has not proved by clear and
15 convincing evidence that Mr. Lindell knew the statements
16 were false, Mr. Lindell had serious doubts about the truth
17 of the statements, nobody has proven that.

18 Mr. Cain got up himself and said to Mr. Lindell, I
19 believe you believe what you are saying. Nobody can say
20 he doesn't. He talked to so many experts. Again, read
21 these statements with your own eyes, not what the
22 plaintiff tells you they may mean. He talks about on May
23 9, when he says, "maybe you can turn yourself in. Turn in
24 the whole operation." "The whole operation" is a
25 reference to there is a large, large group of people;

1 Georgia Governor, other elected officials, Jena Griswold,
2 other people, AG Nessel, all these people that are helping
3 to silence, who provided aid and comfort to China and
4 these other people who he believes stole the election.

5 It is not defamation if the plaintiff did not
6 prove, which they didn't, by clear and convincing
7 evidence, this information was false. Many of these
8 statements relied on Joe Oltmann. They didn't prove to
9 you by clear and convincing evidence that Joe Oltmann was
10 lying. They didn't. In fact, they tried to make you
11 believe at first that there was no call, and then they
12 said, wait a minute, it was a different call.

13 As the Judge explained -- as we explained, this
14 isn't hard. This shouldn't take you long. There is no
15 evidence here, not by clear and convincing. You are not
16 being asked to decide the 2020 election. Breathe one
17 final time. Nobody is asking you to do that. It doesn't
18 matter. We stand by the fact that it doesn't matter what
19 happened.

20 They made a big deal, Mr. Lindell not bringing any
21 cybersecurity experts here. He didn't need to, he doesn't
22 need a cybersecurity expert here to say whether
23 Mr. Lindell believed what he was saying was wrong; that he
24 had serious concerns about that. And I know this is
25 confusing. And they confuse you to think that reckless --

1 maybe he acted recklessly. That is not the standard that
2 he had substantial doubts and he didn't investigate,
3 didn't look into this, which he did. Nobody can say he
4 didn't.

5 This isn't a hard decision. You either say, you
6 know what, we are going to go with the "club," that is
7 your decision, we will go with the plaintiff, we are going
8 to go with the "club," the Ministry of Truth, nothing
9 happened, everybody shut your mouth, anybody who ever says
10 anything about elections again, including the ones you
11 agree or disagree with, we just need to follow what the
12 "club" says.

13 Let's change the precedent, that is what makes this
14 a grounding case, or stick with the First Amendment, that
15 is why your decision is actually easy, and we can all
16 finally go home.

17 They didn't prove by clear and convincing evidence
18 Mike Lindell believed his statements were false, that he
19 knew they were false, because none of their experts called
20 him, they never returned his calls. But a lot of other
21 people did, told him something different.

22 As George Washington said once, "If freedom of
23 speech is taken away, then dumb and silent we may be led,
24 like sheep to the slaughter." They want you to know what
25 you can believe or not.

1 COURTROOM DEPUTY: It is time, Ms. DeMaster.

2 MS. DEMASTER: Thank you.

3 **CLOSING ARGUMENT**

4 **BY MR. CAIN:**

5 All right. Respectfully to defense counsel, let's
6 get back to the law and the facts of this case. The law
7 is as instructed by the Court, and defense counsel said
8 repeatedly that the issue was whether Mr. Lindell knew
9 what he was saying was false. That's not how you are
10 being instructed in this case.

11 This is the key, the two instructions that I
12 mentioned before I stopped, this is how you weigh the
13 state of mind of Mr. Lindell. And the circumstantial
14 evidence -- because what you basically heard is that
15 Mr. Lindell believed what he said, that's, as I pointed
16 out, the case in every defamation case. Of course he is
17 going to say that, but you really look to the
18 circumstantial evidence factors that the Court has
19 instructed you on.

20 The grossly inadequate investigation into the basis
21 for the statements, there was no investigation.

22 The speaker's hostility toward the plaintiff. I
23 think that is self-evidence.

24 Inconsistencies in the accounts of the sources for
25 the statement. That is Mr. Oltmann's inconsistencies and

1 other witnesses.

2 Reasons to doubt the veracity or reliability of the
3 sources. That is why we went through the exercise about
4 who Mr. Lindell was consulting with, and that is why
5 Dr. Halderman spent time in discussing those issues.

6 The inherent improbability of the statements
7 claimed. That is why Dr. Halderman's testimony about
8 extraordinary claims require extraordinary proof.

9 And other credible information contradicting the
10 information and the statements. That is the prism that
11 you look at these defamatory statements through, and you
12 weigh those factors, and we have provided significant
13 evidence on each of those.

14 As for the argument that I heard, the government is
15 not a party to this case. The "Ministry of Truth,"
16 whatever that is, is not a party to this case. If there
17 is a "club," I am not in it.

18 The gentleman that testified to you, Matt Crane,
19 the executive director of our Clerks Association here is
20 an honorable person. He went across lines; two people
21 with different political opinions working together. He
22 testified about the damage to Dr. Coomer's reputation by
23 all of these statements. And he testified about the harm
24 that the defendants are causing through some of the
25 rhetoric that you just heard. And you heard it at the end

1 of Dr. Coomer's testimony, he said, "just stop." "Stop
2 talking about me rigging the election."

3 This case comes down to the statements about
4 Dr. Coomer; did he confess to rigging the election, and is
5 he, in fact, someone who committed election crimes? I am
6 not sure I heard a whole lot on point from the statements
7 from the defense, in fact, I didn't hear anything on
8 point. I heard a misrepresentation of how you should be
9 instructed on the law.

10 So I think you do need to look carefully. This
11 isn't a 10-minute case. There is no way to examine the
12 evidence carefully in 10 minutes. And I think that you
13 really need to obviously give this the serious
14 consideration that it deserves.

15 I'm really puzzled by what was just said, and it
16 didn't actually address the issues that you are being
17 asked to decide. There was some statements -- there was
18 some statements about the Antifa call. Let me clear that
19 up for you, Joe Oltmann couldn't get his dates right as to
20 when this call occurred. We saw his notes, and it said
21 Heidi Beedle and Tay Anderson, so we investigated it, that
22 is why we have affidavits and that is why you had
23 testimony from those people who said if there was a call,
24 Eric Coomer wasn't on that call.

25 That is the point of that, not the fact there was,

1 you know, one call at any particular time. The point is,
2 we investigated it, and he wasn't on it. And we proved
3 that, and there has been no credible evidence to the
4 contrary.

5 I want to talk about our damages, since I didn't
6 have a chance. We have got an economic damage claim, so
7 the economic damage claim is to fund the reputational
8 repair program as Doug Bania laid out to you, so that
9 testimony was uncontradicted. It looked at the users that
10 went to the Frankspeech page during the symposium. It
11 looked at the social media views that we calculated. And
12 the amount of money to implement that program was
13 2.762,243. 2,762,243 as far as the noneconomic damages.
14 These are designed to compensate Dr. Coomer for the
15 physical and mental pain and suffering, the stress, the
16 anxiety, the fear, the humiliation, the loss of his
17 livelihood, in the sense of not in the monetary sense for
18 the work, but the fact that he loves elections and he can
19 no longer do those, and what he has been put through is
20 hell.

21 I actually want to show you slide 23 for a minute.
22 We don't have -- he testified about the daily harassment
23 over and over again, the hiding, the fact that he can't
24 work in this industry. The stuff that he gets like this
25 every day. He used to race mountain bikes. He used to be

1 a hiker. Now he is selling his home in Salida and he is
2 having to move.

3 Look at Exhibit 37, which is Dr. Finkell's notes.
4 The key portion of those is the fact that Dr. Coomer, he
5 thought he was "out" somewhat in terms of the Newsmax
6 settlement. Finally Newsmax, which is a reputable news
7 source, to this extent, published an apology, but the next
8 day or two, Mr. Lindell comes out and starts with the
9 defamatory statements.

10 He was -- at that point, Dr. Coomer was diagnosed
11 with adjustment disorder and mixed anxiety and depressed
12 mood. He was prescribed Lexapro and Klonopin for anxiety,
13 depression, and panic attacks. He testified about that at
14 length. And he remains on those medications today.

15 So what he has been through mentally, physically,
16 emotionally, the loss of his life is significant. I don't
17 know of many people in the United States who have been the
18 target of the guy that supposedly rigged the election.

19 So ultimately this is about accountability. You
20 haven't heard Mike Lindell say one thing that indicated he
21 would be responsible or accountable for his actions. In
22 fact, what you just heard is sort of a microcosm of what
23 he has been dealing with. That is what he has been
24 dealing with for 4 years.

25 In terms of the claims, the intentional infliction

1 of emotional distress claim, once you determine that there
2 is defamation, the intentional infliction claim, those
3 things I want you to look at, where the conduct occurred,
4 whether it was on the steps of the Capitol or the Cyber
5 Symposium, look at the severity of the statements that
6 were made, accusing Dr. Coomer of treason, and look at the
7 true motivations of Mr. Lindell; like he was retaliating
8 for blocking, allegedly, Mr. Lindell from going on the
9 air.

10 I want to show you the verdict forms that you will
11 be looking at, then I will conclude. Let's look at 20.
12 So the verdict form as to Mike Lindell you will be asked
13 about the defamation per se claims. We ask that you check
14 each of those boxes "yes" as to Mr. Lindell, due to his
15 participation in all of these events.

16 We ask that you check the box "yes" as to
17 intentional infliction, for obvious reasons.

18 And then in terms of damages, the punitive damage
19 claim here, we are asking you to look at what is called
20 willful and wanton conduct, so that is the damage to
21 Dr. Coomer and to others, that is how the Court asks you
22 to look at this; meaning the others in the election
23 community, to the country at large, of what this type
24 of -- and I will remind you, he can talk about things like
25 election security, he can't falsely claim someone

1 committed the crime, that is defamation.

2 What we are asking is that for the noneconomic
3 damages, you award Dr. Coomer \$10 million. What we are
4 asking you for, the economic losses, is you can't do a
5 double recovery, so we are asking you to spread that
6 amongst the defendants. So as relates to Mr. Lindell, we
7 are asking that you award one half of the economic damages
8 that Dr. Coomer has proven in this case.

9 And then in terms of the way that I want you to
10 look at, and the way I will ask you to look at the
11 punitive damages, is Mike Lindell and his affiliates have
12 spent \$40 million on these types of claims that
13 Dr. Halderman has clearly said, everybody has said,
14 because we called all of the experts and put the evidence
15 on, but everybody is saying this is hurting democracy,
16 this is misinformation, it had not been vetted, and it
17 needs to stop, and he needs to return the money he spent
18 causing the problem in the form of both a deterrence to
19 this type of conduct, but also think about the
20 encouragement.

21 I want there to be the recognition that we have to
22 encourage people like Matt Crane to stay in the positions.
23 We have to discourage people like Tina Peters from getting
24 involved and committing crimes relating to election
25 security.

1 COURTROOM DEPUTY: Mr. Cain, 5 minutes.

2 MR. CAIN: So with respect to Mr. Lindell, this is
3 what we are asking you to award, to seriously consider
4 that. And we looked at this, and as relates to the
5 noneconomic loss, that is 10 statements, a million dollars
6 a statement, that is what we are asking you to award
7 Dr. Coomer.

8 Let's go to the next one. As to Frankspeech, they
9 participated and caused the damage and loss throughout all
10 of these statements, so all of those, in our view, should
11 be "yes." On intentional infliction it should be "yes."
12 And given the relative culpability amongst the parties, we
13 are asking for noneconomic damages of \$5 million against
14 Frankspeech. We are asking for a quarter of the economic
15 loss, the 2.7, to be attributable to Frankspeech. That is
16 why we are not trying to indicate a double recovery, so we
17 are asking you to spread those amongst the defendants.

18 And then as relates to punitive damages,
19 Mr. Lindell's disinformation platform, we are asking for
20 \$10 million.

21 And, finally, My Pillow. My Pillow was the engine
22 that drove this. Mr. Lindell was the CEO and controlled
23 it. They caused or participated in all of the
24 publications, so we are asking you to check "yes" on all
25 of the boxes that we described previously for their

1 participation, and this through Mr. Lindell, and we are
2 asking you to award \$5 million in noneconomic injuries or
3 loss.

4 And let me just say, this is your discretion. You
5 have to decide these amounts. I am giving you what I
6 think is a baseline. You can go higher. You can go
7 lower. It is completely within your discretion. You have
8 heard the evidence, and you should judge how you assess
9 that.

10 In terms of the economic loss, we are asking for
11 the other quarter of the \$2.7 million for reputational
12 repair.

13 And then with respect to punitive damages for,
14 again, the willful and wanton conduct that you have seen,
15 not just as relates to Dr. Coomer, but as it relates to
16 the damage that has been done, that is going to take a lot
17 of time to repair, and we are asking for \$10 million as
18 relates to My Pillow.

19 Finally, I don't want you to consider, and I don't
20 think it is appropriate for you to consider the
21 defendants' current financial state, even though they have
22 now said multiple times that Mike Lindell is essentially
23 broke. That is not a consideration for you in the charge.

24 But even if Mike Lindell ends up bankrupting
25 himself because of his own conduct, so be it. If we do

1 not collect a dime of this award, if you are inclined to
2 side with us, at least we know the message has been sent
3 to the broader public. And I guarantee you that if you
4 assess this -- and this case is being watched -- your
5 verdict will be heard across this country.

6 But at the end of the day, please understand,
7 Dr. Coomer was a good man in a good business with a good
8 job with a good life, and now for the rest of his life
9 will not be in elections, and we lost someone that was
10 critical, and I don't want us to lose any more.

11 So, with your verdict, the other thing that I would
12 ask is to give the defendants the message that they just
13 need to stop talking about him. He has tried, and now it
14 is up to you. Thanks.

15 THE COURT: Ladies and gentlemen of the jury, you
16 have heard the evidence, you have been instructed as to
17 the applicable law, and you have heard the parties'
18 closing arguments. I remind you that these arguments are
19 not evidence in the case and should not be considered as
20 such.

21 I am now going to submit the case to you, and you
22 will be escorted to the jury deliberation room to begin
23 your deliberations. You will be able to discuss the case
24 amongst yourselves, but you will not be able to discuss it
25 until all of you are present, and you may not discuss it

1 with anyone other than your co-jurors.

2 We ordered you lunch, so you do not need to leave
3 for lunch. You can deliberate as long as you want today.
4 If you do not reach a verdict today, let the courtroom
5 deputy know that you are going home for the day and what
6 time you have agreed to be back on Monday, no later than
7 9:00 a.m.

8 Madam deputy, could you come up. The courtroom
9 deputy will come forward for the administration of the
10 oath.

11 (The Courtroom Deputy is sworn.)

12 THE COURT: Please give the original jury
13 instructions to the jury, and verify that all other
14 officers who may relieve you as your successor have
15 undertaken the oath you have now undertaken.

16 The bailiff will now escort you to the jury room.
17 After you get to the jury room, you shall select one
18 member to be foreperson of the jury. That person will be
19 in charge of your discussions. You must all sign the
20 orange form of the verdict you reach.

21 Please notify the bailiff when you have reached a
22 verdict, but do not tell the bailiff what your verdict is.
23 You shall keep the verdict form, the instructions, and the
24 exhibits until the Court gives you further instruction.

25 All right. Madam deputy, would you escort the jury

1 to our jury room.

2 (Deliberation commence at 1:55 p.m.)

3 (Outside the presence of the jury.)

4 THE COURT: Thank you. Please be seated.

5 Counsel, when the courtroom deputy comes back, just
6 make sure that all of the trial exhibits that are going to
7 go back to the jury are put in the notebooks or the
8 notebooks are -- the evidence that isn't in evidence, the
9 exhibits that aren't in evidence are excised from the jury
10 exhibit notebook.

11 Please give the courtroom deputy a telephone number
12 where you can be reached in the event that the jury has a
13 question or returns a verdict. Please be within 20
14 minutes of the courthouse.

15 It is not my practice to require you to return to
16 excuse the jury for the evening if they are not done with
17 their deliberations. Therefore, if the jury has not
18 reached a verdict by 5:00 p.m., Ms. Buchanan will let them
19 leave for the evening and tell them to return by 9:00 a.m.
20 on Monday for further deliberations.

21 I want to take this opportunity to thank all
22 parties and counsel, I know this has been hard fought.
23 All of you have been very committed to your cause, so I
24 want to take this moment to say thank you, I appreciate
25 it, and we will let you know if we hear anything from the

1 jury.

2 Anything else on behalf of plaintiff at this time?

3 MR. CAIN: I just want to return the compliment,
4 and I appreciate the Court considering this case and how
5 the case was conducted. Thank you.

6 THE COURT: Anything on behalf of defendant?

7 MR. KACHOUROFF: No, Your Honor. Thank you very
8 much.

9 THE COURT: Thank you, we will be in recess.

10 (Jury deliberations recess at 5:00 p.m.)

11 **R E P O R T E R ' S C E R T I F I C A T E**

12

13 I, Darlene M. Martinez, Official Certified
14 Shorthand Reporter for the United States District Court,
15 District of Colorado, do hereby certify that the foregoing
16 is a true and accurate transcript of the proceedings had
17 as taken stenographically by me at the time and place
18 aforementioned.

19

20 Dated this 3rd day of August, 2025.

21

22

23 _____
s/Darlene M. Martinez

24 RMR, CRR

25