

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

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

ERIC COOMER, Ph.D.,

Plaintiff,

v.

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

Defendants.

**REPORTER'S TRANSCRIPT
(JURY TRIAL - DAY 9)**

Proceedings before the HONORABLE NINA Y. WANG,
Judge, United States District Court, for the District of
Colorado, commencing at 8:38 a.m. on the 12th day of June,
2025, Alfred A. Arraj United States Courthouse, Denver,
Colorado.

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

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1 **JUNE 12, 2025**

2 (Outside the presence of the jury.)

3 THE COURT: Thank you. Please be seated.

4 We are on the record in 22-cv-1129-NYW-SBP, Coomer
5 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. Charlie Cain,
9 Brad Kloewer, David Beller, Ashley Morgan, and Dr. Coomer,
10 for the plaintiff.

11 THE COURT: Good morning.

12 MR. KACHOUROFF: Christopher Kachouroff and James
13 Duane for the defense.

14 THE COURT: Good morning. Do we have any issues
15 before we bring in the jurors this morning?

16 MR. KACHOUROFF: We have the willful/wanton
17 instruction. I don't know if you want to take it up now
18 or later.

19 THE COURT: I want to take it up now. And then I
20 think plaintiff mentioned also another limiting
21 instruction for the videos. Has that been discussed and
22 stipulated to or proposed by plaintiff?

23 MS. MORGAN: Yes. We conferred and stipulated. I
24 will circulate a copy to the Court.

25 THE COURT: Okay.

1 MR. DUANE: The only remaining topic that we have
2 not yet worked out, but we are very close, I am sure, is
3 the proposed limiting instruction that we sent to opposing
4 counsel involving Rule 408 and the settlement that was
5 submitted at trial with regard to the settlement. We are
6 going to confer. I think we can work that out during the
7 next break.

8 THE COURT: Okay. Ms. Morgan.

9 MS. MORGAN: Exhibit 70 has not been offered and
10 admitted, Your Honor, so we don't feel that it is
11 necessary.

12 THE COURT: Okay. I know that we had the proposed
13 limiting instruction, so did you want to do further
14 argument with respect to that issue?

15 MR. DUANE: Even though the exhibit was not
16 admitted, there has been testimony from several witnesses
17 about the fact that the Newsmax case was settled. And so
18 the jury knows all about that, even though there were no
19 details about the terms of the settlement.

20 Under Rule 408, Your Honor, that evidence, although
21 admissible, cannot be used by the jury as any evidence
22 that the -- that the defendant in the case was, in fact,
23 liable, and that the claims in that case were, in fact,
24 meritorious. And we just want the jury to get that much
25 information, that is all we need. The wording of the

1 instruction -- well, that is all.

2 THE COURT: All right. Ms. Morgan?

3 MS. MORGAN: If the Court agrees that such a
4 limiting instruction is proper, we do have a proposal that
5 is shorter than what the defense are proposing.

6 THE COURT: Okay. So let me hear from you all with
7 respect to the willful/wanton instruction.

8 MR. KACHOUROFF: Us first?

9 THE COURT: They are proposing it and you have a
10 dispute with respect to it; correct?

11 MR. KACHOUROFF: Sorry, Your Honor.

12 THE COURT: Go ahead, Mr. Kachouroff.

13 MR. KACHOUROFF: I am not quite sure how to revise
14 it in the First Amendment context, because I think there
15 is a propensity for the jury to be confused over the
16 willful and wanton standard versus the reckless disregard
17 standard. So I thought if you had the words, "by clear
18 and convincing evidence."

19 I don't know if that cures my concern with it, I
20 just feel like because this is a speech case, the
21 willful/wanton standard is going to be confusing for the
22 jury. My preference is that we not issue it and leave
23 things as is, but --

24 THE COURT: Okay. Ms. Morgan.

25 MS. MORGAN: The Colorado Jury Instructions

1 specifically call for an instruction defining willful and
2 wanton to be provided if the Court instructs the jury on
3 exemplary damages. Just for clarity, 9:30 of the
4 instruction for willful and wanton conduct, our proposed
5 instruction is directly pulled from the Colorado Jury
6 Instructions.

7 As I understand it, the concern from the defense is
8 that the jury somehow may reach punitive damages without
9 finding actual malice or confuse the standard. We don't
10 feel there is a risk of that because of the instructions
11 that we have already agreed to. The jury doesn't get to
12 the issue of awarding punitive damages unless they decide
13 that there has been defamation with actual malice.

14 THE COURT: Correct. That is the way the verdict
15 form is also set up. So they never reach the exemplary
16 damages question without first finding actual malice. If
17 you look at the verdict form, it tells them to skip and
18 sign if they don't find with respect to defamation.

19 MR. KACHOUROFF: I just always have, usually the
20 plaintiff side, which I prefer, it is always
21 willful/wanton conduct in the negligence context that I
22 see that kind of an instruction given. Here, where we
23 have speech, I think it has to be modified according to my
24 colleague.

25 THE COURT: Have you proposed a modification,

1 Mr. Kachouroff?

2 MR. KACHOUROFF: That is why I was saying, I am not
3 sure how to modify it other than just maybe put in there
4 that, "You may not determine willful and wanton conduct
5 until such time as you have made a determination that
6 there has been actual malice by clear and convincing
7 evidence," something like that.

8 THE COURT: All right.

9 MS. MORGAN: Respectfully, that is unnecessarily
10 confusing, and the way that the Special Verdict Form is
11 set up, the jury doesn't get to the questions about
12 punitive damages unless they have decided that there is
13 actual malice.

14 And out of full candor, when I conferred yesterday
15 with Ms. DeMaster, the proposal that -- I haven't seen a
16 copy of what they are proposing, but what was discussed
17 was changing the description of the instruction to say
18 "maliciousness" or "state of mind," but I think that
19 creates more confusion for the jury --

20 THE COURT: Right.

21 MS. MORGAN: -- and would create an issue where
22 they don't understand the distinction between actual
23 malice and maliciousness, as that term appears. And so I
24 just think that this is not necessary and actually would
25 create more confusion, Your Honor.

1 And, frankly, "willful and wanton conduct" is not a
2 term that most people use in their daily life, so I think
3 there does need to be an instruction describing what that
4 term really means.

5 THE COURT: All right.

6 MR. KACHOUROFF: Judge, I will just state one last
7 point. According to my colleague's notes, Pattern Jury
8 Instruction 5:4 says, "In cases involving speech or
9 expression," and I think she is referring to another
10 version of 22:27, I don't know.

11 THE COURT: All right. Is Ms. DeMaster going to be
12 here today?

13 MR. KACHOUROFF: She is, Your Honor. She was up
14 late last night.

15 THE COURT: Okay. So we will take that under
16 advisement.

17 Anything else with respect to the final jury
18 instructions that we need -- you need me to address?

19 MS. MORGAN: Just in terms of scheduling, Your
20 Honor. I know we had some proposed edits to the verdict
21 form. As far as a timeline on that, when do we expect to
22 have those?

23 THE COURT: Hopefully sometime this morning. My
24 law clerk has also been staying up late working very
25 consistently on these issues.

1 MS. MORGAN: Thank you.

2 THE COURT: With respect to the jury instructions,
3 I want to make a finding expressly on the Fifth Amendment
4 adverse inference instruction. The four *McGillis* factors
5 weigh in favor of giving an adverse inference instruction.
6 *McGillis Investment Corporation v. First Interstate*
7 *Financial Utah, LLC*, 370 P.3d, 295, 301 to -2, Colorado
8 Appellate Court, 2015.

9 First, there is a significant financial nexus
10 between Ms. Peters and Mr. Lindell that suggest that she
11 would act for his benefit. At various times he paid for
12 her hotel room, gave her a credit card, flew her around in
13 the private plane. And he also testified that he gave 1
14 to \$200,000 in support of her legal defense fund, or
15 somehow directly paid her attorneys on her behalf.

16 Second, although Ms. Peters wasn't Mr. Lindell's
17 employee, there is evidence that he had some control over
18 her statements about the purported defamatory statements,
19 he encouraged later to appear on Frankspeech to tell her
20 story, and she did so soon thereafter.

21 Third, Mr. Lindell's and Ms. Peters' interests are
22 closely aligned. In addition to their financial ties,
23 both have made similar types of purported defamatory
24 statements. In her statement on Frankspeech -- indeed,
25 her statement on Frankspeech is one of the alleged

1 defamatory statements in this case.

2 Fourth, Ms. Peters' role in this litigation is not
3 that of a disinterested third-party witness given her
4 close ties to Mr. Lindell, her repeated appearances on the
5 Frankspeech platform, and the types of claims that they
6 are making in general, including the repetition of the
7 alleged defamatory statement that Dr. Coomer was somehow
8 involved in interference with the 2020 general election.

9 Considering these factors, a reasonable jury could
10 reliably infer that Ms. Peters repeatedly invoked her
11 Fifth Amendment privilege because her answers would be
12 adverse to defendants.

13 Accordingly, the Court finds that an adverse
14 inference would sufficiently be trustworthy under the
15 circumstances to permit an adverse inference instruction.
16 That is *McGillis*, 370 P.3d, at 295.

17 All right. So having made that ruling expressly on
18 the record, we will include that instruction.

19 Anything else you all want to address before we
20 start with the jury at 9:00?

21 MS. MORGAN: No, thank you.

22 MR. KACHOUROFF: No, thank you, Your Honor.

23 THE COURT: All right. Thank you, we will be in
24 recess until the jury is all present.

25 (A break is taken from 8:49 a.m. to 9:04 a.m.)

1 THE COURT: Thank you. Please be seated.

2 Are you all ready to proceed with Dr. Halderman?

3 MS. MORGAN: Yes, Your Honor.

4 THE COURT: Madam deputy.

5 (In the presence of the jury.)

6 THE COURT: Thank you. Please be seated.

7 Dr. Halderman, I remind you, you are still under
8 oath.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: You may proceed.

11 MS. MORGAN: Thank you. I wanted to give everyone
12 a second to get situated.

13 **ALEX HALDERMAN**

14 having been previously duly sworn, testified as follows:

15 **DIRECT EXAMINATION (Cont'd)**

16 **BY MS. MORGAN:**

17 Q. Good morning, Dr. Halderman.

18 A. Good morning.

19 Q. I want to go back to our discussion about the
20 overview of your opinions, because I think we left one off
21 yesterday. Focusing here on our slides on that last
22 bullet point, I want to ask you whether or not the
23 defendants' theories about Dr. Coomer and Dominion with
24 respect to the 2020 election have helped or hurt efforts
25 to secure elections?

1 A. Oh, my gosh, they have absolutely hurt efforts.

2 MR. KACHOUROFF: Objection to this.

3 THE COURT: Approach.

4 (A bench conference is had.)

5 MR. KACHOUROFF: What is the relevance of this?

6 MS. MORGAN: It is relevant to the issue of
7 exemplary damages, Your Honor. As we have discussed
8 during this trial at length, the Colorado Statute
9 indicates that one of the things the jury can consider is
10 whether or not the defendant acted with reckless
11 disregard, essentially to the rights and safety of others,
12 particularly the plaintiff.

13 And so it is relevant whether or not the claims at
14 issue in this case have harmed the elections industry.
15 And this is squarely with Dr. Halderman's declaration.
16 And I believe that in the Court's order on the motion to
17 exclude, that the Court permitted this testimony to be
18 had.

19 MR. KACHOUROFF: First of all, there is no nexus
20 between the idea of this at-large election breach of
21 public trust and Mr. Lindell's statements. First of all,
22 they have to lay a foundation as to how he knows that.
23 Secondly, it should be limited, as the Court has already
24 previously indicated, to the effect on Mr. Coomer, if he
25 knows that. If he doesn't know that --

1 THE COURT: I am going to have Ms. Morgan reframe
2 the question, but otherwise the objection is overruled
3 with respect to this testimony that is pertinent to
4 exemplary damages. As previously discussed in the context
5 of the testimony of Mr. Crane, Colorado's exemplary
6 damages statute specifically contemplates that the impact
7 can extend beyond the plaintiff to others.

8 (In the hearing of the jury.)

9 Q. (BY MS. MORGAN) I want to make sure we understand, I
10 am framing this question specifically to the claims that
11 the defendants have made about Dr. Coomer and Dominion
12 with respect to the 2020 election.

13 Have those claims helped or hurt individuals like
14 Dr. Coomer and yourself in the elections industry?

15 A. I think they have been a big setback to the kind of
16 work that I and others have been doing in my career for
17 almost 20 years now, trying to make elections in this
18 country more secure.

19 Q. Have you investigated the theories espoused by the
20 defendants with respect to whether or not the 2020
21 election was rigged or hacked by Dr. Coomer and Dominion?

22 A. Yes.

23 Q. Based on your research, education, and training, have
24 you ruled out these theories?

25 A. Can you clarify which theories you mean?

1 Q. Sure. Specifically the theory that Dr. Coomer and
2 Dominion somehow worked together with China to "murder
3 Americans' votes."

4 A. Oh, I see. Yes, that's just -- that didn't happen.
5 That didn't happen. It's implausible to begin with. And
6 now that the 2020 election has gone through just so much
7 investigation and so many audits, it's ruled out by a
8 mountain of evidence at this point.

9 Q. And I think you testified yesterday to the effect
10 that initially right after the 2020 election, someone may
11 have thought that, but that became less plausible. Can
12 you explain what you meant by that, just briefly?

13 A. Yes. So whether you trust elections or not, it is
14 not a binary. You can have some reasonable level of doubt
15 until the evidence comes in, and that evidence comes in
16 from audits, from recounts, from investigation into
17 reported issues. But there is a world of difference
18 between, I'm a little bit uncertain, I am going to wait to
19 see what evidence comes in, and I am utterly convinced the
20 election is stolen, and I am going to go out and make
21 movies and promise the world I will show them my "absolute
22 proof."

23 Q. Has Mr. Lindell or Frankspeech ever cited you as
24 proof that the voting machines are vulnerable?

25 A. They have certainly cited my research, and I think we

1 saw that in an excerpt from one of Mr. Lindell's films
2 yesterday.

3 Q. Are they properly considering and applying your work?

4 A. No. No. So my work -- what my work shows is that
5 there exists technical vulnerabilities in election
6 systems. There are certain risks that we should be
7 working as a nation to address through better procedures,
8 through better technical processes in the development of
9 equipment and, most importantly, through making sure that
10 elections are conducted using paper ballots and rigorous
11 post-election audits, where people go and look at those
12 ballots by hand and confirm that the outcome of the
13 election was right.

14 And this is not only what my research says, this is
15 the consensus view of the National Academies. But what
16 Lindell's theories do, what Lindell's films do, is they
17 take that science and they build a science fiction story
18 on top of it by saying that there is any evidence at all
19 that the 2020 election was actually stolen, by exploiting
20 these vulnerabilities.

21 As I said yesterday, there is no credible scientist
22 who has ever claimed that a U.S. election result was
23 changed by hacking. That's just not something that there
24 is credible evidence for. It's a potential risk and a
25 possibility that is important enough that it has required

1 already important policy changes that have happened, and
2 will require, to get to the point where scientists would
3 like elections to be, will require further changes. But
4 none of that, none of that is evidence that the 2020
5 election was stolen.

6 The evidence that comes from science is evidence of
7 risk, not evidence that an attack has taken place.

8 Q. We have heard Mr. Lindell advocate for both paper
9 ballots and hand counting. Can you explain to the jury
10 what concerns you would have about switching to hand
11 counting.

12 A. Well, first you say switching to hand counting, and I
13 point out that there are parts of the U.S. now that
14 already do hand count, but they tend to be smaller or
15 rural jurisdictions, and they are the exception. Most of
16 the country today counts votes by having voters fill out
17 paper ballots, and then counts those ballots with the
18 computer scanner.

19 And then in many states, at least for a very
20 high-profile election, like the 2020 election, they now
21 conduct some kind of post-election audit of those paper
22 ballots to provide additional affirmative evidence that
23 the result was right.

24 But talking about switching to counting all of
25 those votes by hand, well, there are a couple of reasons

1 why we don't do that and why I don't think there are very
2 many experts who would advocate for that. One reason is
3 that our elections in the U.S. tend to be very long and
4 complicated ballots. Places around the world that hand
5 count -- and I think we heard testimony this week from,
6 perhaps from Mr. Lindell, that in other countries they
7 count ballots by hand. Well, that is true, but most of
8 those countries that count ballots by hand tend to be ones
9 with very simple questions on the ballot.

10 In most European countries, you go to vote, there
11 is one question, who do you want to represent you in
12 parliament. That makes it so it is actually really easy
13 for them to hand count those ballots; you separate them
14 into piles and count the piles.

15 But in the U.S., I don't know if you remember from
16 the last time you voted, but in a general election we
17 might have 30, 40 questions on the ballot. Because we
18 just love voting that much, right, we will vote for the
19 president, we vote for congress, governor, for secretary
20 of state, for your state reps, for your mayor, for your
21 city council, for your other local offices, maybe for some
22 proposals, and we have these really complicated ballots.
23 And counting all of those contests by hand would take --
24 well, it might take 30 times as long to count 30 contests
25 as it would take to count one contest.

1 So for efficiency reasons, because we want election
2 results on election night, we tend to involve technology.
3 But the other reason, the other reason that we -- that I
4 wouldn't advocate just going back to counting votes by
5 hand, is the whole reason we introduced technology into
6 elections and vote counting in the early 20th century is
7 because when we did count everything by hand, there was a
8 ton of fraud. And it was really well documented
9 historically, fraud in the late 19th and early 20th
10 century, where the people counting the votes would count
11 them dishonestly to come up with crooked results.

12 That is why we introduced first mechanical, then
13 electrical, and eventually computer voting machines, so it
14 would be more difficult for old-fashioned, low tech, fraud
15 to happen.

16 Now, in my view, and I think this is largely the
17 shared view of the scientific community, the best solution
18 we can come up with to the problem of fraud today, is to
19 first count the ballots with a computer, and then have
20 people go back and check the result by counting by hand
21 some of the ballots to check the computer's work. And
22 that way, in order to tamper with the result and get away
23 with it, you would both have to somehow alter the
24 computerized records, that would take some kind of high
25 tech attack, and you would need a conspiracy of people on

1 the ground involved in that audit or hand count of the
2 ballots who would also be part of the conspiracy, who
3 would somehow have to report the same incorrect result.

4 So with this combination of an initial scan by a
5 computer, and then coming back and having people check the
6 work of the computer, we get basically the best of both
7 worlds, as long as we are doing that check to make sure
8 the computer's work is right.

9 So that's the system that is used in most of the
10 country. The major question now, from a policy
11 perspective, is how can we get as much of that auditing as
12 possible to happen, especially in down-ballot contests?

13 Q. And I think that we touched on this yesterday, but as
14 far as the use of paper ballots and auditing, is that
15 something that Colorado has in place currently?

16 A. Oh, well, Colorado is -- you are all very lucky to be
17 Colorado voters, because Colorado has been at the
18 forefront of this kind of rigorous post-election auditing
19 that I and the National Academies recommend.

20 Colorado is the first state to do rigorous
21 risk-limiting audits of its ballots statewide. It has
22 really been recognized for years as a national leader in
23 that kind of post-election auditing.

24 Q. Were those same safeguards in place in Georgia in
25 2016, which became an issue in that *Curling* case we talked

1 about yesterday?

2 A. In 2016, no. So in 2016, Georgia didn't even have
3 paper ballots. Georgia was using one of the machines that
4 you saw, one of the machines you saw people hacking into
5 in the excerpt from *Kill Chain* yesterday, a paperless DRE
6 voting machine. This is one where there is no paper
7 ballot, you just mark your votes on a screen, and the only
8 record of your vote is some entry in a computer database
9 somewhere.

10 So that is in contrast to a paper ballot system,
11 where you fill out a piece of paper and either mail it in,
12 or in a lot of counties, feed it into a scanner yourself
13 in person. When you have a paper ballot, it is impossible
14 by hacking to go back and change what's on that piece of
15 paper.

16 When you have only a digital record, well, if there
17 is a vulnerability in that computer system, it can
18 potentially be changed. And in 2016, almost a third of
19 the country was, maybe 30 percent of jurisdictions, were
20 using paperless DRE systems. It was only 10 percent by
21 2020. I think the only state in 2020 that was still
22 entirely paperless was Louisiana.

23 Q. And we have heard a little bit about voter intent and
24 adjudication from other witnesses, and we will get more
25 into adjudication. But as far as hand -- a hundred

1 percent hand counting across the country, do you have any
2 concerns with how hand adjudication would work?

3 A. Hand adjudication -- well, so adjudication -- and
4 adjudication means that let's say someone has filled out a
5 paper ballot and mailed it in, right, when you are filling
6 out your ballot there are instructions. It says fill in
7 the oval completely or fill in the box completely if you
8 want to make a mark. The reason that it tells you that is
9 because it's more difficult for the computers to reliably
10 scan that mark if you have just made a very light mark or
11 an indistinct one.

12 It is like when you are filling out, if you have
13 filled out a Scantron test or taking the SAT, or something
14 like that. Adjudication is a process that many
15 jurisdictions follow, when they get those ballots back, to
16 look for marks that may not be filled out all of the way
17 or may be unclear, and correct that problem.

18 Q. And I just that we pull up the screen. Is this what
19 you are describing?

20 A. Yes. So this is an example. This is taken from a
21 real ballot in Georgia of a voter's mark on a mail-in
22 ballot that was not following the instructions. The
23 instructions say to fill in the mark completely. The
24 voter just made a check. A lot of people might do that
25 accidentally.

1 But a ballot like this is scanned by a computer,
2 the computer might not read that mark completely. So
3 election officials, as a quality control step, will
4 conduct a process called adjudication, where they will
5 look for indistinct marks and correct them. And this
6 process is something that is done -- traditionally it is
7 done by a review panel consisting of officials, with
8 bipartisan observers, by bipartisan workers, just to make
9 sure that there is no funny business going on.

10 They want to make sure that everybody agrees that
11 the voter's mark is clear and the correction is accurate.
12 But they would go through, and traditionally they would
13 duplicate the entire ballot onto a new fresh ballot, and
14 make the marks correctly and ensure that they matched what
15 the voter had put on the original one. That is one
16 example, the tradition adjudication process.

17 And you asked if I had concerns about that. Well,
18 you know, not so much concerns, because there is going to
19 be a bipartisan observation, but I am a bit concerned of
20 the potential for human error in that duplication process;
21 say if it is late at night, they have gone through a lot
22 of ballots, they might make a mistake when they are
23 copying everything over to the re-made or corrected
24 ballot.

25 Q. And we will talk about Mr. Oltmann's theories and

1 testimony some more later, but the jury heard Mr. Oltmann
2 testify that Dr. Coomer invented adjudication. Is that
3 accurate?

4 A. No, that is not accurate. Adjudication is something
5 that has been done for a long time. And we can -- I have
6 reviewed Mr. Coomer's invention, and Mr. Coomer's
7 invention relates to an improvement to something called
8 electronic adjudication.

9 Q. And you were referring to the audit process as
10 involving bipartisan teams. Just for those of us that
11 don't follow politics, what does "bipartisan" mean?

12 A. That just means there is somebody who is representing
13 a Republican perspective, somebody representing a
14 Democratic perspective, either as an observer or witness
15 or as a participant in the process. And it is very common
16 in different election steps that are sensitive or that we
17 want public transparency, to be a critical part of, like a
18 post-election audit or a hand count, to have rules that
19 say you are going to have bipartisan observers present
20 representing both of the major political parties.

21 Q. Okay. And I have some additional questions, but I
22 want to show you a clip that has already been admitted
23 before we get to that.

24 MS. MORGAN: Could you pull up Exhibit 185, please.
25 Is that showing for the jury?

1 (Exhibit 185 played in open court.)

2 Q. (BY MS. MORGAN) So you heard Mr. Lindell say that
3 "these are things that I have evidence of. The evidence
4 is there." Do you know what he is talking about?

5 A. Well, the evidence that he -- I hesitate only because
6 Mr. Lindell's China hacking claims are so nebulous and
7 vague that it is difficult to see that there is anything
8 technically coherent there at all. This is just a science
9 fiction universe.

10 But as I understand it, Mr. Lindell -- the evidence
11 that Mr. Lindell was talking about there, I understand to
12 be the same as the evidence he presented at the symposium.

13 THE COURT: There is an objection.

14 THE WITNESS: Pardon me, Your Honor.

15 MR. KACHOUROFF: Objection.

16 THE COURT: Overruled. Go ahead.

17 Q. (BY MS. MORGAN) You can continue, Dr. Halderman.

18 A. My understanding, based on the totality of
19 Mr. Lindell's statements, is that the evidence he was
20 talking about there is the evidence he later said he would
21 present to the public at the Cyber Symposium.

22 Q. Have you reviewed Mr. Lindell's movie, *Absolute*
23 *Proof*?

24 A. Yes, I have.

25 Q. Did you analyze the claims made in that film?

1 A. Yes, I did.

2 MS. MORGAN: We are showing the jury a slide here.

3 Q. (BY MS. MORGAN) If you can just look, glance at that
4 very briefly, Dr. Halderman. From your understanding of
5 watching *Absolute Proof* and from reviewing Mr. Lindell's
6 statements at issue in this case, what does this map
7 purport to show?

8 A. Well, the central claim in *Absolute Proof*, sort of
9 the running theme of the movie, is that a cyber attack
10 somehow occurred shortly after election day in 2020, and
11 that attackers, apparently China, but attackers from
12 foreign network locations, struck over the internet,
13 hacked into election-related computer equipment in
14 jurisdictions all across the country, and changed votes to
15 flip the election outcome.

16 And this map, which features in Lindell's films --
17 well, I wish you could see the animated version of this,
18 because the animated version kind of shows these lines
19 almost like missiles in flight coming out of locations
20 abroad, then landing in U.S. jurisdictions. It's like
21 something out of the movie, a movie like *Tron* or
22 something.

23 Once again, this is science fiction. In actual
24 computer security practice, we don't make maps like this.
25 Sorry, this is like something that someone who is

1 imagining what computer security is like would make for a
2 movie. It is not -- it is not a real technical tool of
3 any sort.

4 Q. And before I ask you more about this map, I think
5 yesterday you testified that you reviewed the appetizer
6 data that Mr. Lindell had given to CNN; is that right?

7 A. Yes.

8 Q. Then did you have a chance to review the evidence
9 that was provided to the Cyber Symposium experts at the
10 Cyber Symposium?

11 A. Yes.

12 Q. How did you get ahold of that data?

13 A. Well, one of the experts who was there at the
14 symposium was a network security expert named Robert
15 Graham, who is widely recognized in the community as an
16 actual expert. And he participated in the symposium as
17 part of the group that was given the data.

18 Mr. Graham, he basically live blogged his
19 participation in the symposium and publicly shared at the
20 time of the symposium the data that he had received. So I
21 obtained a copy from him and conferred with him, too, that
22 that was the data he had received.

23 Q. The jury has heard some testimony from Mr. Lindell
24 that perhaps the data that Harri Hursti and Robert Graham
25 reviewed was not the data that he intended for them to

1 have, or that they got some hard drives or something they
2 weren't supposed to, something to that effect.

3 In your review, what did you find when you compared
4 the data from the Cyber Symposium with the appetizer data
5 that Mr. Lindell provided to CNN?

6 A. It was entirely consistent with the appetizer data.

7 Q. Based on your review of the data from Mike Lindell's
8 Cyber Symposium, what does this "pew pew" missile map
9 show?

10 A. "Pew pew" map, I think that is an apt description of
11 it. So what does it actually show?

12 Q. Yes, sir.

13 A. You mean in real life?

14 Q. Yes.

15 A. Well, it doesn't show anything, because all of the
16 data that is included in this is data that anyone could
17 easily make up; right. It is entirely unauthenticated
18 data. It is data that -- you can pick random network
19 locations abroad. Network locations in the United States
20 are all things you can infer based on, say, the address on
21 a county's website. So, without -- without any further
22 evidence to establish that this data is anything but
23 entirely made up, it doesn't show anything.

24 Q. At a broad level, what is the supposed "absolute
25 proof" that China hacked the 2020 election through

1 Dr. Coomer and Dominion?

2 A. That's a very good question. I mean, I think at a
3 broad level -- at a broad level the supposed "absolute
4 proof" is coming from this data. That is my understanding
5 of the core of the claim; that the data -- that
6 Mr. Lindell had somehow established that.

7 But, as I have said, this data you see in this map,
8 it is impossible to authenticate it. It is very unlikely
9 such data would have existed in the first place just
10 because of the way networks work. You would have to --
11 like to capture this data -- can I just explain a little
12 bit, perhaps, about what PCAPs are?

13 Q. Sure. Let me ask you, what are PCAPs, just to help
14 the jury understand.

15 A. Sure. So in network -- in computer networking, data
16 is sent over the internet, it moves in the form of what we
17 call packets. These are just small, thick-sized chunks of
18 data that are passed from one internet provider to the
19 next to get it from, say, your computer at home, to some
20 server across the country.

21 PCAPs, or packet captures, are recordings,
22 basically, of this traffic. The network usually doesn't
23 record traffic moving around, but if you put a device in
24 place that watches one link, one wire in the network, it
25 can record everything that is going by, the way you might

1 imagine a wiretap to work in a movie or something. It
2 makes a recording of all of those packets going by. But
3 that normally doesn't happen in most of the networks, you
4 have to have someone who decides, I want to capture this
5 data, otherwise it is ephemeral.

6 So to capture this kind of data about attacks
7 coming from all over the world into every election office
8 in the United States, essentially you would have to have
9 machines set up observing network traffic in points all
10 around the network, or points all over the board of
11 networks in the United States, and that is not something
12 that typically happens in network security practice.

13 So, first, right, it's unlikely that such data
14 would exist at all. But then on top of that, this data,
15 as presented in the film, is all stuff anyone could just
16 make up in a few hours of time.

17 So critical to understanding whether this purported
18 evidence actually proves anything, is establishing, well,
19 is this data somehow actually real contemporaneous data
20 from the election? And even if this summary data was, it
21 is unlikely from just the fact that there was a connection
22 from one place to another that you could conclude that
23 that attack affected the election result, right, and for
24 several reasons.

25 One, most network traffic is encrypted, so someone

1 who is just watching the wire, seeing the data go by,
2 can't make any sense of that. And that is what one of the
3 non-profit companies that I started, that is what it
4 specializes in, adding that encryption to network traffic.

5 And today, the vast majority of network traffic is
6 encrypted, so you couldn't tell by looking at it that an
7 attack was taking place. But to make sense of what was
8 happening, to have any hope of making sense of what was
9 happening, you would need more than just the kind of map
10 or summary shown here, you would need much more detailed
11 data, at least you would need something like PCAPs, or
12 packet captures, that would let experts analyze and
13 dissect that data to try to understand what was actually
14 going on with those connections, if they were real.

15 Q. Based on your review of the appetizer data and the
16 data that was provided to the experts at Mike Lindell's
17 Cyber Symposium, did they have PCAPs from the 2020
18 election?

19 A. Well, the data that was provided to Mike Lindell
20 was -- by Mike Lindell to CNN was absolutely nothing that
21 was credible data. There was a series of different files,
22 most of them just not really any form of evidence of
23 anything. And then there was a longer series of data that
24 was essentially just another view of connections on this
25 "pew pew" map.

1 Q. Okay. And we'll drill down into that a little bit
2 more, but I want to ask, was the theory of Chinese
3 election hacking, and a collaboration somehow with
4 Dominion, put forth in Mr. Lindell's subsequent films
5 after *Absolute Proof*?

6 A. Yes.

7 Q. In your analysis of the claims made in Mr. Lindell's
8 films, did you review any criticisms of the purported
9 evidence that was presented in those films?

10 A. Well, yes. There was, contemporaneous with the
11 premiere of all of those films, lots of people did fact
12 checks, and there were numerous stories in the press where
13 journalists cited experts saying these theories held no
14 weight.

15 MR. KACHOUROFF: Objection, Your Honor, hearsay.

16 THE COURT: Dr. Halderman, I am sorry, when counsel
17 makes an objection, I need you to pause so I can rule on
18 that objection.

19 THE WITNESS: Pardon me, Your Honor.

20 THE COURT: All right. Mr. Kachouroff, if you have
21 more than just that word.

22 MR. KACHOUROFF: Just that word.

23 THE COURT: All right. Sustained.

24 MS. MORGAN: May we approach, Your Honor?

25 THE COURT: Yes.

1 (A bench conference is had.)

2 MS. MORGAN: As an expert witness, Dr. Halderman
3 should be permitted to discuss some of the hearsay that he
4 relied upon in reaching his opinions. The rules indicate
5 that experts can rely on evidence that might not otherwise
6 be admissible so long as it is something that they have
7 reviewed.

8 THE COURT: He can rely on it and give opinions
9 about it, but he can't restate the hearsay.

10 MS. MORGAN: Okay.

11 (In the hearing of the jury.)

12 Q. (BY MS. MORGAN) What is your opinion with respect to
13 whether or not there were publicly available criticisms of
14 the so-called "absolute proof" presented by Mr. Lindell in
15 his films?

16 A. There were, and there were criticisms made by news
17 organizations and presented in the media shortly after the
18 premiere of each of those films that discussed in detail
19 why --

20 MR. KACHOUROFF: Objection, Your Honor. Again,
21 this is going right back to the hearsay.

22 THE COURT: Overruled.

23 THE WITNESS: -- that discussed in detail why the
24 theories were implausible or false.

25 Q. (BY MS. MORGAN) And I don't want you to go into the

1 substance of those statements, but in terms of the timing,
2 were those criticisms made shortly after the release of
3 Mr. Lindell's films?

4 A. Yes.

5 Q. What are the fundamental obstacles that would make a
6 nationwide hack, like Mr. Lindell proposed, practically
7 impossible?

8 A. Well, there are a number of things that complicate
9 hacking a nation's election. And I don't want to say it
10 is essentially impossible in any case, but I do want to
11 point out that we have to analyze it in any particular
12 election scenario; how close was the election, what states
13 were planning what sort of review or audit, and how many
14 of those states would have to be affected by hacking to
15 change the result?

16 But if we want to limit the analysis for now to a
17 question -- to the question of why would it be essentially
18 impossible to hack election results in every state in the
19 manner that is discussed in Mr. Lindell's films and is
20 purported by his supposed PCAPs or data, there are reasons
21 why that is, in essence, impossible.

22 One, across the country we don't just have one
23 single voting system. There is not one place someone can
24 hack in and change votes nationally, it is a highly
25 distributed systems. So every state runs its own voting

1 system. In most states, the computers that actually do
2 the vote counting or tabulation are -- or even on the
3 county level, county by county, they run their own
4 separate systems, and those aren't all the same type of
5 computer.

6 Across the country there are probably 30 or so
7 different models of voting machine in use right now. They
8 run many different versions of software behind those
9 voting machines. So to target all of them the way that
10 the Lindell data and theory proposes, would require an
11 enormous investment in time and manpower and resources to
12 somehow find ways to attack all of those different
13 systems. So that is one reason.

14 Another obstacle is those systems are, in general,
15 not going to be -- are usually not going to be connected
16 to the internet there are exceptions to that. Sometimes
17 there are machines that transmit votes over
18 internet-connected networks, but those are the exception
19 rather than the rule. And to target all jurisdictions,
20 you also have to find a way to target the systems that are
21 not at all connected to the internet, that are fully
22 disconnected.

23 And perhaps there are ways in some cases to do
24 that, but in general, it is going to be difficult and it
25 is going to require specific investment in each of those

1 locations to pull off something resembling that.

2 Finally, there is the problem that an attack is
3 very likely to be detected if it tries to attack every
4 jurisdiction nationwide.

5 Q. Why is that? Why would it likely be detected?

6 A. Well, two reasons. One, many jurisdictions are now
7 doing audits of the paper ballots. We have ballots marked
8 on paper, and they can't be changed in a cyber attack, and
9 people are going to go back and look at enough of them to
10 tell whether or not the result was changed.

11 But, two, if you are flipping the election outcome
12 or interfering with the election outcome everywhere, well,
13 there are places where it is just going to be completely
14 implausible if the election outcome has been attacked and
15 changed.

16 Let's say if Hawaii were hacked to flip the
17 presidential outcome, Hawaii is probably the Bluest state
18 in the nation, that would be completely implausible. So
19 there wouldn't be any reason why an attacker would try to
20 hack presidential election results in Hawaii in the
21 process of trying to flip the outcome.

22 But that is what Mr. Lindell's data is implying, is
23 the attack from China changed votes in every jurisdiction.

24 Q. As far as if someone wanted to hack into all of the
25 computers at the same time, would that be something that

1 would be easy to do or difficult?

2 A. Well, I think it would be virtually impossible to
3 hack into all of the computers at the same time. This is
4 a monumental amount of effort, even a nation-state like
5 China or Iran or Russian, they might rattle the doorknobs.
6 And something like that really happened in 2016, where we
7 know Russia tried to look for vulnerabilities in voter
8 registration systems across the country.

9 But that's really different from getting in and
10 actually changing votes, because voter registration
11 systems aren't necessarily hooked up to the internet,
12 because everywhere gives you a way to register or vote
13 online or to look up your records, but the systems that
14 count our vote for the most part are not.

15 Q. If I am hearing your testimony right, was it detected
16 that Russia tried to "rattle the doorknobs," as you said?

17 A. It was detected. It was sort of detected
18 retroactively. It was detected, and eventually we came to
19 understand the scope of what happened. And we knew that
20 Russia did not change voter registration records in 2016,
21 although in one or two states they had the capability to.

22 Q. The jury heard Mr. Oltmann testify that electronic
23 management systems can be hacked without detection. What
24 is your reaction to that testimony?

25 A. Well, that's possibly -- so it depends on the

1 circumstances and what the attack is trying to do. But,
2 again, talking about an attack that is going to strike
3 everywhere across the country without detection, that is
4 virtually -- going to be virtually impossible, because a
5 lot of these systems are going to be under scrutiny,
6 right.

7 Since 2016, we have had a much higher level of
8 scrutiny by security personnel at the state level, by law
9 enforcement, and so on. And although we can't rule out
10 that perhaps attacks could take place in some places
11 without detection, we can rule out that attacks took place
12 everywhere without detection. That would be ridiculous.

13 And even then, the question is really, did attacks
14 take place in 2020 without detection? And we have
15 abundant evidence that that did not happen, at least not
16 in any way that affected the outcome of the election, and
17 that is what comes from the post-election audits.

18 Q. Why is it that it would be implausible for a real
19 adversary seeking to affect the presidential election to
20 hack votes in every single state?

21 A. Why would it be implausible? One reason would be
22 that the attacker would not gain anything by attacking
23 jurisdictions that weren't among the closest swing states.

24 So, look, just let me step back for a minute. So
25 recall -- and maybe if you don't vote or follow the news

1 about elections regularly, you might not be familiar with
2 the way that voting for president works, but we have a
3 system called the electoral college, where each state has
4 a certain number of what are called electors, and in most
5 states, that number is awarded on a winner-take-all basis
6 depending on which candidate gets the most votes within
7 that state.

8 Some states tend to be more competitive than others
9 in presidential elections because they just are more
10 evenly balanced between Republicans and Democrats. These
11 states that are more uncertain which way they are going to
12 vote, these are called the swing states. And the swing
13 states are the ones that are maybe most in play during the
14 election.

15 Hawaii, or, I don't know, Montana, you can usually
16 predict which way those are going to come out. They are
17 highly polarized states, they are not really swing states.
18 But Georgia or Pennsylvania, or my own state, Michigan, we
19 have gone back and forth from election to election. We
20 are what is called a swing state, and it is much harder to
21 predict which way we will go.

22 In a real attack, if you wanted -- let's suppose an
23 attacker wanted to alter the result of a presidential
24 election, the only logical thing for them to do is to
25 focus on the swing states, because those are the only

1 states that -- those are the states where it would be at
2 least a credible result if it came out either way. If
3 they flipped Hawaii or Montana to be the opposite of the
4 expected result, nobody would believe it, it would be
5 obvious that there was some error here and people would
6 investigate.

7 But in a state where we couldn't predict the
8 outcome very well in advance, that is one that plausibly
9 could go either way, that would be an attractive target.

10 Now, to change the result of a presidential
11 election, also you don't have to change votes in every
12 state because of the winner-take-all nature of the
13 electoral college, it would be sufficient to attack a
14 fairly small number of swing states.

15 Q. So why not just attack all of the states to make sure
16 you have it in the bag?

17 A. So, thank you. The point is attacking all of the
18 states would make it much more likely you would be
19 detected without it doing anything to increase your odds
20 of success. So no real attacker who wants to remain
21 undetected would do that.

22 Q. I want to circle back to the CNN interview of
23 Mr. Lindell from August 6. You had an opportunity to see
24 that video when we played it, Exhibit 190; correct?

25 A. Yes.

1 Q. I think you already established you were one of the
2 nine cyber security experts that analyzed that data.

3 A. I was, yes.

4 Q. And we touched on it, but what can you -- can you
5 give us some more information about the conclusions you
6 reached after analyzing that data?

7 A. Well, I think I told CNN it was completely
8 ridiculous.

9 Q. Why was that your finding?

10 A. Because the data was purported to be "absolute
11 proof." The claim was there would be PCAPs presented, but
12 the data didn't prove anything. There was nothing that
13 you could establish from it. It was impossible even to
14 tell whether any of it -- that any of it was genuine.
15 And, in fact, all of it could have been easily made up.

16 Q. I want to jump to the data from the Cyber Symposium.
17 We have talked about the PCAPs a little bit, but other
18 than the simplicity of that data, was there anything else
19 that was a sign of problems with that data, to you.

20 A. Of the data from the symposium?

21 Q. Yes, sir.

22 A. Well, so the data from the symposium -- the data from
23 the symposium was -- I am sorry, could you go back to the
24 slide, if you don't mind, that shows the spreadsheet,
25 because I don't think I quite pointed out --

1 Q. I believe that is 16 -- 15 maybe. I am sorry.

2 A. Just very briefly.

3 Q. The ones with the rows of data?

4 A. Right. So this is another screen shot from *Absolute*
5 *Proof*, but this shows another view of the same data that,
6 in the films, Mr. Lindell was purporting to have. And you
7 can see the different fields here, that there is a "date,"
8 there is a "source," and it is "network address." There
9 was a "designation" and "network address." And these
10 designations are supposedly election offices in counties
11 across the country.

12 So this is the kind of data that is in the films
13 Mr. Lindell had been presenting, but then at the symposium
14 he had promised to present actual PCAPs. That is what
15 experts like Mr. Hursti and Robert Graham had gone to
16 analyze. But the data that I reviewed from Mr. Graham is
17 the data the experts actually presented at the symposium,
18 and it isn't any form of PCAP data at all from the 2020
19 election.

20 The data that was presented, and it's just
21 enormous, was this hard drive, filling -- a pile of data,
22 and it is not any kind of real professional security PCAP
23 data whatsoever. It is not in any kind of standard data
24 format. It is this enormous blob of stuff in a
25 specialized data format called a BLX data format, named

1 after this Blxware company that we heard testimony about.

2 Q. Just briefly, is it your understanding that Blxware
3 is what Mr. Montgomery sold to Mr. Lindell for somewhere
4 between 1.5 to \$1.8 million?

5 A. Yes, that is my understanding.

6 Q. Why was that a red flag to you that the data was in
7 BLX format?

8 A. Well, so it was a red flag in part because of
9 Mr. Montgomery's background.

10 Q. Okay. Maybe we can list out the red flags, then we
11 can circle back. So other than Mr. Montgomery's
12 background, what were the other concerns you had?

13 A. Maybe it would help if I talked about what that data
14 format was.

15 Q. Can you explain the data format, please?

16 A. Yes. So the Blxware data was in this specialized
17 format that it appears Mr. Montgomery had invented for his
18 data. But along with the purported PCAP data file, the
19 data that the experts at the symposium received also
20 included the source code to two different computer
21 programs that were related to processing that data, and
22 that source code also appears to have been created by the
23 Blxware company, by Dennis Montgomery's company.

24 So I analyzed the PCAP "data," together with the
25 programs that were provided to process it, and those

1 programs tell you how the data file was constructed, in
2 essence. These Blxware computer programs, one of them is
3 intended to extract the data and to supposedly analyze and
4 find evidence of attacks from within that PCAP data.

5 But when you actually start to look at the program,
6 to read what the source code does, well, the first thing
7 you see is it is written in a way that is intended to
8 obfuscate what it is doing, to hide what it is doing and
9 make that less obvious. And that obfuscation is really
10 making -- it isn't so complicated that an expert couldn't
11 understand it, but it would take more than a few minutes
12 for someone who just has an introductory-level programming
13 to figure out what the program is really doing.

14 But Robert Graham was able to make sense of it
15 during the symposium and talked about it in realtime, and
16 even wrote his own program to complete the decoding. But
17 I did the same thing, and I figured out what this was
18 doing if you peel away the levels of obfuscation.

19 Q. What was it doing?

20 A. What it was doing was -- well, so what a real PCAP
21 analyzer program does, right, would be looking at each
22 network packet one by one, trying to associate that with
23 data from other sources, known malicious sources.
24 "Indicators of compromises," is a term of art we use for
25 data on a network that shows a real attack is occurring.

1 It would be doing some kind of intense analysis to actual
2 records of network traffic.

3 What Dennis Montgomery's program, distributed with
4 this data at the symposium, did, was it basically threw
5 away the lion's share of what was in this file, which
6 appears to just be junk, and looked at specific sections
7 of it, and then peeled away a little layer -- peeled away
8 a little bit of this obfuscation. And I will mention what
9 that means in a second.

10 What it did is it copied out essentially rows of
11 the spreadsheet already hidden in this giant data file.
12 So it threw away 99 percent of the file, which was junk,
13 and the one percent left was the hidden spreadsheet rows
14 that were almost exactly the same kind of data that we
15 first saw in that chart; the network and designation and
16 number of votes purportedly changed; right.

17 So it wasn't doing any analysis at all, and that
18 encoding, that obfuscation, it took those -- took those
19 spreadsheet rows, and they were hidden by shifting every
20 letter three places in the alphabet.

21 Q. If we can pause there. Is that what Harri Hursti
22 meant by ROT-3?

23 A. I didn't hear Hursti's testimony, but that would have
24 been the same thing. That means the same thing I am
25 saying. So you make an A into a D and a B into an E.

1 This is not any kind of real encryption or real analysis,
2 this is just a way of -- it is just a trivial way of
3 hiding something in that bigger data file.

4 Q. And I am sorry to pause you, but I pause you there.
5 So going back, you said you wanted to explain what you
6 meant by "layers of obfuscation." Could you explain?

7 A. Obfuscation, that is what I meant by that shifting
8 everything by three. So, again, you have an enormous data
9 file, but it has been filled with junk to make it look
10 much bigger than what it really is. What it actually is,
11 is just a big spreadsheet. It is a big spreadsheet, just
12 in the same form as what you saw in Lindell's films, that
13 has been disguised so it looks like it is not a
14 spreadsheet, it looks like it is a big enormous set of
15 network data that this program is doing sophisticated
16 analysis to.

17 But an actual -- an actual computer security or
18 computer networking expert can, in a few minutes, just
19 look at what the extractor program is doing and tell you,
20 wait, this isn't real network data, this is not doing any
21 kind of real analysis, this is just a thinly veiled fraud.

22 Q. We heard Mr. Lindell testify he was surprised when
23 people connected his data to Dennis Montgomery without
24 Mr. Lindell telling them he got it from Mr. Montgomery.
25 How could someone tell from the data presented at the

1 Cyber Symposium that it originated from Dennis Montgomery?

2 A. Well, so one way you could tell is this extractor
3 program had code in it that made a connection to the
4 Blxware website in order to apparently check that the
5 program was licensed to operate.

6 Q. And since we went back to Mr. Montgomery, you
7 mentioned him being associated with this data was a red
8 flag for you. Can you explain what you mean by that?

9 A. Well, I was familiar with Mr. Montgomery's reputation
10 prior to the election.

11 MR. KACHOUROFF: Objection, Your Honor, may we
12 approach?

13 THE COURT: Yes.

14 (A bench conference is had.)

15 MR. KACHOUROFF: The objection is foundation.
16 First of all, they would have to prove the details were
17 known by Mike directly, and he never talked to Mike
18 Lindell about Montgomery's background. So unless he can
19 provide that testimony, it is not relevant, and he can't
20 lay a foundation.

21 MS. MORGAN: He is about to testify that even doing
22 a cursory Google search of Mr. Montgomery would lead
23 someone to see that he is associated with fraud. This is
24 something that we have established through the testimony
25 of Mr. Lindell; that he did some kind of investigation but

1 he ignored all of these signs that Montgomery -- it goes
2 to actual malice.

3 THE COURT: It is overruled. But, Ms. Morgan, you
4 need to reframe the question. He is about to state
5 reputational evidence or character evidence about
6 Mr. Montgomery. It needs to be -- you need to lay a
7 foundation of what he knows and what his opinion is.

8 MR. KACHOUROFF: Hearsay statements.

9 THE COURT: Again, as I previously instructed, an
10 expert witness can testify as to his opinions based on the
11 hearsay and he can reference the opinions. He cannot
12 repeat the hearsay without violating the hearsay rule or
13 having another exception to the hearsay rule.

14 MS. MORGAN: Okay. To the extent that he invokes
15 the same thing that is in the exhibit that has already
16 been admitted, that Mr. Montgomery was involved in "a
17 hoax" on U.S. Government, I just want to get out in front
18 of that because I think that is what he is going to say.

19 THE COURT: If it is already in evidence, he can
20 testify to it.

21 MR. KACHOUROFF: He can testify to that.

22 (In the hearing of the jury.)

23 Q. (BY MS. MORGAN) Without getting into what anyone
24 else has said about Mr. Montgomery, what is your opinion
25 of Mr. Montgomery in terms of whether you find him to be a

1 credible source?

2 A. Mr. Montgomery is absolutely not a credible source.
3 He is someone who I would be -- I would not trust a single
4 thing that -- a single claim that he made.

5 Q. I want to show you an exhibit, it is going to be
6 Exhibit 83. Were you here when we discussed the letter of
7 warning; Mr. Lindell about Mr. Montgomery?

8 A. Yes.

9 Q. Okay. Do you generally agree with some of the
10 concerns that were raised in that letter?

11 A. Yes. Yes, absolutely.

12 Q. I want to go to slide 19 now. And can you give the
13 jury an example of one of the places that was supposedly
14 targeted by an attack, as reflected in the Montgomery
15 data?

16 A. Okay. Yes, this comes from my own analysis of the
17 data. So just looking at -- let's suppose that -- just to
18 preface this a little bit, what I analyzed was what I have
19 already described, is that the data wasn't any kind of
20 actual network packet capture, it was just this
21 spreadsheet that had been transformed to look like
22 something much more important and sophisticated than it
23 was.

24 But then let's suppose, let's take the spreadsheet
25 at face value, and what the spreadsheet consists of is it

1 is about 3,000, I think 3,500 or 3,700 rows, each of which
2 says an attack came from this address overseas, came to
3 this election office address in the United States, and
4 changed this number of votes on this date and time.

5 Okay. Well, let's take that at face value and ask,
6 well, is there evidence that -- can we show that that did
7 not happen? And, in fact, there are several reasons why
8 you can say that those attacks could not possibly have
9 happened the way that the data purports to show.

10 Q. How can you possibly say that?

11 A. Well, you can look at what it claims. And one claim
12 that the data makes, right, there is a row in the
13 spreadsheet that said that at 11:26 on November 6, 2020, a
14 computer in Moscow initiated an attack that infiltrated
15 the Brookfield Town Clerk's Office in Brookfield, Vermont,
16 and shifted 34 votes out of 813 from Biden to Trump.

17 Okay. So how do we know this is fake? We know we
18 can prove that this is fake, and here is how. If you go
19 to the next slide, Brookfield, Vermont, is one of those
20 U.S. jurisdictions that doesn't use any kind of
21 computerized voting, it counts votes entirely by hand.

22 People show up at a town meeting, they count the
23 ballots in public, then they announce what the results
24 are, and it gets reported by the local paper. So that
25 happened in Brookfield, Vermont, and that is how we know

1 what the election result is there.

2 It would be utterly impossible, absolutely
3 impossible for a computer overseas to hack into
4 Brookfield, Vermont, and change the election outcome.

5 Q. Were there any other jurisdictions such as the
6 Brookfield, Vermont, example where the data from Mike
7 Lindell's Cyber Symposium indicated that there had been an
8 attack?

9 A. Yes. The data implied votes were changed in
10 virtually every U.S. jurisdiction, including other
11 jurisdictions that count ballots by hand, like many
12 counties in Montana, other towns and cities across New
13 England. All or many, many of those localities, the data
14 claimed that votes were changed by hacking, but there were
15 no computers involved.

16 And then, it wasn't -- that was not the only kind
17 of problem, though. So just places that didn't use
18 computers that the data claimed were hacked was one.

19 Q. What were the other signs of problems that the data
20 was not credible?

21 A. Well, the data also would imply that the attacks had
22 to go back in time.

23 Q. What do you mean by that?

24 A. Well, so I mentioned that each of these rows in the
25 spreadsheet claims to indicate the date and time when the

1 attack took place. And some of those dates and times were
2 after the results were already announced and made public
3 by the jurisdictions. And the announced results in those
4 jurisdictions are the same as what the data claims is the
5 result of hacking.

6 So, for instance, a Van Buren County, Michigan, not
7 that far from where I live, the data claimed that the
8 announced results were the result of an attack that
9 originated in Australia and shifted this many votes.
10 Well, the date and time and the dataset were two days
11 after Van Buren County announced its election night
12 results, which are the same as the final results in the
13 presidential election.

14 So, like it would be utterly impossible for the
15 attack to have taken place the way the data claimed. The
16 attack would have had to have worked back in time.

17 Q. Other than the timing issue, what did you find when
18 you looked at the audits and hand counts for some of those
19 jurisdictions, where the data showed there had been a
20 hack?

21 A. Right. This is a third category of problems. So as
22 I say, the data implies that numbers of votes were shifted
23 in virtually every jurisdiction, this includes
24 jurisdictions that later went and hand counted all of
25 their paper ballots and confirmed the results that they

1 arrived at.

2 So an example of that is Maricopa, Arizona.
3 Maricopa County, which is something like 60 percent of all
4 of the votes in Arizona, it is a huge county. And I think
5 Mr. Lindell's data claimed that something like 90,000
6 votes were changed in Maricopa County to produce their
7 reported election outcome.

8 In Maricopa County there was a hand count of all of
9 those ballots that was, in fact, initiated by the
10 Republican Majority State Senate, and conducted by people
11 who were quite skeptical of the election outcome, and the
12 outcome of that audit in Maricopa, they found that Biden
13 should have received a few more votes than he actually was
14 announced to receive, a handful more votes than the
15 initial numbers showed. It did not show a hundred
16 thousand votes were stolen from Donald Trump.

17 So this is what looking at the original paper
18 ballots tells you. The original paper ballots could not
19 have been changed retroactively by hacking.

20 Q. I would like to discuss some of the people that
21 Mr. Lindell referred to as "the experts" that he had
22 consulted. Are you familiar with Colonel Phil Waldron?

23 A. Yes.

24 Q. Who is he?

25 A. So Phil Waldron, I know he is a long-time associate

1 of the AlliedSignal Operations Group, which I hope we will
2 get to talk about.

3 Q. Is that ASOG?

4 A. ASOG. He worked with ASOG.

5 Q. And how is it that you are familiar with Phil
6 Waldron?

7 A. I think I met Phil Waldron actually -- I don't recall
8 actually where I first heard about him.

9 Q. Did you have a chance to review any of his work in
10 connection with the Antrim County issues?

11 A. Well, I reviewed ASOG's work, the purported expert
12 report.

13 Q. What are the problems, if any, that you found with
14 ASOG's report related to Antrim County?

15 A. Well, so the expert reports in court cases like this
16 tend to be factual, tend to be carefully written and
17 analyzed. But the ASOG report in the Antrim County
18 lawsuit was one of the strangest and most incredible
19 expert reports that I have ever seen in my career.

20 Q. I am sorry, before we dig into the reason why that
21 is -- was your conclusion, can you remind the jury what
22 the situation was in Antrim County, Michigan, that led up
23 to all these reports?

24 A. Oh, yes. Yes. So I have mentioned that elections
25 are imperfect and have problems sometimes. Antrim County

1 was one of the most prominent examples of that in 2020,
2 because on election night 2020, Antrim County, this small
3 county in the upper lower peninsula of Michigan, its
4 election night report results announced the wrong
5 presidential winner.

6 So this is a solid Red county, and it announced
7 Biden had won Antrim County by a substantial margin. Just
8 an example of an obviously wrong result. And what
9 happened in Antrim was they took down their -- the county
10 realized very quickly that there was some major problem
11 with their results, they took them down, they consulted
12 with the state, and they figured out the likely reason for
13 it was a human error in the configuration of their system,
14 and they went and tabulated their votes in a different way
15 to correct or attempt to correct the error. And they
16 announced corrected results that showed the expected
17 victory for Donald Trump.

18 But there was a lawsuit filed by -- in court in
19 Antrim County by a Michigan resident who claimed that the
20 problems with the unofficial election night results were
21 evidence of some kind of fraud or some kind of attack, and
22 as a result of that lawsuit, the judge in Antrim County
23 gave the plaintiff, who was represented by Matt DePerno,
24 who you saw, the expert of Mr. Lindell, yesterday, DePerno
25 and his plaintiff won the right to do an analysis of the

1 election equipment and data in Antrim County to try to
2 prove their claims.

3 Q. Were you involved in analyzing the issues?

4 A. Well, so the plaintiffs brought in ASOG, which did
5 their analysis and produced this incredible report I was
6 referring to. After they produced their report, the
7 Michigan Attorney General and Secretary of State
8 commissioned me, hired me to do my own investigation of
9 what happened and to produce my own expert report for the
10 lawsuit, my own investigation, which I did, and which
11 became public in March of 2021.

12 Q. What did you find from your analysis?

13 A. From my own analysis of Antrim County -- so I was
14 able to confirm the major errors in the result were the
15 result of a human error. And basically the human error
16 was that late in the process of preparing the election,
17 after ballots had already started to be mailed out to
18 voters, and after the vote scanners had all been prepared
19 for the election, the Antrim County Clerk realized there
20 were errors on some of the ballot designs; I think in one
21 case there was a candidate who had been left off.

22 And so the Clerk had to go back and collected those
23 ballot designs and mailed out new ballots to people who
24 had already received them and update the configuration of
25 the ballot scanner so it could correctly read those

1 repaired ballots.

2 Now, this may be a point that hasn't come out yet
3 in this week's testimony, but essentially every ballot
4 scanner has to be prepared by election officials prior to
5 voting so it knows that a mark in this place is a vote for
6 this candidate, it knows what the ballot looks like so it
7 can scan it and report and associate marks in different
8 locations with different candidate names. And that
9 configuration happens usually a few weeks before the
10 election.

11 But what happened in Antrim County was that because
12 of these errors in the ballots, the county had to go and
13 change the configuration on the ballot scanner so they
14 knew how to scan the corrected ballots, but the Clerk made
15 a mistake in updating the configuration.

16 They should have updated the configuration in all
17 of the machines according to Dominion's documentation, but
18 instead they only updated the configuration on some of the
19 machines, and the rest of them used an outdated version of
20 the configuration to read the ballots.

21 As a result of that error in procedure by the
22 clerk, when the data from the machines was brought
23 together centrally to add up the votes from the whole
24 county, there was kind of this misalignment between the
25 data from different machines.

1 So you can imagine it is like you are taking
2 columns from different spreadsheets and pasting them all
3 together and then adding up across each row to figure out
4 the total number of votes for each candidate. Well, some
5 of the spreadsheets had an extra row in them because the
6 missing candidate had been added and some of them didn't.
7 And so when you added up across the columns, votes from
8 some of the machines got shifted into the count for the
9 wrong candidate.

10 So Mr. Biden ended up receiving Mr. Trump's votes,
11 Mr. Trump received the libertarian candidate's votes, and
12 so on down the ballot. Mr. Biden's votes were thrown away
13 while being totaled up. The interesting thing, each
14 machine independently still got the right count, and the
15 count for the presidential election was preserved from
16 each machine on the poll tape it printed, the cash
17 register style tape, with the total that each machine
18 produces at the end of election night.

19 But when the data from those machines was combined
20 in the central system, that is when this error occurred
21 and votes were misattributed. So what Antrim County did
22 to fix that is they took the poll tape from each machine
23 and entered the data by hand into the central system, and
24 that got the correct presidential results.

25 So what my analysis showed -- what my analysis

1 showed was I confirmed that this was, indeed, the problem.
2 I looked back at the log files when the ballot designs had
3 changed and the way the software was working internally, I
4 then used my own tools to add up the votes from the
5 electronic records on each machine, I even went and added
6 up the poll tapes by hand.

7 What I confirmed is that the initial explanation
8 that the state had given that, oh, it was this update to
9 the ballot design that caused the problem, explained
10 exactly the deviations in the presidential result. It was
11 just a perfect fit. And I also could back out that error
12 and confirm in various technical ways that the final
13 result matched what the machine should have produced.

14 Then, on top of that, the state, the Secretary of
15 State's office went and hand counted all of the ballots,
16 the presidential result for all of the ballots across
17 Antrim County, and got essentially the same result as the
18 corrected totals.

19 So we can be very, very sure the cause of that
20 problem was this specific human error.

21 Q. Before we get to the ASOG report, just to use an
22 analogy as far as the issue with the ballot scanner, would
23 this be similar to a situation where a teacher or
24 professor might add another question to a Scantron test
25 and they don't configure the Scantron scanner?

1 A. Yeah. That is a reasonable analogy to what happened.
2 So the test changed, the paper changed, but the scanners
3 were not all updated to reflect what they should have been
4 reading.

5 Q. Okay. Now let's talk about that ASOG report. Why
6 was that an extraordinary report in your opinion based on
7 your review?

8 A. Right. So I produced my own report about this, but I
9 also, in my report, analyzed the claims that were made in
10 the ASOG report and, oh, my goodness, like this is not a
11 normal expert report.

12 Q. Why?

13 A. So the fundamental claim that the ASOG report makes
14 is that based on ASOG's analysis of the same Antrim
15 systems, they conclude that the Dominion Voting System is
16 deliberately engineered to create systematic fraud, and it
17 does that by generating a huge number of errors while
18 scanning ballots in order to cause ballots to be sent for
19 electronic adjudication, and that then during the
20 electronic adjudication process, that allows fraud to
21 occur.

22 It alleges that in Antrim, these things happened;
23 there were a huge number of errors, that ballots were
24 electronically adjudicated, and all of the log files from
25 the electronic adjudication had been manually removed.

1 Like, these are the central and really quite incendiary
2 claims that the report makes.

3 Q. Why do you disagree with the conclusions reached in
4 the ASOG report?

5 A. Well, because they are just very, very easily
6 falsifiable. So the claim that -- the centerpiece of this
7 whole claim is that electronic adjudication was used to
8 somehow steal votes. But in Antrim County, so electronic
9 adjudication -- did we talk about what that is?

10 Q. We briefly did, but can you explain what electronic
11 adjudication is?

12 A. Right. So we talked about manual adjudication; that
13 you are going to have people from both parties review
14 physical ballots and they are going to have to duplicate
15 ones that have been mismarked onto fresh ballots so they
16 will scan correctly.

17 Well, electronic adjudication is something that
18 basically every modern voting system has some ability to
19 support. It means that instead of doing that with the
20 original piece of paper, you do it on a screen, and
21 generally you are going to have a bipartisan group of
22 observers or adjudicators who are going to be conducting
23 that.

24 But so the claim was that electronic adjudication
25 was the centerpiece of Dominion Voting Systems' intended

1 fraud, and that this was suspiciously conducted at a high
2 rate in Antrim County, and that all of the log files from
3 it had been removed.

4 Well, there are several problems with this.

5 Q. What were those problems?

6 A. So one problem is that there wasn't, in fact, a
7 suspiciously high error rate in Antrim County. The data
8 that ASOG purported to show a high error rate, well, they
9 were just counting the number of lines in a certain log
10 file that said error, and divided by the total number of
11 lines in the file, but that told you nothing, because it
12 is just not -- that doesn't tell you the rate of ballots
13 that had errors.

14 The errors they were claiming were sending ballots
15 to adjudication, they just didn't understand what the log
16 file messages meant. It said that the ballot had been
17 reversed. Well, it is not that the ballot had been sent
18 to adjudication, it is that that log file happens if I am
19 feeding my ballot into the scanner and it is a little
20 crooked, so the scanner takes it and ejects it back out
21 for me to put it back in again, just like when you are
22 feeding a bill into a vending machine and it goes in
23 crooked, you have to do it a few times.

24 That is a pretty common experience, as almost any
25 Michigan voter will tell you, because we use privacy

1 sleeves for our ballot, so almost like a manila folder
2 that your ballot is contained in for privacy so other
3 people can't see your vote. And that the machine grabs
4 the ballot out of and feeds it in. If you are holding it
5 too tightly when you vote, it jams. And that happens to
6 me all of the time when I vote, so that is not unusual or
7 a suspicious elevation.

8 But then another problem with that theory is that
9 adjudication, even if there were an elevated rate of error
10 and a lot of ballots had been sent to electronic
11 adjudication, electronic adjudication would be a really,
12 really lousy way of trying to cheat.

13 Q. Why?

14 A. Well, so maybe I can show you here on the screen just
15 a little bit of what electronic adjudication generates.
16 So it generates lots of different log files. So when a
17 vote is adjudicated, you go through some interface on a
18 computer screen with your bipartisan review panel and make
19 a determination, and you can click a button that says --
20 in this case you would click the button that says this is
21 a vote for Donald Trump, then that would get recorded in a
22 log file that the adjudication system had corrected this
23 vote. In the case of Dominion systems, it also gets
24 recorded right in the same file that records the picture
25 of the ballot.

1 So I am showing here from a real ballot in Georgia,
2 here is what that adjudication record looks like. It says
3 this ballot was scanned on a certain scanner. The scanner
4 here, you can see "President of the United States" is a
5 blank contest. That is a record of what the scanner
6 originally interpreted that mark as.

7 Fortunately for the voter, it was adjudicated, and
8 the adjudicator could correct that mark to a mark for
9 Donald Trump. And here it says, adjudicated at 9:43 p.m.
10 on 9/9/2020 by certain login name, and the adjudicated
11 vote, you see "adjudicated" in asterisks, is a vote for
12 Donald Trump.

13 So both the original record and the adjudicated
14 record, the date and time, all of that is recorded and
15 stored with the vote. It is an extensive electronic trail
16 of every change.

17 If you wanted to cheat, you wouldn't cheat in a way
18 that leads to extensive time-stamped electronic records.
19 You probably also wouldn't want to cheat through
20 adjudication, because you have to click through ballots
21 one by one.

22 So even if, say, you didn't -- a bipartisan review
23 panel wasn't there watching and somehow someone gained
24 illicit access to this system, not only would it leave all
25 of these logs, but you would be clicking through one

1 ballot at a time, maybe for a day, for all night if you
2 are in a huge jurisdiction like Maricopa County, where you
3 allegedly, according to Lindell's data, changed a hundred
4 thousand votes nearly.

5 This is not a practical way to cheat in any kind of
6 large number. It is, at best, one by one, and highly
7 monitored.

8 Q. Before we leave this slide, you mentioned earlier
9 Dr. Coomer did not invent adjudication itself. But did he
10 have any role, as far as you are aware, in the correction
11 of the AuditMark record, that process by which it is
12 created, not the specific audit mark, obviously?

13 A. I reviewed the patents that Mr. Coomer holds, that I
14 believe it was Mr. Oltmann who had mentioned in some of
15 his writings that Eric Coomer held the patents for
16 adjudication.

17 Well, what those patents relate to are not the idea
18 of electronic adjudication, basically every vendor has
19 that option. His patent relates to a specific improvement
20 to electronic adjudication, which is something Dominion
21 calls the AuditMark, and is literally the text that I am
22 showing here on the screen, this log of each adjudication
23 decision. And what the AuditMark does is it takes that
24 log and it saves it literally in the same image file as
25 the ballot. It attaches another page to that image file

1 that has this log.

2 So that any time someone receives a copy of that
3 scan of the ballot, if they are going to review the
4 electronic record of the ballot, that comes along with
5 this electronic audit mark record. It is a log of what
6 the scanner originally saw, any adjudication that has
7 changed a mark on that ballot, and who made it and when.
8 That is what Dr. Coomer invented.

9 Q. When you say that it is an improvement on electronic
10 adjudication, can you tell us whether or not that would
11 make it easier or more difficult to hack or rig an
12 election by "changing ballots" during the adjudication
13 process?

14 A. It doesn't make attacking easier, it makes it more
15 difficult, because it is another log of all of those
16 events, another way to trace back and see what happened
17 and if any ballot had been changed by adjudication. This
18 doesn't make the system more vulnerable, it makes it more
19 secure and more accurate by virtue of being able to
20 perform adjudication.

21 Q. Turning back to your report that we discussed with
22 reference to Antrim County, Michigan, was your report made
23 publicly available?

24 A. My report was in March of 2021. It was published by
25 the Secretary of State's Office when the Secretary and the

1 Attorney General filed it in the Antrim case. But I
2 should point out, I didn't finish answering your previous
3 question.

4 Q. I am sorry, what other conclusions did you reach
5 based on your analysis related to Antrim?

6 A. Well, the biggest problem with the ASOG report with
7 this absolutely insane expert report that was filed, was
8 that while they allege all these problems happened through
9 cheating, happened through electronic adjudication, and
10 the log files were missing. Well, Antrim County didn't
11 use electronic adjudication. Electronic adjudication is
12 an optional feature of the Dominion system, and Antrim
13 County didn't buy it. They didn't have the machines set
14 up in a way that would even make electronic adjudication
15 possible. That is why there were no log files, because
16 electronic adjudication wasn't installed and didn't
17 happen. They adjudicate ballots by hand in most Michigan
18 counties.

19 But the ASOG report just hallucinated this whole
20 theory that electronic adjudication was somehow the
21 lynchpin of a fraudulent design in the Antrim County
22 system. It's just hard to comprehend that the purported
23 experts who wrote this report didn't realize that this
24 very basic premise of their entire theory was completely
25 wrong, was just utterly unfactual. They didn't own the

1 electronic adjudication option.

2 Q. Is that issue with the ASOG report something that you
3 would have to be a cybersecurity expert to spot?

4 A. Well, no. And it had already been pointed out, in
5 fact, in December of 2020, by another expert who had
6 reviewed the ASOG report. Anyone with a basic familiarity
7 with the Dominion system or how it worked could have told
8 you that.

9 Q. Other than your report from March of 2021, were there
10 any other investigations, commissioned by officials in the
11 State of Michigan, into the Antrim County matter?

12 A. So the Republican -- I think the Republican Committee
13 in the State -- in the State Senate, where -- the
14 Republican Oversight Committee in the State Senate
15 performed its own report about the 2020 election and
16 reviewed various claims of fraud, and they produced this
17 report also sometime in 2021.

18 Q. Okay. And I believe, if you recall, there were
19 images from this report that were included in that CNN
20 piece, were they not?

21 A. Yes.

22 Q. Okay. Is Exhibit 190 that video?

23 A. Yes. Yes, that's correct.

24 Q. And generally, what did the Michigan Senate Oversight
25 Committee find?

1 A. Well, so they found that there was no evidence of
2 fraud. They found that the ideas and speculation, if I
3 can quote them, "that the Antrim County election workers
4 or outside entities manipulated the vote by hand or
5 electronically are indefensible." And they wrote that
6 "the Committee is appalled at what can only be deduced as
7 a willful ignorance or avoidance of this proof perpetuated
8 by some leading such speculation."

9 Q. Was this report made publicly available by the
10 Michigan Senate Oversight Committee?

11 A. Yes.

12 Q. Approximately when was this report issued?

13 A. Oh, it was issued late -- spring of 2021 or early
14 summer of 2021.

15 Q. Okay.

16 A. Prior to the Cyber Symposium. I am sorry you have
17 the date on the screen.

18 Q. What was that date?

19 A. June 23rd. So, indeed, late spring or early summer
20 of 2021.

21 Q. Okay. And I want to turn to some of the other
22 individuals that Mr. Lindell indicated he relied on as
23 experts. Are you familiar with the name Dr. Shiva?

24 A. Yes, I am.

25 Q. Okay. And based on, you know, your opinion,

1 education, and training, what is your opinion about
2 whether or not Dr. Shiva is a reliable source?

3 A. Dr. Shiva is famous for making outlandish or false
4 claims, and it is not a reliable source. For instance, he
5 claimed very prominently to have been the inventor of
6 email, I think to *Time Magazine*. He claimed to be the
7 inventor of email, and at a date that is just
8 preposterous, because a colleague of mine already had an
9 email addresses at the time.

10 MS. MORGAN: Before we move on to the next video,
11 Your Honor, this might be a good time to take our morning
12 break, if you would like us to.

13 THE COURT: All right. Ladies and gentlemen of the
14 jury, we will take our morning break slightly early, just
15 be back within 15 minutes, which would take us to about 5
16 until 11 o'clock. Have a good break. I remind you not to
17 talk to each other or do any research with respect to this
18 case while you are on a break.

19 (Outside the presence of the jury.)

20 THE COURT: All right. Thank you. Please be
21 seated.

22 Counsel, I just have one thing, we are waiting for
23 an additional remaining instruction from you all; is that
24 correct?

25 MS. MORGAN: Yes, Your Honor.

1 THE COURT: So we don't have that yet. Is that one
2 stipulated?

3 MS. MORGAN: Yes, it is.

4 THE COURT: We just need it so we can finalize the
5 jury instructions. And then we should be able to get
6 those to you shortly. We will send them first by
7 electronic mail so you have a chance to give them a once
8 over to make sure we haven't made any typographical errors
9 or anything else we need to address before we kill several
10 trees printing them out for the jury and the attorneys in
11 the case.

12 Anything else that the parties need to address?
13 And I just remind plaintiff's counsel that generally you
14 need to wrap up by lunch so defense has an opportunity to
15 present its one witness, according to the schedule that we
16 talked about yesterday. We will take a quick break.

17 (A break is taken from 10:40 a.m. to 11:01 a.m.)

18 THE COURT: Thank you. Please be seated.

19 I just wanted -- you may be seated. I wanted to
20 run over -- not run over counsel, I just wanted to check
21 with counsel what we have for the limiting instruction so
22 that we can finalize the jury instruction. We have taken
23 your limiting instruction, we have tried to condense it
24 into one limiting instruction, so I will read it to you,
25 then I will put you on the spot and you are going to tell

1 me if you have an issue with it.

2 Limiting instruction: Some evidence in this case
3 has been admitted only for a limited purpose. You may
4 consider these pieces of evidence only for that limited
5 purpose. The Court admitted Exhibits 190, CNN story
6 interview of Mr. Lindell. 229A *Absolute Proof* clips.
7 211A, *Absolute Interference* clips. And 247, *Kill Chain*
8 clips, for a limited purpose.

9 The videos were not offered or admitted to prove
10 anything about the truth of the matters asserted in those
11 videos by anyone other than Mr. Lindell, and you should
12 not consider the video as evidence of the truth of those
13 statements.

14 You have also heard evidence about a settlement
15 that was reached in an unrelated defamation case between
16 the plaintiff and a news organization called Newsmax,
17 which is not a party to this case. Other than otherwise
18 stipulated, you should not speculate about any of the
19 details of that case or any of the terms or conditions of
20 that settlement agreement.

21 All right. Starting with you, Ms. Morgan, any
22 objection?

23 MS. MORGAN: No, Your Honor.

24 THE COURT: Mr. Kachouroff or Mr. Duane, any
25 objection on behalf of defense?

1 MR. DUANE: You may have misread the first
2 instruction. I think you referred to the excerpts from
3 *Kill Chain* as Exhibit 247, I think you meant to say
4 Exhibit 247A.

5 THE COURT: I did. I appreciate that correction,
6 and I just misread it, because my law clerk has drafted it
7 correctly.

8 MR. DUANE: The record will so reflect. We have no
9 objection, thank you.

10 THE COURT: All right. So let me step down and
11 hand Mr. McClain this. There is one typographical error.

12 So the record will reflect, with the correction of
13 247A, which I simply misread, and then I made a correction
14 with respect to a typographical error, the limiting
15 instruction is stipulated to by the parties and will be
16 added to the final jury instructions.

17 All right. Are we ready for the jury?

18 MS. MORGAN: Two very brief issues on the jury
19 instructions, Your Honor, because we hadn't talked about
20 this one yet. Check in with the Court on the reckless
21 disregard or state of mind for defamation instruction and
22 make sure we didn't leave that one out.

23 THE COURT: We have taken your objections, we have
24 considered them, and we have a final instruction in the
25 packet.

1 MS. MORGAN: Thank you. Same with willful and
2 wanton?

3 THE COURT: Correct.

4 MS. MORGAN: Just wanted to make sure.

5 THE COURT: At this point they are finalizing the
6 instructions and you will get a final set of instructions
7 and jury verdict forms. You can preserve whatever
8 objections you have already preserved through the charge
9 conference, so you don't need to remake those objections
10 unless there is something materially different that the
11 Court has done that you don't feel like was addressed.

12 So we have addressed both sides' objections, we
13 have come up with final jury instructions that we
14 obviously believe are consistent with the state of the law
15 in Colorado. We are issuing those final instructions and
16 making a statement on the record expressly that you
17 preserve those objections for appeal, if necessary, and so
18 we're not going to take any further argument with respect
19 to the set of the instructions or the verdict forms that
20 we are giving you electronically, but if we have made any
21 errors in terms of referring to exhibits, misplaced
22 commas, anything like that, before we kill trees printing
23 it out for the jury, let us know.

24 MS. MORGAN: Okay. Thank you.

25 THE COURT: Anything else?

1 Madam deputy, could you bring our jury back in,
2 please.

3 COURTROOM DEPUTY: Yes, Your Honor.

4 (In the presence of the jury.)

5 THE COURT: Thank you. Please be seated.

6 Dr. Halderman, I remind you, you are still under
7 oath.

8 THE WITNESS: Thank you, Your Honor.

9 Q. (BY MS. MORGAN) Okay. Dr. Halderman, I want to
10 circle back and ask you a follow-up question about Phil
11 Waldron. Is Mr. Waldron a reliable expert in election
12 cybersecurity?

13 A. No.

14 Q. Circling back to Dennis Montgomery, can we pull up
15 Exhibit 83 again. And I would draw the witness' attention
16 to page 2, paragraph 3. Earlier I asked you if you agreed
17 with the assessment of Mr. Montgomery in this warning to
18 Mr. Lindell. Drawing your attention to the last sentence
19 of that paragraph, is that specifically the portion with
20 which you were agreeing?

21 A. Yes. That he was a known "con man and fraudster."

22 Q. Have you ever heard of the secret CIA computer Hammer
23 and Scorecard -- alleged secret computer?

24 A. I have heard the stories, yes. And that's just
25 another example of science fiction. There is no credible

1 evidence that such a thing -- that there is any truth
2 whatsoever to those claims.

3 Q. I want to turn to another person that Mr. Lindell
4 indicates that he relied upon. Do you know who
5 Dr. Douglas Frank is?

6 A. Yes.

7 Q. In your view, is Dr. Frank a reliable election expert
8 in election cybersecurity?

9 A. No.

10 Q. Why not?

11 A. I think Dr. Frank was, I believe, a former -- a high
12 school math teacher. Do I have that right? I don't think
13 Dr. Frank had any colorable experience in any elections or
14 security. And the kind of analysis that he presented was
15 just very rudimentary and an unreliable statistical
16 analysis.

17 Q. Speaking of statistical analysis and statistical
18 theories, have you had the opportunity to review
19 Dr. Shiva's theories?

20 A. Yes, I have reviewed some of Dr. Shiva's theories.

21 Q. What was your conclusion?

22 A. Again, these are -- Dr. Shiva's theories were
23 fundamentally unreliable.

24 MR. KACHOUROFF: Objection, relevance.

25 THE COURT: Approach.

1 (A bench conference is had.)

2 MS. MORGAN: The relevance is that Mr. Lindell
3 testified that he relied on Dr. Shiva and that that was
4 part of his investigation, part of his testimony about him
5 doing "the most due diligence in human history." And this
6 testimony directly addresses that and indicates that
7 Mr. Lindell should have been on notice that these claims
8 that he was espousing about Dr. Coomer and Dominion were
9 implausible because he is relying on people that have no
10 reliability or credibility within the field of election
11 cybersecurity.

12 MR. KACHOUROFF: Your Honor, you can't have it both
13 ways. You can't exclude all of these people because you
14 have a 702 objection and then come back and accuse them of
15 not being credible. Dr. Shiva wasn't allowed to be shown,
16 and that is --

17 THE COURT: Dr. Shiva had no reports that were
18 authored.

19 MR. KACHOUROFF: Right. We offered it to justify
20 the beliefs that Mr. Lindell had.

21 THE COURT: So the ruling wasn't, per se, that they
22 weren't permissible under 702, so much as they were not
23 permissible under 702 because they were not disclosed.
24 You couldn't back door expert testimony in with other
25 hearsay, and then if it is not reliable, because there was

1 no opportunity with respect to 702 to have these
2 statements, that weren't in an expert report, questioned.

3 If you can focus, Mr. Kachouroff, on Ms. Morgan's
4 statement that is being offered right now, to prove that
5 Mr. Lindell would not have a reasonable basis to rely on
6 Dr. Shiva, and to anything he knows about that.

7 MR. KACHOUROFF: Okay. He cannot possibly at this
8 time represent to the jury that he has a reasonable basis,
9 because those videos are excluded. Those videos would
10 have been his reasonable basis that he could have shown
11 the jury and said, listen, I think this guy is credible,
12 here is why, here is what he said to me, I believed it,
13 without regard to whether it is expert opinion or not.

14 So I understand the Court's reticence in saying,
15 well, it is a 702 opinion, it is a back door. We don't
16 think so. We think this all goes to his reasonable basis,
17 that's all.

18 MS. MORGAN: With all due respect, this has nothing
19 to do with the clips, Your Honor. Mr. Lindell was
20 permitted to testify from a laundry list of people that he
21 purports provided him with a basis to have these beliefs
22 that he does. And so to the extent that he was allowed to
23 list those individuals, we should be able to indicate, put
24 on testimony about why they are not credible experts in
25 the field of cybersecurity.

1 THE COURT: All right. So, Ms. Morgan, I am going
2 to sustain the objection, partly in response to what
3 Mr. Kachouroff argued. I think that you can ask
4 Dr. Halderman about these individuals, his understanding
5 of them in the mainstream. Again, but there has to be
6 some nexus as to how that information would be available
7 to the general public. Because if Mr. Lindell was
8 reckless in relying on these experts, there has to be some
9 reason or nexus that this expert testifies to as to how
10 someone like Mr. Lindell would know that.

11 MS. MORGAN: Okay.

12 (In the hearing of the jury.)

13 Q. (BY MS. MORGAN) Dr. Halderman, I want to switch
14 gears and talk about another individual that was mentioned
15 by Mr. Lindell, Dr. Andrew Appel. Do you know Dr. Appel?

16 A. Yes, I do. Dr. Appel, he is the former chair of the
17 computer science department at Princeton. I did some
18 research with him while I was an undergraduate there, and
19 he has worked in elections about the same length of time
20 as I have. Although that is incidentally not his -- his
21 primary work is about figuring out how to construct proofs
22 that computer programs are correct. That is an actual
23 kind of absolute proof. But, yes, I am familiar with
24 Andrew Appel.

25 Q. We will circle back to this, but has Dr. Appel made

1 publicly available his position as to whether or not the
2 2020 election was hacked?

3 A. I have spoken with him directly, and I am sure he has
4 written in public, as well.

5 Q. And I want to specifically ask, has Dr. Appel signed
6 any letters, that you have also signed, that have been
7 made publicly available and that were widely circulated in
8 the newspapers?

9 A. Yes. Yes. So shortly after the 2020 vote, I helped
10 to organize a letter, and signed by 59 leading experts in
11 election security.

12 Q. What was -- why did you do that? What was the
13 purpose behind that letter?

14 A. Well, so shortly after the presidential election in
15 2020, I think a lot of people were disappointed with the
16 result of the election, and there started to be
17 accusations made that there was evidence that the election
18 result had been hacked.

19 And other election security experts and I were all
20 very concerned that the kinds of theories that were
21 arising were not factual in nature, were not either --
22 either they didn't make any technical sense or there
23 wasn't any evidence that they were true. Or if there were
24 anomalies, people were pointing to these anomalies as
25 having a natural explanation and were likely to be

1 determined to not be evidence of fraud.

2 So the other experts and I consider everything that
3 we were hearing at the time and wanted to make a very
4 clear public pronouncement that the -- that there was at
5 that point no credible evidence that we were aware of that
6 the 2020 election had been hacked.

7 Q. We heard Mr. Lindell say that he respected you
8 because he had seen you speak in a snippet on that *Kill*
9 *Chain* movie. Did Mr. Lindell ever reach out to you to get
10 your input on his theories about the 2020 election being
11 hacked or otherwise rigged by Dr. Coomer or anyone?

12 A. No, not that I am aware of. A lot of people do reach
13 out to me all of the time with concerns about election
14 integrity, and I usually take the time to at least
15 evaluate whether those concerns sound like a real problem
16 or not, look at them if I have to. When I have time I try
17 to get back to people.

18 I just got a call this morning while I was on the
19 stand, in fact, from a concerned person in Iowa. So I do
20 try to be responsive. I can't every time when people do
21 reach out, but I don't believe Mr. Lindell did.

22 Q. Were you invited to the Cyber Symposium as far as you
23 know?

24 A. No.

25 Q. Why didn't you take the initiative and reach out to

1 Mr. Lindell after his movies started coming out?

2 A. Boy, I am not sure that it ever crossed my mind to do
3 so, because it was so obvious at that point that he was
4 committed to his preconceived beliefs. I didn't think --
5 I wouldn't have possibly thought he would be open to
6 hearing evidence that contradicted them or that they were
7 false.

8 Q. You mentioned earlier that the 2020 presidential
9 contest was heavily scrutinized. What notice was
10 available to the public, including Mr. Lindell, that the
11 2020 election was not hacked? And I would direct your
12 attention to the November/December 2020 timeframe here.

13 A. So November/December 2020, let me try to think back.
14 We had our experts' letter that came out approximately a
15 week after the election. I know I went on TV around that
16 same time on FOX News, and they asked me my opinion of
17 whether I thought that there was evidence that Dominion
18 had stolen the election, and I told them emphatically not;
19 that I didn't think there was any credible evidence for
20 that.

21 What else? I know that The New York Times reached
22 out to chief election officials in every state and asked
23 them whether they had seen any evidence of fraud. And
24 every state but one said no. One state, Texas, didn't
25 write back. So the *Times* reported that the officials in

1 every state said no fraud.

2 There was a statement from -- there were statements
3 from -- first, CISA, the Cybersecurity and Infrastructure
4 Security Agency, an arm of the DHS and the Federal
5 Government, which is election security. They called
6 CISA's director, who called the 2020 election "the most
7 secure in history."

8 What else? I know at about a month after the
9 election, the Attorney General publicly said that --
10 publicly stated that there was no evidence that fraud had
11 affected the outcome of the presidential election.

12 So you have two of the relevant federal agencies
13 within the Trump administration stating that there was no
14 outcome-changing fraud. You have the 59 experts. There
15 was quite a lot out there very prominently within a month
16 of election day.

17 Q. We spoke at length about your investigation into the
18 issues in Antrim County, Michigan, and the report that you
19 generated. Did you make any public statements addressing
20 that issue prior to your formal investigation?

21 A. Yes, I did. I think when -- right after the incident
22 occurred, as it was being reported in the news, I wrote a
23 thread on Twitter to try to interpret what the State of
24 Michigan's explanation was and why I thought that was
25 credible.

1 And their explanation essentially was a simplified
2 version of what I eventually found, although I eventually
3 found some other problems and complexities that were not
4 part of that, but even in the early days, there was a
5 clear and likely explanation for what the problem was, and
6 so I tried to make that more intelligible to people
7 through Twitter.

8 Q. And you referenced the statement from CISA. Is that
9 the Cybersecurity and Infrastructure Security Agency?

10 A. Yes.

11 Q. We heard some suggestion they shouldn't -- that --
12 hold on let me rephrase that.

13 MS. MORGAN: At this time, Your Honor, I am going
14 to move to admit Exhibit 31, which is that CISA statement.

15 THE COURT: Any objection?

16 MR. KACHOUROFF: Objection, hearsay.

17 THE COURT: Okay. Let's approach.

18 (A bench conference is had.)

19 MS. MORGAN: The exception under 803(8) for a
20 statement of a public office would apply here. This is a
21 statement of a government agency that was posted to their
22 website. So I also think it is already
23 self-authenticating, as well.

24 MR. KACHOUROFF: 803(8) does not apply to simple
25 statements, it applies to reports, documents that are

1 officially done in the official capacity, not an agency
2 that has a personal accounting of the election. CISA is
3 not empowered to do election investigations. That is not
4 their business.

5 MS. MORGAN: CISA isn't the only government agency
6 to sign an official statement. As an official public
7 statement from a government office, it falls within the
8 category or within in their purview. There are other
9 signatories, including a National Association of
10 Secretaries of State.

11 THE COURT: Overruled.

12 (In the hearing of the jury.)

13 (Exhibit No. 31 is admitted.)

14 MS. MORGAN: Could you please show us Exhibit 31,
15 please.

16 Q. (BY MS. MORGAN) Is Exhibit 31 the statement that you
17 were referring to, Dr. Halderman?

18 A. Yes.

19 Q. As we can see on this first big paragraph here, was
20 CISA the only government agency to release this statement?

21 A. No, CISA was joined by the other agencies, including
22 the National Association of Secretaries of State, the
23 National Association of State Election Directors, and
24 representatives from the largest voting machine makers, or
25 some of the largest voting machine makers.

1 MS. MORGAN: If we can go back and blow up the
2 date.

3 Q. (BY MS. MORGAN) Okay. I think you said it was early
4 November. When was this statement released?

5 A. November 12th --

6 Q. Okay.

7 A. -- 2020.

8 Q. Was this statement widely publicized at the time?

9 A. Yes. Yes, it was. It was. And especially the press
10 picked up on the line that November 3rd "was the most
11 secure in American history." "The election was the most
12 secure in American history."

13 Q. If you can draw attention to the first paragraph on
14 that second page, please. In addition to saying it was
15 "the most secure," what other statements were made by CISA
16 to the public?

17 A. They also stated that "There is no evidence that any
18 voting system deleted or lost votes, changed votes, or was
19 in any way compromised."

20 MS. MORGAN: If we can go to slide 33.

21 Q. (BY MS. MORGAN) You referenced that you had gone on
22 FOX News. Can you tell the jury about when you were
23 interviewed by FOX News.

24 A. Sure. It was, I guess, November 13th and 14th. So
25 less than two weeks after the election.

1 Q. Can you tell the jury more about that interview, and
2 what you said in terms of Dominion Voting Systems.

3 A. Sure. So a reporter from FOX News had reached out
4 asking me to comment on the allegations about Dominion
5 that were starting to emerge. And I told him that I
6 thought there was no truth to those allegations; that they
7 were baseless. And he invited me to come on the air and
8 to discuss them, and I did.

9 And that is what I said on the air, that now
10 Dominion -- there is no credible evidence that Dominion
11 was involved in any kind of election manipulation.

12 Q. A few more questions about the letter that you
13 referenced that was signed by the 59 election security
14 experts. Was Harri Hursti one of the other experts that
15 signed the letter?

16 A. Yes. Yes, not only Harri Hursti, but Andrew Appel,
17 and I think three or four of the other people who were in
18 the clip from *Hacking Democracy* that we saw yesterday that
19 Lindell -- that Mr. Lindell's defense put on. It was a
20 list of most of the people who are active and credible in
21 the election security field.

22 Q. Was Dr. Shiva on that list?

23 A. No.

24 Q. Was Phil Waldron on that list?

25 A. No.

1 Q. Was Russ Ramsland on that list?

2 A. No.

3 MR. KACHOUROFF: We will stipulate that defendants'
4 experts were not on his list.

5 THE WITNESS: None of those people.

6 THE COURT: Hold on. Objection overruled, insofar
7 as there is an objection. You may proceed.

8 Q. (BY MS. MORGAN) Did Dennis Montgomery sign the
9 November 16 letter?

10 A. No.

11 Q. What was the general message conveyed to the public
12 in the November 16, 2020, letter?

13 A. The general message was that although election
14 systems were known to have vulnerabilities, there was a
15 huge difference between the existence of vulnerabilities
16 and an election actually being altered by hacking. And
17 that there was no credible evidence, as far as any of us
18 experts knew, that we had seen of hacking occurring during
19 the election in any way that could have affected the
20 outcome.

21 So we said several things. First, we pointed out
22 the importance that, the significance of claiming an
23 election had been stolen by hacking, essentially this is
24 an extremely serious claim and one that would need to be
25 backed by some sort of persuasive and verifiable evidence.

1 We pointed out that merely citing the existence of
2 vulnerabilities is not enough to establish that an attack
3 occurred. A vulnerability means there is a risk, whereas
4 an actual attack having occurred means that specific act
5 has taken place, a crime has occurred. They are very,
6 very different kinds of claims.

7 We pointed out that as far as the claims that we
8 were aware of that the election had been hacked, that
9 these were unsubstantiated. They were technically
10 incoherent in many cases. And "technically incoherent"
11 means, if you understand how elections work, this claim
12 just doesn't make any sense. So they were either
13 unsubstantiated or technically incoherent. And then just
14 emphasizing, there was no credible evidence we were aware
15 of that hacking had occurred.

16 Q. After the point at which these various public
17 pronouncements had been made, if anyone still had
18 lingering doubts about whether the 2020 election was
19 rigged or hacked, what other public pronouncements in late
20 2020, early 2021, could have helped dispel those doubts?

21 A. Right. So if people had doubts, and I could
22 understand people having some room for doubt at that
23 point, the best evidence, the affirmative evidence that
24 the election was correct, started to come in through
25 audits and recount efforts that states undertook between

1 election day and the start of 2021.

2 So, for instance, Georgia conducted a statewide
3 hand count of its paper ballots. That was a way to
4 eliminate many different possible theories that the
5 election could have been hacked. Michigan conducted a
6 risk-limiting audit. Pennsylvania conducted a
7 risk-limiting audit pilot. Wisconsin went on to conduct
8 its own form of audits. And other states, too.

9 So if you still had doubts, the best way to allay
10 those doubts was to look at what investigations states
11 were conducting in public of those paper ballots, the
12 things that couldn't later be changed in a cyber attack,
13 what did those investigations tell you? And every one of
14 those investigations found that the results that had been
15 announced were supported.

16 Q. Are those states that you just listed off, are those
17 some of the "swing states"?

18 A. Yes. Yes. So five out of six of the states that
19 Trump most closely lost were states that used paper
20 ballots. And in those five states, there were hand counts
21 or other kinds of audits that involved manually looking at
22 the original ballots.

23 We care most about the states, just so the jury
24 understand why, we are focusing on the states Trump most
25 closely lost. If your theory is that the election result

1 was changed by hacking, then the states that -- the states
2 that an attacker would want to focus on to have an attack
3 that they hoped -- they wanted to try to change the result
4 without being detected, they would have to focus on some
5 of the states with the narrowest margins, because states
6 that have large margins would be really surprising and
7 raise a lot of red flags if they suddenly flipped.

8 So some of the narrowest states would have to be
9 affected, and more than one, as well, because of the
10 number of electoral votes that would need to be changed.
11 So you would need to change I think three or more of these
12 most closely contested states to flip the result from a
13 hypothetical Trump victory to the announced Biden victory.

14 But in five of the states Trump most closely lost,
15 they had paper ballots and went back and did audits that
16 found the counts were correct or did not find any evidence
17 of deviation that indicated fraud.

18 Q. Let's go through those. And if we could go to the
19 next slide. What was the publicly available result of the
20 Georgia recount -- or audit, excuse me?

21 A. Right. So Georgia, Georgia counted everything. They
22 counted the presidential result statewide by hand and
23 found no significant discrepancy from the reported
24 outcome. So the hand count audit wasn't perfect, but it
25 still is enough to lend, I think -- it is certainly enough

1 to rule out many different possible theories of fraud, and
2 should be enough to give people added confidence in the
3 outcome.

4 Q. Okay. Let's move on to Arizona. We have already
5 touched on this so I don't want to go too far into detail,
6 but I did want to ask you about whether or not the use of
7 Dominion equipment was prevalent in Arizona.

8 A. So, yes. I think Arizona in 2020 used Dominion
9 equipment, at least across all of Maricopa County. I
10 don't remember whether it was the entire state, but I
11 think most all of the state.

12 Q. Was there an audit of the presidential contest in
13 Maricopa County?

14 A. Yes.

15 Q. What was the finding of that audit?

16 A. That audit went and counted by hand every paper
17 ballot in Maricopa County and found slightly more Biden
18 votes on those ballots than were counted by the machines.

19 Q. Let's move to Wisconsin. What was the result of the
20 Wisconsin audit?

21 A. In Wisconsin they did an audit where they hand
22 counted about 150,000 ballots, not all of the ballots
23 across the state, but certain randomly selected
24 jurisdictions, and they didn't find any evidence that the
25 equipment changed votes.

1 Q. What about Pennsylvania? Tell us about that audit.

2 What the findings were that were released to the public?

3 A. So Pennsylvania conducted, I think they called it a
4 risk-limiting audit pilot that involved almost all of
5 these counties. And a risk-limiting audit of this style
6 involves basically selecting a random sample of ballots
7 and comparing it to the announced result in order to try
8 to confirm the announced winner.

9 And the risk-limiting audit in Pennsylvania found
10 that it didn't find any evidence of fraud. Once again, it
11 found evidence in favor of the announced outcome being
12 correct.

13 Q. Okay. And what about Michigan, what was the publicly
14 announced results of that audit?

15 A. So in Michigan they did actually several kinds of
16 audits. They did a procedural audit and they did a
17 risk-limiting audit in order to check the announced winner
18 of the presidential result. So the risk-limiting audit
19 was statewide and agreed with the announced outcome of the
20 presidential result. They also, as I mentioned, hand
21 counted a hundred percent the ballots in Antrim County
22 without finding any significant deviation in the
23 presidential result.

24 Q. Before we leave Michigan, I want to address one of
25 the individuals that was in the video clips that we saw,

1 Matt DePerno. In your view, is Matt DePerno a reliable
2 expert in election cybersecurity?

3 A. No. He is an attorney. He doesn't have technical
4 expertise of his own.

5 Q. Any publicly available information about Matt DePerno
6 that would leave a member of the public to make that same
7 conclusion?

8 A. Well, that he introduced the ASOG report into
9 evidence when it had such obvious flaws is one thing that
10 would lead me to make that conclusion. And today he is --
11 since then has been indicted by the Michigan Secretary --
12 Michigan Attorney General for charges related to unlawful
13 access to election equipment.

14 Q. I want to speak to or have you address some of the
15 issues that came up in Mr. Lindell's testimony. You were
16 here for his testimony; correct?

17 A. I was, yes.

18 Q. Okay. Mr. Lindell referenced that he was concerned
19 about the election results because of some deviations, so
20 I want to ask about those. Can you explain to the jury
21 what a Blue wave or Blue shift is first, though.

22 A. Sure. So actually in most general elections in
23 recent years we have had a phenomenon where the results as
24 they are coming in on election night have tended to become
25 somewhat more left-leaning as the night goes on. I am not

1 sure that was true in 2024, but in several of the
2 preceding elections that was the case.

3 And the reason for it being that way is states tend
4 to count votes by mail ballots later than they count --
5 they start counting them on election day, and it sometimes
6 takes longer to finish that count than just the time that
7 people have to vote in person. So your initial results
8 that you get reflect primarily the population that voted
9 in person, and there is this tendency as the night goes on
10 for the vote-by-mail ballots also to be reflected in the
11 overall totals.

12 Demographically, Democrats in recent elections have
13 voted by mail at a somewhat higher rate than Republicans,
14 but that was especially true in 2020, because the 2020
15 election, was during COVID, when a lot of people were
16 voting by mail.

17 And you had this phenomenon that Donald Trump, as a
18 candidate, had been casting doubt on the security of
19 voting by mail and urging people to vote by other means.
20 So Democrats especially tended to vote by mail more than
21 Republicans in 2020.

22 In the months leading up to the 2020 election, in
23 September, October, the beginning of November, there were
24 election experts and election officials speaking to the
25 press predicting there was likely to be this kind of

1 phenomenon of a Blue shift on election night, and just
2 pointing out that it wasn't going to be evidence of fraud,
3 this is just what you should expect to happen as election
4 results from vote-by-mail ballots start to be counted a
5 little bit later than others.

6 But there was concern expressed by some election
7 observers in the press that people would capitalize on
8 this to allege that there was cheating going on; that this
9 was evidence of fraud. But really it was a phenomenon
10 that was predicted in advance, that was expected and that
11 has a natural explanation; that Democrats were more likely
12 than Republicans to vote by mail, and those votes in many
13 places would be counted later and the returns would come
14 in later than in-person returns.

15 So we expected on election night, and it was widely
16 publicized, that it would be expected on election night
17 for the results to get somewhat more favorable to Biden
18 relative to Trump as the night went on. Whoever
19 ultimately won, there would be more Biden votes coming in
20 relative to Trump votes.

21 Q. One of the other specific examples that I would like
22 to draw your attention and address, is the letter or memo
23 from John Ratcliff from the DNI that Mr. Lindell testified
24 about.

25 What is your understanding with respect to the

1 conclusions that Mr. Ratcliff made in that January 7
2 letter.

3 A. My understanding is that Mr. Ratcliff's concerns were
4 about election interference; that is disinformation,
5 attempts to -- excuse me, election influence,
6 disinformation and so forth coming from China rather than
7 necessarily about hacking specifically.

8 Q. What is the difference between influence and
9 interference with respect to elections?

10 A. Well, some people don't use the words as precisely as
11 others. But in government-speak, generally when people
12 are talking about election influence, that could be trying
13 to change the way that people choose to vote through false
14 information, through bots on social media trying to make
15 it look like certain opinions are more popular than they
16 are, through, I don't know, buying political ads that are
17 illegal for a foreign government to be running, things
18 like that.

19 Whereas interference may describe -- may describe
20 attempts technologically to either access systems or could
21 describe attempts to just make it look like you have
22 accessed systems in order to create a false impression
23 that the election result was not trustworthy.

24 Q. Okay. And Mr. Lindell also mentioned a situation in
25 Georgia where there was a woman that had zero votes for

1 her, but she knew that she and some of her family members
2 had voted for her. Are you familiar with that scenario?

3 A. I don't think Mr. Lindell named the specific person,
4 but I am pretty sure that he is referring to the case of
5 Michelle Long Spears, which seems to exactly match the
6 scenario he is talking about.

7 Q. Can you explain to the jury why that is not evidence
8 of hacking of the 2020 election?

9 A. Well, yes. I am quite familiar with it because I
10 helped advise this candidate through her attorney in the
11 aftermath of that incident, and I looked into what the
12 problem was. And it was very much a case, an incident
13 similar to the Antrim County incident, that a candidate
14 had dropped out, they had made updates to the equipment
15 configuration to count the -- on the voting equipment in
16 some places but not others. And as a consequence of that
17 error by the election officials, that they hadn't followed
18 the instructions that require them to update the equipment
19 in every relevant place, the votes had not been recorded
20 properly.

21 But what happened there, they went back and the
22 officials counted the paper ballots to determine the
23 correct result. And that's how the case ended up being
24 resolved, and I think they had gotten to the correct
25 outcome. But it is not evidence of fraud. This kind of

1 problem with equipment configuration issues happens. It
2 seems to happen in small jurisdictions or down-ballot
3 races predominantly every year or so.

4 It is a recurring issue, but it is not any kind of
5 evidence of systematic fraud. These are human errors, and
6 we probably do need some better checks to prevent errors
7 to make sure we are getting accurate counts in every case.
8 But they are very, very different from evidence that
9 someone deliberately manipulated any piece of the system
10 in order to cause the wrong result or deny victory to this
11 candidate in Georgia.

12 There was no reason to think, based on the
13 circumstances, that there was anything malicious or
14 criminally intended because the circumstance involved an
15 unusual occurrence, an error in the ballot design that had
16 to be corrected, and then just an easy-to-make mistake by
17 the officials in the process of implementing that
18 correction.

19 Q. Mr. Lindell mentioned an issue with respect to
20 Alabama, and specifically he indicated there were 4,662
21 people voting who were over the age of 100. Can you
22 explain whether or not in your opinion that is evidence
23 of, like, malfeasance or some malicious intent or whether
24 or not that is a human or clerical error?

25 A. Oh, sure, yeah. This is talking about errors in

1 voter registration data. And unfortunately, the voter
2 registration list is a big database, maintained over many,
3 many years, transferred between many different computer
4 systems over the length of people's lifetime. There are
5 all sorts of things that might introduce error into some
6 of those records.

7 Maybe someone made a typo when they were entering
8 the record the first time. Maybe someone couldn't read
9 the voter's handwriting when they wrote down the birth
10 date. Maybe that voter registered to vote so long ago
11 that they didn't record the voter's birth date at the time
12 and they just put in a dummy value for the year they were
13 born.

14 So there are all sorts of reasons there are
15 frequently data quality issues in voter registration
16 systems, but these are not evidence of fraud, these are
17 evidence that it is really, really hard to maintain a big
18 database about lots and lots of people, especially on the
19 limited resource of the state election establishment.

20 So just one very clear reason why this is unlikely
21 to be evidence of fraud, if you wanted to register false
22 voters, you obviously wouldn't register them with birth
23 dates that indicate they are 150 years old or something
24 like that. What reason would you have not to make up a
25 plausible birth date?

1 Or if there are voters who are -- well, so those
2 are some reasons why the voter registration list data
3 might have some errors. Another reason, by the way, is
4 that although the states do attempt to remove people from
5 the voter registration list when they die, when they move
6 away, that doesn't always happen promptly. But more and
7 more states are checking for identification when you go to
8 vote as an alternative way of ensuring or adding
9 additional confidence to -- for the public, that the
10 people who are voting are who they say they are.

11 Q. Are the rolls the same as the votes? In other words,
12 is every person that is on the voter registration list
13 someone that necessarily cast a ballot?

14 A. No, of course not. The people who are -- the people
15 who are registered, not all of them cast a ballot in a
16 given election.

17 Q. We heard from Mr. Lindell that he believes there was
18 computer manipulation in the cast-vote record across the
19 United States. What is your opinion of that claim?

20 A. I have seen no convincing evidence whatsoever for
21 that claim, and I have spent a lot of time working with
22 cast-vote records as part of other research that I have
23 done. So a cast-vote record is -- a cast-vote record is
24 essentially a spreadsheet that shows for each ballot what
25 were the votes that were recorded on it. So each row in

1 the spreadsheet is a different ballot this time, and each
2 row shows in a different column.

3 Well, this ballot is marked in the presidential
4 contest for Trump, in the, say, governor contest for this
5 candidate, and so on and so forth. So it is a record that
6 records specifically on a ballot-per-ballot basis what the
7 votes were.

8 And if you look at cast-vote records, there often
9 are things that might superficially look strange, like,
10 for instance, I remember just that one case from, I think
11 it was 2016, in Michigan, between Hilary Clinton and
12 Donald Trump, the margin of victory was very, very tiny,
13 like .1 percent. But according to the cast-vote records,
14 according to the announced results, about 1 percent of
15 people left the presidential contest blank, way more than
16 the margin of victory, and doesn't that seem an anomaly?

17 Well, it does until you think about it. A lot of
18 people were on the fence. They wanted to vote for
19 everything else but didn't want to vote for the
20 presidency. Then you go and look at actual ballots, which
21 most counties in Michigan conducted a complete hand count
22 of those presidential ballots, that is what is on the
23 physical ballots; they actually are blank in about 1
24 percent of the votes in the counties that did the recount,
25 so that is an actual true result.

1 So you can't conclude just looking at the cast-vote
2 record that something that may superficially look strange,
3 that that is actually evidence of a fraud. There is a lot
4 of noise in election data. There are a lot of patterns.
5 Most of those patterns are perfectly natural. And it is
6 extremely hard to use statistics from those patterns to
7 show that -- to show in any kind of convincing way there
8 was fraud.

9 Q. We heard or saw some clips from the movie *Kill Chain*.
10 Are the machines that were featured in that *Kill Chain*
11 movie clip the same as were used in the 2020 election?

12 A. Oh, goodness, there were a lot of different pieces of
13 equipment there, so it might take me a little bit of time
14 to think. The piece of equipment most prominently
15 featured in that clip, I think we saw Dr. Carsten
16 Schürmann, from Denmark, wirelessly hacking into, and he
17 shut down the machine wirelessly, I think you saw that.

18 Q. Yes.

19 A. That was a real voting machine that was used in most
20 of Virginia until I think late 2014 or early 2015. It was
21 called the WINVote. An unbelievably terrible design. It
22 ran Windows. It ran an old version of Windows, and it was
23 controlled over wi-fi.

24 You could hack into that machine from a laptop over
25 wi-fi sitting in the parking lot. All of that is true.

1 But, that machine also is, I think, the only example of a
2 voting machine that has been decertified by the federal
3 government, or one of very few.

4 It was officially decertified by the U.S. Election
5 Assistance Commission, I believe in 2015. I believe it
6 was taken out of use in every state prior to the 2016
7 election. And it represents kind of an especially
8 terrible case of election security. I think it has been
9 called the most insecure voting machine ever.

10 But it hasn't been used -- hasn't been -- hasn't
11 been used for more than 4 years before the 2020, and used
12 nowhere in the country in the 2020 election.

13 Q. I want to turn our attention to a witness that the
14 jury heard a lot from, Mr. Oltmann. In your opinion, is
15 Mr. Oltmann qualified as an expert in election security?

16 A. No. As far as I can tell he is a dangerous crazy
17 person.

18 Q. Does having general experience in "system
19 architecture" qualify a person to make an assessment of
20 whether an election was hacked in your opinion?

21 A. I am not sure what "system architecture" even means.
22 This is not -- that's not something that we -- that is
23 certainly not the same as having expertise in election
24 administration or election security.

25 Q. Mr. Oltmann testified that he read all of the

1 manuals, got into all of the stuff, collected all of the
2 stuff, and then took it from the different states, turned
3 it sideways, compressed it, and looked at the similarity
4 of the systems across states, to find vulnerabilities.

5 Does that make any sense to you?

6 A. Most of what Mr. Oltmann talks about is basically
7 compiling information -- he talks -- I think in his
8 declaration that he filed in some of the election fraud
9 court cases at about that time, talks all about connecting
10 dots, about bringing together these disparate pieces of
11 information. No, this is not indicative of some kind of
12 expert analysis, this is indicative of sort of how people
13 quite typically pull together things to make conspiracy
14 theories.

15 Q. Would looking at the manuals for Dominion products
16 and the RFPs be enough to determine whether an election
17 was hacked, or certainly whether Dr. Coomer hacked the
18 election?

19 A. No. No. So the manuals don't say this is the secret
20 fraud page or something like that. This is a very, very
21 superficial level of beginning to understand what the
22 technology is. It doesn't indicate any kind of expertise,
23 and certainly wouldn't be enough information to base a
24 credible allegation of fraud.

25 Q. Mr. Oltmann testified that he saw deviations in the

1 systems, themselves, and how they operate with respect to
2 the 2020 election. In your opinion is there any veracity
3 to his assessment?

4 A. Well, I think his assessment was vague. But,
5 moreover, as I kind of explained, "deviation," this isn't
6 really something that is, in election security, that is a
7 reliable indicator of a problem. So, like I said,
8 elections are big complicated processes, 160 million
9 Americans, real people doing real human things, like
10 voting in unpredictable ways.

11 So just looking at -- looking for -- looking for
12 statistical deviations has not historically been any kind
13 of a reliable way of identifying fraud or lending
14 confidence to an election.

15 If you looked across the country and found no
16 deviations, in fact that would be more suspicious, right,
17 because natural real-life data is going to occasionally
18 have some unusual patterns in it. That is just how noisy
19 random functions work. And elections are quite noisy, a
20 high-randomness kind of function.

21 Q. Did you hear -- I will switch gears a little bit.
22 Did you hear Mr. Lindell testify that he would have liked
23 for the whole country to watch those images from Mesa
24 County?

25 A. Oh, yes. Yes, I did.

1 Q. What was your reaction to that testimony?

2 A. Well, the Mesa County images, right, this was
3 complete copies of the proprietary Dominion server that
4 was used by the county as part of its process of adding up
5 the votes from different parts of the jurisdiction in
6 order to produce the official results.

7 In the Mesa County incident, that data was copied
8 by a person not authorized under state law. It was then
9 distributed at Mr. Lindell's symposium to the public. And
10 I believe this is the basis of Tina Peter's Indictment and
11 conviction.

12 So distributing those images to the public is
13 harmful to election security, and in two different ways.
14 One, this software is not intended to be public. It is
15 intended to -- it is intended or built not to be available
16 to just anyone.

17 Once it is available to just anyone, that gives
18 people who might in the future want to try to infiltrate
19 or attack a jurisdiction, a way to plan for that, a way to
20 practice that, a way to look for vulnerabilities they
21 might later exploit. It actually does raise the risk of
22 real attacks against other jurisdictions in the future.

23 But, two, it also raises the risk that people who
24 want to create more convincing false evidence of fraud can
25 do it in a more difficult-to-unmask way by using the real

1 software or information derived from it as a basis for
2 doing that. So I think both from, you might call it a
3 false-evidence standpoint, and from a real-future-threat
4 standpoint, making those images public raises risks.

5 I should clarify that I really think it would be
6 great to have more -- to have in the future voting systems
7 that are an open source, in a way that anyone can review
8 the code, but that is not where we are. We are in a
9 position where the systems have previously been a closed
10 source and not available for just any adversary or anyone
11 who wants to generate a conspiracy theory to access. And
12 based on that status quo, making that data available to
13 the public is harmful.

14 Q. I don't think you were here for Mr. Hursti's
15 testimony. Is my recollection accurate?

16 A. Correct.

17 Q. Okay. I want to show you a part of what the jury saw
18 from Mr. Hursti, then ask you about it, okay?

19 A. Okay.

20 (Videotaped clip of H. Hursti deposition played in
21 open court.)

22 Q. (BY MS. MORGAN) Do you agree with Mr. Hursti's
23 concerns?

24 A. I certainly agree with his assessment of the risk.

25 MS. MORGAN: Can we go to slide 45, please.

1 Q. (BY MS. MORGAN) I want to tie things up as far as
2 the timeline of what you have testified to. Looking at
3 and thinking of the events that happened in November
4 through December of 2020 and the publicly available
5 pronouncements about the 2020 election, do you think that
6 the public should have been on notice that the election
7 was not hacked?

8 A. Should have been on notice in that time period?

9 Q. Yes, sir.

10 A. I think the public should have been on notice that it
11 was quite unlikely that the election had been hacked; that
12 there was not credible evidence that it had been hacked
13 that had been circulated so far, and I think that as the
14 -- as the audits, as the affirmative evidence came in,
15 that that would have been reasonable for even further
16 confidence and less doubt.

17 MS. MORGAN: Can we go to the next slide, please.

18 Q. (BY MS. MORGAN) And as far as the timeline and when
19 the information about Antrim came out, did the information
20 from your report and the Michigan Senate Oversight
21 Committee Report come out before Mr. Lindell's Cyber
22 Symposium?

23 A. Yes. And there have been other expert analysis of
24 Antrim, as well, that came to the same conclusion; that it
25 wasn't evidence of fraud.

1 Q. Is it your understanding from Mr. Merritt's
2 deposition testimony that -- also Mr. Lindell's testimony
3 in this courtroom, for that matter -- that Mr. Lindell had
4 received notice from members of his own Red Team that
5 there were issues with the Cyber Symposium data?

6 MR. KACHOUROFF: Objection, leading.

7 THE COURT: Sustained. Can you reframe.

8 MS. MORGAN: Yes.

9 Q. (BY MS. MORGAN) What is your understanding with
10 respect to the information Mr. Lindell, himself, had
11 personally received from members of his Red Team in
12 advance of the Cyber Symposium?

13 A. I understand that people, including Josh Merritt --

14 MR. KACHOUROFF: I apologize, objection, this is
15 outside the knowledge of his expertise.

16 THE COURT: Overruled.

17 THE WITNESS: I understand that Josh Merritt says
18 he tried to raise the -- raise concerns that he looked at
19 the data and believed it to be fake. He tried to put
20 Mr. Lindell on notice, is my understanding of his
21 testimony.

22 MS. MORGAN: Could you please pull up Exhibit 190,
23 please, just the snippet.

24 Q. (BY MS. MORGAN) I will show you part of Exhibit 190.

25 (Exhibit 190 played in open court.)

1 Q. (BY MS. MORGAN) What impact have Mike Lindell,
2 Frankspeech, and My Pillow's proliferation of the claims
3 about Dr. Coomer and his alleged involvement in either
4 hacking the 2020 election or covering up the hack of the
5 2020 election, had on your industry, sir?

6 A. Oh, God. I cannot emphasize enough how much of a
7 setback all of that has been, all of Mr. Lindell's claims
8 have been for the real security of elections. He's
9 confused the public so badly about whether there is any
10 evidence at all that the 2020 election was hacked or
11 whether Eric Coomer was involved, whether Dominion was
12 involved, all of this.

13 He has confused the public so badly it is almost
14 impossible to have a reasoned public conversation about
15 the real problems and real needs for improvement that
16 still exist in the election space.

17 Prior to 2020, I think the jury saw Republican and
18 Democratic Senators talking about bipartisan legislation
19 to better secure our elections. That was back in the
20 timeframe 2018, 2019. A bill called the Secure Elections
21 Act almost made it through the Senate, and it was with
22 many sponsors from both parties, and there was bipartisan
23 legislation in the House, as well.

24 But, look, now the issue has been so confused, that
25 I don't think -- that any credible reporter, credible

1 political leaders, there are very few people who want to
2 -- who are able to publicly engage with the nuanced actual
3 risks facing elections because everybody is afraid that
4 the confused public is going to just falsely associate
5 that with Mr. Lindell's baseless claims that the 2020
6 election was stolen.

7 It has made it so much harder to do the work that I
8 do and to try to move the ball forward in terms of public
9 policy and public understanding. I mean, it has been --
10 it has been -- it has been a very, very miserable time. I
11 think we would be there today, and we would have even more
12 auditing, we would have even more use of paper ballots
13 through federal legislation if not for the issue having
14 been so confused for the public.

15 So I feel like before 2020, you have to realize
16 that there was a community of scientists working for
17 almost 20 years to try to improve the security of our
18 elections. That work has been hijacked for science
19 fiction, and that is the core of Mr. Lindell's films, of
20 his message, the science fiction that the 2020 election
21 was stolen. And it is much, much harder to talk about the
22 real science in public today.

23 We'd have to take hours with all of you -- with the
24 jury here today to go through that nuance. But most
25 people don't have time for the nuance, they have time for

1 -- they have time for a much faster conversation. We
2 can't have those faster conversations anymore because
3 everyone just concludes you are talking election security,
4 you must be talking about Mr. Lindell's fraudulent claims
5 about fraud.

6 That is so difficult. That has made my work
7 incredibly more difficult over the period since 2020.

8 Q. Did you hear Mr. Lindell testify that this is a
9 battle of good and evil?

10 A. I did.

11 Q. Is that part of the problem you are discussing?

12 A. Painting it in such black-and-white terms also makes
13 it much harder. I don't think it is at all a battle of
14 good and evil. We have real problems in election
15 technology and in policy in certain parts -- in certain
16 states, and not because this is good versus evil or the
17 voting machine companies are intentionally perpetrating
18 fraud, but because of really, really complex regulatory
19 incentives and funding -- underfunding election systems,
20 because the public doesn't pay enough attention to the
21 mechanics of how votes are counted. There are a host of
22 structural reasons why we are where we are today.

23 And progress on these issues happens slowly and
24 requires effort over a long time, and requires sometimes
25 more resources, more federal resources, money, legislation

1 to make things better. All of that takes some amount of
2 public understanding and care for the real issue, and the
3 real issue is potential vulnerability.

4 So in that way, this painting it in black-and-white
5 terms, making it seem like some kind of partisan issue,
6 trying to overturn the presidential election has been very
7 counterproductive.

8 Q. I want to circle back to one of the individuals that
9 I failed to address in my list, General Michael Flynn.
10 Would you consider him to be a credible cybersecurity
11 expert?

12 A. No, because among other things, he was convicted of
13 lying to the FBI.

14 Q. Is that publicly available information?

15 A. Yes. He pled guilty.

16 Q. And specifically, did his lies to the FBI, in your
17 understanding, have anything to do with election security?

18 A. Well, it was in the context of the -- of Russia,
19 which had been during the 2016 election, we know, and this
20 is a fact, had been attempting to hack into
21 election-related systems.

22 Q. And just for context, we talked about your testimony
23 in the Senate Intelligence Sub-Committee. Was that
24 testimony in the context of the 2016 election and concerns
25 about Russia's attempt to interfere?

1 A. Yes, that's right. That's right.

2 Q. And I want to be specific to the claims about
3 Dr. Coomer. You were testifying about the impact that
4 Mr. Lindell's and other defendants' proliferation claims
5 have had on about election security. How has it impacted
6 yourself and other individuals working in that industry?

7 A. Oh, it's been awful for people working in the
8 industry, too. So, I mean I, myself, have been -- well, I
9 know for someone working in the industry, being accused of
10 participating in hacking and fraud, that's -- it's the end
11 of your time working in that industry, because elections
12 rely very much on -- they are very much about trying to
13 honor the public's trust.

14 And even if people just falsely believe that
15 someone is involved in -- was somehow involved in fraud,
16 well, election officials are not going to want to engage
17 in business with that person anymore because that is going
18 to leave their constituents to doubt the election, whether
19 rightly or not.

20 So from working in this business for a long time, I
21 know that that kind of integrity, that kind of reputation
22 matters a lot to someone's ability to work in this
23 industry.

24 MS. MORGAN: Pass the witness so I can save some
25 time for redirect.

1 THE COURT: You have about 12 minutes of redirect,
2 just to be mindful of it. Mr. Kachouroff.

3 MR. KACHOUROFF: Your Honor, are we going to go to
4 break for lunch?

5 THE COURT: I think it would be great if we can go
6 to the lunch break to keep things moving. So if you can
7 use the next 12 minutes before we break at 12:30, I would
8 appreciate it.

9 MR. KACHOUROFF: Okay. We will start.

10 **CROSS-EXAMINATION**

11 **BY MR. KACHOUROFF:**

12 Q. Dr. Halderman, your job is made harder not by
13 Mr. Lindell, but by the things you do and say in public;
14 right? Would you agree with that?

15 A. No, I disagree with that.

16 Q. So you disagree with the State of Georgia referring
17 to you as an "election denier"?

18 A. I do disagree with the State of Georgia referring to
19 me as an "election denier," and so did a federal judge.

20 Q. So they disliked your views on the voting machines
21 and what you were saying about the election; correct?

22 A. You mean the State of Georgia did?

23 Q. Gabriel Sterling, who is the Chief Operating Officer
24 of the State of Georgia.

25 A. Sure. I was an expert witness for parties that were

1 suing them, but that is in the context of the *Curling*
2 case. And the *Curling* case was not at all alleging that
3 any election -- any past-election result was stolen.

4 The *Curling* case was arguing that Georgia voters --
5 Georgia voters' rights would be infringed if the state
6 didn't take further steps to ensure that their votes were
7 going to be counted accurately and in a way that people
8 could have confidence in.

9 So I absolutely disagree with the characterization
10 that that was election denialism.

11 Q. The federal judge dismissed the plaintiff's case in
12 *Curling*; correct?

13 A. Over issues of standing. And the federal judge, in a
14 PI hearing in *Curling*, earlier had -- in an earlier phase
15 of the case, agreed with the plaintiffs and ordered the
16 State of Georgia to get rid of its paperless voting
17 machines and replace them with ones that had a paper
18 trail. That was the basis for there being any kind of
19 recount in Georgia, paper ballots in 2020.

20 Q. But the case was dismissed, you agree with that?

21 A. On issues of standing, I do agree.

22 Q. Just a couple months ago.

23 A. It is being appealed now. But on issues of standing,
24 which is separate from whether the -- it is not a question
25 of the facts.

1 Q. So you mentioned Josh Merritt's testimony. You found
2 him credible.

3 A. I found his -- I am not assessing his technical
4 expertise, except to the extent that he was able to convey
5 to Mr. Lindell what ends up being true; that the data that
6 was presented was not PCAPs, was not evidence of anything.

7 Q. You don't know about his technical background, so how
8 would you know if he was capable of recognizing something
9 as PCAP data?

10 A. Recognizing that something is PCAP data or not
11 doesn't take a heck of a lot of technical background.
12 That is something that even someone with even a modicum of
13 network experience or security experience would be able to
14 recognize, especially in this case.

15 Q. You just admitted you don't know what his technical
16 expertise was.

17 A. It was apparently enough to recognize that it wasn't
18 PCAP data.

19 Q. Did you hear him say he pulled the fire alarm as a
20 marker?

21 A. I don't recall.

22 Q. You don't recall his testimony saying he pulled a
23 fire alarm as a marker of time?

24 A. That is certainly possible. I don't remember that
25 detail.

1 Q. That would be committing a crime just for the sake of
2 marking time.

3 MS. MORGAN: Objection.

4 THE COURT: Sustained.

5 Q. (BY MR. KACHOUROFF) Tina Peters, you have no
6 personal knowledge that Mr. Lindell was involved with that
7 case.

8 A. Personal knowledge? You mean -- you mean was I --

9 Q. Maybe the question wasn't clear. You personally do
10 not have any knowledge of whether he was connected with
11 that case.

12 A. Well, she was on the stage during the symposium.

13 Q. We are talking about Mesa County and the image.

14 A. The image that was distributed at Mr. Lindell's Cyber
15 Symposium by Mr. Lindell's -- to Mr. Lindell's group of
16 invited experts.

17 Q. Kind of like DEF CON. He was trying to have a DEF
18 CON event, as far as you know.

19 A. He organized a DEF CON-style event at which the
20 person who was his invited presenter on stage, worked with
21 someone else to unlawfully image the servers under her
22 care and was distributed to the attendees at Mr. Lindell's
23 event. This certainly leads me to the conclusion that
24 Mr. Lindell was involved.

25 Q. Dr. Halderman, you don't know the circumstances --

1 Tina Peters was an elected official.

2 A. Yes.

3 Q. She had control over electronic voting machines.

4 A. Yes.

5 Q. And so she gave somebody permission to image it. You
6 don't know whether that was lawful or unlawful.

7 A. I know that she was convicted for it.

8 Q. What was she convicted of exactly, tell us?

9 A. The case was about her unlawfully giving someone else
10 access to the equipment, and then I believe that --

11 Q. You don't know what she was convicted of, do you?

12 A. No. That was the core of the case.

13 Q. She was convicted of giving somebody a false ID;
14 isn't that right?

15 A. In order to give him access to the machines that were
16 in her charge.

17 Q. She wasn't convicted of giving somebody access to the
18 machines.

19 A. Was that a question?

20 Q. Yes, it was.

21 A. The whole reason that Tina Peters was -- the whole
22 core of that case was the unlawful access, and perhaps the
23 charge was about having given him identification falsely.
24 But, look, her charge as an election official is to
25 protect these machines from being accessed by others. The

1 result of her actions was that the software image of these
2 machines became public, became something that just anyone
3 who might want to use them for malicious purposes, would
4 have access to them.

5 I mean, that is a breach of public trust, and that
6 is the core of why there was a federal case over the whole
7 matter.

8 Q. Are you finished?

9 A. Yes.

10 Q. Where did Mr. Lindell ever cite Joe Oltmann as
11 authority for his election research?

12 A. Well, Mr. Lindell had him on stage during his
13 symposium, for instance.

14 Q. You didn't attend the symposium, did you?

15 A. I watched actually a lot of the stream of the
16 symposium at the time.

17 Q. You don't know whether he invited Joe Oltmann on
18 stage or whether he walked on stage himself.

19 A. We have had testimony about Mr. Lindell and the
20 symposium.

21 Q. Where does Mr. Lindell ever say that Eric Coomer
22 hacked the election single handedly?

23 A. Mr. Lindell's accusations, he has made all sorts of
24 statements that we have heard, and those statements --
25 those statements are often vague in their accusations.

1 But Mr. Lindell -- Mr. Lindell's statements that he's a
2 traitor, that he should be in jail, et cetera, taken
3 together with the other theories about Eric Coomer that
4 Mr. Lindell broadcast through his platforms, you have to
5 understand the enormous reach of those platforms.

6 Q. You are not testifying as a reach expert, are you?

7 A. No, I am not testifying as a reach expert. But it is
8 true that Mr. Lindell's platforms had enormous reach, far
9 more than mine.

10 Q. That wasn't my question, was it?

11 A. I believe it is relevant to your question.

12 Q. I am sure you do.

13 Let's look at Alabama. What was Mr. Lindell's
14 contention about the voter registration data? He said
15 there was 4,000-some-odd people that were registered and
16 they were over a hundred years old. What did he say about
17 that, do you know?

18 A. Could you remind me, please?

19 Q. That he had records of 4,000 individuals who were a
20 hundred-plus that voted. Did you know about that?

21 A. That he had records of 4,000 people who were a
22 hundred-plus?

23 Q. Who voted.

24 A. Again, 4,000 people whose ages in the database were
25 incorrectly listed.

1 Q. And they voted.

2 A. So what?

3 (Audible reaction from gallery.)

4 THE WITNESS: So what? Again, the question is
5 whether those were real voters, real authorized voters,
6 not whether the database about -- the database record
7 about their age was accurate.

8 THE COURT: I am sorry, Dr. Halderman, can you
9 finish your statement.

10 THE WITNESS: As I have just testified, there are
11 often data errors in voter registration lists and other
12 databases that have -- that try to keep records about
13 millions of members of the public, and that is not
14 evidence of fraud, that is evidence that we have dirty
15 data that ought to be better maintained and cleaned up
16 through more resources.

17 But just because people whose birth dates were
18 incorrectly recorded were found to have voted, I don't
19 think you can conclude from that that there was fraud, you
20 can only conclude we should be better maintaining our
21 voter registration data.

22 THE COURT: Do you have one follow-up question,
23 Mr. Kachouroff?

24 Q. (BY MR. KACHOUROFF) It is at least suspicious, would
25 you agree?

1 A. There is lots of noise in all kinds of data, and --

2 Q. Certainly we should look at that noise and look for
3 an explanation for it; correct?

4 A. I think it is fair to look at some of the noise and
5 look for explanations for it, but you can't take from that
6 noise that, ah-hah, there are some data errors here, that
7 means the 2020 election was stolen. I found absolutely --

8 Q. I didn't go that far. I said we should look at it;
9 right?

10 A. I am not sure you went that far, Mr. Kachouroff.

11 Q. Thank you, sir.

12 THE COURT: It is 12:30, we will take our lunch
13 break. I ask you to be back here by 1:15 so we can be
14 ready to go. Again, I remind you not to talk to anyone,
15 including your other jury members, about this case or what
16 you are hearing. Do not engage in any media about this
17 case, and do not talk about this case with anyone else
18 outside, as well. Thank you.

19 (Outside the presence of the jury.)

20 THE COURT: All right. Thank you, please be
21 seated.

22 The first thing I need to address is the gallery.
23 I appreciate that you have been quiet and respectful
24 during this trial. You need to not audibly react to
25 anything that is going on in the courtroom, and that is

1 because we need to maintain and make sure that our jury is
2 not getting extra inputs with respect to their
3 determinations that are outside the evidence that is
4 admitted for the purposes of trial for their consideration
5 and deliberations.

6 So I'm giving you this warning. And to the extent
7 that more audible reactions from the gallery are heard
8 that could potentially influence the integrity of our
9 jury, I will unfortunately have to request that those
10 individuals be removed from the courtroom, and of course I
11 don't want to do that.

12 There is always an overflow room. I don't know if
13 it is set up today but -- it is set up today. So if you
14 feel like you cannot withhold your reaction, I would
15 strongly suggest that you watch from the overflow room so
16 that I will not have to bring this up to you again.

17 This is really only to protect the integrity of our
18 jury and to make sure that they are not being influenced
19 by anything other than their own deliberations and the
20 evidence that is admitted at trial. Thank you.

21 All right. Counsel, anything that we need to
22 address?

23 MR. KACHOUROFF: Not from defense.

24 MR. BELLER: Your Honor, briefly, if I can put the
25 parties on notice. In a brief reading of the limiting

1 instruction, seeing it in black and white, it doesn't make
2 sense. And so I have emailed back to chambers, and if I
3 can also let defense counsel know, if they can look at
4 that over the lunch hour so that you can address that.

5 THE COURT: So we will take that up before we bring
6 the jury back.

7 MR. BELLER: Thank you.

8 THE COURT: All right. So we will be in recess for
9 lunch.

10 (Lunch is taken from 12:34 p.m. to 1:20 p.m.)

11 THE COURT: Thank you. Please be seated.

12 All right, are you ready for the jury?

13 MR. KACHOUROFF: Yes, ma'am -- yes, Your Honor.

14 MR. DUANE: I want to advise the Court that
15 Mr. Beller and I met and conferred over the break as
16 promised, and we have no objection to his proposed
17 modification to your instruction.

18 THE COURT: Thank you. Thank you for reminding me.

19 So Mr. McClain will finalize the verdict forms and
20 jury instructions and email those to you all, and we will
21 be ready to go.

22 (In the presence of the jury.)

23 THE COURT: Thank you. Please be seated.

24 Mr. Kachouroff.

25 MR. KACHOUROFF: May it please the Court.

1 Q. (BY MR. KACHOUROFF) Dr. Halderman, returning to
2 Alabama briefly, you understand that Mr. Lindell was
3 looking at qualified voter files for his numbers; correct?

4 A. I have no way of verifying Mr. Lindell's data, I am
5 sorry. I will assume, if you would like, for the sake of
6 argument that his data is accurate.

7 Q. I don't want you to assume anything. You don't know
8 about that data?

9 MS. MORGAN: Objection.

10 THE COURT: Overruled.

11 THE WITNESS: He asserts he has looked at the data
12 from Alabama. What can I say?

13 Q. (BY MR. KACHOUROFF) Well, that wasn't Dennis
14 Montgomery data; right?

15 A. Again, so what?

16 Q. Well, just on direct examination, it is fair to say
17 you have been harping on the fact that Mr. Lindell has
18 been relying on Dennis Montgomery for the last 4 years or
19 so.

20 A. Can you repeat the question?

21 Q. You made it seem as though Mr. Lindell were relying
22 on Dennis Montgomery for the last 4 years.

23 A. I was focusing on the data at the period of -- the
24 period at issue leading up to the Cyber Symposium, but I
25 am happy to talk about other data.

1 Q. After that time period, he did not depend upon Dennis
2 Montgomery's data; correct?

3 A. Well, I don't know. He seems to still assert that he
4 hasn't changed his beliefs.

5 Q. Have you talked to him personally about whether he
6 has changed his beliefs?

7 A. I have only listened to his testimony, sir.

8 Q. Michelle Long Spears, that is the lady in Georgia who
9 was in a primary runoff; correct?

10 A. Yes.

11 Q. DeKalb County.

12 A. Was it DeKalb?

13 Q. It was DeKalb. Doesn't matter, it was a Georgia
14 County, you know that much; right?

15 A. Fulton or DeKalb.

16 Q. She came in last place; right?

17 A. Yeah. So what happened was the -- I believe it was
18 the -- her case involved -- her case involved a change to
19 the ballot at the last minute when a candidate had dropped
20 out of the race, and actually out of a different race.

21 And as a result of that drop out, the election officials
22 had to reconfigure the equipment to reflect that the other
23 candidate was no longer running, and they reconfigured
24 only some of their equipment, but not all of it.

25 I think they reconfigured the scanners but not the

1 ballot-marking devices, and as a result of that, when the
2 ballots were scanned, the votes for Michelle Long Spears
3 weren't counted, they just weren't registered at all, so
4 she ended up with zero votes received.

5 Q. Mike Lindell never accused Michelle Long Spears of
6 being hacked; correct?

7 A. Accused Michelle Long Spears of being hacked?

8 Q. Of her candidacy of being subject to hacking. He
9 never said that, did he?

10 A. No. But I think he cited in his testimony, he
11 pointed to incidents like that as bolstering his overall
12 theory, his overall theories about the elections. That
13 is -- I think that is a reasonable inference about why he
14 brought it up.

15 And my point in bringing that up is that, look, if
16 you dissect this, if you look at why it happened, a case
17 like that is not, in fact, evidence of something
18 malicious, that is a case of a kind of human error that we
19 can and should deal with.

20 Q. It is not a machine error, it is a human error;
21 right, that is what your point is.

22 A. No. My point is that it is -- this is not something
23 suspicious or criminal, this is something that is -- this
24 is something that was the result of human error, and that
25 we should improve the technology to make those errors less

1 likely.

2 Q. Well, she only found out about this, "she" being
3 Michelle Long Spears, because she went back to her
4 precinct and she found out that there were zero votes for
5 her; right?

6 A. That's correct.

7 Q. And she knew that she had voted, her husband voted,
8 and her daughter voted for her, but they didn't register
9 in her own precinct.

10 A. Yes. We are lucky that case came to light.
11 Fortunately it is not evidence that the 2020 election was
12 hacked or that Dominion had anything to do with it.

13 Q. That was in 2022; right?

14 A. Michelle Long Spears?

15 Q. Correct.

16 A. Yes. Because that was a down-ballot race --

17 Q. That has nothing to do --

18 A. -- and received less scrutiny.

19 THE COURT: Yes, I hate to interrupt, but I am
20 doing so on behalf of our court reporter.

21 MR. KACHOUROFF: Sorry.

22 THE COURT: Mr. Kachouroff, you need to wait until
23 the witness answers the question.

24 Dr. Halderman, you need to wait until

25 Mr. Kachouroff finishes his question.

1 THE WITNESS: Yes, Your Honor.

2 Q. (BY MR. KACHOUROFF) Michelle Long Spears was in
3 2022; correct?

4 A. Yes, I think that's right.

5 Q. That had nothing to do with the 2020 election;
6 correct?

7 A. I take it that Mr. Lindell has brought that up to
8 support his overall theories about the machines somehow
9 being rigged.

10 Q. I am not asking you whether Mike Lindell used that
11 for some overall theory that he thinks exists about the
12 machines being rigged. I said the 2022 Michelle Long
13 Spears case has nothing to do with the 2020 election;
14 right?

15 A. Well, I am not quite sure what you mean "nothing to
16 do."

17 Q. Do you think it has something to do with the 2020
18 election?

19 A. So what it has to do with is this is a -- the
20 Michelle Long Spears case is interesting, in that it is a
21 similar problem to the human error that happened in Antrim
22 County.

23 Q. We will get to that.

24 A. So there is a connection there in my mind, but I am
25 not quite sure your point.

1 Q. Did you look at the source code for the DeKalb County
2 race with Michelle Long Spears?

3 A. No. But the way I determined what happened was
4 actually a separate technical analysis. So I was able to
5 analyze the ballot barcodes from the BMDs in order to
6 determine what the structure of that ballot was. It was
7 composed of multiple cards, where the values were marked
8 and so forth. So you don't really need a source code
9 analysis to analyze that.

10 I was able to do a different kind of technical
11 analysis based on understanding of the barcode structure,
12 which I derived from an analysis of the structure -- of
13 the barcode decoding program that supported Dominion
14 Voting Systems, which was used in certain parts of the
15 country.

16 Q. Suffice it to say, when the issue was looked into,
17 she actually won the election; correct?

18 A. Sure. They were able to determine that conclusively
19 by counting the ballots by hand.

20 Q. You mentioned the DNI, the Director of National
21 Intelligence, John Ratcliff. Do you remember that?

22 A. Yes.

23 Q. In a letter that John Ratcliff wrote -- you tried to
24 summarize it. I wanted to know if you recalled that the
25 thrust of the letter was he was concerned that the

1 intelligence community was suppressing evidence of China's
2 interference in the 2020 election.

3 A. I believe the thrust of the letter was that he was
4 concerned that the intelligence community was downplaying
5 the threat of China attempting to influence the election,
6 not China trying to attempt to hack the election.

7 Q. Did I say "hack"?

8 A. You said "interfere."

9 Q. And so you are splitting hairs between the
10 definitions of "interfere," "hack," and "influence," and
11 you are creating new definitions for those things.

12 A. I want to be clear for the jury, because especially
13 in the federal government, they tend to use the words, and
14 in the intelligence community they tend to use these
15 words, "influence" and "interfere" to mean many specific
16 things.

17 "Influence," meaning trying to affect people's
18 opinion, trying to spread false information. "Interfere"
19 can sometimes incorporate notions of hacking or mechanical
20 interference, like actually affecting the operation of
21 vote counting.

22 Q. On direct examination she talked about an attorney
23 named Matt DePerno, and she asked if you there was any
24 publicly available information should that tell the
25 average man that Matt DePerno was not to be trusted. Do

1 you remember that?

2 A. Yes.

3 Q. And your answer was, yes, he has been indicted for
4 election crime.

5 A. Yes.

6 Q. Okay. And the reason why you gave that answer was
7 because you were actually trying to show that Lindell
8 should have known about Matt DePerno; right?

9 A. I am not sure that that was the question I was asked.

10 Q. She said, was there any public info that should tell
11 the average man that Matt DePerno was not to be trusted.
12 And your answer was that he had been indicted for election
13 crime; correct?

14 A. Yes.

15 Q. When was he indicted for election crime?

16 A. Oh, I don't remember. I don't recall.

17 Q. Last year; right, 2024.

18 A. I don't recall. I couldn't tell you.

19 Q. That would be three years after Mr. Lindell had him
20 on *Absolute Proof*; correct?

21 A. If that's true, that would be after. But even at the
22 time, he had sponsored and submitted to the Court and
23 Antrim County, and claimed to be true, this ASOG report
24 that had been thoroughly debunked, that was just full of
25 absolute nonsense.

1 Q. When was it fully debunked?

2 A. Well, I believe the first -- the first expert
3 detailed debunking was in December when there was an
4 expert rebuttal done by. The name is going to fail me, a
5 former official from the U.S. Election Assistance
6 Committee, I think the man who used to supervise the
7 testing program at the election commission, and I believe
8 it was published by the State of Michigan in December of
9 2020. And as pointed out already, that it was utter
10 nonsense.

11 Michigan -- Antrim County didn't use the electronic
12 adjudication that was the core of the ASOG report that
13 DePerno sponsored, and pointed out other major, major
14 problems with that asserted evidence that DePerno claimed,
15 and continued to claim, was representing the truth. So
16 that's one example.

17 Q. You didn't mention the date of the Indictment because
18 you knew it was after the events that were in question in
19 this case; correct?

20 A. I honestly can't recall when he was indicted. It was
21 for events that took place before the incident. I am not
22 sure when he was indicted. And, in any event, Mr. Lindell
23 apparently continues to assert the truth of his
24 statements.

25 Q. DePerno's statements?

1 A. Of the statements at issue in this case.

2 Q. The question wasn't about the statements at issue in
3 this case, the question was, you are trying to impugn
4 Mr. Lindell; that he should have known DePerno was not to
5 be trusted. And you mentioned the indictment, and that
6 was your indicator for him that he should have known
7 better not to talk to Matt DePerno; correct?

8 A. The question I was answering was not -- was not the
9 question that you are asking me now.

10 Q. I just asked you that question. Can you answer that
11 one?

12 A. Can you ask it again, please?

13 Q. Sure. The reason why you mentioned Matt DePerno
14 having an indictment was because you were trying to set
15 him up in front of this jury to make it seem as though he
16 should have known about the indictment, when it never even
17 occurred 3 years ago; right?

18 A. As I say, I don't recall when the indictment happened
19 exactly. But in any event, regardless of when the
20 Indictment occurred, it is a reason why now, sitting in
21 this room, all should be on notice that DePerno is not to
22 be trusted.

23 Q. The issue isn't today, it was 3 years ago when
24 Mr. Lindell made those statements; correct?

25 A. "The issue"? What issue are you speaking of, sir?

1 Q. Their issue of Matt DePerno appearing on *Absolute*
2 *Proof* on February 5, 2021.

3 A. I think there are multiple issues at play about Matt
4 DePerno showing up. At the time, Mr. Lindell already
5 should have been on notice that DePerno was not to be
6 trusted because he had sponsored these obviously -- these
7 already debunked claims that were -- these implausible and
8 already debunked claims about Antrim County to the Court.

9 Today we have the additional factor that DePerno
10 has been indicted on election-related crimes. And I do
11 believe I misspoke during my testimony earlier today and
12 said he was indicted by the Attorney General. I believe
13 he was indicted by a Special Counsel because of the --
14 selected to ensure impartiality, because of his previous
15 verbal spars with the Attorney General and so on.

16 Q. We will talk about Michigan next. You talked about
17 them doing a risk-limiting audit; correct?

18 A. Yes.

19 Q. That risk-limiting audit was not completed until June
20 of 2021; correct?

21 A. No, I don't think that is right.

22 Q. In fact, it wasn't completed because 25 percent of
23 the counties never responded; isn't that true?

24 A. No, I also don't think that is right.

25 Q. What do you think is right?

1 A. I believe it was completed sooner than that. I
2 believe it was completed in January. And they may not
3 have finished their complete report until a bit later on.
4 But they completed -- they completed their -- I believe
5 they completed the audit in January.

6 Q. Would it surprise you that the audit was not
7 completed until April of 2021?

8 MS. MORGAN: Object, Your Honor, foundation.

9 THE COURT: Approach.

10 (A bench conference is had.)

11 THE COURT: Mr. Kachouroff, what evidence that has
12 already been admitted are you relying upon to frame your
13 question?

14 MR. KACHOUROFF: I was going to pull a report from
15 Michigan.

16 THE COURT: Is it in evidence?

17 MR. KACHOUROFF: Not yet. I am getting ready to
18 show it to him. If he doesn't remember, he doesn't
19 remember, I don't care, I will move on.

20 THE COURT: All right.

21 (In the hearing of the jury.)

22 Q. (BY MR. KACHOUROFF) Then you talked briefly about
23 Georgia, and some things we will return to, Dr. Halderman.
24 Georgia, I notice you avoided talking about a
25 risk-limiting audit in Georgia. You called it a hand

1 count; right?

2 A. I may have referred to it as both, but go on.

3 Q. Since you are familiar with the *Curling* case -- you

4 are very familiar with it; correct?

5 A. Yes. I was an expert witness in the *Curling* case.

6 Q. It went on for 7 years.

7 A. Yes, that's right.

8 Q. A four-week bench trial.

9 A. Yeah, I think that is correct.

10 Q. It is true, isn't it, that they had -- the first

11 count was a machine count; right?

12 A. You mean when the ballots were initially counted?

13 Q. Correct. Machine count ones.

14 A. Yes.

15 Q. Then a hand count; correct?

16 A. Yes.

17 Q. Then they did a second machine count. We will call

18 that machine count two.

19 A. Yes.

20 Q. And none of the counts matched each other.

21 A. None of the counts exactly matched each other. And I

22 think there are a bunch of problems with the way that

23 Georgia conducts its elections. That is what the *Curling*

24 case is all about. But all of them agreed about the

25 outcome, and none of them showed a deviation that was a

1 deviation that was the magnitude that it affected or could
2 affect who won.

3 Q. You know Professor Philip Stark.

4 A. I do. He is a good friend.

5 Q. Excellent at his job.

6 A. Inventor of risk-limiting audits. Philip, I know,
7 has lots of criticism of the Georgia RLA, some of which I
8 agree with. They are certainly not perfect.

9 Q. You know that he thinks Georgia should not take any
10 confidence that their votes are counted properly, much
11 less counted at all. That is in his affidavit; right?

12 A. So, Philip has -- that is not how I would put what
13 you can take away from the audits that were conducted in
14 Georgia. I think the audits have some significant value
15 for helping us rule out certain kinds of theories and
16 about how the election -- about whether the election
17 result was influenced by different kinds of possible bad
18 behavior or error or fraud.

19 But, as I say, the audits in Georgia, they do have
20 -- they were imperfect. And I think Philip takes a very
21 strong view of anything that's less than perfect, in terms
22 of the standards of an audit, has no value. But I
23 disagree with that. I think that "perfect" is the enemy
24 of the good here. We should work to improve the quality
25 of the audits and, at the same time, recognizes that even

1 an imperfect audit tells us something and constrains the
2 possible attacks that could evade detection.

3 Q. The Maricopa audit in Arizona, that took over a year
4 to complete, didn't it?

5 A. No.

6 Q. How long did it take?

7 A. The report that -- the audit results were reported in
8 Maricopa -- what month was it? I am sorry, this is 4
9 years ago now. I believe it was during the summer of
10 2021. It is possible I am mistaken, it has been 4 years,
11 but that is my recollection.

12 Q. And do you know -- you have never investigated Fulton
13 County and the discrepancies in Fulton County, have you?

14 A. That is not true.

15 Q. So what happened to the 368,000 ballots that were
16 missing in Fulton county?

17 A. There are 368,000 ballot images --

18 MS. MORGAN: Objection.

19 THE COURT: Approach.

20 (A bench conference is had.)

21 MS. MORGAN: I don't think that there has been any
22 evidence entered in this case that supports that
23 statement. And counsel is frankly testifying about
24 something that is not in evidence at this point.

25 MR. KACHOUROFF: He investigated Fulton County, and

1 I am asking whether he knows about the missing ballots.
2 If he doesn't, he can say no, I don't know, or, yes, I do.
3 I am pretty sure he is going to say he does.

4 THE COURT: So how is this related to the scope of
5 his direct, Mr. Kachouroff?

6 MR. KACHOUROFF: Because he asserts there are no
7 problems, that it is all human error. It is actually not
8 human error, there is a lot of machine error. I am
9 getting ready to discuss that with Antrim County.

10 MS. MORGAN: With all due respect, I object to
11 relevancy. This isn't a trial of the machines.

12 MR. KACHOUROFF: It is, Judge. They have made it a
13 trial about the machines.

14 THE COURT: I am not going to have you all spar
15 about what this trial is or is not about, because the
16 claims and defenses are set out and have been argued and
17 this Court has passed on the scope of the evidence that is
18 going to be permitted.

19 I am going to sustain the objection on 403 grounds.
20 To the extent that you want to move to Antrim, please move
21 to Antrim.

22 MR. KACHOUROFF: Thank you, Your Honor.

23 (In the hearing of the jury.)

24 Q. (BY MR. KACHOUROFF) Dr. Halderman, do you know
25 whether the EMS server in Fulton County crashed?

1 A. Whether it crashed when?

2 Q. During the 2020 election.

3 A. I don't remember whether it crashed during the
4 election or not. I don't know how that would -- I don't
5 know what bearing that would have on any of the facts
6 here. Computer systems crash and have to be restarted at
7 various times for perfectly benign reasons.

8 Q. It could also be a software design defect; correct?

9 A. "A software design defect," what do you mean?

10 Q. I think you know what I mean about the defective
11 engineering of software.

12 A. Sure. There are plenty of defects in the Dominion
13 system and in all of the routing vendor systems. I am
14 certainly one of the biggest critics of the quality of
15 software used in elections. Again, that is not evidence
16 that problems were exploited to tamper with the 2020
17 election, let alone by Dr. Coomer. And I can't emphasize
18 enough, right, the -- what a different kind of claim that
19 is.

20 It is an ordinary claim to say software has
21 defects. It is an extraordinary claim, something that we
22 have never seen, we have never found good evidence that it
23 has happened in the United States, to say that these
24 problems with software were exploited to change an
25 election result, right. One is mundane, the other is

1 extraordinary. You need a different kind of evidence to
2 establish that.

3 Q. Exhibit 31, you have this. I think it was stated by
4 CISA, or the 57 intelligence officials, whatever they
5 were, 51. Do you recall that?

6 A. Yes.

7 Q. And you believed that Mike Lindell should be on
8 notice that CISA said we had "the most secure election in
9 history," correct?

10 A. Not only that, but CISA said they had seen no
11 credible evidence that the 2020 election had been hacked,
12 and that was part of their job -- literally part of their
13 job to be monitoring for that kind of problem.

14 Q. And when CISA made these statements, CISA was being
15 hacked itself; correct? The SolarWinds hack. You know
16 about that.

17 A. That is true. CISA was, itself -- was, itself,
18 compromised. And some documents that were confidential at
19 CISA, I believe were exfiltrated in that. But that is --
20 again, that is not what CISA's claim is. CISA's claim is
21 not that CISA got hacked, CISA's claim is they had no
22 evidence that attackers had compromised any election
23 system.

24 Q. CISA did not know anything about the SolarWinds hack
25 until late December of 2020; correct?

1 A. I don't know when CISA --

2 MS. MORGAN: Objection, speculation, foundation.

3 THE COURT: Overruled.

4 MR. KACHOUROFF: If you know.

5 THE COURT: He just said he didn't know.

6 MR. KACHOUROFF: I didn't hear because of the
7 objection. I am sorry, Your Honor.

8 THE WITNESS: I don't know when CISA became aware.

9 Q. (BY MR. KACHOUROFF) But you do know they announced
10 "the most secure election" at the same time they were
11 being hacked, and they didn't know they were being hacked;
12 correct?

13 A. I don't think that this is a referendum of the
14 security of the federal agency, itself. And the people at
15 CISA who are responsible for monitoring elections were not
16 the people at CISA who were responsible for securing
17 CISA's IT system.

18 Q. Dr. Halderman, I was quoting CISA because you quoted
19 it, fair enough?

20 A. I suppose that is fair enough. You are quoting CISA
21 because I quoted them, but I am not sure -- why are you
22 asking me that?

23 Q. You were talking about Mike Lindell, that he never
24 contacted you. You know his testimony is he tried to
25 contact you several times; correct?

1 A. I have no record of that.

2 Q. And you didn't think he would be open to you, because
3 "he was so committed"?

4 A. No, that is not what I said. I said I didn't think
5 that he -- I didn't think it would do any good to -- to
6 reach out to Mike Lindell, because I didn't -- I couldn't
7 imagine that he would be open to evidence challenging his
8 preconceived notions about what happened in the 2020
9 election. And on the basis of everything he had written,
10 these films he was making, like *Absolute Proof*, really?

11 You think is it worth my time to reach out to
12 someone who thinks he has "absolute proof" that the
13 election has been hacked? Is he going to change his mind
14 on that basis? He apparently didn't change his mind on
15 the basis of any of the other people who warned him that
16 his data was fake or that these claims were unlikely to be
17 true.

18 Q. You just said moments ago that he was the largest
19 voice out there, and you decided you weren't going to
20 contact him; correct?

21 A. He had a tremendous microphone, but it still wouldn't
22 do any good. I was convinced it wouldn't do any good for
23 me to contact him. In any case, my views were clear. My
24 letter was out there and widely publicized that I didn't
25 think there was any credible evidence. The Antrim County

1 report that I had completed as part of the court case was
2 out there for him to see, for anyone. That was widely
3 reported. My views were --

4 Q. When you are talking about the letter -- sorry to
5 interrupt you. When you talk about the letter, you are
6 talking about 59 experts that signed that letter.

7 A. That's right. It was signed by the experts that are
8 in the very footage from DEF CON that Mike Lindell points
9 to, by me, by Andrew Appel, by Harri.

10 Q. Isn't that an appeal to authority, that we should
11 listen to you in that letter because there were 59 of you
12 signing that letter?

13 A. I don't know that you even need to "listen to." You
14 don't need to take my word for it that this is true
15 necessarily, but it should put you on notice. The claim
16 that you are making, if you are Mike Lindell, it should
17 put you on notice that the claim that you are making is
18 quite likely to be false.

19 What we said in the letter was "extraordinary
20 claims require extraordinary evidence," right. That is
21 quoting Carl Sagan, he was a great populizer of science.
22 And that is like the whole core, it is not something only
23 scientists do, it is the whole core of rational thought.

24 If someone makes an everyday claim, you can accept
25 it from their say so. But if somebody makes an

1 extraordinary claim: The 2020 election result was stolen
2 by hackers from China with the cooperation of Eric Coomer,
3 whatever, that requires an extraordinary degree of proof,
4 because it is likely to be false.

5 Q. Did you mail the letter to Mike Lindell?

6 A. I arranged for it to be written about in The New York
7 Times. I don't know what more you want me to do, sir. I
8 am not Mike Lindell's -- I don't work for Mike Lindell.

9 Q. The largest voice out there, you said, and you don't
10 mail him the letter?

11 A. I assume he reads the newspaper.

12 Q. The New York Times or the New York Post?

13 A. I assume that Mike Lindell, who said that he spent 60
14 hours -- how many hours a day, every day, for months,
15 researching the question of the 2020 election, would be
16 aware of what the experts that he, himself, cites as
17 authorities on this, think and have written and have
18 published widely about this issue, about the core of his
19 issue.

20 Q. Dr. Halderman, you are a Princeton man; correct?

21 A. Yes. I have three degrees from Princeton.

22 Q. A Ph.D. from Princeton.

23 A. That is true.

24 Q. A top ten school; correct?

25 A. Yes.

1 Q. And Mike Lindell has a high school degree or a high
2 school diploma; correct?

3 A. If you say so.

4 Q. You are holding him to the same standard as a Ph.D.?

5 A. I am holding him to the standard of reading the
6 newspaper if this is the issue that he cares about and is
7 speaking about and producing movies about that are seen by
8 millions of people.

9 Q. Now, you insist the problem is that Mike's claims
10 have made it more difficult for people to engage in, you
11 called it, "nuanced conversations." Do you recall that?

12 A. Conversations rooted in fact, yes.

13 Q. How is that as bad as the effect of lawsuits like
14 this, of getting people to participate in that
15 conversation?

16 MS. MORGAN: Objection.

17 THE COURT: Sustained.

18 Q. (BY MR. KACHOUROFF) Doesn't your letter with the 59
19 experts have the same effect; that is to say, to shut
20 down, to stifle conversation?

21 MS. MORGAN: Objection.

22 THE COURT: Sustained.

23 Q. (BY MR. KACHOUROFF) You mentioned that you don't
24 find Dr. Shiva, Colonel Waldron, Dennis Montgomery,
25 Douglas Frank, you didn't find those people to be credible

1 sources -- or Dr. Douglas Frank. I think you said
2 Dr. Douglas Frank was a high school teacher; right?

3 A. I think that is what I said, yes.

4 Q. And when did you research Dr. Douglas Frank?

5 A. I don't remember exactly when.

6 Q. And you talked about the ASOG report. Tell us what
7 ASOG stands for?

8 A. Allied Signals Operations Group, something like that.

9 Q. Allied Security Operations Group?

10 A. Maybe it is Security Operations Group, that could be
11 right.

12 Q. You said they were debunked in December of 2020.

13 A. Yes.

14 Q. You wrote a report in Michigan; right, for the
15 2021 -- March of '21 you posted the report.

16 A. Yes.

17 Q. Tell us what that report was all about.

18 A. That was my own independent investigation of the
19 Antrim County incident, and I wanted to figure out what
20 actually happened; whether there were other problems,
21 whether this was potentially evidence of broader problems
22 in Michigan and elsewhere, and how to make recommendations
23 to improve election procedures and technology, et cetera,
24 so that such a thing wouldn't happen again.

25 Q. On November 6th, you were on an email chain

1 concerning the Antrim County miscount. Do you recall
2 that?

3 MS. MORGAN: May we approach, Your Honor?

4 THE COURT: Yes.

5 (A bench conference is had.)

6 MS. MORGAN: I believe that counsel is about to get
7 into the contents of the email that we all discussed
8 regarding the Antrim situation that was potentially
9 procured in a manner that was not appropriate and that had
10 not been disclosed in discovery and was not on the exhibit
11 list. So I wanted to approach before this becomes an
12 issue.

13 MR. KACHOUROFF: Absolutely not. This was not
14 procured by any skullduggery --

15 THE COURT: Mr. Kachouroff, you need to slow down.

16 MR. KACHOUROFF: This was not procured by any
17 skullduggery, that it was done -- it was an intent to get
18 you prejudiced, as though this was fruit of the poisonous
19 tree, it is not. This is a publicly available document in
20 Michigan, as Dr. Halderman knows full well, because he is
21 a party in this case. And this information I am bringing
22 out today, I got it off ECF, so --

23 THE COURT: His declaration?

24 MR. KACHOUROFF: It is an email chain that he had.
25 And all I will do is ask if he remembers the email and

1 remembers what he said.

2 MS. MORGAN: Is this going to include the email
3 where Dr. Coomer calls him an "asswipe."

4 MR. KACHOUROFF: He doesn't call him an "asswipe."

5 MS. MORGAN: Because that was the email you tried
6 to introduce through Dr. Coomer. I just wanted to make
7 sure that this is not same email chain.

8 MR. KACHOUROFF: No, it is not.

9 (In the hearing of the jury.)

10 Q. (BY MR. KACHOUROFF) Dr. Halderman, you believed on
11 November 6, 2020, that the Antrim County ballot
12 definitions on the tabulator and election management
13 software being different versions was a design flaw;
14 correct, on November 6th.

15 A. So, whether it is a design flaw, what constitutes a
16 design flaw is a little bit -- is a little bit nebulous
17 here. I think what I would agree with is that I thought
18 from the moment of the state's first explanation of what
19 the -- what the underlying problem they believe was, that
20 I thought the election system could be engineered to
21 prevent that kind of problem from happening in the future.

22 Q. (BY MR. KACHOUROFF) In fact, you said "calling this
23 human error places the blame on election officials, but
24 under these facts I am saying it should instead be
25 considered a software defect, albeit one that is only

1 triggered when operators miss an important step." Right?

2 A. That sounds accurate. That sounds like something
3 that I would write. But the implication of that is that
4 really my belief is that philosophically we should be
5 engineering election systems to be failsafe, so even if
6 the human operators who run them make a mistake, as human
7 beings tend to, that the system will do all it can to
8 prevent that mistake from having an effect on the accuracy
9 of the count.

10 So it is a question of usability, and making sure
11 we are engineering systems as defensively as possible in
12 the face of human error by fallible people.

13 Q. You also thought, and I will quote you, "if
14 incompatible software versions of the tabulators and EMS
15 could result in wrong results, that seems like a serious
16 bug." Right?

17 A. Yes, I guess. Although it turned out that that
18 wasn't the cause of the problem in Antrim County, it was
19 nothing about incompatible software versions.

20 Q. We will get to that in just a few moments.

21 You then talked with the Michigan election's
22 director and found out more information about what
23 happened in Antrim County; right.

24 A. Sure, yes.

25 Q. That was Jonathan Rader.

1 A. John Brader.

2 Q. Brader, sorry. You know Jonathan Brader.

3 A. I do, yes.

4 Q. After learning more about the Antrim County vote
5 miscount, you believed calling this human error places the
6 blame on election officials, but under these facts you
7 thought it should instead be considered a software defect?

8 A. The facts were still unclear at the moment when I
9 said that. Again, it required more of an investigation to
10 determine the full set of circumstances involved.

11 Q. You also stated this publicly in the New York Post on
12 November 6, 2020, as well; correct?

13 A. What did I state in the *Post*? I don't know.

14 Q. You said -- it says, "University of Michigan Computer
15 Science Professor, J. Alex Halderman, a voting machine
16 expert, told *The Free Press* that it is 'Plausibly human
17 error, but if a simple screw up could cause these
18 problems, that sounds like a technical design flaw.'"

19 A. That does sound like something the technology should
20 be doing more to prevent. In fact, that is one of the
21 recommendations I made in my Antrim County report. But
22 just because the technology isn't doing everything it can
23 to prevent human error, is certainly not any kind of
24 evidence that the technology was deliberately engineered
25 to facilitate fraud the way that Mr. DePerno, the Antrim

1 plaintiffs, and Lindell and his backers claimed.

2 Q. You were retained in mid-2020 by the Michigan
3 Attorney General's Office as an expert to conduct an
4 investigation into the Antrim County vote miscount;
5 correct?

6 A. Excuse me, when?

7 Q. Mid-December 2020?

8 A. That sounds right.

9 Q. And through your investigation, as you've testified
10 previously, you had access to the Antrim County election
11 machines; right?

12 A. Yes, as did the plaintiff's expert.

13 Q. And EMS stands for Election Management Server.

14 A. Yes.

15 Q. You had access to forensic images of machines.

16 A. That's correct.

17 Q. Log data.

18 A. Yes.

19 Q. What else did you have available to you to
20 investigate if you can recall?

21 A. In the Antrim County matter, forensic images, log
22 data, images of the poll tape, images of the memory core.
23 The data was collected by the plaintiffs for the most part
24 and I got a copy of it.

25 Q. Comprehensive. It was fairly comprehensive.

1 A. Yes, it was fairly comprehensive data. It was the
2 kind of data that would permit the kind of complete
3 forensic investigation that I engaged in. But it was --
4 the high-level details were already pretty clear about
5 what happened.

6 But my investigation, with that additional data,
7 was able to provide additional evidence that human error
8 was the cause and, in fact, to highlight other problems
9 and opportunities for improvement.

10 Q. Well, you did an initial draft report on March 23,
11 2021; correct?

12 A. Yes.

13 Q. And that was the draft report, the initial draft
14 report; correct?

15 A. Pardon me?

16 Q. That was the initial draft report?

17 A. What do you mean "the initial draft report."

18 Q. Your initial draft was March 23, 2021.

19 A. I wrote various drafts.

20 Q. Okay. But you had a draft dated March 23, 2021;
21 correct?

22 A. I would believe that, yeah.

23 Q. And after conducting an investigation into an Antrim
24 County vote miscount, and having access to the Election
25 Management Server, the machine data, the forensic images,

1 you concluded in that draft on March 23rd, that Dominion
2 software was a contributing factor; correct?

3 A. So "contributing factor" is a term of art. And I
4 think I see where you are going. And the report that --
5 the final version of the report after the draft, I think I
6 clarified the meaning of that.

7 Q. Are you referring to a Duke Okes analysis?

8 A. Pardon?

9 Q. Are you referring to Duke Okes root cause analysis?

10 A. To the root cause analysis, yes.

11 Q. And explain to us what root cause analysis is.

12 A. Root cause analysis is a kind of methodology for
13 investigating the causes of a -- the causes of an incident
14 or problem that takes place. I mean, it is something that
15 is practiced in industrial settings, in aviation and so
16 forth, to try to figure out, what are the causes and how
17 do we prevent recurrences of some kind of incident.

18 Q. So under a root cause analysis, if Dominion were to
19 fix its software, it would fix the root cause of that
20 problem; right?

21 A. So I didn't conclude that the Dominion software was a
22 root cause. I concluded -- in fact, my final report that
23 reflects my views doesn't use this terminology, because
24 the terminology is actually pretty confusing and sort of
25 vague. But my final report is not by any means -- my

1 final report is pretty critical of Dominion.

2 So I think you can refer to the language that I use
3 in my final report and find plenty of problems with
4 Dominion that I cite with Dominion software.

5 Q. But as of March 23, 2021, Dr. Halderman, I am looking
6 at your words, you concluded that the reporting error was
7 "compounded by insufficiently defensive software
8 engineering," correct?

9 A. Yeah, well, so that's the language I used in the
10 draft. I changed the language for the final version
11 because I was afraid that that would be misconstrued as
12 meaning more than I intended, so what.

13 Q. Your final draft was done March 26, 2021; correct?

14 A. You mean the final version of the report that became
15 public?

16 Q. Right.

17 A. Yes, I think that is right.

18 Q. So between March 23rd and March 26th, you had two
19 meetings with the AG's Office.

20 A. That's quite possible. I don't recall exactly, but I
21 believe that could be true.

22 Q. And the meeting included representatives from the
23 Attorney General's Office, and they talked about your
24 report; correct?

25 A. Yes. Yes, that's right.

1 Q. And it occurred before the release of your final
2 report; correct?

3 A. Yes. That's right.

4 Q. And you discussed removing or changing content in
5 your draft report; correct?

6 MS. MORGAN: Objection, hearsay.

7 THE COURT: Overruled.

8 THE WITNESS: I'm not sure I'm at liberty to reveal
9 everything we discussed because I am sure they would
10 assert some privilege if they were here. But let me -- I
11 will tell you that the substance of the -- the core of
12 what we discussed were whether there were things where my
13 meaning was not clear.

14 Q. (BY MR. KACHOUROFF) So from the final report that
15 was published on March 26, 2021, you no longer stated that
16 Dominion software was a contributing factor; right?

17 A. Instead I explained what I meant, which was that the
18 Dominion software could have been engineered in a way to
19 prevent this problem, and that there should be changes to
20 make sure that in the future software does do checks to
21 prevent this kind of problem.

22 Q. You emphasized human error as the root cause.

23 A. Human error was the primary cause of this problem.

24 Q. And when you talked about the inadequate software
25 design, you softened the language or removed it so it

1 wouldn't emphasize the software problems.

2 A. I don't think that the software problems were the
3 emphasis in either case. But the software problems, you
4 know, contributing factor has a technical meaning that is
5 not going to come -- not going to be understood by much of
6 the public. Does the -- could the software have been
7 engineered in a way that prevented the problem? Yes.
8 Should it be changed so that the problem doesn't happen
9 again? Yes.

10 I also talk in my report, and in both versions -- I
11 mean, I see you are trying to imply that somehow I changed
12 my conclusions to benefit Dominion, but my final report is
13 quite critical of Dominion. All of this, by the way was
14 just litigated in federal court in Detroit, in the -- in
15 another case, where the judge considered exactly the kinds
16 of claims that you are making, read both of those reports,
17 and concluded from that that there wasn't any basis to
18 conclude that I had changed my position in a meaningful
19 way.

20 Q. Actually, Dr. Halderman, the case is on appeal, and
21 these draft reports were just turned over to the other
22 side in February. You know that; right?

23 A. I don't know when the other side received those draft
24 reports from the attorney -- from the State of Michigan,
25 but that didn't have anything to do with me.

1 Q. In your independent report, you never mentioned that
2 you had met with these government officials just days
3 earlier.

4 A. I'm not sure why I would mention that I met with the
5 -- what I mentioned in the report was that I had been --
6 was that I had written the report for the State of
7 Michigan and the Attorney General's Office.

8 Q. And you did not disclose in your final report that
9 you actually had discussions with Dominion's CEO before
10 you issued that final report.

11 A. Did I have discussions with Dominion's CEO before I
12 issued the final report? Certainly not about my report.

13 Q. You talked about -- with John Poulos. You know who
14 he is; right?

15 A. I do know John Poulos, and I have talked to John
16 Poulos on various occasions.

17 Q. And that is where he told you that his view was --

18 MS. MORGAN: Objection.

19 THE COURT: Sustained.

20 Q. (BY MR. KACHOUROFF) And you did not disclose in your
21 final report to the public that you, Dr. Halderman,
22 contacted Eric Coomer on November 12, 2020, and offered to
23 help him because of what you said President Trump was
24 doing.

25 A. You know, I did contact Eric Coomer shortly after the

1 election. And what I told Eric Coomer was that these wild
2 accusations that were -- that were being voiced about the
3 election having been a fraud, were beyond the pale. And
4 that although I had been -- in my scientific work and in
5 my work on elections, I had been one of Dominion's biggest
6 critics, that this was still beyond the pail of anything
7 that the kind of criticism based on facts that scientists
8 like me have been discussing could possibly support. And
9 it was awful what people were saying about Dominion and
10 about Eric.

11 So, yeah, as a fellow human being, and as someone
12 who -- you know, I have lots of criticism of Dominion and
13 their technology. But are they some kind of cartoonish
14 super villain? Is this all some kind of thriller movie?
15 Absolutely not, this is real life.

16 Of course I reached out to him to offer that we
17 share a common interest in making sure that our elections
18 are secure, and that the public understands accurately
19 what our elections are about; where they can be trusted,
20 where they need to be improved. Yes, I did. I am very
21 proud of having reached out to him in that moment. That
22 was human to human, across the barriers of criticism over
23 technical issues, a gesture I had to make.

24 Q. But you didn't make the same gesture to Mike Lindell,
25 did you?

1 A. I have not reached out to Mike Lindell, and for the
2 reasons I stated, because I didn't think Mike Lindell was
3 open to any serious consideration of evidence that
4 contradicted his predetermined conclusions about the 2020
5 election.

6 Q. One more thing, in your draft report, on page 51, you
7 mention that you partially concurred with ASOG. And then
8 three days later, you take that reference to ASOG out;
9 right?

10 A. So, I said instead, and I think it is clearer, is
11 that there were certain things in the ASOG report that
12 were accurate, but those things were not the primary
13 thesis about adjudication, about Dominion being
14 deliberately engineered to commit fraud or any of that.

15 They pointed out almost parenthetically in the ASOG
16 report some observations about the security of the EMS
17 configuration that I agreed were actual security problems
18 that should be addressed.

19 Q. And you did not disclose in the final report that
20 some of your findings had changed since the draft report
21 three days earlier.

22 A. No. I don't think my findings changed, not the
23 meaning of my findings, at least as I intended them.

24 Q. And then as soon as you published that report, the
25 Michigan Secretary of State issued a press release placing

1 blame on human error; correct?

2 A. The core of the problem was human error.

3 Q. It didn't mention anything about software design
4 defects.

5 A. I don't write the press releases for the Secretary of
6 the State. But the core of the problem -- and I think
7 that is the most important thing for the public to
8 understand about the error -- was that at its core was
9 human error, not fraud. But my report is really clear,
10 there are ways the software can be improved, there are
11 ways the processes can be improved. There is a lot we can
12 learn from this incident to make sure our elections in the
13 future are better off.

14 Q. And the clerks did not catch, because of the logic
15 and accuracy testing, did not alert the clerks there was a
16 problem; correct?

17 A. There were a lot of problems in Antrim County, a lot
18 of procedural problems.

19 Q. You were in a Brews & Views webcast to the League of
20 Women Voters on April 14, 2021. Do you recall that?

21 A. Vaguely.

22 Q. And didn't you describe it then that "the Antrim vote
23 flipping is happening due to a quirk of the Dominion
24 system"?

25 A. Well, it is a quirk. I guess it is fair to describe

1 it as a quirk of the system; that if you make this mistake
2 while configuring it, it has unintended unexpected
3 consequence.

4 Q. You would agree with me, would you not, that
5 transparency is important in forensic investigations,
6 especially voting machines and software?

7 A. I suppose in some general sense, sure.

8 Q. Especially when those findings concern the integrity
9 of a national election.

10 A. Sure, transparency in general is important.

11 Q. Especially when your name carries academic and expert
12 authority.

13 A. Sure.

14 Q. And you understand the appearance of influence or
15 pressure can damage public trust.

16 A. Yes.

17 Q. And yet in this case your final conclusion about
18 Dominion changed after two government meetings; correct?

19 A. No, my conclusions didn't change, my conclusions were
20 the same. I tried to make sure that the wording most
21 accurately reflected what those conclusions were, and that
22 has become increasingly important with, as you can see,
23 work that I have done and other people have done in
24 science, is being taken out of context to support things
25 that are science fiction.

1 So I was extra careful with Antrim County work and
2 what I published in the end to make sure that my words
3 accurately reflected what really happened.

4 Q. And you know that Mike Lindell actually hired the
5 ASOG group at one point.

6 A. I can believe it.

7 Q. And that is the reason why you excised them from the
8 report, is because you didn't want to be associated with
9 Lindell; correct?

10 A. Why I excised ASOG from the report? My report has a
11 long section talking about ASOG and debunking their
12 claims.

13 Q. You are right. I meant to say, why you excised your
14 concurrence with ASOG. You didn't want anyone to think
15 you agreed with them on anything.

16 A. My report still says that they correctly observed
17 these things. I just worded it differently to avoid
18 misunderstanding and it being quoted out of context that I
19 concur with ASOG. It is better to just say, I think
20 everyone would agree, what I concur.

21 Q. What is your compensation in this case,
22 Dr. Halderman?

23 A. In this matter now?

24 Q. Yes, sir.

25 A. Boy, I believe that -- I think I am being compensated

1 at my customary rate that I charge for expert consulting,
2 which is at the time of this engagement, \$750 an hour.

3 Q. And it is true that you are fighting the subpoena
4 still in the Michigan case.

5 A. In which Michigan case do you mean?

6 Q. One American News has sought your testimony.

7 A. They have sought my testimony involuntarily, that's
8 right. And my wife won't let me testify for them, and
9 there are various other problems. So I am fighting the
10 subpoena to testify in that case.

11 Q. They offered to pay for your opinion; right?

12 MS. MORGAN: Objection, relevance.

13 THE COURT: Sustained.

14 Q. (BY MR. KACHOUROFF) Let's go back to Georgia. Tell
15 us what ICX means and BMDs.

16 A. What ICX means?

17 Q. Correct.

18 A. The ICX is the ImageCast X, it is a model of
19 technology that Dominion sells. BMD, that is a ballot
20 marking device, basically a touch screen computer that a
21 voter can use to fill out a piece of paper and print it
22 out and then scan it with other ballots.

23 BMDs are used in a lot of the country for a very
24 small fraction of votes, the ones that are cast by people
25 with, say, impaired eyesight or something like that, that

1 makes it hard for them to fill out a traditional paper
2 ballot. But there is one state, Georgia, that uses BMDs
3 for all of its in-person voting, where everyone when you
4 go to the polls using a BMD to fill out their ballot.

5 Q. Would you say that that is not a hand marked ballot?

6 A. Yeah, that is a non-hand marked paper ballot. It is
7 still a paper ballot, but not hand marked.

8 Q. And you prefer hand marked ballots; fair to say?

9 A. Yes. I am probably in the majority as other experts
10 that prefer hand marked ballots because there are fewer
11 risks. You don't have the potential vulnerable computer
12 system between the voter and the permanent record of their
13 vote.

14 Q. And in the *Curling* case, you gave a declaration, I
15 know you remember this, on July 1, 2021, where you stated
16 that "there were numerous security vulnerabilities in
17 Georgia's ICX BMDs."

18 A. Yes. I did an extensive technical analysis of the
19 BMDs in Georgia, and not only wrote a report, but took a
20 series of, I think it is about a hundred page report, and
21 took a series of these vulnerabilities through what is
22 called a responsible disclosure process, mediated by CISA,
23 where the vulnerabilities get reported to Dominion, and
24 Dominion has an opportunity to use that information to
25 correct the problems. And then CISA put out an advisory

1 to state it is advising them about the existence of these
2 vulnerabilities and suggesting mitigations.

3 Q. And Dominion and the Georgia Secretary of State
4 objected to you alerting CISA about these very serious
5 security vulnerabilities; correct?

6 A. I believe that Georgia at one point objected to it,
7 and then they changed their position. I don't know if
8 Dominion -- what Dominion's position was. I don't know
9 that Dominion objected. It wasn't a party in the case,
10 so --

11 Q. But you mentioned that Dr. Coomer testified in that
12 case.

13 A. They weren't a party in the case. He testified, I
14 think, for the state as a person knowledgeable about the
15 operation of the equipment, but they weren't a party to
16 the case.

17 Q. You also hacked Dominion's ImageCast BMD in open
18 court, did you not?

19 A. I did a demonstration during the *Curling* trial last
20 year, that's right, which I demonstrated the implications
21 of some of the vulnerabilities I discovered.

22 Q. Did you use a pencil to do it?

23 A. No. I, in fact, I used a pen.

24 Q. A pen.

25 A. Yep. Yep, I borrowed -- we had the machine in open

1 court, and I borrowed a pen from one of the attorneys and
2 was able to use that to basically stick it into the back
3 of the machine, like this, and then in a few seconds get
4 to a mode in the machine that would give me some
5 additional control, or the ability to, in fact, influence
6 the way voters' ballots were printed on that machine.

7 Q. You flipped the winner in that theoretical election;
8 correct?

9 A. Well, as counted on that one machine; that's right.

10 Q. Well, you rigged the machine to print out as many
11 ballots as you wanted; right?

12 A. So that demonstration that I gave in *Curling* was --
13 probably could affect a single machine. Sometimes
14 affecting a single machine at a time could be enough for a
15 very close or a very small election to influence the
16 outcome. My biggest worry about that particular problem
17 was that it could be used to discredit the election, cast
18 doubt on it by giving the appearance of more widespread
19 fraud.

20 But there were other problems that I was very
21 concerned about from an integrity-of-the-results
22 standpoint, as well.

23 Q. You submitted a declaration dated May 5, 2023, in
24 this case, your report, I suppose we can call it; correct?

25 A. Yes, that's right.

1 Q. And you stated under oath, "There is no credible
2 evidence that the 2020 election was rigged."

3 A. That's right.

4 Q. You also stated, "Dominion systems were not used to
5 manipulate vote outcomes."

6 A. There is no credible evidence whatsoever for that
7 proposition.

8 Q. And your declaration in this case did not raise
9 any -- any significant concerns about vulnerabilities in
10 Dominion software systems, did it?

11 A. My declaration noted that it is the consensus of the
12 National Academies that all voting systems have
13 vulnerabilities. But the existence of those
14 vulnerabilities, as we wrote in the experts' letter, is
15 not -- is not in and of itself evidence that the election
16 was compromised.

17 Q. And you know that Georgia is upset with you because
18 you referred to their voting system like the Bowling 737
19 Max; correct?

20 MS. MORGAN: Objection.

21 THE COURT: Sustained.

22 Q. (BY MR. KACHOUROFF) When you are saying there is no
23 credible evidence, you mean there was no credible evidence
24 that the ultimate outcome was affected; correct?

25 A. I think I would go beyond that. But there is

1 certainly no credible evidence that the outcome was
2 affected by hacking.

3 Q. But hacking doesn't just -- hacking doesn't have to
4 just affect the outcome; right?

5 A. No, it doesn't just have to affect the outcome, it
6 could be merely intended to discredit the result, for
7 instance.

8 Q. A breach of the public's trust.

9 A. Sure.

10 Q. So you don't deny there may have been fraud; correct?

11 A. I don't deny that there may have been fraud?

12 Q. In the 2020 election, generally speaking.

13 MS. MORGAN: Objection, Your Honor.

14 THE COURT: Sustained.

15 Q. (BY MR. KACHOUROFF) You don't deny there were
16 machine glitches; right?

17 A. "Glitches" is rather a fraught term.

18 Q. Bugs, serious vulnerabilities.

19 A. So, look, take the Antrim County example. The Antrim
20 County example is a case of -- is a case in which, as I
21 described, we really did have an election system produce
22 the incorrect election night totals, and this is a complex
23 technological system and complex human factors involved.

24 It's absolutely true that it produced the wrong
25 result. We eventually figured out what the right result

1 was and the problem was corrected. You can call that what
2 you want to call it.

3 Q. And that same -- and you are convinced the same thing
4 happened in DeKalb County, with Michelle Long Spears, a
5 year later?

6 A. And has happened in some other instances, as well,
7 that's right. But these are instances where this sort of
8 problem -- this specific kind of problem that these are
9 instances of, that arises from a configuration mistake.
10 There isn't evidence of it being widespread, because the
11 reason why that kind of inconsistent configuration is --
12 has happened in each of those instances, that I am aware
13 of, has been related to a last-minute change in a ballot
14 design, which is a rare occurrence.

15 Don't get me wrong, I don't think it is acceptable
16 that we have this kind of error in the election results,
17 even if it is later going to be corrected. We have a lot
18 of work to do to raise the standard of -- to raise the
19 quality of -- the quality controls in place for elections
20 to make sure that sort of thing doesn't happen.

21 But that is something that I'm pursuing in my
22 research, my work, better ways to prevent that kind of
23 problem from happening. And it is something my Antrim
24 report makes -- I forget how many, 15 or so detailed
25 recommendations to the state to improve its practices.

1 Q. And you Tweeted -- I looked at your Twitter profile,
2 that is very educational, thank you, Dr. Halderman. The
3 Tweet you gave in July of 2022 adopted Andrew Appel's
4 important problem that enunciated about BMDs. And he
5 writes, "There is an apparent problem with BMDs. It can
6 change votes in a way --

7 MS. MORGAN: Objection.

8 THE COURT: Approach please.

9 (A bench conference is had.)

10 MS. MORGAN: Hearsay, relevance. This Twitter post
11 is not in evidence and it is not on the exhibit list.

12 MR. KACHOUROFF: I haven't moved to admit it yet.

13 THE COURT: You are using it for impeachment
14 purposes; correct, Mr. Kachouroff?

15 MR. KACHOUROFF: Correct.

16 THE COURT: That is why it is not on the list?

17 MR. KACHOUROFF: Correct.

18 THE COURT: Okay. And then you need to try to
19 refresh his recollection before you read from it.

20 MR. KACHOUROFF: I am just asking if he remembers
21 it. I think he will remember it, Your Honor. And it is
22 benign, it is not an "I gotcha" moment.

23 THE COURT: Well, still, you need to try to refresh
24 his recollection before you can read from it.

25 MR. KACHOUROFF: I will refresh recollection if he

1 doesn't remember.

2 THE COURT: All right.

3 MS. MORGAN: I think he has to give him the
4 opportunity to make an inconsistent statement.

5 THE COURT: Right. Before he can impeach he needs
6 to ask about the statement. You need to ask him first if
7 he remembers it.

8 MR. KACHOUROFF: Right. That is what I was going
9 to do.

10 (In the hearing of the jury.)

11 Q. (BY MR. KACHOUROFF) Do you recall the X post in July
12 of 2022, where you adopted Andrew Appel's important
13 problem with the BMDs?

14 A. Vaguely, yes.

15 MR. KACHOUROFF: Your Honor, may I approach the
16 witness?

17 THE COURT: You may.

18 Q. (BY MR. KACHOUROFF) Do you recognize that Tweet?

19 A. Yes.

20 Q. And that is something that you adopted from Professor
21 Appel's report?

22 A. Adopted from his?

23 Q. I should say you re-Tweeted what he pointed out and
24 you thought it was an important problem.

25 A. It is quoting from a blog post he wrote, I believe,

1 but, yes.

2 Q. And it states, "There is an inherent problem with
3 BMDs. They can change votes in a way that will survive
4 any audit or recount. Not only is there no simple
5 solution to this problem, there is no solution, period.
6 Perhaps some day a solution will be identified. Until
7 then, BMD for all voters is dangerous, even with all known
8 mitigations."

9 A. Yeah. So what I am describing here, this is one of
10 the -- I think one of the current problems that is
11 especially a focus for the election security community;
12 that there are really two problems. One, making sure that
13 we have as many voters as possible using paper ballots
14 that accurately reflect their vote. And then making sure
15 that those votes are audited rigorously.

16 What this is referring to is that using a Ballot
17 Marking Device is not a tool for accessibility but as a
18 tool that all voters are forced to use to record their
19 ballot in person, introduces other security risks, and one
20 of those risks is that what comes out of the BMD may not
21 reflect what you put in on the screen if there is a kind
22 of error or attempted fraud.

23 Now, most voters hopefully will at least glance at
24 their ballot to check that it is right, but what we have
25 found in laboratory testing is that voters aren't actually

1 all that good at spotting problems. So --

2 Q. We are talking about not voters, though, you say,
3 "there is an inherent problem with BMDs. They can change
4 votes in a way that will survive any audit or recount."

5 A. I am explaining what this means.

6 Q. Okay.

7 A. The problem is that -- the problem is that voters
8 don't always notice if there is a mistake, or what is
9 printed on the ballot paper doesn't reflect their choices.
10 And what that implies is that it might be possible for a
11 BMD to change a small fraction of the vote without raising
12 the alarm.

13 This is what my -- some of my research finds. So a
14 paper trail -- a set of paper ballots that is entirely
15 marked on BMDs, lends -- is still susceptible to certain
16 possible attacks that might escape detection even though
17 we have a paper record from every vote. So it is an
18 inferior kind of paper record that is certainly not the
19 kind of paper record that I would prefer.

20 MR. KACHOUROFF: Move to admit Defense 269.

21 THE COURT: Any objection?

22 MS. MORGAN: Yes, Your Honor.

23 THE COURT: Can you approach.

24 (A bench conference is had.)

25 MS. MORGAN: Using it for impeachment doesn't make

1 it admissible to go back to the jury. Also, I don't think
2 that was proper impeachment, but I kind of let it go. He
3 didn't testify consistent with the document.

4 THE COURT: I agree, using it for impeachment,
5 extrinsic evidence for impeachment purposes does not make
6 the piece of evidence admissible to the jury. So what is
7 your hearsay exception to this?

8 MR. KACHOUROFF: It is a prior inconsistent
9 statement, Your Honor. He said that these machines, you
10 would be able to find hacks that came in and ultimately
11 would discover it. And the blogger is saying it would
12 survive any audit or recount, meaning you couldn't detect
13 it. Is a complete inconsistent statement.

14 THE COURT: The objection is sustained on 403
15 grounds as potentially confusing to the jury.

16 (In the hearing of the jury.)

17 (Exhibit No. 269 is refused.)

18 Q. (BY MR. KACHOUROFF) Dr. Halderman, let's move to
19 *Absolute Proof*. Did you watch that movie?

20 A. I did years ago.

21 Q. What do you recall that being about, that
22 documentary?

23 A. About vulnerabilities in election technology
24 generally. I am sorry, *Absolute Proof*? You didn't say
25 *Kill Chain*, I am sorry.

1 Q. Let's start with *Kill Chain* first.

2 A. We have been here for a while. Which movies?

3 Q. *Kill Chain*.

4 A. *Kill Chain*.

5 Q. 2019; right?

6 A. Yes.

7 Q. A year before the 2020 election; yes?

8 A. 2019 is that when it came out? I will take your word

9 for it if that is when it released. I think the portion

10 of it that I appear in was filmed in 2017 or early 2018 or

11 something like that.

12 Q. And then you know that made its round on HBO;

13 correct?

14 A. Yes, an HBO documentary.

15 Q. And you know Mr. Lindell tried to do his own

16 documentary and, in fact, he did in February of 2021;

17 correct?

18 A. Yes.

19 Q. And you saw *Absolute Proof*.

20 A. I did watch *Absolute Proof*.

21 Q. And what was the -- in *Absolute Proof* -- I will not

22 lead you. What was it all about, tell us.

23 A. *Absolute Proof* -- the thesis of *Absolute Proof* was

24 that the 2020 election was stolen by some kind of hack,

25 probably from China, and that Mr. Lindell had "absolute

1 proof" that this happened.

2 MR. KACHOUROFF: At this time I would like to --
3 one moment, Your Honor.

4 Q. (BY MR. KACHOUROFF) That was relying on Dennis
5 Montgomery's data, according to you?

6 A. At least in part, yes.

7 Q. The next movie was *Absolute Interference*, or
8 *Scientific Proof*?

9 A. I couldn't tell you the sequence of them.

10 Q. What was the data these other documentaries were
11 based on?

12 A. They were largely based on the same data. They were
13 quoting other disreputable or incredible "experts." It
14 was largely more of the same, but I think the claims got
15 gradually more outlandish.

16 Q. You haven't seen *Scientific Proof*, which was
17 published in 2021, have you?

18 A. Sorry?

19 Q. You haven't seen Lindell's documentary entitled
20 *Scientific Proof*, in March of 2021?

21 A. I don't know if it is March of 2021. I reviewed
22 portions of all of the documentaries. And I don't know if
23 I watched the others other than *Absolute Proof* in their
24 entirety. It is very repetitive.

25 Q. If you had seen it, you would know *Scientific Proof*

1 has nothing to do with Dennis Montgomery, does it?

2 MS. MORGAN: Objection, speculation, foundation.

3 THE COURT: Overruled.

4 You can answer the question, Dr. Halderman.

5 THE WITNESS: I don't know. They blend together in
6 my mind.

7 Q. (BY MR. KACHOUROFF) That second movie, Mr. Lindell
8 based everything on the cast-vote records, records he got
9 from secretaries of state; correct?

10 MS. MORGAN: Objection, foundation.

11 THE COURT: Sustained. He just testified he didn't
12 know, Mr. Kachouroff.

13 Q. (BY MR. KACHOUROFF) Are you aware that Mr. Lindell
14 obtained cast-vote records from 1,100 counties?

15 A. Obtained himself?

16 Q. Are you aware of that?

17 A. I would have to take your word for it if that is
18 true. I don't know if that is true or not.

19 Q. Are you aware that Mr. Lindell obtained voter rolls
20 from all of the states, and did his own canvassing in
21 those states?

22 A. I heard his testimony to that effect, but I don't
23 know if it is true or not.

24 Q. And you know he did the canvassing to try to validate
25 the machine data; correct?

1 MS. MORGAN: Objection, foundation.

2 THE COURT: Sustained.

3 Q. (BY MR. KACHOUROFF) Are you aware he did canvassing
4 to validate the machine data?

5 MS. MORGAN: Objection.

6 THE COURT: Same. Sustained.

7 Q. (BY MR. KACHOUROFF) What do you know about the data
8 that Mr. Lindell relied upon for the second movie,
9 *Scientific Proof*?

10 A. As I have already said, the movies are blending
11 together in my head at this point, so I'm not sure that I
12 recall, sitting here on the stand, specifically the data
13 that he relied on.

14 Q. You know that Mr. Lindell to this day continues to
15 push his desire to see all machines gone.

16 A. Yes, I do.

17 Q. And even though his candidate got into office, he is
18 still persisting in bashing the machine companies.

19 A. Still insisting on bashing machine companies?

20 Q. Getting rid of the voting machines.

21 A. Yes, I take that to be his position. I also hear he
22 doesn't -- he continues to maintain that the 2020 election
23 was stolen, and that Eric Coomer -- he continues to
24 maintain the truth of all of the statements involved in
25 this case, is my understanding.

1 Q. And your understanding comes from the attorneys at
2 this table.

3 A. From the testimony from -- his testimony that I
4 heard.

5 Q. You heard Mr. Lindell say that Eric Coomer rigged the
6 election.

7 A. I heard him say that he maintains the truth of all of
8 the statements that he made, which is what I just
9 answered.

10 Q. Did he make a statement about Eric Coomer
11 specifically?

12 A. He certainly implied that Eric Coomer was involved in
13 rigging the election. He called him a traitor. He said
14 that he was responsible for the greatest crime in history.
15 You have heard -- we heard the statements.

16 Q. You called Eric Coomer a man of principle, did you
17 not?

18 A. Yes, I did.

19 Q. And you stated that he shared your goal of protecting
20 election integrity; correct?

21 A. Yes. And I continue to believe that.

22 Q. You first met Dr. Coomer on February 2, 2019. You
23 may recall in your report you said it occurred at a vendor
24 booth during a conference.

25 A. I don't know if that is the date or not, but I did

1 first meet him at a conference.

2 Q. And he introduced himself to you at that conference,
3 did he not?

4 A. Yes, that's true.

5 Q. And that was a brief interaction with Dr. Coomer.

6 A. We had a conversation about -- focused on election
7 technology for a while. But it was, you know, less than
8 an hour. I don't recall how long.

9 Q. And the only other time you interacted with him was
10 during court proceedings in the federal case, *Curling v.*
11 *Raffensperger*; yes?

12 A. Yes. I was impressed by the integrity of his
13 testimony there, too, where he admitted to various
14 problems, but voiced an attitude of wanting continuous
15 improvement, which is, in fact, the right attitude to have
16 if you are building any kind of technology.

17 Q. That occurred in September of 2020; correct?

18 A. Yes, I believe so.

19 Q. And like you said, you disagreed on technical matters
20 at that hearing; right?

21 A. Yes.

22 Q. You had not worked collaboratively with Dr. Coomer on
23 any project at that time, had you?

24 A. We haven't worked collaboratively on any project.

25 Q. You have never audited any code he's written or

1 reviewed his technical implementation decisions; correct?

2 A. I have been a major critic of Dominion technology and
3 have certainly done a lot of work investigating it and
4 writing about real problems with it. I have been very
5 public about that. But that doesn't change my view of
6 Dr. Coomer. I think he really -- based on our
7 interactions, I think he absolutely wanted the same thing
8 that I do, which is to make sure that our elections have
9 integrity and that people can trust them.

10 Q. And you know that after that second meeting, you
11 reached out to him to assist with Antrim County; correct?

12 A. To assist with Antrim County? I don't recall that.

13 Q. I withdraw the question, I am sorry.

14 The court case in Michigan, you are aware of
15 internal Dominion emails; correct?

16 MS. MORGAN: Objection.

17 THE COURT: Counsel, approach.

18 (A bench conference is had.)

19 THE COURT: All right. Mr. Kachouroff.

20 MR. KACHOUROFF: It's impeachment, Your Honor. I
21 know it is highly unusual. He is aware of this because
22 this is his case, and Eric Coomer talks about him being "a
23 shill of the worst kind who flat out" --

24 THE COURT: How is that impeachment of
25 Dr. Halderman?

1 MR. KACHOUROFF: I am getting ready to show you.
2 That he is "a shill of the worst kind, and that he flat
3 out lies."

4 THE COURT: Objection, sustained.

5 (In the hearing of the jury.)

6 MR. KACHOUROFF: Your Honor, we are going to show
7 video 269, and co-counsel is aware of it.

8 THE COURT: I am sorry, stop. Has it been admitted
9 in evidence?

10 MR. KACHOUROFF: No, ma'am. We are trying to put
11 it up on the screen.

12 THE COURT: Does counsel know of it? How are we
13 going to rule on the admissibility while it is being
14 played in open court?

15 MR. KACHOUROFF: Can we approach?

16 (A bench conference is had.)

17 MS. MORGAN: I don't know what this is, Your Honor.

18 MS. DEMASTER: May I? This was one of the two
19 exhibits from the Court's recent order, where the Court
20 said it could only be used in Dr. Halderman's testimony.
21 So it was clipped out as a separate exhibit. And so that
22 is -- 269 is the next number, I believe.

23 THE COURT: I am sorry, what exhibit is it
24 pertaining to?

25 MS. DEMASTER: Clip No. 231, the Court said this

1 particular clip could not be played with Mr. Lindell's
2 testimony but could be clipped out separately for
3 Dr. Halderman's testimony.

4 THE COURT: For impeachment purposes.

5 MS. DEMASTER: Yes.

6 THE COURT: What are you impeaching him on with
7 respect to this video? What statement has he now made as
8 part of his testimony here that you are impeaching him
9 with respect to this video?

10 MS. DEMASTER: Dr. Halderman stated that
11 Mr. Lindell had a crazy theory that nobody believed that
12 China could ever hack an election. He says particularly
13 in that video verbatim that China is one of the foreign
14 actors that absolutely could hack the election knowing the
15 vulnerability of the voting machines.

16 THE COURT: I actually need to see the evidence
17 that has come in and to see if that quote is said.

18 MS. DEMASTER: It is from the Court's order.

19 THE COURT: I understand. I cannot rule on video
20 evidence in court. I felt like I was very clear about
21 this, Ms. DeMaster, that before you did this, and if there
22 is an objection to the admissibility, I need to view it.
23 I can't do it on the fly in front of the jury. So we are
24 going to have to take a recess, I will have to look at the
25 transcript, and then you all can make your argument. I

1 need to look at the video, then you can make your
2 argument, then I can make an educated ruling.

3 (In the hearing of the jury.)

4 THE COURT: Ladies and gentlemen of the jury, we
5 are going to be on our afternoon break early today because
6 there is a ruling I need to make. Just be ready to go in
7 about 15 minutes. I give you your normal admonition, and
8 have a good afternoon break.

9 (Outside the presence of the jury.)

10 THE COURT: All right. Thank you. I will need a
11 copy of the clip through email or some other mechanism so
12 I can review it.

13 MS. DEMASTER: I am sending that now, and will copy
14 opposing counsel.

15 THE COURT: Ms. DeMaster, since you weren't here
16 this morning, you need to formally enter your appearance
17 so we can get you on the minutes.

18 MS. DEMASTER: I apologize. Jennifer DeMaster for
19 the defendant, Mike Lindell, My Pillow, and Frankspeech.

20 (A break is taken from 2:48 p.m. to 3:04 p.m.)

21 THE COURT: Thank you. Please be seated.

22 All right. Back on the record. Any continuing
23 objection with respect to these clips?

24 MS. MORGAN: Yes, Your Honor. Under 403 and 613,
25 and I am going to go backwards, I apologize, but they are

1 related objections. I don't believe that this is proper
2 impeachment evidence because Dr. Halderman has not
3 testified inconsistent with his statements that are in the
4 video clips.

5 Moreover, I'm also asserting a 403 objection
6 because there is a -- the risk of misleading the jury and
7 confusing the issues substantially outweighs any probative
8 value to these clips. From the clips, themselves, it is
9 not clear the date range of the statements, what voting
10 systems or machines that are being referred to in the
11 video, so it doesn't move the needle on any of the issues
12 in front of the jury, because I think if he is given an
13 opportunity to explain, these clips are from the 2016,
14 2017 range and are addressing machines that were not
15 widely used in the 2020 election.

16 THE COURT: All right, Mr. Kachouroff.

17 MR. KACHOUROFF: Judge, as you may recall, we not
18 only raised the impeachment factor, this was part of our
19 affirmative defense with respect to what Mr. Lindell knew
20 at the time, what he believed. This comes out of the
21 movie *Absolute Interference*. It is not very long, and I
22 would submit it is not taken out of context. It is
23 basically what -- you gave us the clip, and Dr. Halderman
24 said that Mr. Lindell quoted disreputable people in the
25 documentaries. And he admitted he didn't see the others,

1 so I want to be able to show this clip.

2 THE COURT: I will allow you to impeach him with
3 the clips. I am not going to allow them to be admitted in
4 evidence.

5 MR. KACHOUROFF: Okay. Will the jury be seeing the
6 clip?

7 THE COURT: The jury can see the clip, but it won't
8 go back to the jury.

9 MR. KACHOUROFF: That is fine.

10 Your Honor, may I broach one other housekeeping
11 matter?

12 THE COURT: Yes.

13 MR. KACHOUROFF: In order to streamline this and to
14 get us to the finish line, we have Exhibit 53, which was a
15 text from Dr. Coomer between he and his brother. It is
16 where he said, "I would love to see that clown, too." He
17 authenticated it on the stand, it is stipulated to, but I
18 am pretty certain that we did not move to admit.

19 And rather than call Dr. Coomer up to the stand and
20 ask to admit it, I would ask the Court consider allowing
21 us to admit it right here and right now, because it was
22 already taken care of. I asked my opposing counsel, and
23 they objected to that.

24 THE COURT: I don't actually remember it being
25 admitted.

1 MR. CAIN: What number?

2 THE COURT: 53. It is stipulated. You are not
3 planning to use it with this witness, though.

4 MR. KACHOUROFF: No, no, no. It should have been
5 admitted with Dr. Coomer, but I don't want to recall
6 Dr. Coomer in my case for that purpose.

7 MR. CAIN: If this is stipulated, that is fine.

8 THE COURT: 53, right?

9 MR. KACHOUROFF: Say it again?

10 THE COURT: Exhibit 53?

11 MR. KACHOUROFF: Yes, Your Honor.

12 THE COURT: So we can admit that out of order.

13 (Exhibit No. 53 is admitted.)

14 THE COURT: And I assume that means you will not be
15 recalling Dr. Coomer.

16 MR. KACHOUROFF: Correct.

17 THE COURT: All right.

18 MR. KACHOUROFF: I wanted to do an offer of proof
19 with respect to the exhibit the Court already denied and
20 make it a part of record, obviously, not admitted for
21 purposes of evidence. I conferred with opposing counsel,
22 they don't have any objection.

23 THE COURT: All right. You can make the offer of
24 proof.

25 MR. KACHOUROFF: Okay. If allowed to put this

1 document into evidence, we would show that Dr. Halderman
2 knew of this because it was filed in his case. It is also
3 an admission by a party opponent, Dr. Coomer, who accuses
4 Dr. Halderman of being "a shill and somebody who flat out
5 lies." A very unusual case where you have my opponent
6 impeaching his own expert. But I believe this is fairly
7 admissible for that purpose.

8 And I understand the Court's ruling, I am making an
9 offer of proof, I am not asking the Court to change its
10 mind. So I would offer this as part of the court record.

11 THE COURT: All right.

12 MR. KACHOUROFF: We can mark it as an exhibit, just
13 not admitted, or however you want to handle it.

14 THE COURT: We can mark it as an Exhibit. I guess
15 that would be 270, but it is not admitted.

16 (Exhibit No. 270 is refused.)

17 MR. KACHOUROFF: At the risk of --

18 THE COURT: If you are asking me to reconsider, the
19 reconsideration is denied. You had an opportunity to make
20 your objection, you preserved it, you made the offer of
21 proof.

22 MR. DUANE: If I may be heard.

23 THE COURT: No.

24 MR. DUANE: Not reconsideration, just to request a
25 clarification.

1 THE COURT: One attorney argues an issue.

2 MR. KACHOUROFF: The clarification, Judge, is we
3 would like to recall Dr. Eric Coomer to the stand, and
4 would the Court permit us asking him about that? I
5 realize it is prejudicial.

6 THE COURT: No. I already ruled on 403 grounds
7 that it is inadmissible under 403.

8 MR. KACHOUROFF: Understood, Your Honor.

9 MR. DUANE: Thank you.

10 MS. MORGAN: Very briefly, Your Honor. If this is
11 going to be made part of the court record, we would ask
12 for level 1 restriction. As clearly demonstrated in the
13 documents, it is marked "confidential." It has Dominion's
14 Bates numbers on it.

15 MR. KACHOUROFF: Your Honor, it is not
16 confidential, it is public record, and Dominion has
17 already released it from any confidentiality.

18 THE COURT: We will restrict it until we have an
19 opportunity to adjudicate a motion to restrict.

20 So, Ms. Morgan, to the extent that you think it
21 should remain restricted, you know the Court's local rules
22 with respect to filing motions to restrict. You need to
23 restrict it until that time, because once we unrestrict
24 it, you can't get the cat back. You know how those rules
25 operate.

1 MS. MORGAN: Yes, Your Honor, we will do so.

2 THE COURT: Are we all ready?

3 MR. KACHOUROFF: I am ready, Your Honor.

4 THE COURT: Let me get a time estimate. I was
5 hopeful we would get to closing today, but given the time,
6 it doesn't seem like we are going to get to closings
7 today. How much more time do you think you have with this
8 witness, Mr. Kachouroff?

9 MR. KACHOUROFF: After this video clip, I know
10 Dr. Halderman will be relieved I am done. And then after
11 him, 15 -- my side would be 15 to 20 minutes with Peter
12 Kent.

13 THE COURT: So plaintiff's counsel has 12 minutes
14 left from this morning, as I calculate, for a redirect of
15 Dr. Halderman. Then you have 15 to 20 minutes with your
16 expert.

17 MR. KACHOUROFF: Yes. I will have three questions
18 of Dr. Halderman, but not many. I promise I will keep it
19 short.

20 THE COURT: Okay. And then there will be, I guess,
21 some cross. So given that, and given the length of the
22 jury instructions, it doesn't make sense to me to charge
23 the jury until tomorrow morning, and then go into
24 closings.

25 Does that make sense to everybody? I just don't

1 see how we are going to get through everything that is
2 left today and not hold the jury over past 5 o'clock.

3 All right. Madam deputy.

4 (In the presence of the jury.)

5 THE COURT: Thank you. Please be seated.

6 Dr. Halderman, I remind you, you are still under
7 oath.

8 THE WITNESS: Thank you, Your Honor.

9 Q. (BY MR. KACHOUROFF) Dr. Halderman, I have a few
10 quick questions. I am not asking you to speculate here on
11 the amount or whether the ultimate result was changed, but
12 you would concede, would you not, that given the very
13 serious vulnerabilities that you have raised, that there
14 was some fraud -- there could have been some fraud?

15 MS. MORGAN: Objection. Can we approach?

16 THE COURT: Yes.

17 (A bench conference is had.)

18 MS. MORGAN: I have a few objections. The question
19 is extremely vague, so I think I am objecting under 403,
20 but there may be some misleading of the jury. I also
21 think this was asked and answered.

22 THE COURT: I am going to overrule the objection as
23 to asked and answered, but I am going to sustain the
24 objection as to form.

25 (In the hearing of the jury.)

1 Q. (BY MR. KACHOUROFF) I will rephrase the question.

2 And we are talking about specifically the 2020 election.

3 I am not asking you to speculate, like I said before,
4 about the amount or the ultimate result or whether the
5 ultimate result was changed. But you would agree that
6 given very serious vulnerabilities -- those are your words
7 that you raised -- that there was the possibility of some
8 hacking?

9 A. My work is all about the possibility of future
10 hacking, but that's very, very different from there being
11 any evidence that hacking occurred or that that hacking
12 was sufficient to change the election outcome, which seems
13 to be the central premise of all of Mr. Lindell's films.

14 Q. He also said that "Dominion, you failed." Do you
15 remember that phrase?

16 A. Pardon? Can you repeat?

17 Q. Mr. Lindell said, that "You did your best, Dominion,
18 you failed."

19 A. "You did your best," pardon?

20 Q. "You failed," meaning he was referring to Dominion
21 when he said, "you failed"?

22 A. I didn't hear the full quote. I am sorry, I am not
23 trying to throw you off.

24 Q. You are not. It is okay. Do you recall that quote?

25 A. I didn't hear the full quote yet.

1 Q. Okay.

2 A. I only heard the word "Dominion" and "you failed." I
3 am just having trouble hearing you.

4 Q. I was taking those four words, "Dominion, you did
5 your best, you failed."

6 A. Okay.

7 Q. So he was referring to whatever he was referring to,
8 but the idea was that if there was any hacking, they
9 failed.

10 MS. MORGAN: Object.

11 THE COURT: Sustained as to form.

12 Q. (BY MR. KACHOUROFF) Do you recall what Mr. Lindell
13 was referring to with those words?

14 MS. MORGAN: Objection, speculation. Can we
15 approach?

16 THE COURT: You can approach.

17 (A bench conference is had.)

18 THE COURT: Mr. Kachouroff, what is the basis of
19 you excerpting those words that are not a full quote of
20 the alleged defamatory statement by Mr. Lindell?

21 MR. KACHOUROFF: Because he said Mr. Lindell
22 claimed that China hacked the election through Dominion.
23 If Dominion "failed," they obviously didn't hack.

24 THE COURT: That is not how I interpret the
25 statement. You are mischaracterizing the defamatory

1 statement, which is up to the jury to determine.

2 MR. KACHOUROFF: Sorry, that is what I interpreted
3 it as saying.

4 MS. MORGAN: If he wants to play 185 again for the
5 witness, I would be fine with that.

6 MR. KACHOUROFF: I am not interested in doing that.

7 (In the hearing of the jury.)

8 THE COURT: Sustained.

9 MR. KACHOUROFF: Your Honor, we are going to play
10 that video, and that will conclude my examination.

11 THE COURT: All right.

12 (Video recording played in open court.)

13 MR. KACHOUROFF: Just for clarification, Your
14 Honor, this is a clip from one of Mike's documentaries.

15 THE COURT: Do you have a question?

16 MR. KACHOUROFF: No, that's --

17 THE COURT: You have to have a question,
18 Mr. Kachouroff.

19 MR. KACHOUROFF: I am sorry, Your Honor, one
20 moment.

21 Q. (BY MR. KACHOUROFF) Dr. Halderman, you said all of
22 Mike's documentaries had disreputable people. Do you
23 recall that?

24 A. All of them do have disreputable people.

25 Q. But you are not disreputable.

1 A. Here is another example of him taking my work out of
2 context and selectively quoting what I said. It is back
3 to what I started with at the beginning of my testimony.
4 The science on elections is about there are real
5 vulnerabilities we have to worry about and take policy
6 steps and corrective action to prevent.

7 Most importantly, if you had played -- bothered --
8 if Mike Lindell had bothered to examine the entire talk
9 from probably 2017 or so that that excerpt came from, he
10 would have seen that my point was that we needed at the
11 time to get rid of outdated voting machines, to have
12 paper, and have auditing.

13 In the 2020 election, in the critical states, we
14 had paper and we had auditing. My actual point in that
15 talk undercuts Mike Lindell's theory, his insistent theory
16 that the 2020 election was hacked. So I'm not quite sure
17 what point you are trying to make in showing this,
18 Mr. Kachouroff.

19 The science is that there are vulnerabilities and
20 there are steps we can take to protect our elections. The
21 science fiction -- Mike Lindell's science fiction is that
22 there is evidence that the election was hacked and somehow
23 it is Eric Coomer's fault.

24 Q. When you say "hacked," you mean the result was
25 changed, not just --

1 A. That the 2020 election was stolen and that Eric
2 Coomer is a traitor, that is the crazy town,
3 Mr. Kachouroff, that is the science fiction. And I am
4 appalled that Mike Lindell chose to selectively quote my
5 work in order to back up those baseless theories, and that
6 he didn't bother -- was able to go find these old video
7 clips, he didn't bother to ask me or to see anything that
8 I had written that was widely publicized in 2020 that
9 undercut his theory.

10 It is really a very selective quotation. He is
11 very happy to quote to me when it confirms his pre-formed
12 conception, but he's apparently not open to considering
13 the evidence that he may be wrong or his data may be
14 completely fabricated. That his -- that the people who he
15 is bringing on with their theories in his movies may not
16 be credible or may have already been debunked.

17 He is not open to that, but he is open to going and
18 finding old selective portions of my work to back up his
19 theories. I am not sure what point you are trying to
20 make.

21 Q. You said, in your words in the video, and correct me
22 if I am wrong, "I'm worried about 2020."

23 A. I was worried about 2020. We are very lucky in some
24 ways that 2020 turned out the way it did; that we had
25 paper and we had audits in all of the closest states.

1 Q. Except audits that weren't completed in Michigan;
2 right.

3 A. Audits had been completed in all of those states.
4 Audits were going to be completed and had been announced
5 in all of those states. Audits that had already been
6 completed when Mike Lindell, even his first movie, was
7 aired, so --

8 Q. Even though Professor Stark disagrees with you about
9 the audit in Georgia.

10 A. The audit in Georgia wasn't perfect, but so what?
11 This undercuts Mike Lindell's theories. And I haven't
12 heard Mike Lindell propose, right, any connection between
13 the limitations of that audit and his theories that the
14 election was hacked through Dominion and some crazy --
15 excuse me, and some nationwide hack from China, any of
16 these things.

17 Q. Do you allow for the possibility that that was
18 something he believed in 2021 but not in 2022, or '23 or
19 '24?

20 A. His own testimony is that he stands by everything he
21 said. I have no reason to believe that Mike Lindell has
22 changed his views that the 2020 election was stolen
23 through a massive hack from China or that Eric Coomer was
24 somehow guilty as part of that.

25 Q. He never said he stood by Joe Oltmann or Tina Peters,

1 did he?

2 A. He's never said anything to the contrary, either.

3 Q. And you are making him guilty by association with
4 these people; correct?

5 MS. MORGAN: Objection.

6 THE COURT: Sustained.

7 MR. KACHOUROFF: I have nothing further, Your
8 Honor.

9 THE COURT: All right. Ms. Morgan.

10 Do you want my courtroom deputy to give you a
11 warning?

12 MS. MORGAN: I don't think I will get close, but I
13 guess I should ask for it anyway.

14 THE COURT: Madam deputy.

15 **REDIRECT EXAMINATION**

16 **BY MS. MORGAN:**

17 Q. Dr. Halderman, I know you testified you weren't a
18 hundred percent on the exact date of when the Michigan
19 audit was finished. Do you know whether or not it was
20 finished before Mike Lindell's Cyber Symposium?

21 A. It absolutely was finished before the Cyber
22 Symposium.

23 Q. With respect to the issues you were questioned about
24 related to Alabama and some voters that are over age 100
25 on the rolls, do you know whether or not a voter in

1 Alabama has to present an identification card to vote?

2 A. I believe that is a requirement statewide in Alabama
3 to vote in person, you need ID. They are one of the
4 stricter states about voter identification.

5 Q. You were asked about the manner in which Mr. Lindell
6 has quoted some of your work. Is there any other
7 information that you would like the jury to have as far as
8 how Mr. Lindell has taken your work out of context?

9 A. Well, I think he's used my work -- he has used my
10 work and the science about election vulnerabilities to try
11 to make his theories sound plausible. But the science --
12 the science is about -- the science is about there being
13 vulnerabilities.

14 The facts that we have say nothing about an attack
15 on 2020 because there just isn't any credible evidence
16 that that attack -- that an attack took place. So, I
17 mean, I have, myself, I have -- I think you have heard
18 several instances of this.

19 MR. KACHOUROFF: This calls for a narrative. I
20 want to object on that ground.

21 THE COURT: Overruled.

22 THE WITNESS: I think I have explained several
23 instances where there were real occurrences of problems
24 with election systems after 2020 where I, myself,
25 investigated to find out, is this a problem we can explain

1 or is this something we can learn from, is it something
2 more sinister?

3 But, like that is how science works in real life.
4 We go, we investigate, we have an open mind about what is
5 the evidence, what does it tell us, what can't it tell us,
6 how do we make progress? That is not what Mr. Lindell was
7 doing when he was citing my work, when he was citing the
8 work of other scientists.

9 He wants to snip out pieces that are confirming the
10 beliefs he already had and not accepting any of the
11 limitations, the constraints of what that science tells
12 us, the defenses that I and other experts have been asking
13 for, which in some cases were in place in critical states
14 in 2020.

15 So that's what's very, very frustrating about that,
16 is at the end of the day he is using the work of
17 scientists to mislead people, to take them into this --

18 MR. KACHOUROFF: Objection, Your Honor.

19 THE COURT: Sustained.

20 Q. (BY MS. MORGAN) At one point during the questioning
21 by defense counsel about your opinions in the *Curling*
22 case, I heard you say that your biggest concern was the
23 casting of doubt on the integrity of U.S. elections. Can
24 you explain what you meant by that, and why that was your
25 biggest concern?

1 A. What I wrote in my expert report for the *Curling* case
2 was that these vulnerabilities -- and we've talked a
3 little bit about their ballot marking devices, and that
4 those vulnerabilities raised the possibility that certain
5 close elections could be -- could potentially be targeted
6 in a certain way under certain conditions.

7 But what I wrote in my report was that there was a
8 possibility that vulnerabilities could be exploited.
9 There was a near certainty that people would use the fact
10 that these vulnerabilities existed to discredit election
11 results in Georgia and to claim that elections had been
12 stolen in Georgia.

13 And I think that's the theme of how we are seeing
14 vulnerability information misused to lead science fiction
15 in the work of Mr. Lindell. Jumping to the conclusion
16 because something -- there is a technical -- there is a
17 technical fault with the system, then therefore we can --

18 MR. KACHOUROFF: Judge, I am going to object again.

19 THE COURT: The objection is sustained.

20 Q. (BY MS. MORGAN) Why is that so important? Why does
21 it matter whether or not there is public trust in the
22 integrity of U.S. elections?

23 A. Gosh, elections are --

24 MR. KACHOUROFF: Objection, Your Honor, this is
25 outside of the scope.

1 THE COURT: Sustained.

2 Q. (BY MS. MORGAN) With respect to the specific
3 statements published by the defendants in this case, what
4 are your concerns with respect to whether or not those
5 undermine trust in U.S. elections?

6 A. I think that the statements that are at issue in this
7 case about Eric Coomer, about Dominion, these are leading
8 people to be very confused.

9 MR. KACHOUROFF: Objection. Again, Your Honor,
10 outside the scope, and he is also not answering.

11 THE COURT: Again, counsel, if you are going to
12 make more than a word or two objection, you need to
13 approach.

14 MR. KACHOUROFF: Sorry.

15 THE COURT: Approach.

16 (A bench conference is had.)

17 THE COURT: All right. So, I don't actually find
18 what he already said objectionable, but he sounded like he
19 was going to continue on, that is why I entertained the
20 objection, Mr. Kachouroff.

21 But, Ms. Morgan, I think easiest way to remedy this
22 is ask him another question, if you have one, or complete
23 your examination.

24 MS. MORGAN: Okay.

25 (In the hearing of the jury.)

1 MS. MORGAN: I have no further questions for this
2 witness.

3 THE COURT: Dr. Halderman, you may step down.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: All right. Plaintiff's counsel, any
6 further witnesses?

7 MR. CAIN: No, Your Honor.

8 THE COURT: All right. Defense counsel, are you
9 ready to proceed?

10 MR. KACHOUROFF: Yes, Your Honor. We would call
11 Peter Kent.

12 **PETER KENT**

13 having been first duly sworn, testified as follows:

14 THE WITNESS: I do.

15 COURTROOM DEPUTY: Please be seated.

16 Please state your name, and spell your first and
17 last name for the record.

18 THE WITNESS: Peter Kent. P-E-T-E-R K-E-N-T.

19 MR. KACHOUROFF: One moment, Your Honor.

20 THE COURT: All right.

21 **DIRECT EXAMINATION**

22 **BY MR. KACHOUROFF:**

23 Q. Mr. Kent, good afternoon. Would you introduce
24 yourself to the jury.

25 A. Yeah. My name is Peter Kent. What more do you want

1 me to say?

2 Q. Tell us a little bit about your background,
3 education.

4 A. So my education actually is pretty much irrelevant.
5 I have a degree in geography and geology from almost half
6 a century ago. But I have been working in the computer
7 field since 1979, and I have worked on a lot of different
8 things over the years.

9 I have worked on originally using computer
10 equipment on oil rigs, and then helping to design systems,
11 design and use interfaces. And we have a slide here now,
12 that is me in, I think, 1981, on an oil rig. I helped
13 test systems, I helped design these new systems for the
14 oil field.

15 But over the years I have done a lot more. I have
16 written a lot of books about technology, probably around
17 65 books. I wrote *The Complete Idiot's Guide to the*
18 *Internet* in 1993, seven editions of that book. More
19 recently I wrote *Bitcoin for Dummies*. In between I have
20 written numerous books about doing business online.
21 Essentially seven editions of *SEO for Dummies*. I think we
22 heard a little bit about SEOs today.

23 Q. That means search engine optimization.

24 A. Search engine optimization. I wrote a book on PPC,
25 pay-per-click advertising, which we heard from Mr. Bania

1 yesterday. I started a dotcom. I have done a lot of
2 consulting over the years. I consulted for Amazon on
3 certain optimization issues. Zillow. Lonely Planet.
4 Literally hundreds of small- to medium-sized companies.

5 Q. And you are being offered today as a reach expert.

6 A. Yeah. You guys are using the term "reach." I think
7 of myself, one aspect of what I do is related to social
8 media. And so "reach" is we are talking about how far a
9 message can travel, in effect, on social media. And so I
10 have been involved in social media since 1984, when it
11 wasn't even called social media back in those days. So I
12 have been in social media, what is that, 41 years.

13 Q. Okay. And what was your assignment in this case?

14 A. So I was asked to look at statements, primarily on
15 social media, although a lot of my examination ended up on
16 finding messaging on TV and magazine and newspaper and so
17 on. But to look at messaging regarding Dr. Coomer,
18 starting with the election, within a day or two of the
19 election in 2020, up until May the 8th of 2021.

20 Q. You mean May '9?

21 A. Well, the day before. May the 9th was the first time
22 Mr. Lindell made a statement about Dr. Cooper [sic], and I
23 was asked to go up until that point.

24 MR. KACHOUROFF: Your Honor, I tender Peter Kent as
25 a reach expert and social media expert.

1 THE COURT: Any objection?

2 MR. BELLER: No objection.

3 THE COURT: So qualified.

4 Q. (BY MR. KACHOUROFF) Okay. So the scope was the six
5 month -- approximate six-month period, November 3, 2020,
6 to May 9, 2021.

7 A. Correct.

8 Q. We will go to the next slide. Your methodology.
9 Could you explain to the jury what you did?

10 A. So Mr. Bania discussed yesterday how he investigated
11 social media, because he was starting from the point at
12 which I stopped, or actually a few days before I stopped.
13 But he was doing it to a great degree manually, as he
14 testified yesterday. I was, too, I was following leads
15 manually and spent a lot of time traveling from site to
16 site doing a lot of Google searches, watching how these
17 messages traveled.

18 Mr. Lindell's attorneys also hired a firm called
19 SMI Aware, who also did some research, and they came back
20 with their own data, which sort of overlapped my data to
21 some degree, but also added a lot of extra data.

22 I wanted to use Brandwatch. You heard Mr. Bania
23 talk about Brandwatch yesterday, and I had his report -- I
24 had been given Mr. Bania's report. He wrote his report
25 before I wrote mine, and I realized he used Brandwatch. I

1 wanted to use it myself, but they wanted a lot more money
2 than the attorneys would budget.

3 Q. Okay. And let's go right to the timeline. You said
4 you start on November 9, 2020, we will ask you about that.
5 But November 9 through May 8, 2021, right, that is your
6 scope?

7 A. Yes.

8 Q. And Mr. Bania didn't focus on that, he focused on May
9 9 forward; correct?

10 A. Well, he actually started at May 3.

11 Q. May 3?

12 A. He started May 3. I ended May 8.

13 Q. Okay. And can you explain the timeline to us, what
14 you are doing here.

15 A. So the narrative about Dr. Coomer began on November
16 the 9th, 2020, within days of the election. Mr. Bania's
17 report started a year -- sorry, 6 months later, started on
18 May the 3rd. So I felt that was a little bit misleading
19 if one didn't understand the full picture reading
20 Mr. Bania's report. It is misleading because it is taken
21 out of context.

22 Again, his narrative begins on May 3, 2021, whereas
23 my narrative, or the actual story of how this information
24 about Dr. Coomer was spread, the actual story began on
25 November 9th of the year before, and it began with Joe

1 Oltmann's statement. And I believe -- I wasn't here at
2 the time, but I believe he testified here a few days ago,
3 perhaps.

4 Q. Correct. And this next slide is about Dr. Coomer's
5 reputation. You note he was in hiding, by his testimony,
6 November 23rd or earlier.

7 A. Yes. So Dr. Coomer, himself, I believe used the term
8 "destroyed." That his reputation had been destroyed by, I
9 think, around January of 2021. The National Public Radio
10 reported that Dr. Coomer was in hiding by at least
11 November 23rd. I don't know the exact date, but that
12 certainly is what they reported, and other news media
13 reports the same thing.

14 Q. Next slide, you have other examples.

15 A. I do. So as I traveled through the social media, I
16 kept a list. These are taken straight out of my report.
17 I had a dozen pages -- not five, but a dozen pages, line
18 after line of these things. And so we can see November
19 15th, Dr. Coomer was mentioned on the FOX News TV
20 broadcast. Rudy Giuliani was being interviewed. He
21 didn't name him, but he told the story. Michelle
22 Malkin --

23 Q. Do you have any idea how many views FOX News would
24 have been compared to social media?

25 A. Unfortunately I had no way. I had no data showing me

1 how many viewers would see a particular program.

2 Q. In your professional experience, would it be larger
3 than social media?

4 A. I say -- I would assume so, but that is out of my
5 scope, out of my area of expertise. I don't know for
6 sure. These are the things I picked up as I was traveling
7 around searching for these things or following these
8 leads, I would find all sorts of things; people Tweeting.
9 The story ending up on TV, ending up on radio and
10 podcasts, so on.

11 So Michelle Malkin, the first one, as you pointed
12 out, we don't know how many people saw that. The second
13 one, well, we know that Michelle Malkin at the time had
14 perhaps 2 million followers. I call it "possible readers"
15 here, but in a sense with social media, social media
16 presents the possibility that if you have a million
17 followers, that is a million people who might pop in and
18 see your Tweet or your post, but might not, as well. But
19 also other people can be seeing it who are not actually
20 following.

21 Q. There is no way to tell whether someone looked at it
22 for 10 seconds or 10 minutes.

23 A. Correct. Mr. Bania made this point yesterday; there
24 is no way to get absolutely rock solid numbers. But we
25 can gather numbers like re-Tweets, quotes, likes, views,

1 and so on, but there is no way to get an absolute solid
2 crisp number.

3 Q. Moving on, November 23-24.

4 A. Yeah, some more example. So still in November we are
5 still more than five months from Mr. Lindell's first
6 statement, the Gateway Pundit. We actually had traffic
7 data. So Gateway Pundit had a website, and Mr. Bania was
8 talking about these traffic statistics you can get from
9 websites where you can see how many people visited a site,
10 how many times a page was loaded into a browser, this sort
11 of thing.

12 And Gateway Pundit provided that data to us. So
13 these numbers, it shows that this particular first
14 article, it mentioned Dr. Coomer, it was seen 149,000.
15 149,000 page views. So that's 149,000 times that
16 somebody's browser somewhere loaded that page. It also
17 shows us 121,000 readers, so -- or visitors really, the
18 data files would show. That means 121,000 people saw that
19 page, but 149,000 times. So some of these people came
20 back and saw it a second time.

21 Q. In November of '24, we see One America News Network
22 interview Joe Oltmann.

23 A. That's right. So, again, the story is spreading, and
24 we haven't even left 2020 yet. So, again, more than six
25 months before Mr. Lindell said anything, One America News

1 Network interviewed Joe Oltmann again. And so I don't
2 know, again, I don't have perfect data, I don't know how
3 often that was seen on One America News Network, I have no
4 idea. But it was posted to YouTube, and YouTube reported
5 that it was seen 1.6 million times.

6 Q. I want to move to the next slide. This is a profile
7 of Eric Trump.

8 A. This is Eric. So Eric Trump tweeted about Eric
9 Coomer. And what is the date here? November. This is
10 November 17. So, again, we haven't even entered 2021 yet.
11 Eric Trump had 4.2 million followers. Now today on X, as
12 they call it now, posts show "views." It will tell you
13 how many times a post has been viewed. At this time they
14 didn't have that feature, they didn't report it, so I have
15 no way of directly knowing how many views. But what I did
16 was I extrapolated.

17 I found a more recent Tweet from Eric Trump, and I
18 looked at how many -- I think I was basing it on "likes,"
19 and we have 23,000 "likes." Then I figured out the ratio
20 between "likes" and "views" on this more recent post, and
21 I went back and calculated -- and I calculated with this,
22 this post may have been seen 1.2 million times.

23 Q. Okay. Then this figure.

24 A. This is a quick summary. There is a lot more, by the
25 way. And I have my report here, it has been 2 years since

1 I wrote this, so I have the report here. I can find more.

2 There are other examples, such as Donald Trump
3 re-Tweeted. He didn't write a Tweet, himself, but he
4 re-Tweeted a message -- or three different messages. It
5 was at the time a Twitter -- a Twitter account for Team
6 Trump, and three times Team Trump Tweeted out a message
7 about Dr. Coomer. I think Team Trump had 1 or 2 million
8 followers.

9 But Donald Trump then re-Tweeted that post. At the
10 time Donald Trump had something like 89 million followers.
11 So I don't know what the number is, I haven't calculated
12 it, but it could be millions upon millions of people who
13 saw those three Tweets from the President, from Mr. Trump.

14 Q. The bottom line, if we are looking at the total
15 number of views, including extrapolated views, we are
16 looking at what, roughly 40, 45 million?

17 A. It is hard to tell. This is a summary I did in the
18 report, and I have to go all of the way up to May the 8th,
19 what had I found? These are the sorts of things I found.
20 Combined video views, ones I could measure, were 9
21 million. The Tweets, the "likes" were 313,000, which I
22 extrapolated again using this new data that Twitter -- X
23 currently, provides the "views" data, and I calculated 30
24 to 37 million potential views.

25 We have got Gateway Pundit, 2.3 million page views.

1 The TV broadcast, I don't know the numbers. I know there
2 were at least eight TV broadcasts talking about
3 Dr. Coomer. There were probably many others I am not
4 aware of, but there were at least eight on CNN and OAN and
5 so on. I don't know the numbers.

6 Magazine and newspaper articles, I believe The New
7 York Times mentioned Dr. Coomer. So, again, it is hard to
8 get a solid number for how many people saw all this, but
9 it is undoubtedly in the dozens or scores of millions.

10 Q. And at the bottom line here, there are tens of
11 millions of views and listens to the statements about
12 Dr. Coomer before Lindell mentioned him.

13 A. Yes. This is all before Mr. Lindell said anything
14 about Dr. Coomer.

15 MR. KACHOUROFF: I have nothing further. I pass
16 the witness.

17 THE COURT: All right. Mr. Beller.

18 MR. BELLER: Thank you, Your Honor.

19 **CROSS-EXAMINATION**

20 **BY MR. BELLER:**

21 Q. Good afternoon, Mr. Kent.

22 A. Good afternoon.

23 Q. So, Mr. Kent, I want to start the same place that
24 Mr. Kachouroff started off, that is with your background a
25 little bit, okay. Fair to say over the course of your

1 career you have had a few different jobs or a few
2 different careers; right?

3 A. Yes. They kind of overlap and merge.

4 Q. Sure. And so you did, I think, mention to the jury
5 that you wrote *The Complete Idiot's Guide to the Internet*;
6 right?

7 A. Correct.

8 Q. And that was in 1993.

9 A. The first edition. The seventh was in 2000.

10 Q. Understood. I will stick with 1993 for just a
11 moment, okay. In 1993, you would agree with me that there
12 were about 200 websites.

13 A. That is the number I typically use, yes.

14 Q. Yeah. And now, of course, this is after your job as,
15 I think, you call it mud blogging; is that right?

16 A. Yeah. Back in the late '70s I was a mud blogger.

17 Q. It has to do with sort of oil exploration.

18 A. It does. But we use computer equipment to monitor
19 conditions on the oil rigs, partly to figure out what you
20 are drilling through, but also to understand how to drill
21 safely and quickly.

22 Q. After you wrote, *The Complete Idiot's Guide to the*
23 *Internet*, you started a publishing company.

24 A. I did.

25 Q. That was Top Floor Publishing; correct?

- 1 A. Correct.
- 2 Q. Then you built an e-commerce website to sell your
3 books through, your own website.
- 4 A. I did.
- 5 Q. You worked for a company called DNAML.
- 6 A. Yeah. I don't think they pronounce it that way, they
7 spell it out, D-N-A-M-L.
- 8 Q. That was a company building software for publishing
9 books, e-books.
- 10 A. Correct.
- 11 Q. And when you worked in that area, that was
12 introducing publishers in New York and London; right?
- 13 A. New York, LA, London.
- 14 Q. Yes.
- 15 A. Uh-huh.
- 16 Q. Okay. Is that -- I am sorry, she doesn't have an
17 "uh-huh." Is that a yes?
- 18 A. Yes.
- 19 Q. All right. Then after that you did LeadNation.
- 20 A. That is one of the things I did. We missed a big
21 step, though.
- 22 Q. Understood. We are going through it.
- 23 A. Okay.
- 24 Q. LeadNation was creating websites for medical clinics;
25 is that correct?

1 A. Yes. Yes.

2 Q. Okay. You also started a company called BuyBak; is
3 that right?

4 A. I was sort of the second -- I didn't found it myself,
5 I worked with a close friend who started the company.

6 Q. Good. And that was selling used CDs, DVDs, video
7 games, laptops online.

8 A. Correct.

9 Q. Okay.

10 A. Through Amazon.

11 Q. Through Amazon. You eventually then started Peter
12 Kent Consulting, which is where you are currently working;
13 correct?

14 A. Correct.

15 Q. And one of the reasons you started Peter Kent
16 Consulting is because the companies you worked for started
17 collapsing under you?

18 A. That is true. So that was -- I had a dotcom during
19 the internet bubble, and when the bubble burst, the
20 company went with it.

21 Q. And at Peter Kent Consulting, your role is primarily
22 advising people on how to do business online.

23 A. Correct.

24 Q. At one point a few years ago, you actually got into
25 building websites; right?

1 A. I have been involved in building websites one way or
2 another since 19 -- again, late '93, early '94.

3 Q. And so that is an accurate question -- or that was an
4 accurate statement on my part, and that is a few years
5 ago, you had went in and built websites.

6 A. I certainly used to build websites. It has been a
7 while.

8 Q. To be fair, you don't do that anymore, but instead
9 will help a company to build a website.

10 A. I am sorry, I didn't understand the question.

11 Q. Yeah. You don't actually build the websites anymore,
12 but instead you now help a company find a company to build
13 the website.

14 A. I will sometimes project manage website building,
15 yes.

16 Q. Okay. Now, you said today that you have experience,
17 and I think you're tendered as an expert in social media.

18 A. Correct.

19 Q. Fair to say social media is not something you have a
20 focus on.

21 A. Well, I have spent the last 40 years or so -- well,
22 30 years, since '93, 32 years, involved -- yes, 32,
23 checking my math -- involved in doing business online, and
24 social media is a big part of that. But certainly it is
25 not -- I am not focused on social media every day,

1 absolutely. I do pay-per-click advertising, websites,
2 marketing, websites in various ways. One way you market a
3 website is through social media.

4 Q. I appreciate that. And I hope you will excuse me for
5 interrupting you. Going back to my question, my question
6 was simply, you don't focus on social media.

7 A. I don't do social media a hundred percent of my time,
8 no, absolutely not.

9 Q. Okay. Now, to be fair about your expertise, you give
10 a lot of talks, however; right?

11 A. Yes, I certainly have.

12 Q. Sure, including the Littleton Optimists Club. And
13 the title of that talk was, Why You Are Not Finding
14 Business Online and How to Fix It.

15 A. That sounds right. That has been a long time. I
16 don't recall the content of the talk.

17 Q. Sure. You gave the same talk to the Castle Rock
18 Kiwanis Club; is that right?

19 A. I did. I assume you have it there. I don't recall.

20 Q. Okay. If you don't recall, that is perfectly fine.
21 Okay. You also gave a talk to the Rockies Venture Club,
22 and that was A Short Account of Successful Fund Raising.

23 A. So that was when I raised \$4 million for a dotcom.
24 It was funded by SoftBank, which at the time was one of
25 the biggest D.C. firms.

1 Q. Is that a yes, you did give that talk?

2 A. Yes.

3 Q. Perfect. You also gave a talk to the Rocky Mountain
4 Book Show, a panel on Promotions of Books on the Internet;
5 right?

6 A. Yes.

7 Q. Okay. And so according to your website, Mr. Kent,
8 your role is to "help people dig through the garbage and
9 find the information you need," right?

10 A. Well, I don't know what context that comes from. I
11 don't recall writing that. I probably did if you found it
12 there, but what is the context?

13 Q. Well, that is a fair question. Your website is
14 www.peterkentconsulting.com.

15 A. Yes.

16 Q. And there is a title on peterkentconsulting.com that
17 says "I" -- meaning Peter Kent -- "can help you dig
18 through the garbage and find the information you need."
19 Right?

20 A. I don't recall. I don't recall what page that was or
21 what was that promoting.

22 Q. Okay. Fair enough. Your answer is you don't
23 remember; is that right?

24 A. I don't remember. It sounds like it is part of a
25 discussion about something, but I don't recall what it is

1 about.

2 Q. Understood. And for \$350 an hour, a visitor to your
3 website can connect with you; correct?

4 A. Yes. So this is a page promoting my consulting
5 services.

6 Q. Yeah, they can use the GoToMeeting link.

7 A. If that is on there, that is an old link. That
8 article has been there for years. I don't use GoToMeeting
9 anymore.

10 Q. To be fair, the purpose, though, is where you will
11 walk somebody through their website and point out problems
12 that you see; correct?

13 A. Yeah. So I have done over the years -- I have done
14 literally hundreds of these phone-based consulting
15 sessions, where we use a screen -- I was using screen
16 sharing many years ago, so using screen sharing to view
17 their website, view the competitors' website, and we
18 basically discuss how to improve their website, how to
19 improve their marketing. We discuss things like why their
20 competitors are doing better than them. SCL issues. We
21 discuss pay-per-click issues, and so on.

22 Q. Good. I appreciate that explanation. And at the end
23 of that \$350 an hour compensation, your assistant will
24 send the individual a PayPal invoice for the session;
25 right?

1 A. Well, that is how I used to do it when it was
2 written. That is not how I do it now.

3 Q. But you agree that's your website as it exists today;
4 right?

5 A. If you say so.

6 Q. Okay. So for \$350 an hour. Now I want to talk for
7 just a moment about what Mr. Lindell agreed to pay you,
8 okay. So the public will pay you \$350 an hour, but
9 Mr. Lindell, on the other hand, you are billing him at 600
10 an hour; correct?

11 A. I don't think so. I think it was 550.

12 Q. Okay. You would agree with me that what you have in
13 your report would be an accurate number.

14 A. It certainly should be. Does it say 600?

15 Q. Sure.

16 A. Okay.

17 Q. Your report says \$600 an hour; correct?

18 A. Yes.

19 Q. Okay.

20 A. I mean, if that is what it says, I will take your
21 word for it. Sure.

22 Q. Understood. And so Mr. Lindell has agreed to pay you
23 \$250 more an hour than what you advertise on your publicly
24 available website; is that right?

25 A. Yes.

1 Q. Okay. You have also indicated that you have written,
2 did you say 50 books or 60 books?

3 A. I think it is 60, 65, something like that.

4 Q. I want to go through those just a little bit. And if
5 we can pull up that slide, I believe it is the No. 2, the
6 slide that you had shown to the jury of your introduction.
7 Okay. This is the slide that you showed to the jury
8 regarding your background; right?

9 A. Yeah.

10 Q. Okay. So there are four books listed on the bottom.
11 I assume those are four of the 50 or 60 books you have
12 written.

13 A. Yes.

14 Q. All right. You would agree with me that the first
15 one, which is *The Complete Idiot's Guide to the Internet*,
16 that one, I think we said, was written in 2003 -- or,
17 excuse me, 1993.

18 A. No, the first edition was '93.

19 Q. Then you had editions after that. You updated.

20 A. There were three editions.

21 Q. We see *Poor Richard's Web Site*; is that right?

22 A. Yes.

23 Q. That one, sir, was written in 2000; correct?

24 A. No, originally it was written in, I think it was '97,
25 but probably there was another edition, a second edition

1 in 2000, I don't know, somewhere around then.

2 Q. No problem. And I appreciate that clarification, I
3 want to be accurate. You also have *Discover FrontPage*;
4 right?

5 A. I do.

6 Q. Okay. And that one, sir, was written in 1997;
7 correct?

8 A. That sounds about right.

9 Q. And then you have *Netscape JavaScript*. That is the
10 last one we have listed there; correct?

11 A. Yeah.

12 Q. That one was written in 1996.

13 A. I think so. That sounds right.

14 Q. Very good. So let's talk about some of the other
15 books that you have written. More recently you wrote
16 *Cryptocurrency All-in-One Guide for Dummies*; is that
17 right?

18 A. So I didn't write the entire book. Some of my work
19 ended up in that book.

20 Q. Okay. You would agree that you have authorship
21 credit on *Cryptocurrency*.

22 A. I do.

23 Q. You also wrote *Bitcoin for Dummies*; right?

24 A. I did.

25 Q. Also *Cryptocurrency Mining for Dummies*.

- 1 A. Correct.
- 2 Q. And *Making Money in Technical Writing*.
- 3 A. That is an old, old book.
- 4 Q. I understand that. You also have authorship credit
- 5 on *Making Money in Technical Writing*.
- 6 A. Not just authorship credit, I wrote the book myself.
- 7 Q. Very good. That is because you have written books on
- 8 many different topics.
- 9 A. Correct.
- 10 Q. In other words, your expertise is not necessarily
- 11 social media and internet.
- 12 A. Well, I think of myself as a teacher. Whatever I am
- 13 doing, I am teaching people, whether I am talking to a
- 14 jury, whether I am writing books, whether I am working
- 15 with consulting clients, I'm a teacher. And much of what
- 16 I have been teaching over the last, you know, decades,
- 17 relates to doing business online, and part of that picture
- 18 is social media.
- 19 Q. And that includes *How to Make Money Online with eBay,*
- 20 *Yahoo!, and Google*. That is also your expertise.
- 21 A. That is one of my books.
- 22 Q. Okay. You wrote *The Best Sex of Your Life*. That is
- 23 also a book that you wrote and that is for sale.
- 24 A. Yeah. It is not a hardware manual.
- 25 Q. You wrote a book in June of 2020 called *Coronavirus*

1 *and COVID-19: What It Is, How to Avoid It, How to Survive*
2 *It, COVID-19 Facts.* That was another one of your books.

3 A. I should also say, I even have journalism pieces.
4 Again, I am a writer, obviously. I have -- I am a writer.
5 I have written, as you know, scores of books over 40
6 years. So when we were all stuck at home and nobody was
7 doing business, I thought, I am going to publish a book
8 through Kindle -- and I don't know, you probably know
9 about Kindle, Amazon's digital book platform. And so I
10 decided to use my reporting skills to learn how to publish
11 through Kindle.

12 Q. Fantastic. Let's go back to my question, though.
13 You wrote a book called *Coronavirus COVID-19: What It Is,*
14 *How to Avoid It, How to Survive It;* right?

15 A. Yes.

16 Q. Okay. And that book covers in part how kissing
17 camels -- humans kissing camels made people sick in a
18 previous Coronavirus epidemic.

19 A. It does discuss that story from a few years ago.

20 Q. Good. And ultimately Amazon took that book down off
21 of its marketplace; is that correct?

22 A. Not that I know. There was an issue. It took a long
23 time to get published because they were refusing all books
24 about Coronavirus. I appealed, and they eventually
25 published it. I am unaware it has been taken down, but it

1 is possible.

2 Q. But to be clear, I am talking about after it was on
3 Amazon in 2020, Amazon took the book down and you ended up
4 offering to give it away for free; right?

5 A. No. No, that is not what happened. Amazon, they
6 didn't take it down, they wouldn't take it. Any book
7 about Coronavirus, Amazon was blocking. And at that point
8 I started just giving it away. And it wasn't until I
9 appealed -- and, in fact, I emailed certain senior
10 executives at Amazon, and then the next morning the book
11 was posted. But it wasn't -- you have your chronology
12 mistaken.

13 Q. I very much appreciate that clarification, I want to
14 make sure we have it right. So I guess the point of the
15 question is, you ended up giving away your hard copies on
16 your website, offering it for free?

17 A. Not hard copies, I think I was giving away pdf
18 copies.

19 Q. Thank you. So I guess this is all to say that you
20 would agree with me, Mr. Kent, that your expertise is both
21 vast, but it also has limits.

22 A. Well, I hate to say there are no limits. I have a
23 broad range of skills, I will accept that. But, of
24 course, these are things that have occurred over the last
25 almost half century. I have had plenty of time to do a

1 lot of different things.

2 Q. Thank you, sir, I appreciate that. You would agree
3 with me, Mr. Kent, you have never been retained to provide
4 an opinion on liability.

5 A. No, I am not a liability expert.

6 Q. You have also never been retained to provide an
7 opinion on damages.

8 A. Correct.

9 Q. Okay. Now, Mr. Kent, you are actually -- you reside
10 here in Denver; right? You are in Colorado.

11 A. I am, yes.

12 Q. You are also familiar with Colorado media, then.

13 A. Well, to some degree, yes.

14 Q. Sure. You are familiar with some Colorado
15 journalists "to some degree," as you say.

16 A. Yeah, to some degree.

17 Q. Sure. Prior to this case, Mr. Kent, you were wholly
18 unfamiliar with the podcast Conservative Daily.

19 A. That is true. Prior to this case, yes.

20 Q. Wholly unfamiliar with anyone named Joe Otto or Joe
21 Oltmann.

22 A. I did not learn of him until this case.

23 Q. Absolutely. You had actually never heard of him
24 until you got retained on this case in May of 2023.

25 A. Correct.

1 Q. And so when you say, for example, the reach of Joe
2 Oltmann's statements, or the number of views that this had
3 gotten, you, as a Denver resident, as a Colorado resident,
4 had actually never heard of him until you got hired.

5 A. So I am not sure I understand the question. You
6 started off with "reach," and then I didn't -- I was not
7 aware. It is certainly true I was not aware of him until
8 this, but what does that have to do with the reach of his
9 statements? I don't understand.

10 Q. Let me rephrase, and let me see if I can ask that in
11 a way that is a bit clearer.

12 You testified to the jury that Joe Oltmann's story
13 had received millions of views; right?

14 A. Well, I showed it in my report. Of course it goes
15 into more detail. I show how that story spread. If you
16 want to revisit it, we can go back and I will show you
17 step by step how it spread, several tens of millions.

18 If we say that this story about Dr. Cooper came --
19 Coomer, sorry, came from Joe Oltmann, that story, the
20 kernel of that story spread to tens of millions of people,
21 yes.

22 Q. Absolutely. And I am not disputing that, okay, it
23 spread to tens of millions. My point, though, is despite
24 having spread to tens of millions, you had actually not
25 heard it until you got hired on this case.

1 A. Yes, that's true.

2 Q. You were, however, familiar with Mike Lindell, and
3 you were familiar with My Pillow.

4 A. I was. But I wasn't familiar with his statements
5 about Dr. Cooper -- Dr. Coomer.

6 Q. That's okay. Thank you. You had seen Mr. Lindell's
7 commercials, for example, about My Pillow.

8 A. I had.

9 Q. You had seen Mr. Lindell on television before.

10 A. Yes.

11 Q. And fair to say that you, as a Colorado resident,
12 would have described him as a public figure.

13 A. Yes, I suppose so.

14 Q. Okay. So going back to something that you had sort
15 of introduced in response to one of my questions a few
16 minutes ago, the, I guess, scope of your work or the
17 assignment to you was to examine the story about
18 Dr. Coomer, when it began and how it spread. Am I
19 summarizing that properly?

20 A. Yes.

21 Q. Very good. So you spent time looking at the reach
22 and scope of other people's statements, other than Mike
23 Lindell's.

24 A. Yes, absolutely. As I mentioned, I stopped the day
25 before Mr. Lindell made his statement. By the way, we

1 should note that it was Joe Oltmann's story that spread
2 through social media, through various forms of media, to
3 Mr. Lindell.

4 Q. Absolutely. And you know you are, of course, hearing
5 this from Mr. Lindell and from his attorneys.

6 A. Hearing what?

7 Q. You just commented to the jury about how Mr. Lindell
8 learned about Dr. Coomer. And I guess I am asking you
9 what the basis of that knowledge is.

10 A. I don't know how Mr. Lindell originally encountered
11 the story. However, it is a story that came from Joe
12 Oltmann.

13 Q. Understood.

14 A. And spread in the manner I have described in my
15 report.

16 Q. Yeah. I very much appreciate that, thank you.

17 So I want to talk a little bit about what
18 Mr. Lindell and his attorneys did not ask you to review,
19 okay.

20 A. Okay.

21 Q. You are aware that there are ten defamatory
22 statements that have been alleged by Dr. Coomer.

23 A. Dr. Coomer is alleging Mr. Lindell made ten
24 statements, is that what you are saying?

25 Q. Dr. Coomer is the plaintiff, he is my client.

1 A. I get that.

2 Q. Okay. And he has alleged that there were ten
3 defamatory statements made by the defendants. Were you
4 aware of that?

5 A. I hope you don't mind, I want to clarify. You said
6 "by the defendants."

7 Q. That's correct. There are three defendants. Did
8 they ask you to examine My Pillow, Frankspeech, and
9 Mr. Lindell?

10 A. I will answer that question, it is just I think the
11 first time you asked you said ten statements by
12 Mr. Lindell, or maybe I misheard. But most of the
13 statements weren't from Mr. Lindell, were they --

14 Q. I completely understand that. Stay with my question
15 for just a moment, okay. Did the defendants ask you to
16 examine the ten statements that Dr. Coomer has alleged to
17 be defamatory?

18 A. No, they didn't, because as I have said right from
19 the start, I was asked to examine this whole process up
20 until May the 8th.

21 Q. Absolutely.

22 A. So, yeah, I -- so I stopped before Mr. Lindell said
23 anything. I don't know if they are defamatory or not, but
24 I stopped before he said a single thing.

25 Q. Absolutely. And so they specifically said, we want

1 you to stop on this date, don't look at any of the reach
2 after, I think you said May the 8th; right?

3 A. Yeah. After May the 8th, they wanted to examine --
4 again, as I stated earlier, they wanted to examine how the
5 story started, how it spread. And then when Mr. Lindell
6 starts talking about it, that is a totally different
7 phase, and I was not involved in that phase.

8 Q. They didn't want you or ask you to look at any of
9 that; correct?

10 A. Correct. I mean, Mr. Bania was looking at that.

11 Q. Well, we are going to get into that a little bit
12 further here. So I want to make sure, because you and I
13 are having a bit of a back and forth, that you did not --
14 they did not ask you to review or look at the reach of any
15 of the ten defamatory statements.

16 A. Yeah. I am sorry, I am not trying to be difficult, I
17 am not trying to go back and forth, but I thought I
18 stated, yes, they asked me to go up to the point at which
19 Mr. Lindell said something, not beyond.

20 Q. Perfect. And you said "Mr. Lindell's statements."
21 But as we started to cover, there are three defendants in
22 this case. Are you aware of that?

23 A. Yes.

24 Q. And did they ask you to examine the reach of any of
25 the alleged defamatory statements that were published on

1 Frankspeech, for example?

2 A. Well, actually I believe there was a statement on May
3 the 3rd, wasn't there, that Mr. Bania -- or the Complaint
4 refers to a statement, not from Mr. Lindell, but from
5 somebody on Frankspeech, I believe, on May the 3rd. I was
6 not asked to consider that. So I guess there is a little
7 bit of overlap following up to May 8th. But I did not
8 look at that May 3rd. And the other statements, of
9 course, came after, quite some time after May the 9th, so
10 I obviously didn't examine them.

11 Q. So, in other words, they did not ask you to look at
12 how many people saw Mr. Oltmann speak on Brannon Howse's
13 show.

14 A. What date was that?

15 Q. That was May the 3rd. Did they ask you to look at
16 that?

17 A. No. I don't recall looking at the May the 3rd
18 statement.

19 Q. Did they ask you to look and see how many people saw
20 Ms. Tina Peters speak on frankspeech.com?

21 A. When was that?

22 Q. I am going to ask you, did you examine that, and did
23 you examine that reach?

24 A. Again, I think probably it is after May the 8th.

25 Q. If it was, the answer would be no, they did not ask

1 you to do that.

2 A. Correct.

3 Q. Okay. Very good. How about did they ask you to look
4 at Mr. Lindell mentioning Dominion Voting System in
5 November of 2020, December 2020, January 2021? Did they
6 ask you to look at any of those statements of Mr. Lindell?

7 A. No. I am aware Mr. Lindell was making statements
8 about Dominion and various other voting issues. I was
9 focused, as Mr. Bania was, by the way, I was focused on
10 examining statements that directly related to Dr. Coomer.

11 Q. Absolutely. As made by Mr. Lindell, not by anyone
12 else.

13 A. As made by Mr. Lindell -- no, excuse me, I wasn't
14 examining Mr. Lindell's statements, you recall, because he
15 didn't make any statements in my period of study.

16 Q. So that also means, because Michael Lindell's Cyber
17 Symposium was after May 8th, when they asked you to stop
18 looking, that you did not examine how many people viewed
19 Mike Lindell's Cyber Symposium videos about Dr. Coomer?

20 A. Correct.

21 Q. You were not asked to determine the reach or sale of
22 My Pillow products on any of these platforms when
23 Dr. Coomer was mentioned?

24 A. No. No.

25 Q. You did not examine how many sales My Pillow had

1 using promo codes associated with defaming Dr. Coomer?

2 MR. KACHOUROFF: Objection, Your Honor. Can we
3 approach?

4 THE COURT: You may.

5 (A bench conference is had.)

6 MR. KACHOUROFF: Apart from the fact that the
7 question was rigged to say "defaming," the probative value
8 of these questions -- I have been letting it go on, I
9 haven't objected, he's testified about a noncontroversial
10 topic about what this period of time was and the numbers.
11 And he's asked him, and it was clear, he wasn't given the
12 assignment for after May 9th, that was Doug Bania.

13 I just don't see the probative value of these
14 continued questions with a witness who is very
15 noncontroversial. You can see how quickly I went with the
16 witness to get out just the reach for the period of time
17 from November 9th to May 9th.

18 THE COURT: Mr. Beller.

19 MR. BELLER: Your Honor, I think it goes directly
20 to the credibility of this witness, and my ability to be
21 able to examine the amount of damage that Mr. Coomer
22 suffered. There is an implication that somehow Dr. Coomer
23 was already defamed, therefore, there could not be any
24 piling on after that because Dr. Coomer's reputation was
25 already defamed.

1 I think the defendants offered this witness for
2 that reason. They limited his ability to be able to
3 comment on the defamation or the impact of the defamation,
4 and that is something the jurors should be allowed to
5 consider.

6 THE COURT: I agree. Objection overruled.

7 (In the hearing of the jury.)

8 Q. (BY MR. BELLER) So, going back to the question that
9 I had asked, and that is the defendants did not ask you to
10 determine how many sales My Pillow made using promo codes
11 associated with the defamatory statements that Dr. Coomer
12 alleges.

13 MR. KACHOUROFF: Objection to "defamatory
14 statements."

15 THE COURT: Again, if you are going to make an
16 objection more than a word, you need to approach. So the
17 objection is as to form. Overruled.

18 Q. (BY MR. BELLER) Associated with the alleged
19 defamatory statements.

20 A. No. I think I got that question. So the answer is
21 no.

22 Q. Your opinion, Mr. Kent, is based on Mr. Lindell
23 having not discussed Dr. Coomer until 6 months after the
24 rumors about Dr. Coomer started; is that correct?

25 A. I'm not sure what you mean by it's "based on" that.

1 It is my understanding that Mr. Lindell did not make a
2 statement -- I don't believe you guys allege that he made
3 a statement prior to that date, and my report is based on
4 what happened prior to that date.

5 Q. Absolutely. I appreciate that. And so, however, you
6 acknowledge that Mr. Lindell was speaking about Dominion
7 voting in, say, November, December, 2020, January,
8 February, 2021, et cetera.

9 A. I beg your pardon? Could you repeat that?

10 Q. Yes. That is because it was a poor question.

11 A. Oh, okay.

12 Q. You admit that Mr. Lindell was speaking publicly
13 about Dominion Voting Systems in the timeframe in which
14 you were examining the sort of reach of the statements,
15 the 6 months.

16 A. Yes, I believe he was. I don't know how often, it is
17 not something I studied. Both Mr. Bania and I were
18 looking for statements that included Dr. Coomer.

19 Q. Okay. And that presumably means that the defendants
20 did not ask you to consider Mr. Lindell's Frankspeech's
21 documentary called *Absolute Proof*.

22 A. No, that is not part of my report. I believe I saw
23 it, but it is not -- it wasn't within the purview.

24 Q. Sure. And it wasn't in the purview even though
25 Mr. Lindell released that documentary on February the 5th,

1 2021.

2 A. I assume you are asking me a question. Is that -- I
3 don't know what date it was. If that is the date, that is
4 the date.

5 Q. Fair enough. So if *Absolute Proof* was released by
6 Mr. Lindell on February 5th of 2021, you would agree with
7 me that that was within that 6 month timeframe in which
8 you were asked to examine the reach.

9 A. Yes, it is within that, but I don't believe he
10 mentioned Dr. Coomer.

11 Q. Very good.

12 MR. BELLER: Do we have that?

13 If I may have just a brief moment.

14 Q. (BY MR. BELLER) Sir, I am showing you what has
15 already been admitted and shown to the jury, and this is
16 the screen shot mentioning Dr. Coomer in the movie
17 *Absolute Proof*. Do you see that on your screen?

18 A. This is -- sorry, this is a screen shot from
19 Mr. Lindell's video?

20 Q. Yeah. Excuse me for interrupting you. This is a
21 screen shot from Mr. Lindell's movie *Absolute Proof*. Do
22 you see that?

23 A. I do, yes.

24 Q. And so my question is, did the defendants ask you to
25 include or to analyze the reach of *Absolute Proof*

1 mentioning Dr. Coomer?

2 A. They didn't. But my understanding would be that this
3 probably wasn't regarded as defamation. In fact, you
4 guys -- right at the beginning of my study, I went to your
5 Complaint, and your Complaint said the first statement
6 from Mr. Lindell was May the 9th, 2021, so --

7 Q. Absolutely. And I see Mr. Lindell also nodding along
8 with your testimony. So let me see if I can't narrow my
9 question just a little bit, and if you can respond to what
10 I am saying, okay.

11 Were you asked to examine the reach of *Absolute*
12 *Proof* that mentions Dr. Coomer?

13 A. I don't remember ever being told to take a look at
14 this. This is the first I have seen this. I am not aware
15 of it. But, again, I was told to examine allegedly
16 defamatory statements. So I don't know if this would have
17 been regarded by the attorneys. It wasn't regarded by you
18 guys, apparently, unless you found it later. I don't
19 know.

20 Q. Sure. And I appreciate you commenting on what was in
21 my mind or what wasn't, but I am going to stick to my
22 questions, okay. My question to you is, did the
23 defendants ask you to examine the reach?

24 A. I am sorry --

25 Q. Yes, or no?

1 A. I am sorry, I thought I answered that. I told you
2 they didn't.

3 Q. Okay. Very good. How about asking you to examine
4 the reach -- you mentioned OAN, of OAN having broadcast
5 this film 13 times between May the 5th -- excuse me,
6 February 5th and February the 8th, 2021. Did they ask you
7 to do that?

8 A. Well, I mean, it is sort of the same answer. No,
9 they wouldn't have, because this was the source of this
10 issue, this particular screen shot, and I wasn't asked to
11 look at this. So, no, they wouldn't have asked me to
12 examine its distribution through OAN.

13 Q. Understood. So if we can have your slide -- I
14 believe it was slide 9. So that has the timeframe that --
15 the timeline you gave to the jury, and if we can have that
16 up, please.

17 And what we have in front of you is slide 3. And
18 slide 3 is what you showed to the jury on your direct
19 examination; right?

20 A. Okay. Yes.

21 Q. Okay. Now, this again does not include, for example,
22 as we have already covered, Mr. Lindell talking about
23 Dominion Voting during that timeframe.

24 A. Correct.

25 Q. It does not include Mr. Lindell's movie *Absolute*

1 *Proof* in this same timeframe.

2 A. Correct.

3 Q. It does not include Mr. Lindell appearing on Rudy
4 Giuliani's podcast during the same timeframe.

5 A. Did he mention Dr. Coomer or --

6 Q. Well, to answer your question, he mentioned that the
7 movie *Absolute Proof* had been seen by 100 million people.
8 Did you see that?

9 A. I don't recall. If it doesn't include reference to
10 Dr. Coomer -- and I am assuming it is prior to May 9th; is
11 that right?

12 Q. That is correct. It is within this timeframe.

13 A. No, it won't be in my report.

14 MR. KACHOUROFF: I object to facts not in evidence
15 with respect to him during the Rudy Giuliani podcast.

16 THE COURT: Overruled.

17 Q. (BY MR. BELLER) How about does your timeframe
18 include Mr. Lindell appearing on Mr. Oltmann's podcast on
19 March the 11th, 2021, in which Dr. Coomer is discussed?
20 Is that in your timeframe?

21 A. Can you repeat the --

22 Q. Mr. Lindell appearing on Mr. Oltmann's podcast on
23 March the 11th, 2021.

24 MR. KACHOUROFF: Your Honor, may we approach?

25 THE COURT: Yes.

1 (A bench conference is had.)

2 MR. KACHOUROFF: None of this is relevant. This
3 has nothing to do with the defamatory statements. There
4 was actually nothing bad said about Dr. Coomer on this
5 March 11th podcast.

6 MR. BELLER: I have the title of it, and I would
7 note that both Mr. Lindell and Mr. Oltmann testified about
8 this podcast.

9 MR. KACHOUROFF: Right. But hammering him on
10 this -- this isn't part of the defamatory statements.

11 THE COURT: I know, but he has been -- he has been
12 proffered as an expert in reach, and I think that --

13 MR. KACHOUROFF: The limited scope of.

14 THE COURT: -- the plaintiffs have the right to
15 cross-examine him on what his conclusions are and are not,
16 and how they may or may not rebut what Mr. Bania testified
17 to. So I think that is what he is doing.

18 I am going to ask you, Mr. Beller, how much longer
19 do you think you have?

20 MR. BELLER: I think I will be less than 10
21 minutes.

22 THE COURT: All right.

23 (In the hearing of the jury.)

24 Q. (BY MR. BELLER) So my question for you, Mr. Kent, is
25 that Mr. Lindell appearing on Mr. Oltmann's March 11,

1 2021, podcast, is also not in this

2 what-happened-in-6-months slide.

3 A. Correct.

4 Q. Did the defendants ask you to analyze My Pillow promo

5 code CD21 that was run during Mr. Oltmann's podcast?

6 A. No. I didn't do any analysis of pillow codes.

7 Q. Now, you testified, of course, that your analysis

8 ended on May the 8th of 2021. But to be fair, you did

9 look at some Twitter data that went through June the 30th

10 of 2021; right?

11 A. If I did, I don't recall. Maybe you can point me to

12 it.

13 Q. I am happy to. Do you have your report in front of

14 you?

15 A. I do.

16 Q. Turn to page 19, paragraph 54. Let me know when you

17 get there.

18 A. Yes, I am there.

19 Q. Okay. And so you would agree with me that the

20 information that you reviewed included looking at Twitter

21 data through June the 30th of 2021.

22 A. Hang on. Can I just read this?

23 Q. If you can read it to yourself, please, report page

24 19, paragraph 54.

25 A. Yeah --

1 Q. There is not a question. I asked you to simply
2 review that.

3 A. Okay, I have reviewed it.

4 Q. Okay, thank you. So going back to my question,
5 though, some of the data that you looked at, specifically
6 on Twitter, went through a time period of June the 30th of
7 2021; fair?

8 A. I think that's a little misleading. I am quoting
9 Mr. Bania saying he had data through that date, so I am
10 quoting Mr. Bania.

11 Q. Absolutely.

12 A. I am referring to the citation he used. And some of
13 that data started in November and, yes, it overlapped into
14 June of the following year, but this isn't my citation, it
15 is not something I found, it is something Mr. Bania found.

16 Q. To be fair, to quote you specifically, you say, "In
17 addition, I" -- meaning Peter Kent -- "was able to verify
18 that between November 8, 2020, and June 30, 2021, more
19 than a thousand unique accounts on Twitter." That is your
20 statement.

21 A. That is within the quotation marks.

22 Q. Yes. And you had the underlying data; right?

23 A. I did have, because Mr. Bania -- Mr. Bania cited to
24 this document.

25 Q. Absolutely.

1 A. And I have in this paragraph his description of the
2 document. And, yes, I was able to see the document, yes.

3 Q. Excellent. So you had access to and reviewed data.

4 A. Well, of course I had access to data. I am not sure
5 what you mean.

6 Q. Perfect. All I am getting at is you had access to it
7 and reviewed it.

8 A. Okay.

9 Q. You also testified that you considered sources such
10 as NPR, National Public Radio.

11 A. I did at least once, yes.

12 Q. And you knew that Dr. Coomer was -- had to go into
13 hiding following sort of this public interest in him and
14 his life; right?

15 A. Yes. That is what NPR reported. I believe The New
16 York Times may have reported it, as well, per the others.

17 Q. And the Twitter data that goes through June 30th,
18 2021, there were more than a thousand unique accounts on
19 Twitter in regards to Dr. Coomer that used the terms
20 "kill," "die," "shoot," "treason," "hang," "traitor,"
21 "arrest" and/or "attack," right?

22 A. Yes.

23 Q. And, of course, those thousand unique accounts that
24 reference "kill," "die," "shoot," "treason," "hang,"
25 "traitor," "arrest," and "attack," that was just on

1 Twitter.

2 A. That was just Twitter. And that is starting November
3 the 8th.

4 Q. Absolutely. That is starting November 8th and going
5 through June 30th, 2021.

6 A. I believe it peaked within my study period.

7 Q. Yeah. And that also not just includes the time
8 period that you covered, that also includes the time
9 period in which Mr. Lindell called for Dr. Coomer's --
10 called Dr. Coomer "treasonist" and a "traitor."

11 A. I hate to give a simple answer because it is so
12 misleading. Yes, you are right, it does include that time
13 period, but it started in November and it peaked. I can't
14 remember when Mr. Bania said it peaked, but it peaked
15 before Mr. Lindell said anything, and it was dying off at
16 the point Mr. Lindell said something. So I don't want to
17 -- a simple yes or no answer really paints a misleading
18 picture.

19 Q. I am absolutely not trying to be misleading, which is
20 why I am letting you answer completely.

21 A. Thank you.

22 Q. My question, however, was simple. The 1,000 Twitter
23 posts -- Twitter accounts, excuse me, individual Twitter
24 accounts covered the time period in which you talk about
25 the reach of the defamatory statements and Mr. Lindell's

1 comment, first comments about Dr. Coomer.

2 A. It does, with the caveat of what I said in the
3 previous answer. But, yes, you are correct.

4 Q. Absolutely. And, again, you say that on May 3rd,
5 2021, Frankspeech hosted Mr. Oltmann on the Brannon Howse
6 show discussing Dr. Coomer.

7 A. I beg your pardon? Were you looking at my report
8 still? Where?

9 Q. This is Exhibit 179, in your outline. You can go to
10 page 41, May 3, 2021.

11 A. I beg your pardon, what was the date again?

12 Q. May 3, 2021, page 41 of your report.

13 A. Brannon Howse?

14 Q. That's correct.

15 A. Yes, I see it.

16 Q. Perfect.

17 MR. BELLER: If we can pull up that slide again,
18 please. If we can pull up the timeline slide that
19 Mr. Kent is covering.

20 THE WITNESS: So, there is --

21 Q. (BY MR. BELLER) There is not a question on the
22 table, and we have to follow rules.

23 A. I beg your pardon.

24 Q. Fair to say that even though Frankspeech, hosting
25 Mr. Oltmann on the Brannon Howse show discussing

1 Mr. Coomer, is in your report, it is not on the timeline
2 that you showed to the jury.

3 A. That's correct. And this is the May 3 post we
4 actually discussed a little while ago, and I totally
5 forgot it is in my report. I wrote this 2 years ago, so I
6 don't remember the details. But I said at the time I
7 didn't cover that, but evidently I did.

8 Q. Totally understood. You agree with me that there
9 have been over 31 million viewers that have seen negative
10 or allegedly defamatory statements or stories about
11 Dr. Coomer.

12 A. Sorry, where are you getting this number, 31 million?

13 Q. I am getting it from your words. These are your
14 words. If I can turn you to page 42 of your report,
15 paragraph 89, sir.

16 A. You are looking -- paragraph 89, that refers to --
17 could you repeat the question? I am sorry, I want to make
18 sure I am answering the correct thing.

19 Q. According to you and the extrapolation method you
20 described to the jury, there were more than 31 million
21 viewers having seen negative stories about Dr. Coomer.

22 A. Well, that number only applies to Tweets, so actually
23 the number is far greater.

24 Q. And that is because it is a relatively conservative
25 number; meaning 31 million viewers having seen stories

1 about Dr. Coomer.

2 A. Well, no, it is because you are pulling that out from
3 Tweets. That is only one part of that six-bullet list.

4 Q. Yes. That is a conservative number of people,
5 conservative, who have viewed -- and we will use Tweets --
6 about Dr. Coomer.

7 A. Yes. Now, if we use some Tweets, I think that gets
8 us closer to it.

9 Q. Well, if 18 million people write Tweets about
10 Dr. Coomer -- and I will refer you to your report, page
11 44, paragraph 93.

12 A. What was your question again?

13 Q. Eighteen million Tweets is what you have cited.

14 A. Paragraph, did you say 93?

15 Q. Page 44, sir, paragraph 93, of your report.

16 A. 93. Let me just read it. Yes. So in that paragraph
17 I assumed 18 million people -- 18 million views.

18 Q. So, yes is the answer.

19 A. I hate to do this, but can you repeat the question so
20 I make sure I am answering the right thing.

21 Q. There were 18 million people who viewed Tweets about
22 Dr. Coomer.

23 A. Well, that's 18 million according to SMI Aware data.
24 So that is the company I mentioned earlier on that the
25 attorneys had hired an outside company to do some

1 analysis. We found different sets of data. I don't think
2 they found everything. I found different numbers from
3 their numbers.

4 But this particular paragraph refers to the
5 SMI Aware numbers, that would represent 18 million.

6 Q. Yeah, I appreciate that. So fair to say it is a lot
7 of people, millions and millions of people.

8 A. I believe so, yes.

9 Q. So let's sort of finish up here, Mr. Kent. You would
10 agree with me that a social media post can be re-posted.

11 A. Yes.

12 Q. And the repost can be reposted.

13 A. Correct. That is one of the problems Mr. Bania
14 discussed yesterday, it's next to impossible to know how
15 far everything went.

16 Q. And that is because it can go, presumably, you know,
17 several, several times more than just the original post.

18 A. Yes.

19 Q. Sort of like a ripple effect; right?

20 A. Correct.

21 Q. You would also agree with me that the very nature of
22 social media is that most readers or viewers of a post
23 read it or view it within hours, maybe a day, of the
24 original posting date.

25 A. Yes, that's true.

1 Q. Social media platforms place posts in a user's feed
2 in a chronological basis, meaning in time.

3 A. That is right. And I discussed this issue in my
4 report. I make the point that after a little while, views
5 are going to drop off dramatically after they occur, or
6 soon after.

7 Q. Sure. And so once they drop off, they are really no
8 longer displayed in somebody's feed unless somebody seeks
9 them out; right?

10 A. Well, they will be in the feed, but they will be deep
11 down.

12 Q. It won't be at the top where everybody can easily see
13 it by scrolling by.

14 A. Correct.

15 Q. You would agree that within the social media world,
16 sort of yesterday's post is yesterday's news.

17 A. I am not sure -- that is a very, very general
18 statement that I hate to sign up for without knowing what
19 it means.

20 Q. That's okay. There can be renewed interest in posts
21 if somebody continues to repost it.

22 A. Yes. If it is getting re-posted, it goes to the top
23 of somebody's feed that it is being re-posted to.

24 Q. It puts an old story back into the public's eye.

25 A. Yes.

1 Q. And so even if there was a story, hypothetically,
2 that was in November of 2020, and posted by Eric Trump in
3 January of 2021, if somebody makes new statements or new
4 posts in May, it creates new interest.

5 A. I think that was -- your flow was a bit disjointed.
6 You said if Eric Trump created this post, then somebody
7 else posts something later, what is the connection between
8 the two? What makes it -- are you saying Eric Trump's
9 Tweet will then appear more often?

10 Q. No, not at all.

11 A. Then I don't know what you are asking, sorry.

12 Q. That is because it was a terrible question, so let me
13 try again, okay.

14 If there is a story that is generated in November
15 of 2020, and then somebody posts about it in, say, January
16 of '21, that will put the story at the top of the feed
17 again; right?

18 A. The new post will be at the top of the feed. But
19 what does it have to do with the old post? I am not sure
20 what you are suggesting about the old post.

21 Q. If there is a post in February of 2021, suddenly the
22 story or that post is at the top of everybody's feed
23 again; correct?

24 A. The new post is at the top of everybody's feed, or
25 whoever is following the person, but the old post is still

1 buried below.

2 Q. Sure. And the same is true if somebody posts in,
3 say, May of '21, suddenly it is back in the top of
4 everybody's feed.

5 A. Well, okay. What you do mean by "it"?

6 Q. Any post, any statement. If somebody posts, it will
7 be at the top of a feed.

8 A. Yes, I get that. But you are somehow -- I don't want
9 to be led down the wrong path here, because you are saying
10 somebody posted something in the past, now somebody posts
11 something today, it is now back at the top. If you are
12 talking about the previous post, no. If you are talking
13 about the new post, sure. If you post it, that goes to
14 the top.

15 Q. Let me be far more specific. If somebody were to
16 create a story or post about Dr. Coomer in November of
17 2020, in November of 2020 it will be at the top of
18 everybody's feed.

19 A. Okay.

20 Q. Is that a yes?

21 A. Yes. I am with you so far.

22 Q. And if somebody creates a post and posts in January
23 of 2021, then that a story about Dr. Coomer will then be
24 at the top of everybody's feed in January of 2021.

25 A. Yes. But these are two unrelated occurrences.

1 Q. I didn't ask you if they were related or unrelated.
2 I asked if somebody makes a post in January of 2021, will
3 it be at the top of a feed in January of '21?

4 A. Well, that wasn't quite what you asked me, because
5 you started by saying, somebody posted in, when was it,
6 November. So you are linking the two in your question.

7 Q. I am not linking the two. Stick with me question by
8 question.

9 If somebody makes a post in January of 2021 about
10 Dr. Coomer, will that story about Dr. Coomer be at the top
11 of a feed in January of 2021?

12 A. It will. It will go to the top of the followers'
13 feeds.

14 Q. The same would be true in May of '21.

15 A. Well, anytime.

16 Q. Anytime. The same would be true in August of 2021.

17 A. Anytime one posts, one's followers, they don't
18 necessarily see it, but it goes to the top of the
19 followers' post feeds.

20 Q. If somebody were posting about Dr. Coomer as recently
21 as, say, last week, it would be at the top of everybody's
22 feed, even last week; right?

23 A. Well, I want to make sure -- we are using the term
24 "everybody." It will be at the top -- I have to be more
25 specific in my answer. It would be at the top of the

1 followers'. If I have 10 followers, it will go to the top
2 of their feed, if they are awake that time of day and if
3 they might see it.

4 Q. Sure. And so sticking with that analogy, and this
5 will be my last question, if Mr. Lindell has millions of
6 followers and posts about Dr. Coomer, then it would be at
7 the top of the feed of the millions of people following
8 him.

9 A. Yes, that's correct.

10 MR. BELLER: Thank you.

11 Thank you, Your Honor.

12 THE COURT: Any redirect, and briefly?

13 MR. KACHOUROFF: Yes.

14 **REDIRECT EXAMINATION**

15 **BY MR. KACHOUROFF:**

16 Q. Mr. Lindell doesn't have a Twitter account, do you
17 know that?

18 A. I did not know that.

19 MR. KACHOUROFF: Nothing further, Your Honor.

20 THE WITNESS: That was it?

21 THE COURT: Mr. Kent, you may step down.

22 THE WITNESS: Thank you.

23 THE COURT: All right. We are almost to 5 o'clock,
24 but let me just be sure, does the defense have any
25 additional witnesses to call tomorrow?

1 MR. KACHOUROFF: One moment, Your Honor.

2 MR. DUANE: May we approach?

3 THE COURT: You may.

4 (A bench conference is had.)

5 MR. DUANE: Your Honor, we are contemplating the
6 possibility of asking for permission to recall the
7 plaintiff -- I am sorry, the defendant, Mr. Lindell, for a
8 few quick questions about things that have come up during
9 the trial and since his testimony. He has expressed a
10 desire to do that, but we haven't consulted him about
11 that.

12 With your permission, we would like to have the
13 evening to meet with him, to consult with him about it,
14 make a decision, and let you know in the morning what it
15 might be. If you give us that opportunity, there is a
16 better chance I think we can limit his testimony and make
17 it shorter than it otherwise might be.

18 THE COURT: So what areas does he feel like he
19 needs to address that he did not have an opportunity to
20 address?

21 MR. DUANE: I can't be specific, I haven't
22 consulted with him about it. He communicated to us during
23 the testimony of the last couple of witnesses he would
24 like to be heard on some of the topics that have come up
25 during his testimony.

1 THE COURT: The last couple of witnesses have been
2 experts, so how is his testimony going to address what the
3 expert opinions are, based on the record before the
4 experts already?

5 MR. DUANE: Well, to be more precise, when I said,
6 "the last couple of witness" it might have been more
7 accurate to say "the last several."

8 THE COURT: With respect to the experts, how is he
9 prepared to present any evidence that would be relevant to
10 expert opinions that have already been propounded based on
11 the evidence before them?

12 MR. DUANE: I am sure he has no desire to offer
13 anything that would contradict or to argue with their
14 opinions, but I think he wants to offer testimony that
15 might relate to some of the assumptions upon which their
16 opinions were based.

17 THE COURT: All right. Mr. Beller or Ms. Morgan.

18 MR. BELLER: Your Honor, certainly we would object.
19 Mr. Lindell, of course, is not an expert. The experts had
20 to have been disclosed before. And I don't believe there
21 is a basis for any evidence in front of the jury that
22 would allow Mr. Lindell to be able to testify again.

23 Your Honor, if I may also add that he was, in fact,
24 allowed to delay his testimony to prepare, number one.
25 And, number two, he was allowed to testify in between

1 witnesses, lay witnesses, and ultimately the only
2 witnesses that have testified since he got off the stand
3 were, in fact, two experts.

4 THE COURT: Counsel, I mean, you can consult with
5 him and make the record tomorrow morning, but I just don't
6 see how he has any evidence that could be rebuttal
7 evidence with respect to the witnesses that have gone on
8 before him and after him.

9 MR. DUANE: Thank you. Your willingness to give us
10 that courtesy is very much appreciated.

11 THE COURT: All right. We will take it up at 8:30
12 tomorrow morning, but I expect that we are going to
13 closings and argument.

14 MR. DUANE: Thank you.

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, you are released for the day. Do not speak to each
17 other about this case or anyone else. Have a very good
18 evening. Do not talk to the media, do not approach the
19 media, do not do any research. We will see you back here
20 at 8:45 tomorrow morning. Have a good evening. Thank
21 you.

22 (Outside the presence of the jury.)

23 THE COURT: Thank you. Please be seated.

24 All right. With respect to the issue I spoke to
25 counsel about at side bar, to the extent that the

1 determination is that you would like to recall the witness
2 that we discussed, a proffer of the scope of the testimony
3 must be made in conjunction with that so that I can
4 appropriately evaluate whether or not it is appropriate
5 testimony.

6 All right. Anything else that we need to address
7 tonight or tomorrow morning?

8 MR. CAIN: I think we can discuss it internally.

9 THE COURT: Anything on behalf of the defendants?

10 MR. KACHOUROFF: Not at this time, Your Honor.

11 THE COURT: Thank you very much. We will see you
12 in the morning.

13 (Proceedings conclude at 5:00 p.m.)

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

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

21 Dated this 3rd day of August, 2025.

22

23

24 _____
s/Darlene M. Martinez,

25 RMR, CRR

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