

What Dominion says about Dominion

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

US DOMINION, INC., DOMINION)
VOTING SYSTEMS, INC., and)
DOMINION VOTING SYSTEMS)
CORPORATION,) C.A. No. N21C-03-257 EMD
)
Plaintiffs,) CONSOLIDATED
v.)
) REDACTED PUBLIC VERSION
FOX NEWS NETWORK, LLC,)
)
Defendant.)

US DOMINION, INC., DOMINION)
VOTING SYSTEMS, INC., and)
DOMINION VOTING SYSTEMS)
CORPORATION,) C.A. No. N21C-11-082 EMD
)
Plaintiffs,)
v.)
)
FOX CORPORATION,)
)
Defendant.)

**DEFENDANT FOX NEWS NETWORK, LLC'S BRIEF IN SUPPORT OF
ITS RULE 56 MOTION FOR SUMMARY JUDGMENT**

Systems” and “Scytl, which provides election night reporting and other online election management tools” and is “based in Spain.” *Id.*

Discovery in this case has revealed that Dominion’s own employees expressed serious concerns about the security of its machines. Mark Beckstrand, a Dominion Sales Manager, confirmed that other parties “have gotten ahold of [Dominion’s] equipment illicitly” in the past. Ex.E3, Beckstrand Dep. Tr. 127:8-127:22. Beckstrand identified specific instances in Georgia and North Carolina and testified that a Dominion machine was “hacked” in Michigan. *Id.* Beckstrand confirmed that these security failures were “reported about in the news.” *Id.* And just weeks before the 2020 presidential election, Dominion’s Director of Product Strategy and Security, Eric Coomer, acknowledged in private that “our shit is just riddled with bugs.” Ex.H2, Coomer Email (Oct. 30, 2020). Indeed, Coomer had been castigating Dominion’s failures for years. In 2019, Coomer noted that “our products suck.” Ex.H3, Coomer Message (Nov. 5, 2019). He lamented that “[a]lmost all” of Dominion’s technological failings were “due to our complete f--- up in installation.” *Id.* And in another instance, he identified a “*critical* bug leading to INCORRECT results.” Ex.H4, Coomer Email (Jan. 5, 2018). He went on to note: “It does not get much worse than that.” *Id.* And while many companies might have resolved their errors, Coomer lamented that “we don’t address our weaknesses effectively!” Ex.H5, Coomer Email (Sept. 25, 2019).

Internal Dominion documents likewise confirm that Dominion machines suffered several potential glitches in the November 2020 election. After a security expert told the media that Dominion “software should be designed to detect and prevent th[e] kind of glitch” experienced in Antrim County, Michigan during the 2020 presidential election, Coomer told Dominion Vice President Kay Stimson: “He’s not entirely wrong.” Ex.H23, Coomer Email (Nov. 10, 2020). Likewise, in the immediate aftermath of the election, Dominion received complaints from jurisdictions in Georgia noting “irregularities with machine counts” that required Dominion’s employees “to reprogram the machines.” Ex.H24, Daulby Email (Nov. 8, 2020).

B. The 2020 Presidential Election And President Trump’s Allegations

As the November 3, 2020 election approached and several states altered their voting procedures in light of the COVID-19 pandemic, talk of potential election interference reached a fever pitch, with President Trump indicating that he would challenge the results if he suspected fraud. After Fox News called Arizona on election night and the media called the presidency for Joe Biden on November 7, President Trump claimed that the election was “far from over” and announced plans to bring litigation. Ex.A2, Sunday Morning Futures Tr. 2 (Nov. 8, 2020).

A legal team led by Rudy Giuliani, a former Mayor of New York City and U.S. Attorney for the Southern District of New York, and Sidney Powell, a former