

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

		) Index No. 151136/2021
SMARTMATIC USA CORP., SMARTMATIC	)	
INTERNATIONAL HOLDING B.V., and SGO	)	I.A.S. Part 58
CORPORATION LIMITED,	)	
	)	Motion Seq. No. 001
<i>Plaintiffs,</i>	)	
	)	
-against-	)	
	)	<b>ORAL ARGUMENT REQUESTED</b>
FOX CORPORATION, FOX NEWS NETWORK,	)	
LLC, LOU DOBBS, MARIA BARTIROMO,	)	
JEANINE PIRRO, RUDOLPH GIULIANI, and	)	
SIDNEY POWELL,	)	
	)	
	)	
<i>Defendants.</i>	)	
	)	

**REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF FOX DEFENDANTS'**  
**MOTION TO DISMISS PURSUANT TO THE FIRST AMENDMENT AND CPLR**  
**§§3211(a)(1), (a)(7), and (g)**

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## INTRODUCTION

Smartmatic asks this Court to become the first in history to hold the press liable for reporting allegations made by a sitting President and his lawyers, and to break that barrier in the context of one of the most newsworthy events imaginable: a contested presidential election. This Court should decline that First-Amendment-defying request. When a sitting President claims an election was stolen and assembles a legal team to challenge it, the public has a right to know about the allegations. When the press informs the public about those allegations, the First Amendment robustly protects that coverage. Indeed, while the First Amendment protects everything from violent video games to funeral protests, shielding robust coverage of national leaders and elections lies at the Amendment's absolute core. That protection does not dissipate if the allegations strike some as desperate or ultimately fail in court. The allegations are inherently newsworthy because of who is leveling them and what they concern. Seeking to impose billions of dollars in liability for such coverage goes beyond a chilling effect: It poses a direct threat to the reporting of newsworthy allegations on which our democracy depends. Whenever allegations of wrongdoing are leveled by or against public figures and denied by others, whether they involve election fraud or sexual misconduct, only one side can be telling the truth. Reporting both the allegations and the denials is critical to the truth-seeking function, not an invitation for groundless lawsuits.

Smartmatic strains to make this lawsuit seem like a garden-variety defamation suit rather than a glaring threat to core First Amendment freedoms. But there is no escaping the reality that it seeks to impose massive liability on Fox for doing exactly what the First Amendment protects in the context where the First Amendment matters most. Smartmatic may be frustrated that it became embroiled in a heated national controversy, but one cannot supply voting technology and expect to avoid the spotlight. Controversy comes with the territory. And it was the President's allegations, not the press's coverage of them, that put Smartmatic in the spotlight. Smartmatic's

effort to hold Fox responsible for ensuring that the public understood what the nation’s highest elected official was claiming (and what numerous government agencies were investigating) is a profound threat to the “uninhibited, robust, and wide-open” debate that the First Amendment safeguards. (*N.Y. Times v. Sullivan*, 376 US 254, 270 [1964].) The suit strikes at the core of the First Amendment, not its periphery; it must be dismissed.

### LEGAL STANDARD

New York courts favor dismissal of defamation claims at the earliest possible stage given “the potential ‘chilling effect’ the threat of defamation actions can have on public debate.” (*600 W. 115th St. Corp. v. Von Gutfeld*, 80 NY2d 130, 137 [1992].) That principle is reinforced by New York’s anti-SLAPP statute, which plainly governs Smartmatic’s effort to hold Fox liable for speech “involving public petition and participation.” (Civ. Rights Law §76-a[1].) Smartmatic claims §76-a does not apply because Fox “manufacture[d]” public interest in Smartmatic’s role in the election, (NYSCEF.Doc.No.378.at.16, 117), but Smartmatic entered the election arena, and the President and his attorneys made newsworthy allegations. *See infra* p.9. Smartmatic claims Fox’s coverage was not “lawful conduct” under §76-a[1][a][2] because Fox “published calculated falsehoods”— i.e., acted with actual malice. (NYSCEF.Doc.No.378.at.15-16, 116.) That argument is irrelevant and wrong. Section 76-a[1][a][1] renders the anti-SLAPP law applicable to “any communication in a place open to the public” concerning “an issue of public interest” (emphasis added). If merely purporting to *allege* actual malice rendered §76-a inapplicable, then the requirements to *adequately* allege and ultimately *prove* actual malice “by clear and convincing evidence” would never apply. (Civ. Rights Law §76-a[2].) Finally, Smartmatic claims §76-a was not intended to protect media organizations. (NYSCEF.Doc.No.378.at.116.) But nothing in the law turns on the defendant’s identity, and Smartmatic cannot nullify the statute’s plain language through speculation about legislative intent. (*Majewski v. Broadalbin-Perth Cent. Sch. Dist.*, 91 NY2d 577, 583 [1998];



*Sackler v. Am. Broad. Cos.*, 2021 WL 969809, at \*3 [Sup Ct, New York County, Mar. 9, 2021, No. 155513/2019].<sup>1</sup>

## ARGUMENT

### I. The Claims Against Fox Challenge Speech Protected By The First Amendment.

The First Amendment provides its highest protection to press coverage of matters of public concern. That protection emphatically encompasses reporting, interviews, and commentary on allegations by or on behalf of public officials about public controversies. The allegations and denials are equally newsworthy, no matter the ultimate resolution. Such allegations are newsworthy just by virtue of being made, and it is the true “fact” that allegations are made or denials issued that the public has a right to know and the press has a right to cover. The press does not lose its protection if the allegations are disproven; instead, the reporting is part of the truth-seeking process. That is why virtually every media outlet in the country covered the President’s election-fraud allegations without fear of being sued if they were disproved in court. Smartmatic’s efforts to erode that bedrock constitutional protection are dangerous and should be rejected.

1. Smartmatic contends that the neutral-report principles articulated in *Edwards v. National Audubon Society*, (556 F2d 113, 120 [2d Cir 1977]), and other cases “run[] afoul” of the principle that defamatory statements have no constitutional value. (NYSCEF.Doc.No.378.at.18-19.) Smartmatic fundamentally misconceives the neutral-report doctrine, which neither “privileges” defamatory statements nor “immunizes” the press from liability for disseminating them. The

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<sup>1</sup> Smartmatic contends that certain of Fox’s exhibits do not satisfy CPLR 3211[a][1]. (NYSCEF.Doc.No.378.at.14-15.) But in a defamation case, a defendant may submit exhibits to “aid the court in determining whether the complaint states a cause of action” by providing the full context of the statements, regardless of whether the exhibits resolve all factual issues as a matter of law under CPLR 3211[a][1]. (*Greenberg v. Spitzer*, 155 AD3d 27, 44-45 [2d Dept 2017].)

doctrine recognizes a category of speech that is not defamatory at all because what is newsworthy and being published is the true “fact” that the allegations are being made. To put it in familiar terms, the allegations are being reported not for the truth of the speaker’s statements, but for the very fact that a public figure is making allegations about a matter of public concern. It is the “fact” of the allegations’ very utterance that the press must be “afforded the freedom to report” without “assuming responsibility” for the underlying allegations.<sup>2</sup> (*Edwards*, 556 F2d at 120.) Properly understood, the doctrine is simply a manifestation of the principle that the “public interest in being fully informed” about public controversies, (*id.*), which almost always involve allegations and denials, can be served only if the press can “present[] newsworthy allegations made by others,” (*Croce v. N.Y. Times*, 930 F3d 787, 793 [6th Cir 2019]).

*Croce* is illustrative. *Croce* held that an article was not defamatory—even though it reported allegedly false “allegations,” “charges,” and “complaints” against the plaintiff—because a reasonable reader would understand that it was “present[ing] newsworthy allegations made by others,” not presenting them as true. (*Id.* at 793-95.) That is a textbook description of the neutral-report doctrine. The doctrine displaces the ordinary rule that a republisher of an allegedly defamatory statement is as liable as the original speaker because the reasonable viewer understands that the press is republishing the allegations leveled by a public figure because they are newsworthy regardless of their truth or falsity. (Sack on Defamation, §§2:7.1, at 2–125-126, 7:3.5[D][1], at 7–58-60; Restatement (Second) of Torts §§578, 611.cmt.b&Reporter’s.Note.cmt.b.) Indeed, false or irresponsible allegations or denials made by

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<sup>2</sup> In that respect, the neutral-report doctrine parallels the treatment of hearsay. Just as an out-of-court statement may be admissible if it is offered for something other than its truth—such as to show its effect on the hearer—so allegations by public figures may be reported if they are reported not for their truth, but to inform the public of the newsworthy fact that they were made. (Sack on Defamation, §7:3.5[D][3], at 7–61.)

public officials are “especially newsworthy” precisely because of what they say about their fitness for office. (Sack on Defamation, §7.3.5[D][2], at 7–59.)<sup>3</sup>

That principle has deep roots. The common law has long treated speech *by or about* public figures as categorically different from speech by or about private figures. (*E.g.*, *Miner v. Detroit Post and Tribune*, 49 Mich. 358 [1882]; *State v. Burnham*, 9 N.H. 34 [1837]; *Bradley v. Heath*, 12 Pick. 164 [Mass. 1831]; *Mayrant v. Richardson*, 10 S.C.L. 347 [S.C. Con. Ct. App. 1818].) And the Supreme Court has long made clear that the protection for reporting on statements of public figures and proceedings is firmly grounded in the First Amendment. (*E.g.*, *Landmark Commc’ns v. Virginia*, 435 US 829 [1978]; *Cox Broad. Corp. v. Cohn*, 420 US 469, 491-96 [1975]; *Time v. Pape*, 401 US 279, 285-90 [1971].) Both federal and state courts thus have routinely recognized that the First Amendment protects coverage of newsworthy statements by public figures.<sup>4</sup> Because that is all Smartmatic alleges, its claims fail as a matter of law.

2. Smartmatic spills considerable ink arguing that New York has rejected any neutral-report principle. (NYSCEF.Doc.No.378.at.20-22.) That is a startling claim, for state law must “conform to the First Amendment.” (*Philadelphia Newspapers v. Hepps*, 475 US 767, 775 [1986].) Unsurprisingly, it is wrong. Smartmatic confuses allegations by or about *public* figures with

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<sup>3</sup> See also, *e.g.*, James E. Boasberg, *With Malice Toward None: A New Look at Defamatory Republication and Neutral Reportage*, 13 Hastings Comms. & Ent. L.J. 455, 467 (1991) (“If the press could never report outrageous statements by public officials, the public would be precluded from forming a realistic picture of such officials.”); David A. Anderson, *Is Libel Law Worth Reforming?*, 140 U. Pa. L. Rev. 487, 504 (1991) (“If the President of the United States baselessly accused the Vice President of plotting to assassinate him, for example, most courts surely would hold that the media could safely report the President’s accusation even if they seriously doubted its truth.”); Sack on Defamation, §7:3.5[D][1], at 7–58.n.193.

<sup>4</sup> *E.g.*, *Price v. Viking Penguin*, 881 F2d 1426 [8th Cir 1989], *cert. denied*, 493 US 1036 [1990]; *Ward v. News Grp. Int’l*, 733 F Supp 83, 85 [CD Cal 1990]; *In re United Press Int’l*, 106 BR 323 [DDC 1989]; *Sunshine Sportswear & Elecs. v. WSOC Television*, 738 F Supp 1499, 1510 [D SC 1989]; *Barry v. Time*, 584 F Supp 1110, 1127 (ND Cal 1984); *Krauss v. Champaign News Gazette*, 375 NE2d 1362 [Ill App Ct 1978].

allegations by or about *private* figures. At most, New York courts have rejected only the *extension* of neutral-report principles to the latter context. In *Hogan v. Herald Co.*, the Fourth Department refused to apply the neutral-report doctrine to an article that mistakenly reported the arrest of a private figure. (84 AD2d 470, 476-79 [4th Dept 1982].) The court reasoned that applying the doctrine in the private-figure context would be inconsistent with the Supreme Court’s decision in *Gertz v. Robert Welch, Inc.*, which it read to embrace the proposition that “a publisher’s immunity is based upon the status of the plaintiff, not the subject matter of the publication.” (*Id.* at 478 (citing 418 US 323 [1974]).) The Court of Appeals summarily affirmed, (*Hogan v. Herald Co.*, 58 NY2d 630 [1982]), and later made passing reference to its summary affirmance in another private-figure case, (*Weiner v. Doubleday & Co.*, 74 NY2d 586, 594 [1989]).

Both that summary affirmance and that passing reference are decades old, and the Fourth Department’s reading of *Gertz* is questionable under more recent Supreme Court decisions clarifying that speech of public concern merits heightened First Amendment protection even when it concerns a private figure.<sup>5</sup> But all that aside, *Hogan* has no application here because it addressed (and rejected) application of the neutral-report doctrine only “for private plaintiffs.” (*Konikoff v. Prudential Ins. Co. of Am.*, 234 F3d 92, 105 n.11 [2d Cir 2000]; *see also* Sack on Defamation, §7:3.5[D][4][a], at 7–64.n.212.) Mistaken allegations about private figures might never see the light of day but for one story reporting them. But when allegations are leveled by and about public figures, the entire press covers them because the allegations *qua* allegations are newsworthy and fully protected. *Hogan* did not purport to displace that long-settled protection for coverage of statements by public officials on matters of public concern.

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<sup>5</sup> *See, e.g., Hepps*, 475 US at 775; Sack on Defamation, §7:3.5[D][4][a], at 7–64.

Far more relevant is the Court of Appeals' affirmance of a Third Department decision invoking *Edwards* to reject a defamation claim in a public-figure case. (*Orr v. Lynch*, 60 AD2d 949, 950 [3d Dept 1978] [citing *Edwards*, 556 F2d 113], *aff'd*, 45 NY2d 903 [1978]; *see also Brian v. Richardson*, 87 NY2d 46, 53 [1995] [no liability where report of third-party accusations "could not have been understood by a reasonable reader as assertions of fact that were proffered for their accuracy"].) And other New York decisions have assumed the availability of the doctrine in cases involving public figures or matters of public concern. (*See, e.g., Campo Lindo for Dogs v. N.Y. Post*, 65 AD2d 650 [3d Dept 1978].)

Indeed, of all the cases Smartmatic claims "rejected" neutral-report principles, only two involved public figures discussing matters of public concern, (NYSCEF.Doc.No.378.at.20 [citing *Dickey v. CBS*, 583 F2d 1221 [3d Cir 1978]; *Norton v. Glenn*, 580 Pa. 212 [2004]]), and one did so in dictum questioned by the same court three years later (and four decades ago). (*Medico v. Time*, 643 F2d 134, 145 [3d Cir 1981].) A lone state-court decision that admittedly broke with "several other jurisdiction[s]," (*Norton*, 580 Pa. at 218), is hardly a compelling basis to part company with the overwhelming majority of courts and the First Amendment.

3. Smartmatic next contends that the challenged statements fall outside the neutral-report doctrine. (*See* NYSCEF.Doc.No.378.at.23-34.) Smartmatic is wrong again. When the President and his lawyers level allegations about the integrity of presidential-election results, the neutral-report doctrine is squarely and obviously applicable. Indeed, this case is far closer to the heart of the neutral-report doctrine than *Edwards*, which *extended* the principles that long protected reporting on speech by public *officials* to reporting on allegations by a speaker that, while a public *figure*, was neither a public official nor speaking on behalf of one. There may be hard questions about whether certain private speakers are sufficiently prominent that their allegations and denials

are themselves newsworthy, but allegations and denials by Presidents and Governors and their legal teams are not among them. Not surprisingly, this case plainly satisfies the criteria *Edwards* discussed concerning the applicability of the neutral-report doctrine.

*First*, the President and his representatives are the paradigm “responsible, prominent” figures whose utterances the public has a right to hear and the press has a right to cover. (*Edwards*, 556 F2d at 120.) That criterion is not, as Smartmatic thinks, an invitation to engage in ad hoc determinations of the speaker’s perceived trustworthiness. It simply asks whether the allegations came from the kind of public figure whose allegations are newsworthy just by virtue of being made. (See *Barry*, 584 F Supp at 1126; *contra* NYSCEF.Doc.No.378.at.28.) The President unquestionably qualifies, whether the current officeholder is Washington or Buchanan. Indeed, Smartmatic identifies no case in the history of our nation in which the press was held liable for reporting allegations made by or on behalf of a sitting President.

*Second*, Smartmatic is easily at least a limited-purpose public figure.<sup>6</sup> (*Contra* NYSCEF.Doc.No.378.at.23-27.) By agreeing to provide voting technology for a presidential election that was steeped in controversy before it even occurred, (NYSCEF.Doc.No.192, Fox.Ex.13), Smartmatic entered the fray. It “voluntarily exposed” itself to public scrutiny and, through that “involvement in public affairs,” accepted the risk that it could be “drawn into” controversy about the election. (*Gertz*, 418 US at 344-45, 351.) Smartmatic also enjoys “significantly greater access” to the media than a private figure, (*id.* at 344)—a dynamic it took

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<sup>6</sup> Fox does not “concede” that Smartmatic is not a general-purpose public figure. (*Contra* NYSCEF.Doc.No.378.at.25.) Smartmatic’s own complaint establishes that it is. Smartmatic provides voting technology for national elections around the globe. (NYSCEF.Doc.No.1, Compl.¶¶46-60.) It has processed more than 5 billion votes in more than 25 countries on five continents and received recognition from the European Union and the Carter Center. (*Id.*¶¶41, 64.)

advantage of in publishing responses to the President’s allegations. (NYSCEF.Doc.No.1, Compl.¶¶330, 336, 348.) Smartmatic protests that it voluntarily exposed itself to controversy only in Los Angeles County. (NYSCEF.Doc.No.378.at.26-27.) But Smartmatic cannot seriously mean to suggest that allegations of fraud in a presidential election would be of no concern to the rest of the nation if they were confined to a single county. When a company agrees to provide technology for a national election, it necessarily accepts the risk of becoming embroiled in national controversy—something Smartmatic well knew from having become embroiled in national election controversies long before this one. (NYSCEF.Doc.Nos.184-188, Fox.Exs.5-9.)

*Third*, Fox did not “create” the controversy about Smartmatic. (*Contra* NYSCEF.Doc.No.378.at.27-28.) The President began tweeting about “rigged” voting almost immediately after the election, and within a week was alleging that millions of votes had been deleted from voting machines. (NYSCEF.Doc.No.131, Pls.Ex.129.at.1; NYSCEF.Doc.No.143, Pls.Ex.141.at.4.) Those allegations prompted responses by numerous federal and state officials and agencies, including the Attorney General and the CISA. (NYSCEF.Doc.No.1, Compl.¶¶83, 291, 298, 302, 303, 328[d], 365; NYSCEF.Doc.Nos.127, 132, 136, 144, Pls.Exs.125, 130, 134, 142.) The controversy was covered by virtually every media outlet. That Fox asked the President’s lawyers to explain the allegations does not take this case outside the scope of the neutral-report doctrine; if it did, the press could never let the public hear about newsworthy allegations straight from the source.

*Fourth*, Fox provided accurate and disinterested coverage of the President’s allegations. (*Contra* NYSCEF.Doc.No.378.at.29-33.) Most of that coverage took place in interviews designed to elicit information from his legal team—the best source for an accurate accounting. Smartmatic argues that the coverage was insufficiently neutral because hosts purportedly reacted too positively,

thanked interviewees too profusely, or seemed hopeful that allegations might be substantiated. That ignores *Edwards*' explanation of what it meant by "disinterested": What matters is whether the publisher "espouse[d] or concur[red] in the charges ... or ... deliberately distort[ed] these statements to launch a personal attack of his own." (*Edwards*, 556 F2d at 120.) It also ignores that a seemingly sympathetic interviewer can sometimes elicit more newsworthy information than a hostile one; both are equally protected because both contribute to eliciting newsworthy statements and the truth-seeking function.

Smartmatic claims Fox "did not present countervailing views." (NYSCEF.Doc.No.378.at.33.) In fact, Fox hosts repeatedly informed viewers that Smartmatic denied the allegations, pressed Giuliani and Powell to substantiate them, and aired skeptical coverage of them. (NYSCEF.Doc.No.206.at.6-8.) To the extent Smartmatic means Fox should have conducted real-time counter-interviews each time Giuliani or Powell was interviewed, it offers no authority for that proposition, and *Edwards* squarely refutes it: When "[w]hat is newsworthy about ... accusations is that they were made," the press is not required to "take up cudgels against [them] in order to publish them without fear of liability for defamation." (*Edwards*, 556 F2d at 120 (citing *Miami Herald Publ'g v. Tornillo*, 418 US 241 [1974]).)

4. Smartmatic takes issue with Fox's invocation of the fair-report doctrine and Civil Rights Law §74, arguing that some (but not all) of the challenged statements were made shortly before lawsuits explicitly referencing Smartmatic were filed. (NYSCEF.Doc.No.378.at.34-40.) Smartmatic reads the fair-report doctrine far too narrowly. Like the neutral-report doctrine, the fair-report doctrine is grounded in the principle that the public has a right to be informed about matters of public concern that are relevant to self-government. (Sack on Defamation, §7:3.5[B][2], at 7-30-32; Stephen L. Carter, *J'Accuse! Allegations Make News Even When They're Unproven*,



Bloomberg [Apr. 20, 2021], <https://www.bloomberg.com/opinion/articles/2021-04-20/jason-miller-lawsuit-reminds-us-of-an-important-free-speech-principle> [last accessed Apr. 26, 2021].) Those matters are not confined to judicial proceedings, but include all “official proceeding[s],” (Civ. Rights Law §74), which courts construe broadly to include briefings, intelligence reports, and investigations, whether public or private. (E.g., *Freeze Right Refrigeration & Air Conditioning Servs. v. City of New York*, 101 AD2d 175, 182 [1st Dept 1984]; *Holy Spirit Ass’n for Unification of World Christianity v. N.Y. Times*, 49 NY2d 63, 66-68 [1979]; *Fridman v. BuzzFeed*, 172 AD3d 441, 442 [1st Dept 2019]; *Medico*, 643 F2d at 145.)

The allegations Fox covered were the subject of ongoing investigations by the President’s legal team, the Attorney General, DOJ, DHS, and many state officials. (NYSCEF.Doc.No.1, Compl.¶¶104, 126, 300, 303-314, 328[d].) The President announced his plans to initiate litigation as early as November 5, and the Attorney General announced that DOJ would be investigating election-fraud claims on November 9—several days before the earliest statements Smartmatic challenges. (Fox.Exs.27-29.) The allegations ultimately made in legal complaints and affidavits matched those Fox covered, (NYSCEF.Doc.No.206.at.16.n.13), and the Attorney General later confirmed that “DHS and DOJ have looked into” “the claim that machines were programmed essentially to skew the election results.” (Fox.Ex.30.) Fox hosts regularly (and accurately) introduced Giuliani and Powell as members of the President’s legal team, ensuring that reasonable viewers would understand why they were there. Nothing more is required to fall within the fair-report doctrine.

5. With nothing else left to offer, Smartmatic falls back on the claim that Fox and its hosts “conspired” with the President’s legal team to manufacture the allegations to “defame and disparage Smartmatic.” (NYSCEF.Doc.No.378.at.64-66.) Unsurprisingly, Smartmatic pleads no

*facts* to support that fanciful theory. Its complaint simply describes Fox programs, then tacks on conclusory allegations that the Fox hosts were “conspir[ing]” with their guests, purporting to “discern” that conclusion from the facts that hosts engaged in the common courtesy of “thank[ing]” their guests and sometimes invited them back. (*Id.* at 66.) That is plainly not sufficient to plead an agreement to defame; if it were, virtually every live-interview program would constitute a “conspiracy.” In all events, the abundant skeptical coverage that Smartmatic does not deny Fox provided across its wide array of programming suffices to refute its outlandish conspiracy theory. (NYSCEF.Doc.No.206.at.6-8.)<sup>7</sup>

## II. Smartmatic Failed To Allege Actual Malice.

Even assuming Smartmatic identified any defamatory statement by any Fox defendant, Smartmatic must plead actual malice, both because it is a public figure, *supra* pp.8-9, and under §76-a[1], *supra* p.2. Smartmatic failed to do so. Its allegations largely boil down to accusations of mere “failure to investigate,” a theory squarely foreclosed by Supreme Court precedent. (NYSCEF.Doc.No.206.at.19-22.) Seeking to compensate for the weakness of its allegations, Smartmatic emphasizes their volume. But a stack of inadequate allegations is still inadequate.

Smartmatic argues that Fox “lacked support” for the statements. (NYSCEF.Doc.No.378.at.100-02.) But “lack of support” does not come close to actual malice, which requires something akin to outright fabrication or basing a story “wholly on an unverified

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<sup>7</sup> Smartmatic doubles down on its improper inclusion of Fox Corporation as a defendant. (NYSCEF.Doc.No.378.at.61.n.13.) But a parent company “cannot be held liable for a subsidiary’s torts, unless it is proven that ... piercing the corporate veil is justified.” (*Stern v. News Corp.*, 2010 WL 5158635, at \*4 [SD NY Oct. 14, 2010, No. 01-cv-7624].) Smartmatic does not deny that its complaint pleads no facts supporting veil-piercing. Smartmatic also mistakenly contends that the Fox Defendants “concede” various points, including falsity, defamatory implication, and damages. (NYSCEF.Doc.No.378.at.3, 56.) By moving to dismiss on particular grounds, the Fox Defendants “concede” none of their available defenses.

anonymous telephone call.” (*St. Amant v. Thompson*, 390 US 727, 732 [1968].) Smartmatic asserts that Fox “possessed” or “avoided” contradictory information. (NYSCEF.Doc.No.378.at.102-07.) Yet the complaint alleges no *facts* to support that conclusory assertion. For the most part, Smartmatic simply identifies information “available to” the public that it thinks the Fox hosts should have researched. (*Id.* at 103-06.) But such “failure to investigate” claims do not rise to the level of actual malice. (*See Harte-Hanks Commc’ns v. Connaughton*, 491 US 657, 688 [1989].) The only supposedly contradictory information Smartmatic actually connects to *anyone* at Fox are the November 16 and 17 emails to a coordinating producer for *Lou Dobbs Tonight*. (NYSCEF.Doc.No.378.at.103.) Fox explained why that allegation fails to demonstrate the required state of mind for those actually responsible for publishing the challenged statements, (NYSCEF.Doc.No.206.at.20-21), and Smartmatic has no response. It just cites cases involving defendants who either *actually possessed* contradictory information or *actually knew* about and deliberately avoided a specific source of potentially contradictory information. (NYSCEF.Doc.No.378.at.107.)

Smartmatic’s remaining contentions fare no better. Smartmatic claims Fox had “obvious reasons to doubt” the President’s claims and that Fox hosts violated journalism standards, (*id.* at 111-13), but those claims recycle its legally inadequate “failure to investigate” allegations. Smartmatic speculates that the hosts had motives to “endear” themselves to President Trump, (*id.* at 114), but such speculation cannot meet the high actual-malice bar, (*McDougal v. Fox News Network*, 489 F Supp 3d 174, 187 [SD NY 2020]). Indeed, Smartmatic all but admits that its own actual-malice allegations are insufficient by inviting this Court to consider allegations made by a different party in a different lawsuit. (NYSCEF.Doc.No.378.at.108.n.21.) In short, Smartmatic’s effort to make up in volume what it lacks in substance comes nowhere close to bringing home to

any of the Fox hosts (let alone to Fox itself) the actual knowledge required to prove actual malice by clear and convincing evidence.

**CONCLUSION**

This Court should grant the motion to dismiss.

Respectfully submitted,

Dated: New York, New York  
April 26, 2021

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**CERTIFICATE OF COMPLIANCE**

I hereby certify pursuant to NYCRR §202.8-b, that the foregoing Memorandum of Law was prepared on a computer using Microsoft Office 365.

*Type.* A proportionally spaced typeface was used, as follows:

Name of typeface: Times New Roman

Point size: 12

Line spacing: Double

*Word Count.* The total number of words in this brief, exclusive of the caption, table of contents, table of authorities, and signature block is 4,200.

Dated: New York, New York

April 26, 2021

/s/ Steven Mintz

Steven Mintz

# **Fox Appendix**

### Fox Did Not Make Any Defamatory Statements

Smartmatic Statement Number	Date	Platform	Statement	Response
1	11/12/2020	<i>Lou Dobbs Tonight</i>	GIULIANI: Well, first of all, the machines can be hacked. There's no question about that. Their machines can be hacked, but it's far worse than that. Dominion, Dominion is a company that's owned by another company called Smartmatic, through its intermediary company named Indra. Smartmatic is a company that was formed way back in about 2004, 2003, 2004. You're gonna be astonished when I tell you how it was formed. It was formed really by three Venezuelans, who were very close to, very close to, the dictator, Chavez, of Venezuela. And it was formed in order to fix elections. That's the, that's the company that owns Dominion. Dominion is a Canadian company, but all of its software is Smartmatic software. So the votes actually go to Barcelona, Spain. So we're using a foreign company that is owned by Venezuelans who are close to, were close to Chavez, are now close to Maduro, have a history, they were founded as a company to fix elections. They have a terrible record and they are extremely hackable. So Texas made the right decision. What the heck was Georgia doing hiring this company?	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
2	11/12/2020	<i>Lou Dobbs Tonight</i>	GIULIANI: I'll give you another connection. Smartmatic, the company that owns Dominion. Well, the guy who was running it was one of the, one of the people who was number two or three in Soros's change the world organization. Open Society, right?	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
3	11/12/2020	<i>Lou Dobbs Tonight</i>	GIULIANI: And yes, they can be hacked and yes, they can change votes.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.

Smartmatic Statement Number	Date	Platform	Statement	Response
4	11/12/2020	<i>Lou Dobbs Tonight</i>	DOBBS: And now we have to find out whether they did. And with those servers, whether they're in Canada, whether they're in Barcelona or Spain, or Germany. We know a number of companies. All of them are private. Five of them, five of the top voting companies in this country - at least if they're not in this country, they're processing our votes in this country. They, they comprise 90% of all of the election voting market in this country. It's stunning and they're private firms and very little is known about their ownership. Beyond what you're saying about Dominion, it's very difficult to get a handle on just who owns what and how they're being operated. And by the way, the states, as you well know now, they have no ability to audit meaningfully the votes that are cast because the servers are somewhere else and are considered proprietary and they won't touch them. It won't permit them being touched. So it's really, so how do you proceed now?	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation. Missing context shows that Dobbs was repeating the allegations so that he could ask Giuliani follow-up questions and provide protected opinion commentary.  <b>Opinion:</b> Non-actionable opinion. Expressions of uncertainty indicate no factual assertion.
5	11/12/2020	<i>Lou Dobbs Tonight</i>	DOBBS: And Rudy we're glad you're on the case and, and pursuing what is the truth and straightening out what is a very complicated and difficult story. And by the way, it's not only difficult, it has the feeling of a cover up in certain places, you know, putting the servers in foreign countries, private companies, we don't have transparency with those servers. This is, this is an election nightmare, as well as a battle.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation. Missing context shows that Dobbs was repeating allegations so that he could provide protected opinion commentary.  <b>Opinion:</b> Non-actionable opinion. Expressions of uncertainty indicate no factual assertion.
6	11/14/2020	Twitter, @LouDobbs	DOBBS: Read all about Dominion and Smartmatic voting companies and you'll soon understand how pervasive this Democrat electoral fraud is, and why there's no way in the world the 2020 Presidential election was either free or fair.	<b>Opinion:</b> Statements of opinion, as indicated by hyperbolic political rhetoric, loose language, and Twitter medium.



Smartmatic Statement Number	Date	Platform	Statement	Response
7	11/14/2020	<i>Justice with Judge Jeanine</i>	<p>PIRRO: Welcome back. The election results in several battleground states continue to be under intense focus as allegations of voter fraud are being investigated. . . .</p> <p>POWELL: I am working on the massive aspect of system wide election fraud. We're talking about the alteration and changes in millions of votes. All kinds of different means of manipulating the Dominion and Smartmatic software . . .</p> <p>PIRRO: I assume that you are getting to the bottom of exactly what Dominion is, who started Dominion, how it can be manipulated, if it is manipulated at all, and what evidence do you have to prove this?</p> <p>POWELL: Oh[,] yes, we are collecting evidence through a fire hose . . .</p> <p>PIRRO: If you could establish that there is corruption in the use of this software, this Dominion software as you allege and you say you have evidence, how do you put that together and prove that on election night, or immediately after, that at the time that the votes were being either tabulated or put in, that we can prove that they were flipped?</p> <p>POWELL: There are - - there is statistical evidence. There's all kinds of mathematical evidence, essentially forensic evidence, math that cannot be disputed.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation. Missing context shows Pirro informed viewers that Smartmatic had denied wrongdoing. (“Well, and now that you mentioned that, they’ve denied that they have done anything improper and they denied that this claim that there’s 6,000 votes that went from President Trump to Biden had anything to do with their software.” (NYSCEF.Doc.No.5, Pls.Ex.3.at.2-3).)</p> <p><b>Opinion:</b> Pirro's statements are non-actionable opinion.</p> <p><b>Not of or concerning Smartmatic:</b> Pirro herself does not mention Smartmatic, except to inform viewers that Smartmatic had denied wrongdoing.</p>
8	11/14/2020	<i>Justice with Judge Jeanine</i>	<p>POWELL: We're talking about the alteration and changes in millions of votes, some being dumped that were for President Trump, some being flipped that were for President Trump. Computers being overwritten to ignore signatures. All kinds of different means of manipulating the Dominion and Smartmatic software, that of course, we would not expect Dominion or Smartmatic to admit.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
9	11/14/2020	<i>Justice with Judge Jeanine</i>	<p>POWELL: Lord Malloch-Brown's name has been taken off the website for the company that he runs through the UK in Canada that has a role in this. It's either Symantec or Smartmatic or the two, there one is a subsidiary of the other. It's all inextricably intertwined. The money creating it came out of Venezuela and Cuba. It was created for the express purpose of being able to alter votes and secure the re-election of Hugo Chavez. And then Maduro. They've used it in Argentina. There was an American citizen who has exported it to other countries. And it is one huge, huge criminal conspiracy that should be investigated by military intelligence for its national security implications.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
10	11/14/2020	Fox News Website	<p>PIRRO: Welcome back. The election results in several battleground states continue to be under intense focus as allegations of voter fraud are being investigated. . . .</p> <p>POWELL: I am working on the massive aspect of system wide election fraud. We're talking about the alteration and changes in millions of votes. All kinds of different means of manipulating the Dominion and Smartmatic software . . .</p> <p>PIRRO: I assume that you are getting to the bottom of exactly what Dominion is, who started Dominion, how it can be manipulated, if it is manipulated at all, and what evidence do you have to prove this?</p> <p>POWELL: Oh[,] yes, we are collecting evidence through a fire hose . . .</p> <p>PIRRO: If you could establish that there is corruption in the use of this software, this Dominion software as you allege and you say you have evidence, how do you put that together and prove that on election night, or immediately after, that at the time that the votes were being either tabulated or put in, that we can prove that they were flipped?</p> <p>POWELL: There are - - there is statistical evidence. There's all kinds of mathematical evidence, essentially forensic evidence, math that cannot be disputed.</p>	<p>Identical to statement 7; see response to that statement.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
11	11/14/2020	Fox News Website	POWELL: We're talking about the alteration and changes in millions of votes, some being dumped that were for President Trump, some being flipped that were for President Trump. Computers being overwritten to ignore signatures. All kinds of different means of manipulating the Dominion and Smartmatic software, that of course, we would not expect Dominion or Smartmatic to admit.	Identical to statement 8; see response to that statement.
12	11/14/2020	Fox News Website	POWELL: Lord Malloch-Brown's name has been taken off the website for the company that he runs through the UK in Canada that has a role in this. It's either Symantec or Smartmatic or the two, there one is a subsidiary of the other. It's all inextricably intertwined. The money creating it came out of Venezuela and Cuba. It was created for the express purpose of being able to alter votes and secure the re-election of Hugo Chavez. And then Maduro. They've used it in Argentina. There was an American citizen who has exported it to other countries. And it is one huge, huge criminal conspiracy that should be investigated by military intelligence for its national security implications.	Identical to statement 9; see response to that statement.
13	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Breaking news this morning on the software that President Trump says was weaponized against him. Coming up: President Trump's legal team with new evidence this morning of backdoors on voting machines, ballot tampering and election interference. Rudy Giuliani with new affidavits and lawsuits charging fraud. Why the swings states delayed or stopped counting ballots on election night. Plus, Sidney Powell on the Venezuela connection and whether kickbacks were involved for those taking on Dominion voting machines as a hand recount of nearly 5 million ballots is underway in Georgia.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.  <b>Not of or concerning Smartmatic:</b> No mention of Smartmatic.
14	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Coming up: President Trump's legal team with new evidence this morning of backdoors on voting machines, ballot tampering and election interference . . . Plus, Sidney Powell on the Venezuela connection[.]	Identical to statement 13; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
15	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	GIULIANI: A company that's not American, a company that foreign, a company that has close, close ties with Venezuela and therefore China. And uses Venezuelan's -- a company's software that's been used to steal elections in other countries.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
16	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	GIULIANI: This Dominion company is a radical left company. One of the people there is a big supporter of ANTIFA and has written horrible things about the President for the last three or four years. And the software that they use is done by a company called Smartmatic. It's a company that was founded by Chavez. And by Chavez's two -- two allies, who still own -- own it. It's been used to cheat in elections in South America. It was, it was banned by the United States several, about a decade ago. It's come back now as a subcontractor to other companies who sorta hides in the weeds. But Dominion sends everything to Smartmatic. Can you believe it? Our votes are sent overseas. Sent to someplace else, some other country. Why do they leave our country? . . . And this company had, and this company has tried and true methods for fixing elections by calling a halt to the voting when you're running too far behind. They've done that in prior elections.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
17	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	GIULIANI: If you get that Smartmatic machine out and you [] allow us, I mean, this is unprecedented. They are counting mail-in ballots. And they don't allow any Republican to inspect; that is illegal, unlawful, against the law.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.

Smartmatic Statement Number	Date	Platform	Statement	Response
18	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Will you be able to prove this Rudy? Look, I want to show this graphic of the swing states that were using Dominion and this, this software, this Smartmatic software. I mean, you just said it all. This is a Smartmatic, a Delaware entity registered in Boca Raton, Florida, activities in Caracas, Venezuela. The voting machines were used, Dominion voting machines were used in Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin. And I have a graphic showing the states where they stopped counting, which I thought was also strange to stop counting in the middle of election night. One source says that the key point to understand is that the Smartmatic system has a back door that allows it to be [] or that allows the votes to be mirrored and monitored, allowing an intervening party a real-time understanding of how many votes will be needed to gain an electoral advantage.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.  <b>Not of or concerning Smartmatic (Dominion graphic):</b> To the extent Bartiromo linked Smartmatic and Dominion in her voice-over of the Dominion graphic, she simply misspoke, later clarifying that the graphic referred only to Dominion voting machines.
19	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	GIULIANI: I can prove that they did it in Michigan. I can prove it with witnesses. We're investigating the rest. And every one of those states, though, we have more than enough illegal ballots already documented to overturn the result in that state. Because not only did they use a Venezuelan company to count our ballots, which almost should be illegal per se.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
20	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	GIULIANI: Now, they didn't do it everywhere. They did it in big cities where they have corrupt machines that will protect them. Meaning, in Pennsylvania, Philadelphia, in Pittsburgh, in Detroit. They didn't have to do it in Chicago, in New York or Boston. They could have, they have corrupt machines there. They, they did it absolutely in Phoenix, Arizona. They did it absolutely in Milwaukee, Wisconsin. Republicans were shut out from enough of the count so they could accomplish what Smartmatic wanted to do [] there, we have evidence that that's the same pattern Smartmatic used in other elections in which they were disqualified. In other words, this is their pattern of activity and yes, there is a backdoor [] and we actually have proof of some of the connections to it.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.

Smartmatic Statement Number	Date	Platform	Statement	Response
21	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	GIULIANI: We have people that I can't really disclose that can describe the hardware in great detail. We have some of the people, former government employees; our government employees and others that were there at the creation of Smartmatic. They can describe it [] they can draw it, they can show it. And then we have proof that I can't disclose yet, but I'm [] I'm confident that I'm confident that [] And this has to be examined, Maria, beyond this election, which I believe will get overturned. But beyond this election, this whole thing has to be investigated as a national security matter. And the governors who gave contracts to this company never bothered to do any due diligence. I mean, I can't imagine you would give a contract to a company if you went one step further and found out it's really being run by people that are close to Maduro and Chavez. I can't imagine you would do that unless you were out of your mind.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
22	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Welcome back. According to public records, Dominion voting machines are used in 2,000 jurisdictions in 30 states. According to experts, if one site has a flaw, other sites are likely to as well, which is why Texas rejected using Dominion software three times, raising concerns that the system was not safe from fraudulent or unauthorized manipulation. That's troubling given we already know that at least two software glitches, in Georgia and Michigan, occurred on election night.	<b>Not of or concerning Smartmatic:</b> No mention of Smartmatic. <b>Pleading failure:</b> Smartmatic did not allege that this statement was defamatory in the complaint.
23	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Sidney, thanks very much for being here. We appreciate your time this morning. I want to get right into it. We just heard about the software made by Smartmatic from Rudy. And I want to get your take on what you -- what you and I spoke about just a few minutes ago and that is a gentleman named Peter Neffenger. Tell me how he fits into all of this.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.

Smartmatic Statement Number	Date	Platform	Statement	Response
24	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	<p>POWELL: Yes. Well he is listed as it's former Admiral Peter Neffenger or retired Admiral Peter Neffenger. He is President and on the board of directors of Smartmatic, and it just so happens, he's on Mr. Biden's presidential transition team that's gonna be non-existent because we're fixing to overturn the results of the election in multiple states. And President Trump won by not just hundreds of thousands of votes, but by millions of votes that were shifted by this software that was designed expressly for that purpose. We have sworn witness testimony of why the software was designed. It was designed to rig elections. He was fully briefed on it. He saw it happen in other countries. It was exported internationally for profit by the people that are behind Smartmatic and Dominion. They did this on purpose, it was calculated, they've done it before. We have evidence from 2016 in California. We have so much evidence, I feel like it's coming in through a fire hose.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
25	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	<p>POWELL: Well, let me put it this way. First of all, I never say anything I can't prove. Secondly, the evidence is coming in so fast, I can't even process it all. Millions of Americans have written, I would say by now, definitely hundreds of thousands have stepped forward with their different experiences of voter fraud. But this is a massive election fraud. And I'm very concerned it involved not only Dominion and its Smartmatic software, but that the software essentially was used by other election machines also. It's the software that was the problem. Even their own manual explains how votes can be wiped away. They can put, it's like drag and drop Trump votes to a separate folder and then delete that folder. It's absolutely brazen how people bought the system and why they bought this system. In fact, every state that bought Dominion, for sure, should have a criminal investigation or at least a serious investigation of the federal -- of the officers in the States who bought the software. We've even got evidence of some kickbacks, essentially.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
26	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Kickbacks. I want to take a short break and come back on that. And I want to ask you about the kickbacks and who took kickbacks in which states . . . Welcome back. We are back with attorney Sidney Powell who's part of President Trump's legal team. Sidney, before we went to the break, we talked about, you said that there may have been kickbacks to some people who accepted the Dominion software. Tell me what you mean.	<b>Not of or concerning Smartmatic:</b> No mention of Smartmatic.  <b>Protected by the First Amendment and Section 74:</b> Statement did not embrace, but accurately summarized (and pushed back on), Powell's allegations of kickbacks.
27	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: What is the CIA's role? Why do you think Gina Haspel should be fired immediately? You're saying that the CIA is behind the Dominion or Smartmatic voting software as well? POWELL: Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company's product. Their own manual, if you sat down and read it, would explain how and why no honest person would use this system. And it's not just Dominion. There are other companies in the voting machine business in this country too that may very well and are likely using the same software. We've detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems. But the people who bought the Dominion system for sure knew exactly what they were getting. It should never have been installed anywhere, and we are going to show the public exactly how rotten the entire state is.	<b>Protected by the First Amendment and Section 74:</b> Statement consists of follow-up questions probing Powell on the nature of the allegations she made seconds earlier.
28	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Now, I have spoken with a few whistleblowers myself this weekend. And one source who is an IT specialist, told me that he knows the software and specifically advised people in Texas, officials in Texas, not to use it. And yet, he was overruled. He said that there was a unusual patch that was put into the software while it was live, and it's highly unusual to put a patch in there.	<b>Protected by the First Amendment and Section 74:</b> Missing context shows that statement consists of probing Powell on her allegations and pressing her on whether she could prove them.  <b>Not of or concerning Smartmatic:</b> No mention of Smartmatic.



Smartmatic Statement Number	Date	Platform	Statement	Response
29	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	POWELL: Okay. That's part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela, even. They can remote access anything. They can watch votes in real time. They can shift votes in real time. We've identified mathematically the exact algorithm they used and plan to use from the beginning to modify the votes in this case to make sure Biden won. That's why he said he didn't need your votes now, he would need you later. He was right. I mean, in his demented state, he had no filter and he was speaking the truth more than once, including when he said he had the largest voter fraud organization ever. Well, it's massive election fraud. It's going to undo the entire election. And they can do anything they want with the votes. They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. It's like drag and drop whatever you want, wherever you want, upload votes. [] In fact, we've gotten math in Michigan and Pennsylvania I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump [] were uploaded multiple times into the system.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
30	11/15/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Yeah, I mean, you heard what Rudy Giuliani said earlier in the program, he and Sidney Powell are investigating the Smartmatic software and the Dominion voting machines because they do believe, and they say they have evidence, that there were back doors and the votes were manipulated to turn Trump votes into Biden votes.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
31	11/15/2020	Fox News Website	GIULIANI: A company that's not American, a company that foreign, a company that has close, close ties with Venezuela and therefore China. And uses Venezuelan's -- a company's software that's been used to steal elections in other countries.	Identical to statement 15; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
32	11/15/2020	Fox News Website	GIULIANI: This Dominion company is a radical left company. One of the people there is a big supporter of ANTIFA and has written horrible things about the President for the last three or four years. And the software that they use is done by a company called Smartmatic. It's a company that was founded by Chavez. And by Chavez's two -- two allies, who still own -- own it. It's been used to cheat in elections in South America. It was, it was banned by the United States several, about a decade ago. It's come back now as a subcontractor to other companies who sorta hides in the weeds. But Dominion sends everything to Smartmatic. Can you believe it? Our votes are sent overseas. Sent to someplace else, some other country. Why do they leave our country? . . . And this company had, and this company has tried and true methods for fixing elections by calling a halt to the voting when you're running too far behind. They've done that in prior elections.	Identical to statement 16; see response to that statement.
33	11/15/2020	Fox News Website	GIULIANI: If you get that Smartmatic machine out and you [] allow us, I mean, this is unprecedented. They are counting mail-in ballots. And they don't allow any Republican to inspect; that is illegal, unlawful, against the law.	Identical to statement 17; see response to that statement.
34	11/15/2020	Fox News Website	BARTIROMO: Will you be able to prove this Rudy? Look, I want to show this graphic of the swing states that were using Dominion and this, this software, this Smartmatic software. I mean, you just said it all. This is a Smartmatic, a Delaware entity registered in Boca Raton, Florida, activities in Caracas, Venezuela. The voting machines were used, Dominion voting machines were used in Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin. And I have a graphic showing the states where they stopped counting, which I thought was also strange to stop counting in the middle of election night. One source says that the key point to understand is that the Smartmatic system has a back door that allows it to be [] or that allows the votes to be mirrored and monitored, allowing an intervening party a real-time understanding of how many votes will be needed to gain an electoral advantage.	Identical to statement 18; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
35	11/15/2020	Fox News Website	GIULIANI: I can prove that they did it in Michigan. I can prove it with witnesses. We're investigating the rest. And every one of those states, though, we have more than enough illegal ballots already documented to overturn the result in that state. Because not only did they use a Venezuelan company to count our ballots, which almost should be illegal per se.	Identical to statement 19; see response to that statement.
36	11/15/2020	Fox News Website	GIULIANI: Now, they didn't do it everywhere. They did it in big cities where they have corrupt machines that will protect them. Meaning, in Pennsylvania, Philadelphia, in Pittsburgh, in Detroit. They didn't have to do it in Chicago, in New York or Boston. They could have, they have corrupt machines there. They, they did it absolutely in Phoenix, Arizona. They did it absolutely in Milwaukee, Wisconsin. Republicans were shut out from enough of the count so they could accomplish what Smartmatic wanted to do [] there, we have evidence that that's the same pattern Smartmatic used in other elections in which they were disqualified. In other words, this is their pattern of activity and yes, there is a backdoor [] and we actually have proof of some of the connections to it.	Identical to statement 20; see response to that statement.
37	11/15/2020	Fox News Website	GIULIANI: We have people that I can't really disclose that can describe the hardware in great detail. We have some of the people, former government employees; our government employees and others that were there at the creation of Smartmatic. They can describe it [] they can draw it, they can show it. And then we have proof that I can't disclose yet, but I'm [] I'm confident that I'm confident that [] And this has to be examined, Maria, beyond this election, which I believe will get overturned. But beyond this election, this whole thing has to be investigated as a national security matter. And the governors who gave contracts to this company never bothered to do any due diligence. I mean, I can't imagine you would give a contract to a company if you went one step further and found out it's really being run by people that are close to Maduro and Chavez. I can't imagine you would do that unless you were out of your mind.	Identical to statement 21; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
38	11/15/2020	Twitter, @MariaBartiromo	GIULIANI: A company that's not American, a company that foreign, a company that has close, close ties with Venezuela and therefore China. And uses Venezuelan's -- a company's software that's been used to steal elections in other countries.	Identical to statement 15; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
39	11/15/2020	Twitter, @MariaBartiromo	GIULIANI: This Dominion company is a radical left company. One of the people there is a big supporter of ANTIFA and has written horrible things about the President for the last three or four years. And the software that they use is done by a company called Smartmatic. It's a company that was founded by Chavez. And by Chavez's two -- two allies, who still own -- own it. It's been used to cheat in elections in South America. It was, it was banned by the United States several, about a decade ago. It's come back now as a subcontractor to other companies who sorta hides in the weeds. But Dominion sends everything to Smartmatic. Can you believe it? Our votes are sent overseas. Sent to someplace else, some other country. Why do they leave our country? . . . And this company had, and this company has tried and true methods for fixing elections by calling a halt to the voting when you're running too far behind. They've done that in prior elections.	Identical to statement 16; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
40	11/15/2020	Twitter, @MariaBartiromo	GIULIANI: If you get that Smartmatic machine out and you [] allow us, I mean, this is unprecedented. They are counting mail-in ballots. And they don't allow any Republican to inspect; that is illegal, unlawful, against the law.	Identical to statement 17; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

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41	11/15/2020	Twitter, @MariaBartiromo	BARTIROMO: Will you be able to prove this Rudy? Look, I want to show this graphic of the swing states that were using Dominion and this, this software, this Smartmatic software. I mean, you just said it all. This is a Smartmatic, a Delaware entity registered in Boca Raton, Florida, activities in Caracas, Venezuela. The voting machines were used, Dominion voting machines were used in Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin. And I have a graphic showing the states where they stopped counting, which I thought was also strange to stop counting in the middle of election night. One source says that the key point to understand is that the Smartmatic system has a back door that allows it to be [] or that allows the votes to be mirrored and monitored, allowing an intervening party a real-time understanding of how many votes will be needed to gain an electoral advantage.	Identical to statement 18; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
42	11/15/2020	Twitter, @MariaBartiromo	GIULIANI: I can prove that they did it in Michigan. I can prove it with witnesses. We're investigating the rest. And every one of those states, though, we have more than enough illegal ballots already documented to overturn the result in that state. Because not only did they use a Venezuelan company to count our ballots, which almost should be illegal per se.	Identical to statement 19; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
43	11/15/2020	Twitter, @MariaBartiromo	GIULIANI: Now, they didn't do it everywhere. They did it in big cities where they have corrupt machines that will protect them. Meaning, in Pennsylvania, Philadelphia, in Pittsburgh, in Detroit. They didn't have to do it in Chicago, in New York or Boston. They could have, they have corrupt machines there. They, they did it absolutely in Phoenix, Arizona. They did it absolutely in Milwaukee, Wisconsin. Republicans were shut out from enough of the count so they could accomplish what Smartmatic wanted to do [] there, we have evidence that that's the same pattern Smartmatic used in other elections in which they were disqualified. In other words, this is their pattern of activity and yes, there is a backdoor [] and we actually have proof of some of the connections to it.	Identical to statement 20; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

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44	11/15/2020	Twitter, @MariaBartiromo	GIULIANI: We have people that I can't really disclose that can describe the hardware in great detail. We have some of the people, former government employees; our government employees and others that were there at the creation of Smartmatic. They can describe it [] they can draw it, they can show it. And then we have proof that I can't disclose yet, but I'm [] I'm confident that I'm confident that [] And this has to be examined, Maria, beyond this election, which I believe will get overturned. But beyond this election, this whole thing has to be investigated as a national security matter. And the governors who gave contracts to this company never bothered to do any due diligence. I mean, I can't imagine you would give a contract to a company if you went one step further and found out it's really being run by people that are close to Maduro and Chavez. I can't imagine you would do that unless you were out of your mind.	Identical to statement 21; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
45	11/15/2020	Twitter, @MariaBartiromo	BARTIROMO: Yeah, I mean, you heard what Rudy Giuliani said earlier in the program, he and Sidney Powell are investigating the Smartmatic software and the Dominion voting machines because they do believe, and they say they have evidence, that there were back doors and the votes were manipulated to turn Trump votes into Biden votes.	Identical to statement 30; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
46	11/15/2020	Twitter, @MariaBartiromo	BARTIROMO: Welcome back. According to public records, Dominion voting machines are used in 2,000 jurisdictions in 30 states. According to experts, if one site has a flaw, other sites are likely to as well, which is why Texas rejected using Dominion software three times, raising concerns that the system was not safe from fraudulent or unauthorized manipulation. That's troubling given we already know that at least two software glitches, in Georgia and Michigan, occurred on election night.	Identical to statement 22; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
47	11/15/2020	Twitter, @MariaBartiromo	BARTIROMO: Sidney, thanks very much for being here. We appreciate your time this morning. I want to get right into it. We just heard about the software made by Smartmatic from Rudy. And I want to get your take on what you -- what you and I spoke about just a few minutes ago and that is a gentleman named Peter Neffenger. Tell me how he fits into all of this.	Identical to statement 23; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
48	11/15/2020	Twitter, @MariaBartiromo	POWELL: Yes. Well he is listed as it's former Admiral Peter Neffenger or retired Admiral Peter Neffenger. He is President and on the board of directors of Smartmatic, and it just so happens, he's on Mr. Biden's presidential transition team that's gonna be non-existent because we're fixing to overturn the results of the election in multiple states. And President Trump won by not just hundreds of thousands of votes, but by millions of votes that were shifted by this software that was designed expressly for that purpose. We have sworn witness testimony of why the software was designed. It was designed to rig elections. He was fully briefed on it. He saw it happen in other countries. It was exported internationally for profit by the people that are behind Smartmatic and Dominion. They did this on purpose, it was calculated, they've done it before. We have evidence from 2016 in California. We have so much evidence, I feel like it's coming in through a fire hose.	Identical to statement 24; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
49	11/15/2020	Twitter, @MariaBartiromo	<p>POWELL: Well, let me put it this way. First of all, I never say anything I can't prove. Secondly, the evidence is coming in so fast, I can't even process it all. Millions of Americans have written, I would say by now, definitely hundreds of thousands have stepped forward with their different experiences of voter fraud. But this is a massive election fraud. And I'm very concerned it involved not only Dominion and its Smartmatic software, but that the software essentially was used by other election machines also. It's the software that was the problem. Even their own manual explains how votes can be wiped away. They can put, it's like drag and drop Trump votes to a separate folder and then delete that folder. It's absolutely brazen how people bought the system and why they bought this system. In fact, every state that bought Dominion, for sure, should have a criminal investigation or at least a serious investigation of the federal -- of the officers in the States who bought the software. We've even got evidence of some kickbacks, essentially.</p>	<p>Identical to statement 25; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
50	11/15/2020	Twitter, @MariaBartiromo	<p>BARTIROMO: Kickbacks. I want to take a short break and come back on that. And I want to ask you about the kickbacks and who took kickbacks in which states . . . Welcome back. We are back with attorney Sidney Powell who's part of President Trump's legal team. Sidney, before we went to the break, we talked about, you said that there may have been kickbacks to some people who accepted the Dominion software. Tell me what you mean.</p>	<p>Identical to statement 26; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>



Smartmatic Statement Number	Date	Platform	Statement	Response
51	11/15/2020	Twitter, @MariaBartiromo	<p>BARTIROMO: What is the CIA's role? Why do you think Gina Haspel should be fired immediately? You're saying that the CIA is behind the Dominion or Smartmatic voting software as well? POWELL: Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company's product. Their own manual, if you sat down and read it, would explain how and why no honest person would use this system. And it's not just Dominion. There are other companies in the voting machine business in this country too that may very well and are likely using the same software. We've detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems. But the people who bought the Dominion system for sure knew exactly what they were getting. It should never have been installed anywhere, and we are going to show the public exactly how rotten the entire state is.</p>	<p>Identical to statement 27; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
52	11/15/2020	Twitter, @MariaBartiromo	<p>BARTIROMO: Now, I have spoken with a few whistleblowers myself this weekend. And one source who is an IT specialist, told me that he knows the software and specifically advised people in Texas, officials in Texas, not to use it. And yet, he was overruled. He said that there was a an unusual patch that was put into the software while it was live, and it's highly unusual to put a patch in there.</p>	<p>Identical to statement 28; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
53	11/15/2020	Twitter, @MariaBartiromo	<p>POWELL: Okay. That's part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela, even. They can remote access anything. They can watch votes in real time. They can shift votes in real time. We've identified mathematically the exact algorithm they used and plan to use from the beginning to modify the votes in this case to make sure Biden won. That's why he said he didn't need your votes now, he would need you later. He was right. I mean, in his demented state, he had no filter and he was speaking the truth more than once, including when he said he had the largest voter fraud organization ever. Well, it's massive election fraud. It's going to undo the entire election. And they can do anything they want with the votes. They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. It's like drag and drop whatever you want, wherever you want, upload votes. [] In fact, we've gotten math in Michigan and Pennsylvania I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump [] were uploaded multiple times into the system.</p>	<p>Identical to statement 29; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
54	11/15/2020	Twitter, @MariaBartiromo	<p>BARTIROMO: Peter Neffenger. Tell me how he fits into all of this.</p> <p>POWELL: Yes. Well he is listed as it's former Admiral Peter Neffenger or retired Admiral Peter Neffenger. He is President and on the board of directors of Smartmatic, and it just so happens, he's on Mr. Biden's presidential transition team that's gonna be non-existent because we're fixing to overturn the results of the election in multiple states. And President Trump won by not just hundreds of thousands of votes, but by millions of votes that were shifted by this software that was designed expressly for that purpose. We have sworn witness testimony of why the software was designed. It was designed to rig elections. He was fully briefed on it. He saw it happen in other countries. It was exported internationally for profit by the people that are behind Smartmatic and Dominion. They did this on purpose, it was calculated, they've done it before. We have evidence from 2016 in California. We have so much evidence, I feel like it's coming in through a fire hose.</p>	<p>The only portion of this statement that is attributed to Bartiromo is identical to statement 23; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
55	11/15/2020	Fox News Website	<p>BARTIROMO: Breaking news this morning on the software that President Trump says was weaponized against him. Coming up: President Trump's legal team with new evidence this morning of backdoors on voting machines, ballot tampering and election interference. Rudy Giuliani with new affidavits and lawsuits charging fraud. Why the swings states delayed or stopped counting ballots on election night. Plus, Sidney Powell on the Venezuela connection and whether kickbacks were involved for those taking on Dominion voting machines as a hand recount of nearly 5 million ballots is underway in Georgia.</p>	<p>Identical to statement 13; see response to that statement.</p>
56	11/15/2020	Fox News Website	<p>BARTIROMO: Coming up: President Trump's legal team with new evidence this morning of backdoors on voting machines, ballot tampering and election interference . . . Plus, Sidney Powell on the Venezuela connection[.]</p>	<p>Identical to statement 13; see response to that statement.</p>

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57	11/15/2020	Fox News Website	GIULIANI: A company that's not American, a company that foreign, a company that has close, close ties with Venezuela and therefore China. And uses Venezuelan's -- a company's software that's been used to steal elections in other countries.	Identical to statement 15; see response to that statement.
58	11/15/2020	Fox News Website	GIULIANI: This Dominion company is a radical left company. One of the people there is a big supporter of ANTIFA and has written horrible things about the President for the last three or four years. And the software that they use is done by a company called Smartmatic. It's a company that was founded by Chavez. And by Chavez's two -- two allies, who still own -- own it. It's been used to cheat in elections in South America. It was, it was banned by the United States several, about a decade ago. It's come back now as a subcontractor to other companies who sorta hides in the weeds. But Dominion sends everything to Smartmatic. Can you believe it? Our votes are sent overseas. Sent to someplace else, some other country. Why do they leave our country? . . . And this company had, and this company has tried and true methods for fixing elections by calling a halt to the voting when you're running too far behind. They've done that in prior elections.	Identical to statement 16; see response to that statement.
59	11/15/2020	Fox News Website	GIULIANI: If you get that Smartmatic machine out and you [] allow us, I mean, this is unprecedented. They are counting mail-in ballots. And they don't allow any Republican to inspect; that is illegal, unlawful, against the law.	Identical to statement 17; see response to that statement.

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60	11/15/2020	Fox News Website	BARTIROMO: Will you be able to prove this Rudy? Look, I want to show this graphic of the swing states that were using Dominion and this, this software, this Smartmatic software. I mean, you just said it all. This is a Smartmatic, a Delaware entity registered in Boca Raton, Florida, activities in Caracas, Venezuela. The voting machines were used, Dominion voting machines were used in Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin. And I have a graphic showing the states where they stopped counting, which I thought was also strange to stop counting in the middle of election night. One source says that the key point to understand is that the Smartmatic system has a back door that allows it to be [] or that allows the votes to be mirrored and monitored, allowing an intervening party a real-time understanding of how many votes will be needed to gain an electoral advantage.	Identical to statement 18; see response to that statement.
61	11/15/2020	Fox News Website	GIULIANI: I can prove that they did it in Michigan. I can prove it with witnesses. We're investigating the rest. And every one of those states, though, we have more than enough illegal ballots already documented to overturn the result in that state. Because not only did they use a Venezuelan company to count our ballots, which almost should be illegal per se.	Identical to statement 19; see response to that statement.
62	11/15/2020	Fox News Website	GIULIANI: Now, they didn't do it everywhere. They did it in big cities where they have corrupt machines that will protect them. Meaning, in Pennsylvania, Philadelphia, in Pittsburgh, in Detroit. They didn't have to do it in Chicago, in New York or Boston. They could have, they have corrupt machines there. They, they did it absolutely in Phoenix, Arizona. They did it absolutely in Milwaukee, Wisconsin. Republicans were shut out from enough of the count so they could accomplish what Smartmatic wanted to do [] there, we have evidence that that's the same pattern Smartmatic used in other elections in which they were disqualified. In other words, this is their pattern of activity and yes, there is a backdoor [] and we actually have proof of some of the connections to it.	Identical to statement 20; see response to that statement.

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63	11/15/2020	Fox News Website	GIULIANI: We have people that I can't really disclose that can describe the hardware in great detail. We have some of the people, former government employees; our government employees and others that were there at the creation of Smartmatic. They can describe it [] they can draw it, they can show it. And then we have proof that I can't disclose yet, but I'm [] I'm confident that I'm confident that [] And this has to be examined, Maria, beyond this election, which I believe will get overturned. But beyond this election, this whole thing has to be investigated as a national security matter. And the governors who gave contracts to this company never bothered to do any due diligence. I mean, I can't imagine you would give a contract to a company if you went one step further and found out it's really being run by people that are close to Maduro and Chavez. I can't imagine you would do that unless you were out of your mind.	Identical to statement 21; see response to that statement.
64	11/15/2020	Fox News Website	BARTIROMO: Welcome back. According to public records, Dominion voting machines are used in 2,000 jurisdictions in 30 states. According to experts, if one site has a flaw, other sites are likely to as well, which is why Texas rejected using Dominion software three times, raising concerns that the system was not safe from fraudulent or unauthorized manipulation. That's troubling given we already know that at least two software glitches, in Georgia and Michigan, occurred on election night.	Identical to statement 22; see response to that statement.
65	11/15/2020	Fox News Website	BARTIROMO: Sidney, thanks very much for being here. We appreciate your time this morning. I want to get right into it. We just heard about the software made by Smartmatic from Rudy. And I want to get your take on what you -- what you and I spoke about just a few minutes ago and that is a gentleman named Peter Neffenger. Tell me how he fits into all of this.	Identical to statement 23; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
66	11/15/2020	Fox News Website	<p>POWELL: Yes. Well he is listed as it's former Admiral Peter Neffenger or retired Admiral Peter Neffenger. He is President and on the board of directors of Smartmatic, and it just so happens, he's on Mr. Biden's presidential transition team that's gonna be non-existent because we're fixing to overturn the results of the election in multiple states. And President Trump won by not just hundreds of thousands of votes, but by millions of votes that were shifted by this software that was designed expressly for that purpose. We have sworn witness testimony of why the software was designed. It was designed to rig elections. He was fully briefed on it. He saw it happen in other countries. It was exported internationally for profit by the people that are behind Smartmatic and Dominion. They did this on purpose, it was calculated, they've done it before. We have evidence from 2016 in California. We have so much evidence, I feel like it's coming in through a fire hose.</p>	<p>Identical to statement 24; see response to that statement.</p>
67	11/15/2020	Fox News Website	<p>POWELL: Well, let me put it this way. First of all, I never say anything I can't prove. Secondly, the evidence is coming in so fast, I can't even process it all. Millions of Americans have written, I would say by now, definitely hundreds of thousands have stepped forward with their different experiences of voter fraud. But this is a massive election fraud. And I'm very concerned it involved not only Dominion and its Smartmatic software, but that the software essentially was used by other election machines also. It's the software that was the problem. Even their own manual explains how votes can be wiped away. They can put, it's like drag and drop Trump votes to a separate folder and then delete that folder. It's absolutely brazen how people bought the system and why they bought this system. In fact, every state that bought Dominion, for sure, should have a criminal investigation or at least a serious investigation of the federal -- of the officers in the States who bought the software. We've even got evidence of some kickbacks, essentially.</p>	<p>Identical to statement 25; see response to that statement.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
68	11/15/2020	Fox News Website	BARTIROMO: Kickbacks. I want to take a short break and come back on that. And I want to ask you about the kickbacks and who took kickbacks in which states . . . Welcome back. We are back with attorney Sidney Powell who's part of President Trump's legal team. Sidney, before we went to the break, we talked about, you said that there may have been kickbacks to some people who accepted the Dominion software. Tell me what you mean.	Identical to statement 26; see response to that statement.
69	11/15/2020	Fox News Website	BARTIROMO: What is the CIA's role? Why do you think Gina Haspel should be fired immediately? You're saying that the CIA is behind the Dominion or Smartmatic voting software as well? POWELL: Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company's product. Their own manual, if you sat down and read it, would explain how and why no honest person would use this system. And it's not just Dominion. There are other companies in the voting machine business in this country too that may very well and are likely using the same software. We've detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems. But the people who bought the Dominion system for sure knew exactly what they were getting. It should never have been installed anywhere, and we are going to show the public exactly how rotten the entire state is.	Identical to statement 27; see response to that statement.
70	11/15/2020	Fox News Website	BARTIROMO: Now, I have spoken with a few whistleblowers myself this weekend. And one source who is an IT specialist, told me that he knows the software and specifically advised people in Texas, officials in Texas, not to use it. And yet, he was overruled. He said that there was an unusual patch that was put into the software while it was live, and it's highly unusual to put a patch in there.	Identical to statement 28; see response to that statement.



Smartmatic Statement Number	Date	Platform	Statement	Response
71	11/15/2020	Fox News Website	POWELL: Okay. That's part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela, even. They can remote access anything. They can watch votes in real time. They can shift votes in real time. We've identified mathematically the exact algorithm they used and plan to use from the beginning to modify the votes in this case to make sure Biden won. That's why he said he didn't need your votes now, he would need you later. He was right. I mean, in his demented state, he had no filter and he was speaking the truth more than once, including when he said he had the largest voter fraud organization ever. Well, it's massive election fraud. It's going to undo the entire election. And they can do anything they want with the votes. They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. It's like drag and drop whatever you want, wherever you want, upload votes. [] In fact, we've gotten math in Michigan and Pennsylvania I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump [] were uploaded multiple times into the system.	Identical to statement 29; see response to that statement.
72	11/15/2020	Fox News Website	BARTIROMO: Yeah, I mean, you heard what Rudy Giuliani said earlier in the program, he and Sidney Powell are investigating the Smartmatic software and the Dominion voting machines because they do believe, and they say they have evidence, that there were back doors and the votes were manipulated to turn Trump votes into Biden votes.	Identical to statement 30; see response to that statement.
73	11/16/2020	Twitter, @MariaBartirolo	BARTIROMO: One source says that the key point to understand is that the Smartmatic system has a back door that allows it to be [] or that allows the votes to be mirrored and monitored, allowing an intervening party a real-time understanding of how many votes will be needed to gain an electoral advantage.	This statement is fully encompassed within statement 18; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
74	11/16/2020	Twitter, @MariaBartiromo	GIULIANI: I can prove that they did it in Michigan. I can prove it with witnesses. We're investigating the rest. And every one of those states, though, we have more than enough illegal ballots already documented to overturn the result in that state. Because not only did they use a Venezuelan company to count our ballots, which almost should be illegal per se.	Identical to statement 19; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
75	11/16/2020	Twitter, @MariaBartiromo	GIULIANI: Now, they didn't do it everywhere. They did it in big cities where they have corrupt machines that will protect them.	Identical to statement 20; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
76	11/16/2020	<i>Lou Dobbs Tonight</i>	DOBBS: President Trump's legal team says potentially rig voting machines demand a national security investigation. They are pointing to Dominion Voting Systems' widely used ballot scanning machines whose software is suspected of inflating vote totals for Joe Biden. Dominion's systems used in more than two dozen states.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
77	11/16/2020	<i>Lou Dobbs Tonight</i>	DOBBS: Dominion has connections to UK based Smartmatic, a voting technology company established in 2000 that had ties to Venezuela's Hugo Chavez. Smartmatic, once the subject of a Treasury Department investigation into its connections with the Venezuelan government. Three of their employees were also charged in 2016 with illegally altering code on an election server in the Philippines' national election. [] And in a 2015 interview on Filipino television, Malloch-Brown said part of their technology is licensed from Dominion Voting Systems. Smartmatic now says that isn't true. [] A Politico article from March, in fact, documents that numerous security flaws were discovered in Smartmatic's software by California's Secretary of State and outside computer experts.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.

Smartmatic Statement Number	Date	Platform	Statement	Response
78	11/16/2020	<i>Lou Dobbs Tonight</i>	DOBBS: Your reaction to what the Trump legal team and others are discovering about Dominion, Smartmatic and many of the other voting companies, which almost seems like a, at least a very, very much in election terms, probable cause for a complete and thorough investigation.	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p> <p><b>Opinion:</b> Calls for investigation are opinion, not statements of fact.</p>
79	11/16/2020	<i>Lou Dobbs Tonight</i>	POWELL: I've just gotten some stunning evidence from a firsthand witness, a high ranking military officer who was present when Smartmatic was designed in a way that -- and I'm going to just read you some of these statements if you don't mind so I get them exactly right [] from the affidavit. Designed in a way that the system could change the vote of each voter without being detected.	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
80	11/16/2020	<i>Lou Dobbs Tonight</i>	POWELL: Smartmatic agreed to create such a system and produce the software and hardware that accomplished the result for President Chavez. After the Smartmatic [] electoral management system was put in place, he closely observed several elections where the results were manipulated using the Smartmatic software. One such election was December 2006, when Chavez was running against Rosales. Chavez won with a landslide over Rosales [] In 2013, he witnessed another Venezuelan national election where the Smartmatic management system was used to manipulate and change the results for Chavez . . . Persons controlling the vote tabulation computer had the ability to change the reporting of votes by moving votes from one candidate to another by using the Smartmatic software.	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
81	11/16/2020	<i>Lou Dobbs Tonight</i>	<p>POWELL: So here's the other kicker, when the Smartmatic machines are -- when somebody's losing, like for example when Maduro and his supporters realized the size of the other guys lead, they were worried that they were in crisis mode and would lose the election, the Smartmatic machines used for voting in each state were connected to the Internet, reported their information over the Internet to the Caracas control center real-time because the decision was made to reset the entire system. Maduro and his supporters ordered the network controllers to take the Internet itself offline in practically all parts in Venezuela to change the result. It took the voting operators approximately two hours to make the adjustments in the vote from Radonski to Maduro. Then when they turned the Internet back on and the online reporting was up and running again, they checked each screen state- by-state to be certain they could see each vote was changed in favor of Maduro.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
82	11/16/2020	<i>Lou Dobbs Tonight</i>	<p>POWELL: I mean that's just logic. It's been, this affidavit also explains, has been used to change election results all over the world. And it's all Venezuelan and Cuban and essentially communist money that's been doing this. It's a foreign owned company, as you mentioned earlier[.]</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
83	11/16/2020	<i>Lou Dobbs Tonight</i>	<p>DOBBS: Well I share your -- your fury and frustration, but I do have some news to break here at this moment. I have now received word from a highly reliable source that the FBI does have an investigative team that is now looking into this election. Now what that means beyond that, but at least it's confirmation that they are investigating and we'll see what moves because there had been no indication that indeed publicly that they were involved; they are now.</p>	<p><b>Opinion:</b> The first sentence is non-actionable opinion.</p> <p><b>Substantially true:</b> The second sentence is substantially true. The Department of Justice did in fact investigate claims of election fraud.</p> <p><b>Not of or concerning Smartmatic:</b> The second sentence is not "of or concerning" Smartmatic.</p>
84	11/16/2020	<i>Lou Dobbs Tonight</i>	<p>DOBBS: Yeah, Sid it is--it is more than just a willful blindness. This is people trying to blind us to what is going on. We don't even know who the hell really owns these companies, at least most of them. That's got to change and we've got to find out exactly what's going on.</p>	<p><b>Opinion:</b> Non-actionable opinion.</p> <p><b>Opinion:</b> Calls for investigation are opinion, not statements of fact.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
85	11/16/2020	Twitter, @IngrahamAngle	BARTIROMO: Welcome back. According to public records, Dominion voting machines are used in 2,000 jurisdictions in 30 states. According to experts, if one site has a flaw, other sites are likely to as well, which is why Texas rejected using Dominion software three times, raising concerns that the system was not safe from fraudulent or unauthorized manipulation. That's troubling given we already know that at least two software glitches, in Georgia and Michigan, occurred on election night.	Identical to statement 22; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
86	11/16/2020	Twitter, @IngrahamAngle	BARTIROMO: Sidney, thanks very much for being here. We appreciate your time this morning. I want to get right into it. We just heard about the software made by Smartmatic from Rudy. And I want to get your take on what you -- what you and I spoke about just a few minutes ago and that is a gentleman named Peter Neffenger. Tell me how he fits into all of this.	Identical to statement 23; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
87	11/16/2020	Twitter, @IngrahamAngle	POWELL: Yes. Well he is listed as it's former Admiral Peter Neffenger or retired Admiral Peter Neffenger. He is President and on the board of directors of Smartmatic, and it just so happens, he's on Mr. Biden's presidential transition team that's gonna be non-existent because we're fixing to overturn the results of the election in multiple states. And President Trump won by not just hundreds of thousands of votes, but by millions of votes that were shifted by this software that was designed expressly for that purpose. We have sworn witness testimony of why the software was designed. It was designed to rig elections. He was fully briefed on it. He saw it happen in other countries. It was exported internationally for profit by the people that are behind Smartmatic and Dominion. They did this on purpose, it was calculated, they've done it before. We have evidence from 2016 in California. We have so much evidence, I feel like it's coming in through a fire hose.	Identical to statement 24; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
88	11/16/2020	Twitter, @IngrahamAngle	POWELL: Well, let me put it this way. First of all, I never say anything I can't prove. Secondly, the evidence is coming in so fast, I can't even process it all. Millions of Americans have written, I would say by now, definitely hundreds of thousands have stepped forward with their different experiences of voter fraud. But this is a massive election fraud. And I'm very concerned it involved not only Dominion and its Smartmatic software, but that the software essentially was used by other election machines also. It's the software that was the problem. Even their own manual explains how votes can be wiped away. They can put, it's like drag and drop Trump votes to a separate folder and then delete that folder. It's absolutely brazen how people bought the system and why they bought this system. In fact, every state that bought Dominion, for sure, should have a criminal investigation or at least a serious investigation of the federal -- of the officers in the States who bought the software. We've even got evidence of some kickbacks, essentially.	Identical to statement 25; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
89	11/16/2020	Twitter, @IngrahamAngle	BARTIROMO: Kickbacks. I want to take a short break and come back on that. And I want to ask you about the kickbacks and who took kickbacks in which states . . . Welcome back. We are back with attorney Sidney Powell who's part of President Trump's legal team. Sidney, before we went to the break, we talked about, you said that there may have been kickbacks to some people who accepted the Dominion software. Tell me what you mean.	Identical to statement 26; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
90	11/16/2020	Twitter, @IngrahamAngle	BARTIROMO: What is the CIA's role? Why do you think Gina Haspel should be fired immediately? You're saying that the CIA is behind the Dominion or Smartmatic voting software as well? POWELL: Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company's product. Their own manual, if you sat down and read it, would explain how and why no honest person would use this system. And it's not just Dominion. There are other companies in the voting machine and are likely using the same software. We've detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems. But the people who bought the Dominion system for sure knew exactly what they were getting. It should never have been installed anywhere, and we are going to show the public exactly how rotten the entire state is.	Identical to statement 27; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
91	11/16/2020	Twitter, @IngrahamAngle	BARTIROMO: Now, I have spoken with a few whistleblowers myself this weekend. And one source who is an IT specialist, told me that he knows the software and specifically advised people in Texas, officials in Texas, not to use it. And yet, he was overruled. He said that there was an unusual patch that was put into the software while it was live, and it's highly unusual to put a patch in there.	Identical to statement 28; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
92	11/16/2020	Twitter, @IngrahamAngle	POWELL: Okay. That's part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela, even. They can remote access anything. They can watch votes in real time. They can shift votes in real time. We've identified mathematically the exact algorithm they used and plan to use from the beginning to modify the votes in this case to make sure Biden won. That's why he said he didn't need your votes now, he would need you later. He was right. I mean, in his demented state, he had no filter and he was speaking the truth more than once, including when he said he had the largest voter fraud organization ever. Well, it's massive election fraud. It's going to undo the entire election. And they can do anything they want with the votes. They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. It's like drag and drop whatever you want, wherever you want, upload votes. [] In fact, we've gotten math in Michigan and Pennsylvania I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump [] were uploaded multiple times into the system.	Identical to statement 29; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
93	11/16/2020	Twitter, @LouDobbs	DOBBS: Electoral Fraud: @SidneyPowell1 says she has firsthand evidence that Smartmatic voting software was designed in a way to change the vote of a voter without being detected.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
94	11/16/2020	Twitter, @LouDobbs	POWELL: I've just gotten some stunning evidence from a firsthand witness, a high ranking military officer who was present when Smartmatic was designed in a way that -- and I'm going to just read you some of these statements if you don't mind so I get them exactly right [] from the affidavit. Designed in a way that the system could change the vote of each voter without being detected.	Identical to statement 79; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.



Smartmatic Statement Number	Date	Platform	Statement	Response
95	11/16/2020	Twitter, @LouDobbs	POWELL: Smartmatic agreed to create such a system and produce the software and hardware that accomplished the result for President Chavez. After the Smartmatic [] electoral management system was put in place, he closely observed several elections where the results were manipulated using the Smartmatic software. One such election was December 2006, when Chavez was running against Rosales. Chavez won with a landslide over Rosales [] In 2013, he witnessed another Venezuelan national election where the Smartmatic management system was used to manipulate and change the results for Chavez . . . Persons controlling the vote tabulation computer had the ability to change the reporting of votes by moving votes from one candidate to another by using the Smartmatic software.	Identical to statement 80; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
96	11/16/2020	Twitter, @LouDobbs	POWELL: So here's the other kicker, when the Smartmatic machines are -- when somebody's losing, like for example when Maduro and his supporters realized the size of the other guys lead, they were worried that they were in crisis mode and would lose the election, the Smartmatic machines used for voting in each state were connected to the Internet, reported their information over the Internet to the Caracas control center real-time because the decision was made to reset the entire system. Maduro and his supporters ordered the network controllers to take the Internet itself offline in practically all parts in Venezuela to change the result. It took the voting operators approximately two hours to make the adjustments in the vote from Radonski to Maduro. Then when they turned the Internet back on and the online reporting was up and running again, they checked each screen state-by-state to be certain they could see each vote was changed in favor of Maduro.	Identical to statement 81; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
97	11/16/2020	Twitter, @LouDobbs	POWELL: I mean that's just logic. It's been, this affidavit also explains, has been used to change election results all over the world. And it's all Venezuelan and Cuban and essentially communist money that's been doing this. It's a foreign owned company, as you mentioned earlier[.]	Identical to statement 82; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
98	11/16/2020	Twitter, @LouDobbs	DOBBS: Well I share your -- your fury and frustration, but I do have some news to break here at this moment. I have now received word from a highly reliable source that the FBI does have an investigative team that is now looking into this election. Now what that means beyond that, but at least it's confirmation that they are investigating and we'll see what moves because there had been no indication that indeed publicly that they were involved; they are now.	Identical to statement 83; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
99	11/16/2020	Twitter, @LouDobbs	DOBBS: Yeah, Sid it is--it is more than just a willful blindness. This is people trying to blind us to what is going on. We don't even know who the hell really owns these companies, at least most of them. That's got to change and we've got to find out exactly what's going on.	Identical to statement 84; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
100	11/16/2020	Facebook, Maria Bartiromo	BARTIROMO: One source says that the key point to understand is that the Smartmatic system has a back door that allows it to be [] or that allows the votes to be mirrored and monitored, allowing an intervening party a real-time understanding of how many votes will be needed to gain an electoral advantage.	This statement is fully encompassed within statement 18; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
101	11/16/2020	Facebook, Maria Bartiromo	GIULIANI: I can prove that they did it in Michigan. I can prove it with witnesses. We're investigating the rest. And every one of those states, though, we have more than enough illegal ballots already documented to overturn the result in that state. Because not only did they use a Venezuelan company to count our ballots, which almost should be illegal per se.	Identical to statement 19; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
102	11/16/2020	Facebook, Maria Bartiromo	GIULIANI: Now, they didn't do it everywhere. They did it in big cities where they have corrupt machines that will protect them.	Identical to statement 20; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
103	11/17/2020	<i>Mornings with Maria</i>	BARTIROMO: And what are you finding so far? What do you think went on here? Because when we spoke on Sunday, we talked about the software made by Smartmatic that was changing [] votes from Trump to Biden.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.

Smartmatic Statement Number	Date	Platform	Statement	Response
104	11/17/2020	Twitter, @IngrahamAngle	INGRAHAM: RT @SaraCarterDC #NEW Trump's attorneys battle for 'legitimate votes' as concern mounts over Dominion Voting Systems & Smartmatic. Based on the affidavits given to Powell and concern over the election system's integrity there needs to be investigations (linking article from saraacarter.com)	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p> <p><b>Opinion:</b> Statements of opinion, as indicated by hyperbolic political rhetoric, loose language, and Twitter medium.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
105	11/17/2020	Fox News Website	BARTIROMO: And what are you finding so far? What do you think went on here? Because when we spoke on Sunday, we talked about the software made by Smartmatic that was changing [] votes from Trump to Biden.	Identical to statement 103; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
106	11/18/2020	<i>Lou Dobbs Tonight</i>	<p>DOBBS: I want to share with the audience one of the affidavits that has been given to us by an unidentified whistleblower. And it pertains to Dominion. A whistleblower who also []saw what happened in Venezuela. And the very similar events that took place in the United States on November 3rd. If we could put this up please to share with the audience, because it is indeed alarming. The whistleblower says this, if we ever get it up. "I am alarmed because of what is occurring in plain sight during this 2020 election for President of the United States. The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela. What happened in the United States was that the vote counting was abruptly stopped in five states using Dominion software. At the time that vote counting was stopped, Donald Trump was significantly ahead in the votes. Then during the wee hours of the morning, when there was no voting occurring and the vote count reporting was off-line, something significantly changed. When the vote reporting resumed the very next morning, there was a very pronounced change in voting in favor of the opposing candidate, Joe Biden." That whistleblower who was present, both in Venezuela in 2013 and in this country as we were counting votes overnight on November 3rd, your thoughts?</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations made in a federal court affidavit.</p>
107	11/18/2020	<i>Lou Dobbs Tonight</i>	<p>DOBBS: I am alarmed because of what is occurring in plain sight during this 2020 election for President of the United States. The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela.</p>	<p>Identical to statement 106; see response to that statement.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
108	11/18/2020	<i>Lou Dobbs Tonight</i>	<p>GIULIANI: Well, Lou, I don't know if people appreciate this, but I think when they do, they're gonna be outraged. Our votes in 27, 28 states that had counted by Dominion and calculated and analyzed. They're sent outside the United States. And they're not sent to Canada, they're sent to Germany and Spain. And the company counting it is not Dominion. It's Smartmatic, which is a company that was founded in 2005 in Venezuela for the specific purpose of fixing elections. That's their expertise. How to fix elections. They did it a number of times in Venezuela. They did it in Argentina. And they messed up an election to a fare-thee-well in Chicago. And there's a whole congressional record that you can go look at about what a terrible company this is. Well that's the company that was counting and calculating on election night and they did all their old tricks.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
109	11/18/2020	<i>Lou Dobbs Tonight</i>	<p>DOBBS: It's outrageous, and it's all the more outrageous because Dominion and Smartmatic were denied use in the State of Texas, which called them out for what they are.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation. Missing context shows that Dobbs was repeating the allegations so that he could provide protected opinion commentary on the allegation.</p> <p><b>Opinion:</b> Non-actionable opinion.</p>
110	11/18/2020	<i>Lou Dobbs Tonight</i>	<p>GIULIANI: We shouldn't be using this company that was founded by Chavez to call votes in America because their specialty in Venezuela is cheating. Well, apparently the governor signed them up and never bothered to do any due diligence of any kind. [] They've since taken it down. But we have it. so we've got a very radical far-left company with an, with some of their high-level people supportive of Antifa. Can you believe that? And they're using a Venezuelan company as the vote counter, which is known for changing votes. And also known to have [] the most insecure computers in this business. I think you'd only pick them [] because they want to cheat.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
111	11/18/2020	<i>Lou Dobbs Tonight</i>	GIULIANI: After all, the Chairman of Smartmatic is very, very close to none other than Mr. Soros. So how do you think they're gonna cheat? They're gonna cheat Democratic. They gonna cheat left wing, they're going to cheat radical. That's what they are, left wing radicals.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
112	11/18/2020	Twitter, @LouDobbs	DOBBS: Foreign Election Involvement: @RudyGiuliani says votes in 28 states were sent to Germany and Spain to be counted by Smartmatic	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
113	11/18/2020	Twitter, @LouDobbs	DOBBS: I want to share with the audience one of the affidavits that has been given to us by an unidentified whistleblower. And it pertains to Dominion. A whistleblower who also [saw what happened in Venezuela. And the very similar events that took place in the United States on November 3rd. If we could put this up please to share with the audience, because it is indeed alarming. The whistleblower says this, if we ever get it up. "I am alarmed because of what is occurring in plain sight during this 2020 election for President of the United States. The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela. What happened in the United States was that the vote counting was abruptly stopped in five states using Dominion software. At the time that vote counting was stopped, Donald Trump was significantly ahead in the votes. Then during the wee hours of the morning, when there was no voting occurring and the vote count reporting was off-line, something significantly changed. When the vote reporting resumed the very next morning, there was a very pronounced change in voting in favor of the opposing candidate, Joe Biden." That whistleblower who was present, both in Venezuela in 2013 and in this country as we were counting votes overnight on November 3rd, your thoughts?	Identical to statement 106; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
114	11/18/2020	Twitter, @LouDobbs	DOBBS: I am alarmed because of what is occurring in plain sight during this 2020 election for President of the United States. The circumstances and events are eerily reminiscent of what happened with Smartmatic software electronically changing votes in the 2013 presidential election in Venezuela.	Identical to statement 106; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
115	11/18/2020	Twitter, @LouDobbs	GIULIANI: Well, Lou, I don't know if people appreciate this, but I think when they do, they're gonna be outraged. Our votes in 27, 28 states that had counted by Dominion and calculated and analyzed. They're sent outside the United States. And they're not sent to Canada, they're sent to Germany and Spain. And the company counting it is not Dominion. It's Smartmatic, which is a company that was founded in 2005 in Venezuela for the specific purpose of fixing elections. That's their expertise. How to fix elections. They did it a number of times in Venezuela. They did it in Argentina. And they messed up an election to a fare-thee-well in Chicago. And there's a whole congressional record that you can go look at about what a terrible company this is. Well that's the company that was counting and calculating on election night and they did all their old tricks.	Identical to statement 108; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
116	11/18/2020	Twitter, @LouDobbs	DOBBS: It's outrageous, and it's all the more outrageous because Dominion and Smartmatic were denied use in the State of Texas, which called them out for what they are.	Identical to statement 109; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
117	11/18/2020	Twitter, @LouDobbs	GIULIANI: We shouldn't be using this company that was founded by Chavez to call votes in America because their specialty in Venezuela is cheating. Well, apparently the governor signed them up and never bothered to do any due diligence of any kind. [] They've since taken it down. But we have it. so we've got a very radical far-left company with an, with some of their high-level people supportive of Antifa. Can you believe that? And they're using a Venezuelan company as the vote counter, which is known for changing votes. And also known to have [] the most insecure computers in this business. I think you'd only pick them [] because they want to cheat.	Identical to statement 110; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
118	11/18/2020	Twitter, @LouDobbs	GIULIANI: After all, the Chairman of Smartmatic is very, very close to none other than Mr. Soros. So how do you think they're gonna cheat? They're gonna cheat Democratic. They gonna cheat left wing, they're going to cheat radical. That's what they are, left wing radicals.	Identical to statement 111; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
119	11/19/2020	<i>Lou Dobbs Tonight</i>	DOBBS: Attorneys for the Trump campaign speaking for more than an hour-and-a-half today at a news conference in Washington where they chastised the radical Dems and the Left-wing national media for their handling of this election, and they provided damning examples of what they say is rampant voter fraud across the country.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation. Missing context shows that the broadcast cuts to coverage of a press conference given by the President's legal team, where the allegations were made.
120	11/19/2020	<i>Lou Dobbs Tonight</i>	DOBBS: Another issue at the center of today's news conference, the use of Dominion voting machines and Smartmatic software. Defense attorney Sidney Powell . . . says Smartmatic's technology was used to rig elections in Venezuela. It is now in the quote, "DNA of every vote tabulating company software and system."	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation. Smartmatic ignores the next two sentences: "Smartmatic and Dominion deny those charges. But Sidney Powell argues that algorithms in the Smartmatic software were used to change results in the presidential election." (NYSCEF.Doc.27, Pls.Ex.25.at.4.)



Smartmatic Statement Number	Date	Platform	Statement	Response
121	11/19/2020	<i>Lou Dobbs Tonight</i>	<p>POWELL: The software itself was created with so many variables and so many backdoors that can be hooked up to the Internet or a thumb drive stuck in it or whatever. But one of its most characteristic features is its ability to flip votes. It can set and run an algorithm that probably ran all over the country to take a certain percentage of votes from President Trump and flip them to President Biden, which we might never have uncovered [.]</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
122	11/19/2020	<i>Lou Dobbs Tonight</i>	<p>DOBBS: Let's turn to Smartmatic and Dominion. Are they or are they not linked?                      POWELL: Oh, they're definitely linked. I would call them inextricably intertwined. They have the same history from their inception. I'm sure they're trying to distance themselves from each other, but the fact is that the Dominion machines run the Smartmatic software and or parts of the key code of it. [] And that is what allows them to manipulate the votes in any way the operators choose to manipulate them. And every time there was a glitch, as they called it, or connection to the Internet, they also violated state laws that required the machines to be certified and nothing to be changed before the votes. There are any number of legal grounds on which the use of those machines has to be stopped and the votes invalidated.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
123	11/19/2020	<i>Lou Dobbs Tonight</i>	<p>POWELL: So it is related to the entire Smartmatic Dominion software operation. We do not know whether the good guys got the servers or whether the bad guys got them.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
124	11/19/2020	<i>Lou Dobbs Tonight</i>	<p>DOBBS: And it's the presumption then that they had the records on those servers of all the votes that were processed by Dominion or Smartmatic?</p> <p>POWELL: Yes, the way it works, the votes can be changed either on the ground as they come in. People can watch the votes streaming live. For example, there was a Dominion employee high up, high ranking at the Detroit Center the night of the election. He could have watched the votes come in live and manipulated them in that process. It could've run an automatic algorithm against all the votes, which we believe is what happened originally. And then the machines had to stop within the -- or the counting had to stop in multiple places because President Trump's lead was so great at that point, they had to stop the vote counting and come in and backfill the votes they needed to change the result.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation. Smartmatic omits that Dobbs pushed Powell for evidence: "And when do you believe you will be prepared to come forward with hard evidence establishing the basis for a court to overturn elections or at least results of those elections in a number of battleground states?" (NYSCEF.Doc.27, Pls.Ex.25.at.13.)</p>
125	11/19/2020	<i>Hannity</i>	<p>GIULIANI: All they had time for is Biden, Biden, Biden, Biden, Biden, Biden, because they were being notified by Smartmatic in Frankfurt that Biden was way behind and they better come up with a lot more ballots, and we can prove every single thing I just said.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p>
126	11/19/2020	Twitter, @LouDobbs	<p>DOBBS: InextricablyIntertwined: @SidneyPowell1 has no doubt that Dominion Voting machines run Smartmatic software which allows them to manipulate the votes.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
127	11/19/2020	Twitter, @LouDobbs	<p>POWELL: The software itself was created with so many variables and so many backdoors that can be hooked up to the Internet or a thumb drive stuck in it or whatever. But one of its most characteristic features is its ability to flip votes. It can set and run an algorithm that probably ran all over the country to take a certain percentage of votes from President Trump and flip them to President Biden, which we might never have uncovered[.]</p>	<p>Identical to statement 121; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
128	11/19/2020	Twitter, @LouDobbs	<p>DOBBS: Let's turn to Smartmatic and Dominion. Are they or are they not linked?</p> <p>POWELL: Oh, they're definitely linked. I would call them inextricably intertwined. They have the same history from their inception. I'm sure they're trying to distance themselves from each other, but the fact is that the Dominion machines run the Smartmatic software and or parts of the key code of it. [] And every time there was a glitch, as they called it, or connection to the Internet, they also violated state laws that required the machines to be certified and nothing to be changed before the votes. There are any number of legal grounds on which the use of those machines has to be stopped and the votes invalidated.</p>	<p>Identical to statement 122; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
129	11/19/2020	Twitter, @LouDobbs	<p>POWELL: So it is related to the entire Smartmatic Dominion software operation. We do not know whether the good guys got the servers or whether the bad guys got them.</p>	<p>Identical to statement 123; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
130	11/19/2020	Twitter, @LouDobbs	<p>DOBBS: And it's the presumption then that they had the records on those servers of all the votes that were processed by Dominion or Smartmatic?</p> <p>POWELL: Yes, the way it works, the votes can be changed either on the ground as they come in. People can watch the votes streaming live. For example, there was a Dominion employee high up, high ranking at the Detroit Center the night of the election. He could have watched the votes come in live and manipulated them in that process. It could've run an automatic algorithm against all the votes, which we believe is what happened originally. And then the machines had to stop within the -- or the counting had to stop in multiple places because President Trump's lead was so great at that point, they had to stop the vote counting and come in and backfill the votes they needed to change the result.</p>	<p>Identical to statement 124; see response to that statement.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
131	11/21/2020	<i>Justice with Judge Jeanine</i>	PIRRO: The President's lawyers alleging a company called Dominion, which they say started in Venezuela with Cuban money and with the assistance of Smartmatic software, a backdoor is capable of flipping votes. And the President's lawyers alleging that American votes in a presidential election are actually counted in a foreign country. There are serious allegations, but the media has no interest in any of this, but you and I do, as we should, because 73 million Americans voted for Donald Trump.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation. A video of the press conference is being played in the background.  <b>Opinion:</b> Pirro's statements are non-actionable opinion.
132	11/21/2020	<i>Justice with Judge Jeanine</i>	PIRRO: They say the risk of our giving false hope should be enough to stop us. Two weeks later, I say, the risk of not looking at what is staring us in the face is too great to not stop us. Now the President's lawyers offered evidence by way of affidavits, which I told you last Saturday as a judge, from a legal perspective, are sworn statements of individuals signed under penalty of perjury. Meaning they know they face the penalty of prosecution and five years if they lie. These sworn statements are factual allegations, are part of virtually every lawsuit.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.  <b>Opinion:</b> Pirro's statements are non-actionable opinion.  <b>Not of or concerning Smartmatic:</b> Pirro does not mention Smartmatic.
133	11/21/2020	<i>Justice with Judge Jeanine</i>	PIRRO: On Thursday, Rudy Giuliani made clear the Democrat cities were targeted by crooked Democrats who stole votes. These were cities where they were comfortable with corruption, where political corruption ran through the blood lines of cities like Pittsburgh and Philadelphia and Detroit. He described election night numbers going in the favor of Donald Trump, but by the next morning, absurd increases in Biden votes.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.  <b>Opinion:</b> Pirro's statements are non-actionable opinion.  <b>Not of or concerning Smartmatic:</b> Pirro does not mention Smartmatic.
134	11/21/2020	<i>Justice with Judge Jeanine</i>	PIRRO: Another declarant who holds dual doctorates in economics and engineering from Stanford, states that Georgia uses Dominion Voting Systems, which has a history of technical glitches, and in Atlanta, these software glitches could have affected thousands of absentee mail- in ballots.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations made in a federal court affidavit.  <b>Opinion:</b> Pirro's statements are non-actionable opinion.  <b>Not of or concerning Smartmatic:</b> Pirro does not mention Smartmatic.

Smartmatic Statement Number	Date	Platform	Statement	Response
135	11/21/2020	<i>Justice with Judge Jeanine</i>	PIRRO: In Wisconsin the day after the election, Biden received a dump of 143,000 votes at 3:42 AM. The upshot in the graph is stunning. It suggests there was a pause and then a filling-in the needed votes to win.	<b>Opinion:</b> Pirro's statements are non-actionable opinion and commentary on the controversy over the presidential election. <b>Not of or concerning Smartmatic:</b> Pirro does not mention Smartmatic.
136	11/21/2020	<i>Justice with Judge Jeanine</i>	PIRRO: Why was there an overnight popping of the vote tabulation that cannot be explained for Biden?	<b>Opinion:</b> Pirro's statements are non-actionable opinion and commentary on the controversy over the presidential election. <b>Not of or concerning Smartmatic:</b> Pirro does not mention Smartmatic.
137	11/21/2020	Fox News Website	PIRRO: The President's lawyers alleging a company called Dominion, which they say started in Venezuela with Cuban money and with the assistance of Smartmatic software, a backdoor is capable of flipping votes. And the President's lawyers alleging that American votes in a presidential election are actually counted in a foreign country. There are serious allegations, but the media has no interest in any of this, but you and I do, as we should, because 73 million Americans voted for Donald Trump.	Identical to statement 144; see response to that statement.
138	11/21/2020	Fox News Website	PIRRO: They say the risk of our giving false hope should be enough to stop us. Two weeks later, I say, the risk of not looking at what is staring us in the face is too great to not stop us. Now the President's lawyers offered evidence by way of affidavits, which I told you last Saturday as a judge, from a legal perspective, are sworn statements of individuals signed under penalty of perjury. Meaning they know they face the penalty of prosecution and five years if they lie. These sworn statements are factual allegations, are part of virtually every lawsuit.	Identical to statement 132; see response to that statement.
139	11/21/2020	Fox News Website	PIRRO: On Thursday, Rudy Giuliani made clear the Democrat cities were targeted by crooked Democrats who stole votes. These were cities where they were comfortable with corruption, where political corruption ran through the blood lines of cities like Pittsburgh and Philadelphia and Detroit. He described election night numbers going in the favor of Donald Trump, but by the next morning, absurd increases in Biden votes.	Identical to statement 133; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
140	11/21/2020	Fox News Website	PIRRO: Another declarant who holds dual doctorates in economics and engineering from Stanford, states that Georgia uses Dominion Voting Systems, which has a history of technical glitches, and in Atlanta, these software glitches could have affected thousands of absentee mail- in ballots.	Identical to statement 134; see response to that statement.
141	11/21/2020	Fox News Website	PIRRO: In Wisconsin the day after the election, Biden received a dump of 143,000 votes at 3:42 AM. The upshot in the graph is stunning. It suggests there was a pause and then a filling-in the needed votes to win.	Identical to statement 135; see response to that statement.
142	11/21/2020	Fox News Website	PIRRO: Why was there an overnight popping of the vote tabulation that cannot be explained for Biden?	Identical to statement 136; see response to that statement.
143	11/21/2020	<i>Watters' World</i>	DOBBS: The President says this time they got caught in this election and indeed they have. All across the country, various jurisdictions, stealing, trying to steal an election. And this President is demonstrating, once again, he is the wrong guy to cross. The wrong guy you think you can overthrow, upend, and somehow stop with a vicious campaign, whether it's verbal, whether it is physical, whether it is what we have seen here, a cyber attack on our election, those voting machines and software. This President means to see this to the end. And that means to see it to the end of justice for these people, who have decided that they would overthrow our government and overthrow our way of life in this country. And it just damn well isn't going to succeed.	<b>Protected by the First Amendment and Section 74:</b> Accurate coverage of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.  <b>Opinion:</b> Non-actionable opinion.  <b>Not of or concerning Smartmatic:</b> No mention of Smartmatic.
144	11/22/2020	Twitter, @JudgeJeanine	PIRRO: The President's lawyers alleging a company called Dominion, which they say started in Venezuela with Cuban money and with the assistance of Smartmatic software, a backdoor is capable of flipping votes. And the President's lawyers alleging that American votes in a presidential election are actually counted in a foreign country. There are serious allegations, but the media has no interest in any of this, but you and I do, as we should, because 73 million Americans voted for Donald Trump.	Fully encompassed within statement 131; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
145	11/22/2020	Twitter, @JudgeJeanine	PIRRO: They say the risk of our giving false hope should be enough to stop us. Two weeks later, I say, the risk of not looking at what is staring us in the face is too great to not stop us. Now the President's lawyers offered evidence by way of affidavits, which I told you last Saturday as a judge, from a legal perspective, are sworn statements of individuals signed under penalty of perjury. Meaning they know they face the penalty of prosecution and five years if they lie. These sworn statements are factual allegations, are part of virtually every lawsuit.	Identical to statement 132; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
146	11/22/2020	Twitter, @JudgeJeanine	PIRRO: On Thursday, Rudy Giuliani made clear the Democrat cities were targeted by crooked Democrats who stole votes. These were cities where they were comfortable with corruption, where political corruption ran through the blood lines of cities like Pittsburgh and Philadelphia and Detroit. He described election night numbers going in the favor of Donald Trump, but by the next morning, absurd increases in Biden votes.	Identical to statement 133; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
147	11/22/2020	Twitter, @JudgeJeanine	PIRRO: Another declarant who holds dual doctorates in economics and engineering from Stanford, states that Georgia uses Dominion Voting Systems, which has a history of technical glitches, and in Atlanta, these software glitches could have affected thousands of absentee mail-in ballots.	Identical to statement 134; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
148	11/22/2020	Twitter, @JudgeJeanine	PIRRO: In Wisconsin the day after the election, Biden received a dump of 143,000 votes at 3:42 AM. The upshot in the graph is stunning. It suggests there was a pause and then a filling-in the needed votes to win.	Identical to statement 135; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
149	11/22/2020	Twitter, @JudgeJeanine	PIRRO: Why was there an overnight popping of the vote tabulation that cannot be explained for Biden?	Identical to statement 136; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
150	11/22/2020	Fox News Website	PIRRO: The President's lawyers alleging a company called Dominion, which they say started in Venezuela with Cuban money and with the assistance of Smartmatic software, a backdoor is capable of flipping votes. And the President's lawyers alleging that American votes in a presidential election are actually counted in a foreign country. There are serious allegations, but the media has no interest in any of this, but you and I do, as we should, because 73 million Americans voted for Donald Trump.	Identical to statement 144; see response to that statement.
151	11/22/2020	Fox News Website	PIRRO: They say the risk of our giving false hope should be enough to stop us. Two weeks later, I say, the risk of not looking at what is staring us in the face is too great to not stop us. Now the President's lawyers offered evidence by way of affidavits, which I told you last Saturday as a judge, from a legal perspective, are sworn statements of individuals signed under penalty of perjury. Meaning they know they face the penalty of prosecution and five years if they lie. These sworn statements are factual allegations, are part of virtually every lawsuit.	Identical to statement 132; see response to that statement.
152	11/22/2020	Fox News Website	PIRRO: On Thursday, Rudy Giuliani made clear the Democrat cities were targeted by crooked Democrats who stole votes. These were cities where they were comfortable with corruption, where political corruption ran through the blood lines of cities like Pittsburgh and Philadelphia and Detroit. He described election night numbers going in the favor of Donald Trump, but by the next morning, absurd increases in Biden votes.	Identical to statement 133; see response to that statement.
153	11/22/2020	Fox News Website	PIRRO: Another declarant who holds dual doctorates in economics and engineering from Stanford, states that Georgia uses Dominion Voting Systems, which has a history of technical glitches, and in Atlanta, these software glitches could have affected thousands of absentee mail-in ballots.	Identical to statement 134; see response to that statement.



Smartmatic Statement Number	Date	Platform	Statement	Response
154	11/22/2020	Fox News Website	PIRRO: In Wisconsin the day after the election, Biden received a dump of 143,000 votes at 3:42 AM. The upshot in the graph is stunning. It suggests there was a pause and then a filling-in the needed votes to win.	Identical to statement 135; see response to that statement.
155	11/22/2020	Fox News Website	PIRRO: Why was there an overnight popping of the vote tabulation that cannot be explained for Biden?	Identical to statement 136; see response to that statement.
156	11/22/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: Let me show you a list of some of the things that the legal team of President Trump is charging and get your thoughts on this. You just mentioned the computers. This is, has to do with Smartmatic election software . . . Also in terms of the computers and the software, Smartmatic election software was developed, Sidney Powell says, in Venezuela, with porous security and built-in functionality allowing the administrators to override security features. We haven't seen this, so we don't know, but this is the kind of evidence that they say they have. Your reaction.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made by the President and his legal team in connection with the President's announcement of election-fraud investigations and litigation.
157	11/22/2020	<i>Sunday Morning Futures with Maria Bartiromo</i>	BARTIROMO: This is, has to do with Smartmatic election software. They say number one, observers prevented them from seeing the ballots. Number two, there's an inconsistent laws of curing balance. Number three, the in-person voters told that they voted already and officials told not to look for defects and to backdate ballot before number third-- November 3rd. Also in terms of the computers and the software, Smartmatic election software was developed, Sidney Powell says, in Venezuela, with porous security and built-in functionality allowing the administrators to override security features.	Identical to statement 156; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
158	11/22/2020	Fox News Website	BARTIROMO: Let me show you a list of some of the things that the legal team of President Trump is charging and get your thoughts on this. You just mentioned the computers. This is, has to do with Smartmatic election software . . . Also in terms of the computers and the software, Smartmatic election software was developed, Sidney Powell says, in Venezuela, with porous security and built-in functionality allowing the administrators to override security features. We haven't seen this, so we don't know, but this is the kind of evidence that they say they have. Your reaction.	Identical to statement 156; see response to that statement.
159	11/22/2020	Fox News Website	BARTIROMO: This is, has to do with Smartmatic election software. They say number one, observers prevented them from seeing the ballots. Number two, there's an inconsistent laws of curing balance. Number three, the in-person voters told that they voted already and officials told not to look for defects and to backdate ballot before number third-- November 3rd. Also in terms of the computers and the software, Smartmatic election software was developed, Sidney Powell says, in Venezuela, with porous security and built-in functionality allowing the administrators to override security features.	Identical to statement 136; see response to that statement.
160	11/24/2020	Facebook, Jeanine Pirro	PIRRO: The President's lawyers alleging a company called Dominion, which they say started in Venezuela with Cuban money and with the assistance of Smartmatic software, a backdoor is capable of flipping votes. And the President's lawyers alleging that American votes in a presidential election are actually counted in a foreign country. There are serious allegations, but the media has no interest in any of this, but you and I do, as we should, because 73 million Americans voted for Donald Trump.	Identical to statement 131; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
161	11/24/2020	Facebook, Jeanine Pirro	PIRRO: They say the risk of our giving false hope should be enough to stop us. Two weeks later, I say, the risk of not looking at what is staring us in the face is too great to not stop us. Now the President's lawyers offered evidence by way of affidavits, which I told you last Saturday as a judge, from a legal perspective, are sworn statements of individuals signed under penalty of perjury. Meaning they know they face the penalty of prosecution and five years if they lie. These sworn statements are factual allegations, are part of virtually every lawsuit.	Identical to statement 132; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
162	11/24/2020	Facebook, Jeanine Pirro	PIRRO: On Thursday, Rudy Giuliani made clear the Democrat cities were targeted by crooked Democrats who stole votes. These were cities where they were comfortable with corruption, where political corruption ran through the blood lines of cities like Pittsburgh and Philadelphia and Detroit. He described election night numbers going in the favor of Donald Trump, but by the next morning, absurd increases in Biden votes.	Identical to statement 133; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
163	11/24/2020	Facebook, Jeanine Pirro	PIRRO: Another declarant who holds dual doctorates in economics and engineering from Stanford, states that Georgia uses Dominion Voting Systems, which has a history of technical glitches, and in Atlanta, these software glitches could have affected thousands of absentee mail-in ballots.	Identical to statement 134; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
164	11/24/2020	Facebook, Jeanine Pirro	PIRRO: In Wisconsin the day after the election, Biden received a dump of 143,000 votes at 3:42 AM. The upshot in the graph is stunning. It suggests there was a pause and then a filling-in the needed votes to win.	Identical to statement 135; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
165	11/24/2020	Facebook, Jeanine Pirro	PIRRO: Why was there an overnight popping of the vote tabulation that cannot be explained for Biden?	Identical to statement 136; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
166	11/26/2020	<i>Lou Dobbs Tonight</i>	DOBBS: Among the many things that the agency failed to disclose, is that Dominion Voting Systems and another, well, several voting companies, are members of their election infrastructure sector coordinating counsel. And that's a mouthful. It's an advisory counsel to CISA and the DHS. One of two entities that authored, that wrote the CISA November 12th statement. Also sitting on that counsel, in addition to Dominion, is Smartmatic, another company that we have reported on and detailed on this broadcast, with documented issues with their voting machine software.	<b>Substantially true:</b> As Dobbs noted on his November 14 show, a Politico article from March 2020 documented numerous security issues with Smartmatic's software. (Dobbs.Ex.4.at.5-6.) Moreover, Dobbs himself had reported on Smartmatic's security flaws when he was a CNN host in 2006. (Dobbs.Ex.2.at.5.)
167	11/26/2020	Fox News Website	BARTIROMO: Welcome back. According to public records, Dominion voting machines are used in 2,000 jurisdictions in 30 states. According to experts, if one site has a flaw, other sites are likely to as well, which is why Texas rejected using Dominion software three times, raising concerns that the system was not safe from fraudulent or unauthorized manipulation. That's troubling given we already know that at least two software glitches, in Georgia and Michigan, occurred on election night.	Identical to statement 22; see response to that statement.
168	11/26/2020	Fox News Website	BARTIROMO: Sidney, thanks very much for being here. We appreciate your time this morning. I want to get right into it. We just heard about the software made by Smartmatic from Rudy. And I want to get your take on what you -- what you and I spoke about just a few minutes ago and that is a gentleman named Peter Neffenger. Tell me how he fits into all of this.	Identical to statement 23; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
169	11/26/2020	Fox News Website	<p>POWELL: Yes. Well he is listed as it's former Admiral Peter Neffenger or retired Admiral Peter Neffenger. He is President and on the board of directors of Smartmatic, and it just so happens, he's on Mr. Biden's presidential transition team that's gonna be non-existent because we're fixing to overturn the results of the election in multiple states. And President Trump won by not just hundreds of thousands of votes, but by millions of votes that were shifted by this software that was designed expressly for that purpose. We have sworn witness testimony of why the software was designed. It was designed to rig elections. He was fully briefed on it. He saw it happen in other countries. It was exported internationally for profit by the people that are behind Smartmatic and Dominion. They did this on purpose, it was calculated, they've done it before. We have evidence from 2016 in California. We have so much evidence, I feel like it's coming in through a fire hose.</p>	Identical to statement 24; see response to that statement.
170	11/26/2020	Fox News Website	<p>POWELL: Well, let me put it this way. First of all, I never say anything I can't prove. Secondly, the evidence is coming in so fast, I can't even process it all. Millions of Americans have written, I would say by now, definitely hundreds of thousands have stepped forward with their different experiences of voter fraud. But this is a massive election fraud. And I'm very concerned it involved not only Dominion and its Smartmatic software, but that the software essentially was used by other election machines also. It's the software that was the problem. Even their own manual explains how votes can be wiped away. They can put, it's like drag and drop Trump votes to a separate folder and then delete that folder. It's absolutely brazen how people bought the system and why they bought this system. In fact, every state that bought Dominion, for sure, should have a criminal investigation or at least a serious investigation of the federal -- of the officers in the States who bought the software. We've even got evidence of some kickbacks, essentially.</p>	Identical to statement 25; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
171	11/26/2020	Fox News Website	BARTIROMO: Kickbacks. I want to take a short break and come back on that. And I want to ask you about the kickbacks and who took kickbacks in which states . . . Welcome back. We are back with attorney Sidney Powell who's part of President Trump's legal team. Sidney, before we went to the break, we talked about, you said that there may have been kickbacks to some people who accepted the Dominion software. Tell me what you mean.	Identical to statement 26; see response to that statement.
172	11/26/2020	Fox News Website	BARTIROMO: What is the CIA's role? Why do you think Gina Haspel should be fired immediately? You're saying that the CIA is behind the Dominion or Smartmatic voting software as well? POWELL: Well, the CIA and the FBI and other government organizations have received multiple reports of wrongdoing and failures and vulnerabilities in this company's product. Their own manual, if you sat down and read it, would explain how and why no honest person would use this system. And it's not just Dominion. There are other companies in the voting machine business in this country too that may very well and are likely using the same software. We've detected voting irregularities that are inexplicable and aligned with these problems in other states that think they have valid systems. But the people who bought the Dominion system for sure knew exactly what they were getting. It should never have been installed anywhere, and we are going to show the public exactly how rotten the entire state is.	Identical to statement 27; see response to that statement.
173	11/26/2020	Fox News Website	BARTIROMO: Now, I have spoken with a few whistleblowers myself this weekend. And one source who is an IT specialist, told me that he knows the software and specifically advised people in Texas, officials in Texas, not to use it. And yet, he was overruled. He said that there was an unusual patch that was put into the software while it was live, and it's highly unusual to put a patch in there.	Identical to statement 28; see response to that statement.

Smartmatic Statement Number	Date	Platform	Statement	Response
174	11/26/2020	Fox News Website	<p>POWELL: Okay. That's part of it. They can stick a thumb drive in the machine or upload software to it, even from the Internet. They can do it from Germany or Venezuela, even. They can remote access anything. They can watch votes in real time. They can shift votes in real time. We've identified mathematically the exact algorithm they used and plan to use from the beginning to modify the votes in this case to make sure Biden won. That's why he said he didn't need your votes now, he would need you later. He was right. I mean, in his demented state, he had no filter and he was speaking the truth more than once, including when he said he had the largest voter fraud organization ever. Well, it's massive election fraud. It's going to undo the entire election. And they can do anything they want with the votes. They can have the machines not read the signature. They can have the machines not read the down ballot. They can make the machines read and catalog only the Biden votes. It's like drag and drop whatever you want, wherever you want, upload votes. [] In fact, we've gotten math in Michigan and Pennsylvania I think it is, that all of a sudden, hundreds of thousands of votes at a 67% ratio for Biden, 23% for Trump [] were uploaded multiple times into the system.</p>	<p>Identical to statement 29; see response to that statement.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
175	12/10/2020	<i>Lou Dobbs Tonight</i>	POWELL: Well, Lou, they designed and developed the Smartmatic and Dominion programs and machines that include a controller module that allows people to log in and manipulate the vote even as it's happening. We're finding more and more evidence of this. We now have reams and reams of actual documents from Smartmatic and Dominion, including evidence that they planned and executed all of this. We know that \$400 million of money came into Smartmatic from China only a few weeks before the election that there are George Soros connections to the entire endeavor. Lord Malloch Brown was part of it, along with the other people from Dominion, Eric Coomer . . . We know that one of the Smartmatic people has, went to Tarrant County, Texas and turned that county blue after having been an executive with Smartmatic and all of a sudden this one election Tarrant County is purportedly blue. We have evidence of how they flip the votes, how it was designed to flip the votes, and that all of it has been happening just as we have been saying it has been.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.
176	12/10/2020	<i>Lou Dobbs Tonight</i>	POWELL: Well, we are still reviewing the massive amount of documents that we have, but we have communications between them and all different kinds of messages that indicate their involvement in it. It's a massive amount of additional information to go through that's only been in our hands a short time, but we will be producing more and more of it. It will be coming out more by the day. And then also the connections to the Chinese and other countries that were attacking us in this massive cyber Pearl Harbor, as we called it.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.
177	12/10/2020	<i>Lou Dobbs Tonight</i>	POWELL: Well we've known from early on in our independent investigation that the entire system was created for the benefit of Venezuela and Hugo Chavez to rig elections to make sure he continued winning. And then it was passed onto Mr. Maduro to do the same. And we know it was exported to other countries by virtue of some of the Dominion executives that proceeded to go about and essentially sell elections to the highest bidder.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.



Smartmatic Statement Number	Date	Platform	Statement	Response
178	12/10/2020	<i>Lou Dobbs Tonight</i>	DOBBS: We're back now with attorney Sidney Powell. She was describing a cyber Pearl Harbor and the 2020 election, focusing on four names. I would also like to put up this element from your investigation if we could have that full screen up so that we could all go through that with the audience. Because it's important as we look at these four names, we're talking about very large, a very large foreign intrusion and interference in the, in the election of 2020.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.
179	12/10/2020	<i>Lou Dobbs Tonight</i>	DOBBS: We will gladly put forward your evidence that supports your claim that this was a cyber Pearl Harbor. We have tremendous evidence already, of fraud in this election. But I will be glad to put forward on this broadcast whatever evidence you have, and we'll be glad to do it immediately.	<b>No defamation:</b> In demanding evidence for the allegations Powell was making, Dobbs was noting the <i>absence</i> of fraud perpetrated by Smartmatic, a comment which cannot be defamatory.  <b>Not of or concerning Smartmatic:</b> Dobbs noted that "there was tremendous evidence already, of fraud in the election" generally. A reasonable viewer would not understand that statement to be about Smartmatic specifically, especially because Dobbs frequently invited guests to discuss claims of election fraud that had nothing to do with Smartmatic.
180	12/10/2020	Twitter, @LouDobbs	DOBBS: Cyber Pearl Harbor: @SidneyPowell1 reveals groundbreaking new evidence indicating our Presidential election came under massive cyber-attack orchestrated with the help of Dominion, Smartmatic, and foreign adversaries.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
181	12/10/2020	Twitter, @LouDobbs	<p>POWELL: Well, Lou, they designed and developed the Smartmatic and Dominion programs and machines that include a controller module that allows people to log in and manipulate the vote even as it's happening. We're finding more and more evidence of this. We now have reams and reams of actual documents from Smartmatic and Dominion, including evidence that they planned and executed all of this. We know that \$400 million of money came into Smartmatic from China only a few weeks before the election that there are George Soros connections to the entire endeavor. Lord Malloch Brown was part of it, along with the other people from Dominion, Eric Coomer . . . We know that one of the Smartmatic people has, went to Tarrant County, Texas and turned that county blue after having been an executive with Smartmatic and all of a sudden this one election Tarrant County is purportedly blue. We have evidence of how they flip the votes, how it was designed to flip the votes, and that all of it has been happening just as we have been saying it has been.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
182	12/10/2020	Twitter, @LouDobbs	<p>POWELL: Well, we are still reviewing the massive amount of documents that we have, but we have communications between them and all different kinds of messages that indicate their involvement in it. It's a massive amount of additional information to go through that's only been in our hands a short time, but we will be producing more and more of it. It will be coming out more by the day. And then also the connections to the Chinese and other countries that were attacking us in this massive cyber Pearl Harbor, as we called it.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>
183	12/10/2020	Twitter, @LouDobbs	<p>POWELL: Well we've known from early on in our independent investigation that the entire system was created for the benefit of Venezuela and Hugo Chavez to rig elections to make sure he continued winning. And then it was passed onto Mr. Maduro to do the same. And we know it was exported to other countries by virtue of some of the Dominion executives that proceeded to go about and essentially sell elections to the highest bidder.</p>	<p><b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.</p> <p><b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.</p>

Smartmatic Statement Number	Date	Platform	Statement	Response
184	12/10/2020	Twitter, @LouDobbs	DOBBS: Evidence of Fraud: @SidneyPowell1 says the FBI and law enforcement aren't interested in electoral fraud witnesses and offers to make public evidence of a cyber-attack on the US election system.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
185	12/10/2020	Twitter, @LouDobbs	DOBBS: We're back now with attorney Sidney Powell. She was describing a cyber Pearl Harbor and the 2020 election, focusing on four names. I would also like to put up this element from your investigation if we could have that full screen up so that we could all go through that with the audience. Because it's important as we look at these four names, we're talking about very large, a very large foreign intrusion and interference in the, in the election of 2020.	Identical to statement 178; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
186	12/10/2020	Twitter, @LouDobbs	DOBBS: We will gladly put forward your evidence that supports your claim that this was a cyber Pearl Harbor. We have tremendous evidence already, of fraud in this election. But I will be glad to put forward on this broadcast whatever evidence you have, and we'll be glad to do it immediately.	Identical to statement 179; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
187	12/10/2020	Facebook, Lou Dobbs	POWELL: Well, Lou, they designed and developed the Smartmatic and Dominion programs and machines that include a controller module that allows people to log in and manipulate the vote even as it's happening. We're finding more and more evidence of this. We now have reams and reams of actual documents from Smartmatic and Dominion, including evidence that they planned and executed all of this. We know that \$400 million of money came into Smartmatic from China only a few weeks before the election that there are George Soros connections to the entire endeavor. Lord Malloch Brown was part of it, along with the other people from Dominion, Eric Coomer . . . We know that one of the Smartmatic people has, went to Tarrant County, Texas and turned that county blue after having been an executive with Smartmatic and all of a sudden this one election Tarrant County is purportedly blue. We have evidence of how they flip the votes, how it was designed to flip the votes, and that all of it has been happening just as we have been saying it has been.	<b>Protected by the First Amendment and Section 74:</b> Accurate summary of allegations being made in connection with the President's announcement of election-fraud investigations and litigation.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
188	12/10/2020	Facebook, Lou Dobbs	POWELL: Well, we are still reviewing the massive amount of documents that we have, but we have communications between them and all different kinds of messages that indicate their involvement in it. It's a massive amount of additional information to go through that's only been in our hands a short time, but we will be producing more and more of it. It will be coming out more by the day. And then also the connections to the Chinese and other countries that were attacking us in this massive cyber Pearl Harbor, as we called it.	Identical to statement 176; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
189	12/10/2020	Facebook, Lou Dobbs	POWELL: Well we've known from early on in our independent investigation that the entire system was created for the benefit of Venezuela and Hugo Chavez to rig elections to make sure he continued winning. And then it was passed onto Mr. Maduro to do the same. And we know it was exported to other countries by virtue of some of the Dominion executives that proceeded to go about and essentially sell elections to the highest bidder.	Identical to statement 177; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.

Smartmatic Statement Number	Date	Platform	Statement	Response
190	12/10/2020	Facebook, Lou Dobbs	DOBBS: Evidence of Fraud: Sidney Powell says the FBI and law enforcement aren't interested in electoral fraud witnesses and offers to make public evidence of a cyber-attack on the US election system.	This statement is substantially identical to statement 184. The response to statement 184 applies to this statement, substituting only Facebook for Twitter.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
191	12/10/2020	Facebook, Lou Dobbs	DOBBS: We're back now with attorney Sidney Powell. She was describing a cyber Pearl Harbor and the 2020 election, focusing on four names. I would also like to put up this element from your investigation if we could have that full screen up so that we could all go through that with the audience. Because it's important as we look at these four names, we're talking about very large, a very large foreign intrusion and interference in the, in the election of 2020.	Identical to statement 178; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.
192	12/10/2020	Facebook, Lou Dobbs	DOBBS: We will gladly put forward your evidence that supports your claim that this was a cyber Pearl Harbor. We have tremendous evidence already, of fraud in this election. But I will be glad to put forward on this broadcast whatever evidence you have, and we'll be glad to do it immediately.	Identical to statement 179; see response to that statement.  <b>No republication:</b> Sharing a hyperlink to an already existing video does not trigger liability under the republication doctrine.