TRUMP SUPPORTERS ACCUSED DOMINION OF RIGGING THE 2020 ELECTION. THE CLAIMS HAVE NEVER BEEN SUBSTANTIATED. NOW THE COMPANY IS TURNING TO THE COURTS IN A BID TO MAKE ITS CRITICS PAY A PRICE FOR SPREADING MISINFORMATION.

ON DEC. 9, NICOLE NOLLETTE, an executive at Dominion Voting Systems, was driving home from a doctor’s appointment when she noticed she’d missed a call from one of her customers. The client, an elections official whose jurisdiction uses Dominion’s voting machines, had also sent her a link to a website. Nollette pulled up the site on her phone and saw her own photo—overlaid with bright red crosshairs, as though she were in the sights of a sniper’s rifle. The website, which bore the moniker “Enemies of the People,” also included an address in Nevada, showing aerial views of that property beneath Nollette’s picture. That alarmed Nollette even more, because she doesn’t live in Nevada but in Colorado, where Dominion is based. The address was for the home of her retired parents. Months later, the Navy veteran remembers the fear in her mother’s voice over the phone as her parents loaded the website: “They have a picture of the house,” her mom gasped. Nollette was one of more than a dozen people, ranging from other Dominion employees to Trump administration officials, whose photos were posted on the website. The site accused them all of playing a role in an elaborate conspiracy to rig November’s presidential election by “flipping” votes for Donald Trump to Joe Biden—and relying on Dominion’s machines, which are in use in 28 states, to do it. Later that day, the FBI showed up on Nollette’s parents’ doorstep to alert them to the menace. Soon, Nollette herself received death threats—including one sent to her personal email address, warning, “Your days are numbered.” She still doesn’t know who sent them,
though the FBI later notified Do­
mimion and others that its intel had
linked the hit list to Iran.

The threats have tapered in the
months since President Trump left
the White House. But Nollette, who
lives alone, still watches for suspicious
cars around her street. And while she
once made a daily habit of taking
walks before sunrise and after sunset,
she now goes out only in the light of
day. “This is the first time since I left
the military that, at least in terms of
security and threats, I’ve had to en­
gage that military training,” she says.

Nollette’s life is one of many up­
ended by perhaps the mother of all
conspiracy theories: a far-fetched but
pernicious tale spun up in a last-ditch
attempt to overturn the outcome of
the presidential election. It’s a tale
that found its roots in a rat’s nest
of misinformation and which has
come to be known, among many who
have encountered it, as the Big Lie.

In the wake of the election, a moun­
tain of harassment still more severe. Eric
Coomer, a Ph.D. in nuclear physics, Coomer
was at home in Toronto
a week after the election. A moun­
tain climber and bread-baker with a Ph.D. in nuclear physics, Coomer
has not been able to return home
since the threats began and is hiding
somewhere outside the U.S.; even his
an address. Coomer is a competitor to Dominion with
a track record of legal challenges to the election results.

Up until that day, Dominion might have been able to mount a defense
with a fact-checking campaign aimed at correcting the record; it had hired
crime-scene PR specialists as well as a top physical­ and cyber-security firm. “It
never really dawned on me that these people had ruined our company,” says
John Poulos, Dominion’s cofounder and CEO. But he felt his world tilt
as he watched the press conference unfold.

Some 25 minutes into the event,
Giuliani mentioned Dominion for the first time—just around the memoe­
rable moment that his hair dye began
streaming down his face. He later
singed out Coomer by name, calling him a “vicious, vicious man” who was
“close to Antifa.” Giuliani and Powell went on to allege that Dominion’s
software had been built in Venezuela
under orders of dictator Hugo Chávez
for the purpose of fixing elections, and that it counted votes in Germany
and Spain—claims that were easily
disproved, but were red meat to par­
tisans convinced that the GOP had
been victimized.

“IT was just a surreal moment,” says
Poulos, who was at home in Toronto
with his wife and three teenagers, and
two dogs. “I thought that they were
working to incite a civil war.”

Earlier that month, Powell had
promised to release the “Kraken,” a
monster of Norse lore that was her
metaphor for evidence of widespread vote­
fraud. That evidence, accord­
ing to authorities ranging from the
Department of Justice to Republi­
can election attorneys, has yet to be
delivered. What Powell and Giuliani
unleashed instead was a barrage
of misinformation that embedded
sharpened­shardshardshards of doubt in the
walls of democracy. In the days after
the press conference, Giuliani and
Powell would repeat their claims
about Dominion many more times
on right­leaning cable networks,
including the most popular of all, Fox
News, which last year commanded
more than 3.5 million nightly prime­
time viewers. Other sources far less
reputable or official picked up the
story and ran with it: According to
Zignal Labs, which tracks opinion
trends across media, Dominion has
been mentioned in reference to rig­
ging the election more than 400,000
times on Twitter, YouTube, and other
social media. Dominion for countless
Trump supporters quickly became
a name synonymous with suspicion
and scandal.

The Dominion narrative became
one of the thickest clouds in a fog
of calumny around the election. In
the two weeks after the Associated
Press called the race for Biden, Fox
News either questioned or put forth
conspiracy theories about the results
at least 774 times, according to Media
Matters, a nonprofit that tracks right­
leaning misinformation. A survey
around the same time by researchers
from universities including North­
eastern found that more than half
of Republican voters either thought
Trump had won or weren’t sure who
did. Poulos’s own uncle, in Arizona,
explained that Dominion played some role
in a conspiracy. “He doesn’t know
what parts to disbelieve,” Poulos says.

The consequences played out in
an unspeakably tragic form on Jan. 6,
when a mob, made up predominantly
of those who believed the election
was stolen, broke into the U.S. Capi­
tol in a riot that left five people dead.

“Two days later, Dominion filed its
first defamation lawsuit. Poulos had
decided to litigate not long after
the November press conference. “The
only remedy that we have is by tak­
ing their case to court,” he says. “The
truth absolutely needs to come out.”

Accidental Plaintiffs

IN THE CHAOS of the nation’s corrosive
election dispute, it was easy to miss
the significance of the attacks on Do­
mimion. When Trump backers spread
general (If largely baseless) rumors
about wide-slate ballot and voter
fraud, their allegations were easily
defang ed by legal experts saying, for the volume
of claims against multiple defendants
around the same issue. “That is, in
my experience, unique,” says J. Erik

The election dispute, it was easy to miss
the significance of the attacks on Do­
mimion. When Trump backers spread

Connolly, Smartmatic's attorney, who successfully sued ABC News for its "pink slime" coverage on behalf of a beef company in the biggest defama­tion suit on record. "From a reputa­tional damage perspective, it's a perfect storm."

The cases are also potentially ground­breaking in a more signif­i­cant way, one whose ramifications are impossible to predict. They're an effort by private companies to make other parties literally pay for abusing political discourse—including a media giant that has had a huge influence on 21st-century public life.

Fox argues that the voting-machine allegations were inherently newsworthy, and that the airtime it gave them is protected under the First Amendment's guarantee of freedom of the press. The plaintiffs argue that the falsity of the allegations, and the apparent endorsement of them by some Fox hosts, strips those protec­tions away.

Companies are positioned to con­duct this fight in a way that individu­als rarely are. Politicians seldom sue for defamation, especially in the heat of a campaign. No matter how damag­ing the rumors spread by an oppo­nent, they can't afford the distraction of hashing out the truth about their past in court. And few individuals, public or private, can afford the cost. A business, on the other hand, can bring deeper pockets to the battle—and can point to the tangible pain of lost profit and revenue to show that untruths have consequences.

In the case of the voting machine companies, Connolly points out that the allegations took aim at the very heart of their brands: accuracy and reliability. "When you have an attack like that on your core business model, a defamation lawsuit may become a business necessity," Connolly says. "It's one of the only ways you can re­store your reputation." The multibil­lion-dollar question is whether, in protecting that business model, these relatively obscure companies can re­shape the rules around accuracy and reliability in public debate.

**A Distrusted Industry**

**JOHN POULOS**

Poulos started Dominion out of his basement in Toronto in 2003. A Canadian who doesn’t even vote in the U.S., he’d recently moved back home from Silicon Valley after selling his first startup, a telecom technology company. He found his next big idea in the aftermath of the 2000 U.S. presidential election, with its controversies over butterfly ballots and hanging chads. Congress had subsequently passed the Help America Vote Act focused on improv­ing voting technology and accessibil­ity. Poulos had an idea for creating a system that would help blind people vote without compromising the secrecy of their ballots. He named the company after Canada’s Domin­ion Elections Act of 1920, which expanded women’s suffrage. "We thought that would be a nice homage to helping voters vote," Poulos says.

Dominion voting machines could also be used by sighted voters, and Poulos gradually built a clientele among state and local governments. He recruited a staff dedicated to the company’s democratic mission, if not the “obscene” hours and seven-day election season workweeks. By 2020, Dominion was the second-largest voting-machine business in the United States, with its machines used in 1,500 elections in 28 states and Puerto Rico, and a staff of about 300. But Dominion had joined an in­dustry that was already viewed with suspicion: Green Party presidential candidate Jill Stein sued to review the source code of Dominion and other machines in Wisconsin after her loss there four years ago; that litigation is ongoing. Despite that backdrop of distrust, the 2020 election might have unfolded with little drama for Dominion—if not for Antrim County. That northern Michigan jurisdiction is a Repub­lican stronghold, but on Election Night, and as the vote was counted into Wednesday morning, Biden and down-ballot Democrats appeared to be winning by a landslide. When campaign attorneys brought the anom­aly to election officials’ atten­tion, they discovered the problem: There had been a change in the can­didates listed on the ballot, but a local official had neglected to reprogram some of the machines—which used Dominion’s software—with the new template. As a result, voters’ selec­tions were essentially transposed down a row in initial tallies, their votes accruing to another party’s candidate.

Election officials corrected the human error the same day it was caught; in the end, Trump was the clear winner in Antrim. Anti­rump “shows that the problems and process leads to the correct result,” says Edward Perez, global direc­tor of technology development for the OSET Institute, a nonprofit focused on researching election technology and accessibil­ity. As a result, he had a point to pick on to show how the election was rigged.”

The damage, however, was done, and conspiracy theorists had a kernel of doubt to run with. Dominion’s machines were in use in some of the most closely contested states: Michi­gan, Georgia, and Arizona, to name a few. On Nov. 6, before the election was officially called, Rep. Paul Gosar, an Arizona Republican, citing the Antrim incident, began tweeting calls to “audit all Dominion software” for its “massive fraud potential.” Calls for investigations grew louder, and President Trump, determined to fight the election results, was happy to amplify them.

By the time Powell and Giuliani
The Aftershocks of Innuendo

This visualization of data from Media Research Firm Zignal Labs shows how various un-substantiated claims about Dominion persisted online.

The bizarre conditions around the election provided particularly fertile ground for skepticism. The combination of a close result and a long vote-counting process—caused by the unprecedented millions of cast absentee ballots owing to COVID-19 concerns—created a tense nationwide spectator sport, with party lawyers, poll watchers, and armchair detectives seeking paths for their guy to eke out a win. “It’s the old cliché: Old fish and old election results smell, because people get suspicious about them,” says Rudy Giuliani, a former chief counsel to the RNC who now sits at the firm BakerHostetler (and who calls the claims against Dominion “fantasyland, total garbage, 100%”).

Add a President who had spent months laying the groundwork to cry fraud if he lost, and the climate was ripe for conspiracy theories. “The base is very credulous on these sorts of accusations,” says a Republican official. “And Dominion drew the short straw.”

Still, while the theory that Dominion machines were flipping votes might have initially seemed to hold water in light of the Antrim County bug, the bottom fell out as soon as Dominion’s ties to Venezuela have garnered more than 110,000 social media mentions, according to Smartmatic. Once Dominion defended itself against Smartmatic’s claims, the narrative of Dominion to Venezuela has remained: Dominion maintains that its ties to Venezuela have grown more than 110,000 social media mentions, according to Zignal. As for Smartmatic, in the 2020 election in the U.S., the only place where its machines were used was Los Angeles.

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Over in Virginia, Republican party officials and attorneys were surprised to hear Dominion reference fraud in their state during the Nov. 30 press conference; they had heard no statistical anomalies, improper Internet connections, or any other problems. “It’s bad, they cheated, it was stolen,” said John James in the 2020 Michigan Senate race. If the Antrim County glitch had carried over into the other counties, say some machine opponents, the candidate would have won. “My goal was to find evidence of a problem large enough to have impacted the results,” says Spies. He says he tried to run down every claim raised by Powell, hoping it would work, but all he came up with was “Where I get lost on the big conspiracy is, these machines aren’t interconnected,” he says. “And the president doesn’t change a statewide election.”

Republican campaign attorneys and candidates across the country were trying to do the same thing. In Arizona, lawyers from both in and out of state descended to investigate Dominion’s machines, but after nearly a week of digging and interviewing technicians and election workers, they found no statistical anomalies, improper Internet connections, nor any other problems. Still, while the theory that Dominion machines were flipping votes might have initially seemed to hold water in light of the Antrim County bug, the bottom fell out as soon as Dominion’s ties to Venezuela have garnered more than 110,000 social media mentions, according to Smartmatic. Once Dominion defended itself against Smartmatic’s claims, the narrative of Dominion to Venezuela has remained: Dominion maintains that its ties to Venezuela have grown more than 110,000 social media mentions, according to Zignal. As for Smartmatic, in the 2020 election in the U.S., the only place where its machines were used was Los Angeles.

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CHARLIE SPIES, REPUBLICAN ELECTION-LAW ATTORNEY

use the cybersecurity term, Appeal—the Princeton computer scientist who has hacked a voting machine with a screwdriver—notes that there are still at least a couple of ways to compromise the new breed remotely, generally involving a touchpoint to the Internet. One would be to install malicious software on the machines before they’re shipped out from warehouses, such as through a phishing attack on a Dominion employee. Another way would be to hack the laptops that county officials use to program the machines at a local level, which typically involves uploading the ballot data to a memory card or thumb drive and transferring that—with the addition of a fraudulent algorithm—to the machines. If pulled off successfully, the machines could be “hacked in a networked way, where one hack covers thousands of machines,” Appel says.

Still, would-be hackers face formidable obstacles. One is that under current practice, even the programming laptops are, except in unusual circumstances, behind the Internet, making them virtually inaccessible to a remote hacker. Separately, because programming an installment of fraudulent vote-switching software on machines, it’s extremely unlikely that it would escape discovery during the various certification and accuracy testing protocols the machines undergo ahead of an election, or in the postelection audits that certain states conduct. “There are many, many places where a bad actor would have to maintain the lack of detection, again and again and again,” explains OSET’s Perez. And at the end of the day, if the paper ballots match the machine tallies—as they did in the states that conducted 2020 recounts—“that’s pretty strong evidence that the voting computers weren’t hacked,” says Appel.

If a hack like the one Powell and Giuliani were describing were to take place, in other words, 2020 is the year it would have been caught. Between November and January, there have been hand recounts of votes involving more than 1,000 Dominion machines—including the third recounted of Georgia’s 5 million-plus ballots. None found errors or irregularities on any meaningful scale. As legal challenges regarding more mundane allegations fell apart soon after the election, other law firms
dropped the Trump campaign as a client—consulting during the campaign’s legal strategy, and its legal complaints, in the hands of Giuliani and allies like Powell, Powell had built a reputation for her expertise in appeals litigation; she didn’t lack for legal resources. But the evidence that Powell and her team attached to legal briefs in suits related to Dominion often reads like a hodgepodge of disconnected headlines. Some documents cite a computer game found downloaded onto a laptop running Dominion software as evidence of potential hacking; others point to unusually high voter turnout numbers as proof of something fishy. In some affidavits, witnesses explain that they are basing their testimony on things they found as Google searches. In December, when an Arizona judge dismissed one of Powell’s cases in its entirety, she concluded, “Allegations that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings and procedure in federal court.” To critics, the evidence Powell and her allies have aired against Dominion, both in court and in the media, has been best an illustration of confirmation bias—conspiracy theorists citing one-off irregularities as proof of a grand conspiracy, without connecting any dots. Put another way, just because a voting machine could be hacked doesn’t mean it’s a distinction that Mark Braden finds himself explaining a lot lately. Braden, the former chief executive at Dominion, has worked on roughly 100 recounts in his career; more, he thinks, than any other Republican lawyer in the country. He’s recently been fielding calls from others in the party wondering about the Dominion allegations, and he’s been trying to shoot them down. “They think, ‘Oh, there’s so much smoke, there must be some fire,’” Braden says. “And the answer is, everyone just has clouds in their mind. It’s not smoke—these are just clouds of confusion.”

By Christmas of 2020, more than 50 lawsuits from the Trump campaign and its associates alleging election improprieties had been dismissed—and the legal and cybersecurity establishments had increasingly shrugged off the Dominion story. Before leaving office in December, Attorney General William Barr said that after federal investigations, “to date, we have not seen fraud on a scale that could have affected a different outcome in the election.” In March, the DOJ along with the Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (CISA) declassified a joint report that addressed “multiple public claims that one or more foreign governments—including Venezuela, Cuba, or China” controlled voting machines and manipulated vote counts. Upon investigation, the report said, the allegations “determined that they are not credible.”

Fact, Opinion, and News

AMID ALL THE HATE MAIL and death threats last fall, Poulos received an unexpected message from a Greek Orthodox priest in Long Island, N.Y. The priest had correctly guessed Poulos’s denomination and reached out with support. The message had met, but they’ve spoken a handful of times, and the priest has sent Poulos books, from the spiritual to history. “We’ve had these conversations about how this is not the first time in history that something unfair has happened, and it seems hopeless,” Poulos recalls. “And he kept reminding me that in truth, we are on the right side of history.” A catharsis came in one of the counseling sessions, when the priest quoted Winston Churchill: “When you’re going through hell, keep going.” For Poulos and his employees, that phrase is now a sort of mantra. “To a certain degree, Dominion’s pushback is already having its desired effect. In November and December, both Dominion and Smartmatic sent warning letters to Fox News about the allegations the network was airing. After that, Fox ran some fact-checking segments, including an interview with OSET’s Perez debunking the claims. Powell, Giuliani, and others in the story themselves have largely retracted from the network since early January. The story continues to ricochet around conservative media and social media, however, and Poulos and his colleagues say the damage endured. Dominion, as a privately held company, does not disclose its finances, but its latest lawsuit against Fox enumerates some of the harm it claims to have suffered, including anticipated voting-machine deals in Ohio and Louisiana that have been put on ice since the election. The damages the company is requesting include $600 million in lost profits, as well as lost enterprise value of at least $1 billion, along with hundreds of thousands of dollars spent on security and “combating the disinformation campaign.” Although the many zeroes have raised some eyebrows, Clare, Dominion’s attorney, defends the calculations. “The scope and the reach and the number of people that heard this and believed it and acted upon it is something that is just unprecedented in the 25-plus years that I’ve been doing this.”

TheＡＭＩＤＡＬＬＴＨＥＨＡＴＥＭＡＩＬ and death threats last fall, Poulos received an unexpected message from a Greek Orthodox priest in Long Island, N.Y. The priest had correctly guessed Poulos’s denomination and reached out with support. The message had met, but they’ve spoken a handful of times, and the priest has sent Poulos books, from the spiritual to history. “We’ve had these conversations about how this is not the first time in history that something unfair has happened, and it seems hopeless,” Poulos recalls. “And he kept reminding me that in truth, we are on the right side of history.” A catharsis came in one of the counseling sessions, when the priest quoted Winston Churchill: “When you’re going through hell, keep going.” For Poulos and his employees, that phrase is now a sort of mantra. “To a certain degree, Dominion’s pushback is already having its desired effect. In November and December, both Dominion and Smartmatic sent warning letters to Fox News about the allegations the network was airing. After that, Fox ran some fact-checking segments, including an interview with OSET’s Perez debunking the claims. Powell, Giuliani, and others in the story themselves have largely retracted from the network since early January. The story continues to ricochet around conservative media and social media, however, and Poulos and his colleagues say the damage endured. Dominion, as a privately held company, does not disclose its finances, but its latest lawsuit against Fox enumerates some of the harm it claims to have suffered, including anticipated voting-machine deals in Ohio and Louisiana that have been put on ice since the election. The damages the company is requesting include $600 million in lost profits, as well as lost enterprise value of at least $1 billion, along with hundreds of thousands of dollars spent on security and “combating the disinformation campaign.” Although the many zeroes have raised some eyebrows, Clare, Dominion’s attorney, defends the calculations. “The scope and the reach and the number of people that heard this and believed it and acted upon it is something that is just unprecedented in the 25-plus years that I’ve been doing this.”

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The defense Fox appears to be employing, says Freeman, is known as neutral reportage—the idea that news outlets are allowed to report on and restate important claims made by responsible people. Freeman is one of many advocates who argue that the media should have this right. Neutral reportage is a privilege recognized in few courts, however, and in New York, where Fox is based (and being sued by Smartmatic), the courts have rejected it. And even if a court was receptive, attorneys say Fox might still stumble over the neutrality part; after all, a jury will have to weigh the totality of its coverage, and whether it endorsed its guests’ points. Examples of such perceived endorsement pepper the complaints from Dominion and Smartmatic. In November, for example, Dobbs ended a discussion with Powell about Dominion saying he was “glad” she was working “to straighten out all of this. It is a foul mess, and it is far more sinister than any of us could have imagined.” (Fox dropped Dobbs’s show in February—the day after Smartmatic served its lawsuit—but the network says that the cancellation was unrelated to the defamation cases.)

If Fox were to lose, Dominion and some mainstream commentators will likely hail the win as a triumph of business against misinformation, a line drawn in the sand between facts and alternative facts—and a possible template for future lawsuits. That may be a be-careful-what-you-wish-for scenario, says Yale’s Baron. The benefits of reining in actually fake news, if you will, could have a chilling effect on the freedom of the press and on some speech in general. “The hope is that it will only chill those who are likely to lose libel suits,” she says. “I think the country may get an opportunity to learn a lot about the limits, for good or for ill, of libel law in the context of this litigation.”

Beyond the First Amendment, there are other spheres for holding accountable those responsible for the Big Lie. Powell and Giuliani, along with several other attorneys who filed election challenges, are facing complaints from government officials seeking to disbar them from the legal profession entirely. And some lawmakers who have spread and acted on claims like Powell’s and Giuliani’s are being punished by some donors: Multiple companies have discontinued their donations to the campaigns of lawmakers who declined to certify the validity of the 2020 election.

There’s also the question of whether Dominion’s lawsuits will progress far enough, fast enough, to make a difference. Ironically enough, the toxic information climate exemplified by the Dominion narrative may make it harder to get to the truth. Once it goes to trial, it may be a challenge to empanel enough jurors whose views have not been tainted by the pervasive allegations. Any definitive verdict is likely three to four years down the road, which means there could be another presidential election before a ruling can vindicate the voting machine companies. Should Dominion prevail, its less clear whether it will even make a difference in the minds of the millions for whom the conspiracy theories are gospel.

For Poulos, the issues around integrity and democracy outweigh those concerns. He says Dominion, which is paying the lawyer bills out of its own coffers, has enough runway to pursue the litigation for years and does not plan to settle. “We are not initiating claims to reach a settlement agreement where the truth can’t come out,” he says. “That’s just not of interest to us.” In the meantime, Poulos and his colleagues have been embracing a different mission: explaining to American voters how their elections work. As long as most jurisdictions are using paper ballots—which electoral experts expect even the few holdouts will eventually adopt—there’s a simple path to peace of mind. Nicole Nollette, the Dominion executive, has made it a priority to clear up misinformation. “You don’t need to take our word for it,” she constantly explains. Not when the proof is right there: “You can recount the paper ballots by hand; you can recount them by a machine,” she says. In the future, more states just might—which could be a more effective way to quell conspiracy theories before they catch fire.