

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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RUBY FREEMAN, *et al.*,

Plaintiffs,

v.

RUDOLPH W. GIULIANI,

Defendant.

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Case No. 1:21-cv-03354 (BAH)

Judge Beryl A. Howell

**PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR DISCOVERY SANCTIONS  
AGAINST DEFENDANT GIULIANI FOR FAILURE TO PRESERVE  
ELECTRONIC EVIDENCE**

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Defendant Rudolph Giuliani's response to Plaintiffs' Motion for Discovery Sanctions Against Defendant Rudolph Giuliani For Failure to Preserve Electronic Evidence, ECF No. 81 ("Sanctions Motion"), is simultaneously confounding and clarifying. Defendant Giuliani, still, after months of delay, motions, and briefing regarding his non-compliance with his most basic discovery obligations, refuses to take clear positions on what he has done to locate, preserve, and produce the electronic evidence he plainly possessed at some point in time. For all its bluster, the belated declaration offered by Defendant Giuliani's criminal defense counsel myopically focuses on the *physical devices* the Government seized, while saying *nothing* about Defendant Giuliani's efforts (or lack thereof) to retrieve data, at any time, from his personal phones, emails, messaging applications, or social media accounts. Nonetheless, recognizing the inevitable sanctions that flow from his refusal to do the basic discovery work required by the Federal Rules of Civil Procedure, Defendant Giuliani has effectively admitted that the entry of at least partial judgment against him is an appropriate remedy, and the arguments he purports to reserve have already been resolved by the Court or are devoid of merit on their face. Thus, this Court's task is now straightforward: with both parties in agreement that (at least) partial judgment should be entered for Plaintiffs, and absent any real arguments on liability, this Court should enter judgment on liability for all of Plaintiffs' claims and move expeditiously toward resolving the only outstanding issue—quantification of damages.

Defendant Giuliani's response does not oppose Plaintiffs' Sanctions Motion in any meaningful sense—instead, it effectively concedes that the Court should enter default judgment as to liability. ECF No. 84 at 1 ("Response"). The Response (mainly via arguments made in an attorney declaration) halfheartedly claims that Defendant Giuliani did not spoliage evidence, but the main event is Defendant's position that the Court should not order him to produce any further

evidence (or engage in any other discovery) because he “has agreed to stipulate to the factual aspects of liability as to Plaintiffs claims,” *id.* at 6, in signed (but unsworn) stipulation, ECF No. 84-2 (“Stipulation”). Plaintiffs have clarified with counsel for Defendant Giuliani that through this Stipulation, Defendant Giuliani has agreed not to contest almost any aspect of Plaintiffs’ claims. Specifically, Plaintiffs understand that Defendant Giuliani’s Stipulation was intended to concede, *inter alia*: (1) that Defendant Giuliani published his statements with actual malice—i.e., that he knew his statements about Plaintiffs were false when he published them and/or that he otherwise recklessly disregarded the truth; and (2) that there was a meeting of the minds on or before December 3, 2020, with Donald Trump and others and that Defendant Giuliani published his claims about Plaintiffs pursuant to that agreement.

Plaintiffs respectfully submit that this Court should grant Plaintiffs’ Sanctions Motion and enter judgment against Defendant Giuliani as to liability on all claims. *Infra* § I. Doing so would leave only the quantification of harm for either the Court or a jury. Further, Defendant Giuliani’s Stipulation does not obviate the need for this Court to impose the requested relief as a form of sanctions to remedy his misconduct. None of the arguments advanced in Defendant Giuliani’s Response rebut any of Plaintiffs’ bases for sanctions—to the contrary, if anything, his Response only strengthens the reasons why sanctions are warranted. *Infra* § II. Finally, this Court should award Plaintiffs the fees and costs incurred in connection with this motion. *Infra* § III.

### **RELEVANT FACTUAL BACKGROUND**

Plaintiffs incorporate by reference the factual background set forth in the Sanctions Motion, and address herein the relevant events that have occurred since that filing on July 11, 2023.<sup>1</sup>

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<sup>1</sup> All capitalized terms not defined herein shall have the meaning assigned to them in the Sanctions Motion.

On July 25, Defendant Giuliani filed the Response and Stipulation. In the days that followed, Defendant Giuliani and his agents made (or caused to be made) numerous public statements characterizing Defendant Giuliani's intent in submitting the Stipulation. For example, on July 26, 2023, Defendant Giuliani tweeted a video of himself claiming that "The Fake News says I admitted to lying in an overnight court filing. I didn't. We are simply moving to a point in the case where we can file a motion to dismiss." (Ex. 1.) The same day a "spokesman" for Defendant Giuliani, Ted Goodman, said that Defendant Giuliani did not acknowledge falsity of his claims, but instead "did not contest it in order to move on to the portion of the case that will permit a motion to dismiss." (Ex. 2.) On July 27, 2023, Defendant Giuliani appeared on *The Rubin Report* for a 45 minute-long interview in which he stated:

It's a stipulation where you don't admit or deny so that you don't have to fight over this part of the case. Even though you think you might win, it might take you so long and cost you so much money when you can win on this part of the case much faster and much cheaper.

(Ex. 3 at 4:10–17.) The same day, on his WABC77 radio show, Defendant Giuliani stated:

That is a stipulation that you do very often in a case when you don't want to litigate a certain part of a case and you want to litigate the other part. So that means I am not saying that what I said was untrue. I'm not admitting that. I'm just not contesting it because I don't want to have a big, long trial over it.

I believe if we had a trial, I could put in a very good defense. I think in front of a Washington jury it would be useless. I would lose because I do not believe that the 98 percent Washington jurors would give me a fair trial any more than they've given anyone else a fair trial. And then, I have better defenses that I can make to the court, including the appellate court, that will win the case. So given the fact that they have cost me millions of dollars in legal fees, maybe if I had unlimited amount of money, I'd fight them on that. I made that stipulation.

And the stipulation is exactly what it says it is. It's not an admission that I lied; it's not an admission that I defamed them, nor is it -- it is a -- basically, we're putting it aside so we can get to the part of the case where I have a much better defense because I don't have the money to litigate both parts of the case.

(Ex. 4 at 3:24-4:25.)

In light of some of the comments above, on July 27, 2023, counsel for Plaintiffs contacted counsel for Defendant Giuliani seeking clarification. In that email, Plaintiffs requested that Defendant Giuliani confirm their understanding that he was “reserving his right to raise the legal defenses of constitutionally protected opinion and statute of limitations and to contest the amount of damages, but that otherwise Mr. Giuliani is admitting to all the elements of liability for all the claims in Plaintiffs’ amended complaint.” (Ex. 5 at 3.) Specifically, Plaintiffs’ counsel explained their understanding that, “other than any opinion and statute of limitations defenses and the issue of the amount of damages,” Defendant Giuliani had now stipulated to:

- All elements of Plaintiffs’ defamation and defamation *per se* claims, including that he published his statements with actual malice;
- All elements of Plaintiffs intentional infliction of emotional distress claim, including that he intentionally and recklessly engaged in such conduct; and
- All elements of Plaintiffs’ civil conspiracy claim, including that there was a meeting of the minds on or before December 3, 2020, with Donald Trump and others and that Mr. Giuliani participated in overt acts pursuant to or in furtherance thereof.

(*Id.* at 3–4.) Plaintiffs explained that they also understood the Stipulation to mean that Defendant Giuliani would not “contest willfulness for purposes of punitive damages, should the Court hold him liable.” (*Id.*)

On July 28, counsel for Defendant Giuliani responded by stating:

Since you all are taking the position that actual malice is not required, I think the easier path is to stipulate that actual malice is not the required standard of fault, thereby negating any need for a finding of actual malice. We are also not stipulating that the statements made were statements of fact. . . . I do not believe this is actually an affirmative defense. I believe it is plaintiffs’ burden to show statements of fact were made (although this is a pure question of law for the court as I understand it).

(*Id.*) Counsel for Defendant Giuliani also explained that in “addition to not stipulating on the amount of damages (including offsets or settlement credits) we also do not stipulate as to any causal relationship between the conduct/statements and the alleged damages.” (*Id.*) Defendant Giuliani otherwise confirmed Plaintiffs’ understanding. (*Id.*)

Counsel for Plaintiffs replied, declining to engage in negotiations regarding the intent of Defendant Giuliani’s Stipulation, and explaining that Defendant Giuliani’s Stipulation, on its face, appeared to have conceded the issue of actual malice. (Ex. 5 at 2) In response, Defendant Giuliani’s counsel clarified: “yes—he is stipulating to the malice element (to the extent it is necessary) as he would have to for punitive damages, which I acknowledged below.” (*Id.*) He further explained that his original email was intended only to recognize that Plaintiffs had alleged being private figures. (*Id.*)

## ARGUMENT

The parties now appear to agree that this Court should enter, at minimum, a partial judgment as to liability as a remedy for Defendant Giuliani’s failure to comply with his discovery obligations. The only questions are how broad that judgment should be, and what sanctions should accompany the entry of judgment. As explained below, Defendant Giuliani’s Stipulation supports the Court’s entry of default judgment as to liability. *Infra* § I. And none of the arguments raised in the Response obviates the need for this Court to impose sanctions on Defendant Giuliani, including the entry of default judgment as to liability because he engaged in spoliation (*infra* § II), and associated fees and costs (*infra* § III).

### **I. DEFENDANT GIULIANI’S STIPULATION CONFIRMS THAT THE COURT SHOULD ORDER DEFAULT JUDGMENT AS TO LIABILITY.**

This Court should enter default judgment as to liability against Defendant Giuliani because, *inter alia*, he has effectively stipulated to it. The effect of a default judgment is that a “defaulting

defendant is deemed to admit every well-pleaded allegation in the complaint” and leaves only the quantification of damages to be decided. *Adkins v. Teseo*, 180 F. Supp. 2d 15, 17–18 (D.D.C.2001) (entering default judgment and finding that plaintiffs “satisfied each element” of the pleaded cause of action); *see also U.S. Sec. & Exch. Comm’n v. China Infrastructure Inv. Corp.*, 189 F. Supp. 3d 118, 128 (D.D.C. 2016) (Howell, J.) (noting that “[a] defaulting defendant concedes all well-pleaded factual allegations as to liability, though the court may require additional evidence concerning damages”) (quoting *Al-Quraan v. 4115 8th St. NW, LLC*, 123 F. Supp. 3d 1, 1 (D.D.C. 2015)). Notwithstanding the title of his Stipulation, Defendant Giuliani’s Response states that he “has agreed to stipulate to the factual aspects of liability as to Plaintiffs claims,” i.e., defamation, intentional infliction of emotional distress (“IIED”), and conspiracy claims. Response at 6; *see also* Response at 1 (“Giuliani stipulates to all pertinent facts Plaintiffs would need from him to establish liability”). Because Defendant Giuliani has now conceded all “facts establishing liability,” the Court can and should hold that he is “deemed to admit every well-pleaded allegation” in the Amended Complaint. *Adkins*, 180 F. Supp. 2d at 17.<sup>2</sup>

Defendant Giuliani’s explanation that his Stipulation obviates the need for additional discovery demonstrates why default judgment is appropriate. *See* Response at 1 (Stipulation to

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<sup>2</sup> Courts routinely credit stipulations of factual elements. *See, e.g.*, 57 Am. Jur. *Trials* 395 § 65 (stipulations serve as a “useful case management device to settle issues of fact and law”); *Metro-N. Commuter R.R. Co. v. Buckley*, 521 U.S. 424, 447 (1997) (Ginsburg, J., concurring in part) (discussing defendant’s stipulation conceding negligence for exposing plaintiff to asbestos); *Fields v. Wash. Metro. Area Transit Auth.*, 743 F.2d 890, 892–95 (D.C. Cir. 1984) (upholding jury verdicts to plaintiffs in personal injury case where defendants admitted liability by stipulation); *Friends for All Child., Inc. v. Lockheed Aircraft Corp.*, 746 F.2d 816, 820 (D.C. Cir. 1984) (explaining that stipulation of defendant’s liability for injuries caused by aviation accident would “save time and expenses”) (internal quotation marks and citations omitted); *Williams v. Red Coats, Inc.*, No. 1:20-CV-00571 (CJN), 2021 WL 4476770, at \*5 (D.D.C. Sept. 30, 2021) (“[S]tipulations reduce costs of discovery and litigation.”); *Sloan ex rel. Juergens v. Urb. Title Servs., Inc.*, 652 F. Supp. 2d 40, 47 (D.D.C. 2009) (defendant’s stipulation of liability as to plaintiff’s conversion claim moots plaintiff’s motion for summary judgment on that claim).

“all pertinent facts” makes “further discovery from him unnecessary”). The only result that obviates Plaintiffs’ “need [for] additional discovery” as to liability is one in which Plaintiffs’ factual allegations are deemed to be true. By contrast, reserving any factual disputes would require discovery from Defendant Giuliani with respect to those allegations. Thus, for example, even if this Court were to permit Defendant Giuliani to litigate the legal defenses of opinion and statute of limitations at summary judgment, he should not be permitted to deny or re-litigate factual allegations that his discovery violations have distorted. To the extent that Defendant Giuliani’s reserved legal arguments involve any mixed questions of law and fact, Defendant Giuliani must be required to take as a given, and not contest, the facts in the Amended Complaint.

Counsel for Plaintiffs have met and conferred with counsel for Defendant Giuliani regarding Defendant Giuliani’s intentions with respect to his “nolo contendere [sic]”<sup>3</sup> Stipulation. *See supra*, at 3–4. As has happened previously in this matter, Defendant Giuliani’s public statements seem to depart from his filings before this Court. In any event, while Plaintiffs cannot speak for Defendant Giuliani, it is Plaintiffs’ understanding, based on the representations of his counsel, that the Stipulation was intended to reserve only the following issues for resolution by the Court (and, if necessary, a jury): the opinion doctrine, statute of limitations, causation, and the quantification of damages.

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<sup>3</sup> Plaintiffs do not understand what Defendant Giuliani intended to convey with his “nolo contendere [sic]” label—nolo contendere is a procedure in criminal law, rather than civil litigation, and if it were translated literally in this context would seem to imply that Defendant Giuliani is not, in fact, stipulating to the material facts in Plaintiffs’ amended complaint. *See North Carolina v. Alford*, 400 U.S. 25, 35–36 n. 8 (1970) (a “nolo contendere” plea in the criminal context means a defendant is accepting punishment but is neither accepting nor denying guilt as to the charged crime); 24 Moore’s Federal Practice -- Criminal Procedure § 611.02 (2023). The Stipulation also is not signed subject to penalty of perjury, which is contrary to the Local Rules. LCvR 5.1(f).

As for Defendant Giuliani’s opinion defense, the Court has already addressed and rejected that argument. ECF No. 31 at 17–19. As the Court explained when it denied Defendant Giuliani’s motion to dismiss, whether a statement is non-actionable opinion rather than a defamatory statement of fact is a “a question of law for the court to determine as a threshold matter.” *Id.* at 18 (quoting *Moldea v. N.Y. Times Co.*, 15 F.3d 1137, 1144 (D.C. Cir. 1994)). And the Court did resolve that question of law—against Defendant Giuliani. ECF No. 31 at 17–19. Absent some showing of (1) unique special circumstances, such as where the Court “patently” misunderstood the parties, made a decision beyond the adversarial issues presented, made an error in failing to consider controlling decisions or data, or when a controlling or significant change in the law has occurred, and (2) that “some sort of ‘injustice’ will result if reconsideration is refused,” a party cannot re-raise a purely legal argument resolved by the Court on a motion to dismiss. *See Hamilton v. Geithner*, 616 F. Supp. 2d 49, 54 (D.D.C. 2009); *LaShawn A. v. Barry*, 87 F.3d 1389, 1393 (D.C. Cir. 1996) (explaining that the law of the case doctrine is premised on the obvious proposition that “the *same* issue presented a second time in the *same case* in the *same court* should lead to the *same result*”). Defendant Giuliani does not attempt to explain how there are unique circumstances here necessitating a repeat adjudication of his opinion doctrine arguments. Nor could he, because the only injustice that could plausibly arise would be requiring Plaintiffs to re-litigate the same meritless defense.

As for statute of limitations and causation, both are meritless on their face. All of the actionable statements in Plaintiffs’ Complaint are statements for which Plaintiffs sued within the 1-year statute of limitations for defamation under D.C. law. *See* ECF No. 22 ¶¶ 57–133; ECF No. 1 (complaint filed on December 23, 2021); ECF No. 33 at 13 (“The statute of limitations for

defamation claims is one year under D.C. law.”); D.C. Code Ann. § 12-301(a)(4).<sup>4</sup> As for Plaintiffs’ IIED and civil conspiracy claims, the statute of limitations for intentional infliction of emotional distress in D.C. is three years, D.C. Code Ann. § 12-301(a)(8); *Saunders v. Nemati*, 580 A.2d 660, 661 (D.C. 1990), and the statute of limitations for civil conspiracy is tied to the underlying tort, meaning that it, too, reaches back at least three years from Plaintiffs’ filing date of December 23, 2021, *see Nader v. Democratic Nat’l Comm.*, 567 F.3d 692, 697 (D.C. Cir. 2009).

As for causation, any attempt to argue that Defendant Giuliani’s statements did not cause Plaintiffs *any* injury is inconsistent with his conceding to all “factual aspects of liability as to Plaintiffs claims.” Response at 6. Moreover, such a defense would be frivolous given that Defendant Giuliani otherwise concedes that he and his team started the lies about Plaintiffs and continued to publish them for more than a year.

Accordingly, Plaintiffs respectfully submit that the Court need not accept Defendant Giuliani’s reservations, and is not bound by the four corners of Defendant Giuliani’s Stipulation. Instead, this Court should enter an order granting Plaintiffs’ Sanctions Motion and ordering additional relief for the reasons described below.

Finally, Defendant Giuliani’s Stipulation does not relieve him of his obligations to complete his production of documents relating to damages. The Court has previously held that Defendant Giuliani’s financial records are relevant both to Defendant Giuliani’s motives and to

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<sup>4</sup> Nor is there any plausible argument that Defendant Giuliani’s and his co-conspirators’ *different* statements in *different* fora on *different* dates (spanning *more than a year*) to *different* audiences are subject to the single-publication rule he references in his Answer to Plaintiffs’ amended complaint—indeed, even identical statements are not subject to the single-publication rule when published in new editions of print media, and Defendant Giuliani’s publications are not even identical statements. *See* ECF No. 33 ¶ 194 (referencing the single-publication rule); *e.g.*, *Jankovic v. Int’l Crisis Grp.*, 494 F.3d 1080, 1087 (D.C. Cir. 2007) (noting that “copies of the original are still part of the single publication but republication in a new edition creates a new publication on the rationale that the intent is to reach a new audience”).

punitive damages and ordered Defendant Giuliani to produce his financial information. *See* May 19 Minute Order (May 19, 2023) (directing Defendant Giuliani to produce “full and complete responses to plaintiffs’ requests for financial information in RFP Nos. 40 and 41”); June 22 Minute Order (June 22, 2023) (denying Defendant’s motion for reconsideration and explaining that “here, defendant’s financial condition is relevant to both liability and punitive damages”). To date, Defendant Giuliani has only produced two financial documents—a Court filing from his divorce dated December 10, 2019 and his 2018 tax return. (Gottlieb Decl. ¶ 3.) Because the question of damages is still live, Defendant Giuliani must comply with the previous Court order requiring him to produce his financial documents, and if he continues to refuse, then this Court should award additional sanctions addressing the factual issues relevant to damages.

**II. LEAVING ASIDE HIS STIPULATION, DEFENDANT GIULIANI’S RESPONSE CONFIRMS THAT THE COURT SHOULD GRANT PLAINTIFFS’ MOTION.**

Regardless of what Defendant Giuliani intended with his Stipulation, his Response confirms that he has deprived Plaintiffs of their right to discoverable evidence, thereby warranting the imposition of sanctions.

**A. Defendant Giuliani Concedes Each Of The Factors.**

Defendant Giuliani concedes, expressly or implicitly, each of the factors that courts consider when determining spoliation of evidence: that (1) the Electronic Evidence should have been preserved in anticipation or conduct of litigation; (2) he failed to take reasonable steps to preserve it; (3) which resulted in its loss; (4) and cannot be restored or replaced by additional discovery. *See* Sanctions Motion at 15.

1. Defendant Giuliani was obligated to preserve the Electronic Evidence.

Defendant Giuliani does not dispute that the Electronic Evidence should have been preserved in anticipation of this litigation. *See generally* ECF No. 84; *see, e.g., Hopkins v.*

*Women's Div., Gen. Bd. of Global Ministries*, 238 F. Supp. 2d 174, 178 (D.D.C. 2002) (explaining that a court may treat as conceded arguments that opposition failed to address). Nor could he because, as explained in the Sanctions Motion, he already admitted to the Court that he understood he had an obligation to preserve materials relevant to the topic of this lawsuit before Plaintiffs even filed it. *See* ECF No. 44 at 21 (Motion to Compel).

2. Defendant Giuliani did not take reasonable steps to preserve the Electronic Evidence.

Defendant Giuliani concedes that he failed to take reasonable steps to preserve the Electronic Evidence. His Response once again declines to address, and therefore admits, that he has not taken *any* steps to preserve the Electronic Evidence contained in his: three personal email accounts (Gmail, iCloud, and Protonmail); iCloud account; three phone numbers that he used to send messages via text and messaging application; three messaging applications (Signal, WhatsApp, Telegram); five social media handles; and two of his devices that were not seized by the FBI. *Compare* Sanctions Motion at 10–11, 16–17 *with* Response at 2–6; *see also Hopkins*, 238 F. Supp. 2d at 178 (concession by omission). Nothing in the declaration offered by Defendant Giuliani's criminal attorney, Robert Costello, speaks to what efforts (if any) Defendant Giuliani took with respect to those accounts and applications, whether before, during, or after the time that the Government seized his devices.

Defendant Giuliani's Response implies that he satisfied his preservation obligations by virtue of whatever steps the Government took with respect to the Seized Devices, specifically by the materials located in TrustPoint. *See* Response at 2–6. By so doing, the Response confirms, rather than disputes, that Defendant Giuliani failed to engage in any reasonable steps to preserve any of the materials located in his Seized Devices.

The declaration submitted by Mr. Costello asserts that the materials located in TrustPoint included “gibberish” and useless communications as a result of an error by the Government in *extracting* materials from the Seized Devices. ECF No. 84-1 (“Costello Declaration”) ¶ 17. In other words, Defendant Giuliani’s attorney has confirmed that the materials in TrustPoint are corrupted and that the corruption was a result of extraction, not based on the way materials existed on the Seized Devices. Mr. Costello confirms that Defendant Giuliani knew—no later than September 2021, *before* Plaintiffs filed this lawsuit—that the materials in TrustPoint were corrupted. *Id.* Yet neither Mr. Costello nor Defendant Giuliani explain any affirmative steps that they took thereafter *even to attempt* to recover and/or preserve the materials on the Seized Devices. Mr. Costello does not say, for example, whether he ever asked the Government to re-extract the materials or return the Seized Devices to Defendant Giuliani for purposes of preserving their contents. Nor does he explain whether he or his client ever took any steps to otherwise preserve or recover this evidence *outside of* the Seized Devices, including, but not limited to, by: downloading the entire contents of his accounts (email, text messaging, messaging applications, or social media) via the cloud; logging into his iCloud account to determine whether the lost evidence had been backed up; or engaging an expert to otherwise preserve all of the materials that then existed other than on the physical devices. *See generally* ECF No. 84. The absence of any effort to do so, at a minimum, suggests that Defendant Giuliani had no interest in preserving his records. This is textbook spoliation. *See, e.g.,* Fed. R. Civ. P. 37(e)(2); *Mannina v. District of Columbia*, 437 F. Supp. 3d 1, 14 (D.D.C. 2020); *Beck v. Test Masters Educ. Servs.*, 289 F.R.D. 374, 378 (D.D.C. 2013); *Vasser v. Shulkin*, No. 14-CV-0185 (RC), 2017 WL 5634860, at \*5–6 (D.D.C. Nov. 22, 2017).

Neither Defendant Giuliani nor Mr. Costello seem to grasp that the Government’s seizure of Defendant Giuliani’s devices did not grant him a free pass with respect to his phones, emails, messaging applications, and social media accounts. But even limiting the inquiry to the TrustPoint data raises more questions than answers. For example, Mr. Costello states that the search warrant that led to the April 2021 seizure was limited to materials in “the eighteen-month period from August 1, 2018 to December 31, 2019,” which was nearly a year *before* the relevant time period alleged in Plaintiffs’ Amended Complaint. Costello Decl. ¶ 6. Moreover, the Costello Declaration seems to confirm that the entirety of the records extracted from the Seized Devices were located in a database managed by another discovery provider (PAE), such that TrustPoint only ever had a *portion* of discovery materials, that which the Special Master in the criminal case asked Mr. Costello to review. Costello Decl. ¶ 14. Indeed, after multiple declarations and many months of litigation, it remains entirely unclear what materials were ever held in the TrustPoint repositories. This could explain why certain records produced to Plaintiffs by third parties were not produced by Defendant Giuliani, a fact he does not contest. *See* Response at 5–6.

It is also worth highlighting that Mr. Costello’s declaration includes significant details regarding the TrustPoint database that were previously undisclosed to Plaintiffs and the Court. The Costello Declaration comes months after the Court ordered Defendant Giuliani to provide specific information regarding TrustPoint in March and May of this year. *See* March 21 Minute Order (March, 21, 2023); May 19 Minute Order (May 19, 2023). Defendant Giuliani and Mr. Costello had an obligation to provide this information months ago, and had they done so in good faith, they could have saved the Court and the parties significant time and expense.

Finally, the Costello Declaration makes a variety of hyperbolic accusations, including several asserting that the declaration submitted by undersigned counsel is “misleading,” ECF No.

84-1 ¶¶ 4, 9, and “false,” *id.* ¶ 18. Of course, neither Plaintiffs nor their counsel have ever had access to the full TrustPoint data or for that matter access to complete answers from Defendant Giuliani and his counsel about that data. As a result, Plaintiffs have been forced to interpret cryptic and incomplete information about what information from Defendant Giuliani was stored on TrustPoint and what Defendant Giuliani’s various counsel had done at various stages with respect to that data. In any event, Plaintiffs respectfully submit that the Costello Declaration reinforces the accuracy of Plaintiffs’ representations, including in all of the materials attached to the Sanctions Motion. It is worth asking, if Mr. Costello’s submission reflected sincerely held factual and legal positions, why Defendant Giuliani has stipulated to liability. Ultimately, the lengthy narrative contained in Mr. Costello’s Declaration is irrelevant, both because it does not address anything other than TrustPoint, and because Defendant Giuliani has effectively conceded Plaintiffs’ Sanctions Motion by stipulating to liability. Beyond that, Plaintiffs’ decision not to engage with all of Mr. Costello’s accusations does not reflect Plaintiffs’ agreement with them, but rather a reluctance to further burden this Court with trivial issues.

3. Evidence is lost and irretrievable.

The Response does not dispute that the non-TrustPoint repositories and the evidence contained therein are lost and irretrievable. *See generally* ECF No. 84; *Hopkins*, 238 F. Supp. 2d at 178. And, as Plaintiffs’ Sanctions Motion explains, Defendant Giuliani has already told the Court that he lost access to iCloud and certain materials in his email accounts. *See* Sanctions Motion at 10–11. Thus, this Court should find that all of the materials on his non-TrustPoint repositories are lost and irretrievable.

As far as the TrustPoint materials, and as already discussed, Defendant Giuliani (via Mr. Costello) confirms that the materials located in TrustPoint are corrupted. And that the Seized Devices on which those materials lived (in un-corrupted form) have been wiped. In combination,

there is no dispute that any materials from the Seized Devices are lost and irretrievable. *See* Response at 5 (materials produced by third parties “stems from the fact that the government seized files, some of which were corrupted, and then wiped from the devices”).

\* \* \*

For the reasons articulated in the Sanctions Motion, and on the face of the Response by Defendant Giuliani, Plaintiffs have more than met their burden to demonstrate spoliation and justify the entry of the relief sought in the Motion. If the Court still has remaining questions about TrustPoint and the Seized Devices, including Defendant Giuliani’s prior representations regarding them to this Court, Plaintiffs respectfully submit that the Court should hold a hearing during which Plaintiffs, Mr. Costello, and Defendant Giuliani can address in full the issues raised herein.

**B. Defendant Giuliani’s Response Confirms That Severe Sanctions Are Warranted.**

Defendant Giuliani does not (and cannot) dispute that Plaintiffs will suffer prejudice as a result of his preservation failures. *See* Response at 2–6. For all the many (now undisputed) reasons discussed in the Sanctions Motion, Plaintiffs have been severely prejudiced by Defendant Giuliani’s failure to preserve Electronic Evidence. *See* Sanctions Motion at 25–33.

Leaving aside that Defendant Giuliani is effectively asking for a default judgment (as discussed above), his Response does not address any of the specific types of sanctions that Plaintiffs seek. Specifically, Plaintiffs’ Sanctions Motion asked the Court to enter the following adverse inferences beyond those that go to liability:

1. Defendant Giuliani spoliated significant relevant evidence contained on his personal and professional devices and personal and professional accounts.
8. Before publishing the Defamatory Claims, Defendant Giuliani knew that each Defamatory Claim he made on his podcasts, his radio show, during interviews with One America News Network, on Twitter, and through other mediums, could potentially be heard by tens of millions of individuals, and intended his Defamatory Claims to be heard by as many people as possible.

Sanctions Motion at 34–35. The Court should grant Plaintiffs’ unchallenged requests.

Defendant Giuliani’s failure to address this requested relief also warrants the Court entering default judgment as to liability as the appropriate remedy, for the reasons discussed in the Sanctions Motion. *See, e.g., Wash. Metro. Area Transit Comm’n v. Reliable Limousine Serv., LLC*, 776 F.3d 1, 4–8 (D.C. Cir. 2015) (affirming default judgment as sanction for discovery violation); *see also* Sanctions Motion at § I.F.1.

### **III. THE COURT SHOULD AWARD PLAINTIFFS’ FEES AND COSTS.**

The Court should award Plaintiffs’ fees and costs associated with filing the Sanctions Motion and the negotiations between counsel regarding a potential stipulation.<sup>5</sup> Defendant Giuliani offers two arguments, unsupported by any facts or law, for why the Court should not award Plaintiffs’ attorneys’ fees and costs. First, Defendant Giuliani claims that he did not spoliage evidence, but as explained above, that argument fails in every respect. Second, Defendant Giuliani argues that his Stipulation obviates the need to impose sanctions, but his belated offer was made only after Plaintiffs were forced to litigate this issue for months, including by incurring substantial fees and costs associated with filing the Sanctions Motion. Plaintiffs have already expended considerable resources in discovery, which closed on May 22 after being extended six months because of Defendant Giuliani’s recalcitrance. Thus, Defendant Giuliani should be held responsible for the fees and costs of the Sanctions Motion. *See Doe v. District of Columbia*, No. 19-CV-01173 (CJN), 2023 WL 3558038, at \*16 (D.D.C. Feb. 14, 2023) (awarding attorneys’ fees

---

<sup>5</sup> Plaintiffs note that Defendant Giuliani has yet to pay Plaintiffs’ Attorneys’ Fees awarded in connection with the Motion to Compel, as ordered to be paid by July 25, 2023. July 13 Minute Order (July 13, 2023). Plaintiffs will raise this failure to comply with the Court’s order in the forthcoming Joint Status Report. Plaintiffs now understand from public reporting that a Political Action Committee for former-President Trump paid Defendant Giuliani’s TrustPoint arrearage, and is potentially covering legal fees for this matter. (*See* Ex. 6.)

and costs for Rule 37(e) motion); *Zhi Chen v. District of Columbia*, 839 F. Supp. 2d 7, 16–17 (D.D.C. 2011) (same and explaining that an “award of fees and costs serves the remedial purpose of compensating” the movant “for the reasonable costs it incurred in bringing” the motion for sanctions) (internal quotation marks and citations omitted).

DATED: August 1, 2023

**UNITED TO PROTECT DEMOCRACY**

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\* **Admitted *pro hac vice***

\*\* ***Pro hac vice* application forthcoming**

***Attorneys for Plaintiffs Ruby Freeman and Wandrea' Moss***

**CERTIFICATE OF SERVICE**

I hereby certify that on August 1, 2023, the foregoing document was filed with the Clerk of the Court of the U.S. District Court for the District of Columbia by using the CM/ECF system, which will automatically generate and serve notices of this filing to all counsel of record.

Dated: August 1, 2023

*/s/ Michael J. Gottlieb*  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

RUBY FREEMAN, <i>et al.</i> ,  Plaintiffs,  v.  RUDOLPH W. GIULIANI,  Defendant.	Case No. 1:21-cv-03354 (BAH)  Judge Beryl A. Howell
--	---

**DECLARATION OF MICHAEL J. GOTTLIEB IN SUPPORT OF PLAINTIFFS’  
REPLY IN SUPPORT OF MOTION FOR DISCOVERY SANCTIONS AGAINST  
DEFENDANT GIULIANI FOR FAILURE TO PRESERVE ELECTRONIC EVIDENCE**

I, Michael J. Gottlieb, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set out in the following Declaration is based on my personal knowledge.

2. I represent Plaintiffs Ruby Freeman and Wandrea’ ArShaye Moss in the above-captioned case, and submit this Declaration in support of the Plaintiffs’ Reply in Support of Motion for Discovery Sanctions Against Defendant Giuliani for Failure to Preserve Electronic Evidence (the “Sanctions Motion”).

3. On May 19, 2023, the Court ordered Defendant Giuliani to produce his financial information to Plaintiffs. To date, Defendant Giuliani has produced a total of two documents in response to that order, which are from 2018 and 2019, including one court transcript from his divorce proceedings, dated December 10, 2019 and a 2018 tax return filed in the same.

4. On July 27, 2023, Defendant Giuliani tweeted a video how himself discussing the

news coverage of his Nolo Contendere Stipulation, Dkt. 84-2, (the “Stipulation”). A true and correct copy of the tweet is attached as Exhibit 1.

5. On July 26, 2023, NBC News published an article titled “Rudy Giuliani concedes he made 'false' statements about Georgia election workers.” A true and correct copy of that article is attached as Exhibit 2.

6. On July 27, 2023, the Defendant appeared on an episode of “The Rubin Report,” titled “Responding to Media’s Latest Lie & Biden’s Corruption” where he discussed his Stipulation. A true and correct excerpted copy of the transcript of that episode is attached as Exhibit 3.

7. On July 27, 2023, the Defendant participated in “The Rudy Giuliani Show” on WABC 77, in an episode titled “Bidenomics 101” and spoke about his Stipulation. A true and correct excerpted copy of the transcript of that episode is attached as Exhibit 4.

8. A true and correct copy of the email correspondence between counsel for Plaintiffs and counsel for Defendant, regarding the Stipulation, dated July 31, 2023 is attached as Exhibit 5.

9. On August 1, 2023, Kyle Cheney, a journalist at POLITICO, reported that political action committee for former-President Trump paid \$340,000 to Trustpoint 4 days before Defendant Giuliani said his outstanding debt to Trustpoint for over \$320,000, was cured by a third-party. A true and correct copy of the tweet with the attached photos is attaches as Exhibit 6.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 1, 2023.

/s/ Michael J. Gottlieb  
WILLKIE FARR & GALLAGHER LLP  
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*Attorney for Plaintiffs Ruby Freeman and  
Wandrea' Moss*

# **EXHIBIT 1**



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Rudy W. Giuliani

@RudyGiuliani

Subscribe

**CORRECTING THE RECORD**

The Fake News says I admitted to lying in an overnight court filing. I didn't.

We are simply moving to a point in the case where we can file a motion to dismiss.

If you see a headline claiming I made an admission, just know it is [#FakeNews](#).



5:01 PM · Jul 26, 2023 · 677.3K Views

8,467 Retweets 722 Quotes 24.5K Likes 248 Bookmarks



Who can reply?

People @RudyGiuliani follows or mentioned can reply



Machine Pun Kelly Redux @backell · Jul 26

The actual filing which you signed says you said your statements were false.

The literal filing right here.

Stop lying, Rudy.

3. That Defendant Giuliani, for the purposes of this litigation only, does not contest that, to the extent the statements were statements of fact and other



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wise actionable, such actionable factual statements were false. This stipulation does not affect Giuliani's ability to seek setoff, offset or settlement credit, or his argument that his statements are constitutionally protected statements or opinions or any applicable statute of limitations, or that Giuliani's statements, in fact, caused Plaintiffs any damages, and the amount of any alleged damages which Giuliani's statements may have caused or any other legal defense not expressly waived by this Stipulation;

19 88 521 23.3K



Snowball @LeftAnimalFarm · Jul 27

Is he drawing a distinction between admitting to lying and not contesting that he made false statements?

2 4 49 2,382

Show replies



Catboat Guy @catboat401 · Jul 26

we're with you Rudy

11 3 25 2,468

Show replies



Old School Eddie @Old\_SchoolEddie · Jul 26

I read the court documents for myself and knew it was BS, the Left is comical.

15 13 124 3,339

Show replies



Carl Spackler @CarlSpackler54 · Jul 26

More lies Rudy???

The following media includes potentially sensitive content. View Change settings

4 18 101 5,789



hhardcast @Heath\_H1 · Jul 26

Legal documents don't always mean what people think they do. See that qualifier of, "for purposes of this litigation?" And the language of "does not contest" instead of I admit? And the "Nolo Contendre Stipulation" at the top? All those things have specific meanings in the... Show more

15 42 147 30.7K

Show replies



Anthony T. DiPietro Esq @atdipietro

WOMEN EXPOSED TO ROBERT HADDEN Columbia University leaker drops bombshell on Robert Hadden cover-up.



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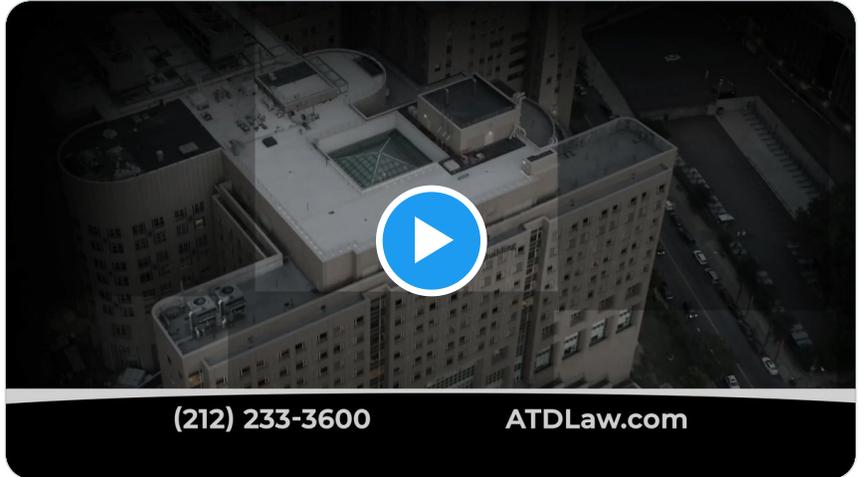
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If you were exposed to **OB/GYN Robert Hadden**, call us to learn more.

- ✓ You can be Anonymous
- ✓ All calls are 100% Confidential
- ✓ There's still time, but **you should call now!**...[Show more](#)



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# **EXHIBIT 2**

# Rudy Giuliani concedes he made 'false' statements about Georgia election workers

[nbcnews.com/politics/2020-election/rudy-giuliani-concedes-made-false-statements-georgia-election-workers-rcna96395](https://www.nbcnews.com/politics/2020-election/rudy-giuliani-concedes-made-false-statements-georgia-election-workers-rcna96395)

July 26, 2023, 8:38 AM EDT/Updated July 26, 2023, 9:58 AM EDT  
Ryan J. Reilly, Summer Concepcion, Josh Cradduck

## 2020 Election

The Trump ally's acknowledgment came in a filing Tuesday related to the 2020 election workers' lawsuit about baseless claims of fraud he made against them.



Rudy Giuliani said in a court filing that he made false statements about two Georgia 2020 election workers. The women claim in a lawsuit that their lives were turned upside down by his baseless allegations of election fraud. Alex Wong / Getty Images file

Rudy Giuliani conceded in a court filing Tuesday that he made “false” statements about two Georgia 2020 election workers who are suing him over baseless claims of fraud that he made against them.

“Defendant Giuliani, for the purposes of litigation only, does not contest that, to the extent the statements were statements of fact and other wise actionable, such actionable factual statements were false,” Giuliani wrote in a signed stipulation that he said was intended to

“avoid unnecessary expenses in litigating what he believes to be unnecessary disputes.”

Ruby Freeman and her daughter, Wandrea “Shaye” Moss, have said their lives were turned upside down when conspiracy theorists, as well as then-President Donald Trump and his ally Giuliani, claimed they had committed election fraud in the 2020 presidential election. A heavily edited, brief clip of security footage was widely circulated online and by Trump allies as supposed proof.

Giuliani had claimed that Freeman and Moss were “passing around USB ports like they were vials of heroin or cocaine.” In reality, as reflected in the Jan. 6 committee report, they were passing a ginger mint.

Freeman testified to the committee that she “lost my sense of security — all because a group of people, starting with Number 45 and his ally Rudy Giuliani, decided to scapegoat me and my daughter Shaye to push their own lies about how the presidential election was stolen.” The Jan. 6 committee called the duo’s treatment “callous, inhumane, and inexcusable.”

Michael J. Gottlieb, partner at Willkie, Farr & Gallagher LLP who serves on the legal team of Freeman and Moss, said in a statement Wednesday that they are “pleased with this major milestone” in response to Giuliani's filing.

“Giuliani’s stipulation concedes what we have always known to be true — Ruby Freeman and Shaye Moss honorably performed their civic duties in the 2020 presidential election in full compliance with the law; and the allegations of election fraud he and former-President Trump made against them have been false since day one,” Gottlieb said. “While certain issues, including damages, remain to be decided by the court, our clients are pleased with this major milestone in their fight for justice, and look forward to presenting what remains of this case at trial.”

In a statement Wednesday morning, Ted Goodman, a Giuliani spokesman, disputed that the former New York mayor acknowledged his statements were false and added that Giuliani “did not contest it in order to move on to the portion of the case that will permit a motion to dismiss.”

“This is a legal issue, not a factual issue,” Goodman said. “Those out to smear the mayor are ignoring the fact that this stipulation is designed to get to the legal issues of the case.”

The Trump campaign did not immediately respond to a request for comment.

The filing by Giuliani comes after Georgia’s State Election Board last month dismissed its yearslong investigation into alleged election fraud at the State Farm Arena in Atlanta, clearing Freeman and Moss of wrongdoing.

The fraud claims were “unsubstantiated and found to have no merit,” the investigation concluded, reporting on the work of the FBI, the Georgia Bureau of Investigation and investigators from the secretary of state’s office vetting the alleged fraud.

# **EXHIBIT 3**

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**Freeman v. Giuliani**  
**Responding to Media's Latest Lie & Biden's**  
**Corruption | Rudy Giuliani | POLITICS | Rubin**  
**Report**

**0:02:00 to 0:07:00**

1           DAVE RUBIN:  -- well, for however long  
2 you want to do it, up top, you want to get to any  
3 of this legal nonsense --

4           RUDY GIULIANI:  Sure.  Whatever you  
5 want to ask.  It's always worth clarifying it  
6 because there are some people that forget that  
7 most of what they get from 80 percent of the  
8 media is nowadays not even --

9           DAVE RUBIN:  Oh, 80.  You're being  
10 nice.

11          RUDY GIULIANI:  I am being nice.

12          DAVE RUBIN:  You are being nice.  95,  
13 yeah.

14          RUDY GIULIANI:  It used to be kind of  
15 warped.  Now it's flat out false and untrue.

16          DAVE RUBIN:  Yeah.

17          RUDY GIULIANI:  So the latest one is, I  
18 admitted that I lied about the two women in  
19 Atlanta who were on video appearing to taking  
20 ballots out of a box that was under a big blanket  
21 and they had gotten rid of all the Republicans  
22 and they were furiously counting ballots.  And  
23 they were alleged to be involved violating the  
24 law because in Georgia you have to have a person  
25 present when you do that.  And you can see them

1 on the video throwing everybody out.

2 DAVE RUBIN: Right. So this was the  
3 video that everyone kind of saw --

4 RUDY GIULIANI: So they sued me and  
5 they alleged that I'm lying about that, that I --  
6 that the words are false, that I have intent and  
7 that they can violate my First Amendment  
8 privilege because it's so bad what I said.

9 So in order to get to the heart of the  
10 case, we've made a stipulation which is very  
11 common in the law. We concede to the purpose of  
12 the case that first allegation that it was untrue  
13 -- we don't admit it. We don't deny it. We just  
14 put it aside and say, it doesn't matter if it's  
15 true or false because we have such a strong and  
16 winning case on lack of intent and on our First  
17 Amendment defenses.

18 Second reason. That first part would  
19 be tried before an Atlanta -- I'm sorry -- a  
20 Washington jury and my chances of winning before  
21 a Washington jury are none.

22 DAVE RUBIN: Right, right.

23 RUDY GIULIANI: So we get the  
24 Washington jury on fairness out. So now the  
25 press says, Giuliani admits lying. You look at

1 the document carefully, it says, this is just for  
2 the purpose of that case. It's not an admission  
3 of lying. It's not contesting it, and I can't  
4 contest lying any place else in the world. But  
5 they don't bother to read the rest of it.

6 DAVE RUBIN: Yeah.

7 RUDY GIULIANI: And something like this  
8 of course -- as a lawyer for 50 years, I've  
9 probably done 500 times and it's well known in  
10 the law. It's a stipulation where you don't  
11 admit or deny so that you don't have to fight  
12 over this part of the case. Even though you  
13 think you might win, it might take you so long  
14 and cost you so much money when you can win on  
15 this part of the case much faster and much  
16 cheaper.

17 DAVE RUBIN: Right. So pardon my legal  
18 naivete for a moment. So what do you want to  
19 happen next now? So -- forgetting what the  
20 public perception of what happened is --

21 RUDY GIULIANI: Well, this will permit  
22 me to not have to go through a big, long trial  
23 and we will get to a legal decision on, in trying  
24 to hold me responsible for defamation, aren't  
25 they violating my First Amendment rights. My

1 rights to represent my client and have that  
2 position as a lawyer true or false. See. True  
3 or false.

4 DAVE RUBIN: Right.

5 RUDY GIULIANI: I don't have to get  
6 into proving that it was false which would take a  
7 long time.

8 DAVE RUBIN: Meaning -- just to  
9 clarify. So you have the right to free speech of  
10 course and you as a lawyer have a right to defend  
11 somebody --

12 RUDY GIULIANI: It goes even beyond  
13 that.

14 DAVE RUBIN: Right. Regardless of  
15 whether what they're saying is right or wrong or  
16 anything --

17 RUDY GIULIANI: And we think if we get  
18 it out of the biased DC district and we get it up  
19 to the more general legal principles are applied  
20 in the DC circuit -- I also think we got a chance  
21 to go to the Supreme Court because it is a  
22 perfect example of the censorship that's going on  
23 now because I was being censored. So we want to  
24 get it on a fast track there, but when you do  
25 that, you make stipulations. So we made the

1 stipulation. The lawyers did it in the language  
2 that it's been a hundred times. Never  
3 interpreted that way. And of course the fake  
4 media immediately says, Giuliani admits that he's  
5 lying. Well, I'm --

6 DAVE RUBIN: Yeah. I mean, that --

7 RUDY GIULIANI: I'm not lying. I  
8 didn't admit it. I didn't even admit it for that  
9 case. I just didn't contest it. And I have to  
10 tell you, I'm proud of myself. I woke up this  
11 morning. I saw it in the newspapers. I put it  
12 down and I went back to sleep.

13 DAVE RUBIN: The funny thing is that I  
14 -- I think we texted and then literally it was  
15 like five minutes later, I see the headline and  
16 I'm like, oh, I'm trying to go off for August.  
17 Why do I -- why am I getting -- but then I was  
18 like, wait, why am I believing actually that the  
19 media says.

20 RUDY GIULIANI: Of course. And of  
21 course it's a perfect day to run this because  
22 Hunter Biden is totally falling apart. I mean,  
23 right. And they always look for something. Now  
24 if something even better comes along where they  
25 can try to bury it, they'll take me out of it --

1                   DAVE RUBIN: The aliens, the aliens.  
2 We got non-biological humans or something  
3 crashed. Very exciting.

4                   RUDY GIULIANI: And we got something --

5                   DAVE RUBIN: It can't surprise you. I  
6 mean, you lived in New York city most of your  
7 life --

8                   RUDY GIULIANI: Honestly --

9                   DAVE RUBIN: Aliens -- they're like, I  
10 saw Men in Black. Come on.

11                  RUDY GIULIANI: I think I've met them.

12                  DAVE RUBIN: You probably did.

13                  RUDY GIULIANI: And in fact some of  
14 them might do a better job in the White House.

15                  DAVE RUBIN: Well, that -- I have no  
16 doubt about that.

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the foregoing transcript is a true and accurate record of the proceedings.

*Sonya M. Ledanski Hyde*

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Veritext Legal Solutions  
330 Old Country Road  
Suite 300  
Mineola, NY 11501

Date: July 31, 2023

<b>&amp;</b>	<b>amendment</b> 3:7 3:17 4:25	<b>mentorship</b> 5:22	<b>dc</b> 5:18,20
<b>&amp;</b> 1:13	<b>apart</b> 6:22	<b>certify</b> 8:3	<b>decision</b> 4:23
<b>0</b>	<b>appearing</b> 2:19	<b>chance</b> 5:20	<b>defamation</b> 4:24
<b>0:02:00</b> 1:17	<b>applied</b> 5:19	<b>chances</b> 3:20	<b>defend</b> 5:10
<b>1</b>	<b>aside</b> 3:14	<b>cheaper</b> 4:16	<b>defenses</b> 3:17
<b>11501</b> 8:14	<b>atlanta</b> 2:19	<b>circuit</b> 5:20	<b>deny</b> 3:13 4:11
<b>12151</b> 8:8	3:19	<b>city</b> 7:6	<b>district</b> 5:18
<b>2</b>	<b>august</b> 6:16	<b>clarify</b> 5:9	<b>document</b> 4:1
<b>2023</b> 8:16	<b>b</b>	<b>clarifying</b> 2:5	<b>doubt</b> 7:16
<b>3</b>	<b>back</b> 6:12	<b>client</b> 5:1	<b>e</b>
<b>300</b> 8:13	<b>bad</b> 3:8	<b>come</b> 7:10	<b>e</b> 8:1
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# **EXHIBIT 4**

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**Freeman v. Giuliani**

**Audio File: WABC1790035427.mp3**

**0:22:00 to 0:34:00**

1           MARIA RYAN: The Commission for the  
2 preservation of Americans Heritage Abroad. Yeah,  
3 and here is another one; Bidenomics is when your  
4 vice-presidential's chief of staff organizes a  
5 four-month ceremonial role at the United Nations  
6 for your sister that pays a cool \$26,000. After  
7 which, your son's business partner organizes two  
8 additional \$12,500 per month consulting contracts  
9 for her, one with the Biden Foundation, and the  
10 other with the University of Delaware.

11           RUDY GIULIANI: Yeah, it's -- it's  
12 impossible -- and I'm not going to get into it  
13 because I have this guy that wants to challenge  
14 me who's calling. And I want to show you, I let  
15 you all on whether you agree with me, disagree  
16 with me, or want to ask me a question you  
17 shouldn't have to ask me because you should have  
18 figured it out yourself. But I'm happy to have  
19 you ask it. Fred, my friend in Manhattan.  
20 What's your question, Fred?

21           CALLER FRED: Mr. Mayor, I'm a great  
22 admirer of you. But one of things I like best  
23 about you is your honesty. And today -- I know  
24 you can't believe everything you read in the  
25 newspapers, but I just want to read one sentence

1 from the Wall Street Journal today.

2 RUDY GIULIANI: Sure.

3 CALLER FRED: And would ask -- and  
4 would ask you to -- I'd like to hear your side of  
5 it because I know --

6 RUDY GIULIANI: Well, thank you. I --  
7 I appreciate that. That's very fair.

8 CALLER FRED: Okay. So if -- I'm just  
9 going to read this one sentence. "In a carefully  
10 worded statement filed in federal court late  
11 Tuesday, New York's Giuliani said he didn't  
12 contest that his statements about Wandrea ArShaye  
13 Moss and her mother, Ruby Freeman, were false and  
14 carry meaning that is defamatory." So my  
15 question to you is, did you say these statements  
16 that you knew to be false, or you believed to be  
17 false without any real proof? And the fact that  
18 later on they say you have -- you have defenses,  
19 which include constitutional protection -- that  
20 are constitutionally protected, that -- that  
21 doesn't -- that doesn't address the honesty part  
22 of it. And I'd like to hear your response.

23 RUDY GIULIANI: You're absolutely  
24 right. Sure, I'll give you the response. That  
25 is a stipulation that you do very often in a case

1 when you don't want to litigate a certain part of  
2 a case and you want to litigate the other part.  
3 So that means I am not saying that what I said  
4 was untrue. I'm not admitting that. I'm just  
5 not contesting it because I don't want to have a  
6 big, long trial over it.

7 I believe if we had a trial, I could  
8 put in a very good defense. I think in front of  
9 a Washington jury it would be useless. I would lose  
10 because I do not believe that the 98 percent  
11 Washington jurors would give me a fair trial any  
12 more than they've given anyone else a fair trial.  
13 And then, I have better defenses that I can make  
14 to the court, including the appellate court, that  
15 will win the case. So given the fact that they  
16 have cost me millions of dollars in legal fees,  
17 maybe if I had unlimited amount of money, I'd  
18 fight them on that. I made that stipulation.

19 And the stipulation is exactly what it  
20 says it is. It's not an admission that I lied;  
21 it's not an admission that I defamed them, nor is  
22 it -- it is a -- basically, we're putting it  
23 aside so we can get to the part of the case where  
24 I have a much better defense because I don't have  
25 the money to litigate both parts of the case.

1                   MARIA RYAN: You know, Mayor, I was  
2 talking --

3                   RUDY GIULIANI: Which is done by the --  
4 which I've done for clients -- oh, my goodness, a  
5 hundred times. You stipulate things out of a  
6 case that you don't believe is worth fighting  
7 over.

8                   MARIA RYAN: And spending money,  
9 ridiculous amount of money.

10                  RUDY GIULIANI: Right. And I have to  
11 also say, part of -- if we were in -- if were  
12 litigating this case in a neutral jurisdiction,  
13 under what we always considered to be American  
14 law and not the system that Biden has created for  
15 us, which is something closer to a fascist system  
16 of justice, I would have litigated that and  
17 wasted -- and spent the money.

18                  MARIA RYAN: Can I ask you a question?

19                  RUDY GIULIANI: Because I -- but I  
20 don't -- I don't think I have a prayer in front  
21 of a Washington jury, so I take it out of the  
22 case. I don't admit that I lied. I -- I  
23 say -- I don't admit or deny. Put it aside,  
24 let -- now let's get to whether I am going to be  
25 able to show that I had support for the

1 statements that I made. I mean, you -- you  
2 can -- you can make an incorrect statement and  
3 still not be lying if you believe it's true  
4 because somebody gave you the information.

5 MARIA RYAN: Could I ask you a question  
6 on that?

7 RUDY GIULIANI: Yeah.

8 MARIA RYAN: I was talking to --

9 RUDY GIULIANI: And it was an  
10 absolutely cheap, disgusting headline because the  
11 reporters who do it know this is done in every  
12 case. It is not -- first of all, it doesn't --  
13 it's not an admission. A big difference between  
14 a stipulated concession and admission and they  
15 know that. Thousands of documents are filed in  
16 court every day that say, I don't admit or deny.

17 MARIA RYAN: So I was talking to this  
18 prestigious lawyer who said exactly almost  
19 word-for-word what you're saying.

20 RUDY GIULIANI: Well, maybe because  
21 it's the truth.

22 MARIA RYAN: Yeah, yeah, yeah, yeah.

23 RUDY GIULIANI: They're a bunch of damn  
24 liars.

25 MARIA RYAN: Yeah. And he was saying

1 it was purposely twisted in the newspapers. I  
2 think of reporters who are very politically  
3 biased and they're going to write whatever they  
4 want. And it's salacious, right? They got a lot  
5 of views on it. Aren't -- wouldn't it -- I -- I  
6 don't even know how to word this. Shouldn't  
7 journalists if it's something to do with  
8 legal -- they're not lawyers. Right? Shouldn't  
9 they consult with a non-biased lawyer before they  
10 respond?

11 RUDY GIULIANI: No. Because under  
12 Times against Sullivan, I virtually have no  
13 rights. So basically, I could sue them until my  
14 heart's content, but I would have to prove malice  
15 on their part. And there's enough confusion and  
16 interpretation in that direction so that it would  
17 be hard for me to prove actual malice. And I'd  
18 waste my time on that as well.

19 MARIA RYAN: And if you --

20 RUDY GIULIANI: Plus, if I sued them  
21 and I happened to get a Trump judge, he may turn  
22 it into a criminal case and put me in jail for 50  
23 years.

24 MARIA RYAN: It's crazy. Right?

25 RUDY GIULIANI: Like they did with the

1 January --

2 MARIA RYAN: There's really no justice.

3 RUDY GIULIANI: -- remember, I'm -- I'm  
4 litigating that case, the one their talking  
5 about. And in front of a judge that has put  
6 these January 6th people in jail for  
7 amount -- for amounts of time that would make you  
8 shudder.

9 MARIA RYAN: Yeah. No, we definitely  
10 have a problem with our DAs, our court system,  
11 and our judges. If you wouldn't mind -- and you  
12 can tell me if you're not allowed to answer this  
13 question. But again, I was told that you got the  
14 information from another lawyer or a legislature.  
15 Can you comment whether you got the tape --

16 RUDY GIULIANI: No, that I got it from  
17 both.

18 MARIA RYAN: So -- okay. So you got --

19 RUDY GIULIANI: Well, I got -- I got it  
20 from a -- the -- my co-counsel.

21 MARIA RYAN: Yeah.

22 RUDY GIULIANI: I didn't -- I didn't  
23 develop this --

24 MARIA RYAN: Right. So if you --

25 RUDY GIULIANI: -- this tape or

1 information on them.

2           MARIA RYAN: -- if you got the tape  
3 from another person, you believed everything  
4 about the tape, it's been all over YouTube,  
5 Rumble, from everybody else, what -- how can they  
6 single you out and not go after all the other  
7 people?

8           RUDY GIULIANI: Now, take this in, my  
9 friend. If it weren't for me, you would not know  
10 anything about Joe Biden's criminality. If I had  
11 died in 2017, we would now have zero knowledge of  
12 Joe Biden. The original information about Joe  
13 Biden had been covered up successfully until I  
14 revealed it, developed in November of 2018. And  
15 revealed it for the first time in late January,  
16 early February 2019.

17           And you'll find that in John Solomon's  
18 columns and On the Air with Sean Hannity. You'll  
19 then see my first 10 podcasts where I don't just  
20 lay it out, I prove it. Unlike other lying  
21 creeps, I'm a person who proves things, so.

22           MARIA RYAN: But they want to shut you  
23 up, bascially, because I never saw that video  
24 from you. I saw the video from -- and I'm not  
25 going to mention her name because I don't want

1 them to go after her. But it was a female, and  
2 she was pointing out everything in it. Look how  
3 they took the ballots out from the table, look  
4 how the -- Georgia law says that both parties  
5 have to be present when counting.

6 RUDY GIULIANI: You see, you -- you're  
7 actually making a very good point because that's  
8 what we want to litigate about.

9 MARIA RYAN: Yeah.

10 RUDY GIULIANI: Not what's true, what's  
11 false, but was I entitled to have that opinion?

12 MARIA RYAN: Right.

13 RUDY GIULIANI: And the answer to that  
14 is almost yes. And I think even a prejudiced  
15 Washington jury, we have a shot at that. And  
16 then, if they came out the other way, we'd have a  
17 shot at getting it reversed.

18 MARIA RYAN: Yeah.

19 RUDY GIULIANI: Whereas, you know,  
20 look, remember I'm also affected by the fact that  
21 a client, a young woman who just carried around a  
22 sign once that she was for -- for Reagan and you  
23 know --

24 MARIA RYAN: No, for Trump.

25 RUDY GIULIANI: -- for Trump and they

1 tortured her. They actually tortured her.

2 MARIA RYAN: A high schooler.

3 RUDY GIULIANI: They -- they tortured  
4 her --

5 MARIA RYAN: Yeah.

6 RUDY GIULIANI: -- out of the school.  
7 They almost gave her a nervous breakdown.

8 MARIA RYAN: It was irrational how they  
9 went after her, yeah.

10 RUDY GIULIANI: They -- they said they  
11 were rip -- rip apart her private parts. And  
12 then they wrote her a letter saying Republicans  
13 don't belong in the public school system, after  
14 all, we're 99 percent Democrats. I've also seen  
15 cases decided irrationally by Washington jurors.  
16 So my lawyer -- I mean, this is also my lawyer's  
17 opinion. My lawyer would do the same thing I  
18 did. My lawyer had to make a practical decision.

19 MARIA RYAN: Right.

20 RUDY GIULIANI: What can we win and  
21 what can't we win. And for a lawyer, this is an  
22 easy -- we do this all the time. We make  
23 concessions in a case, even though --

24 MARIA RYAN: Concessions is not  
25 admission.

1 RUDY GIULIANI: We make concessions to  
2 save time --

3 MARIA RYAN: Right, and money.

4 RUDY GIULIANI: -- not because we're  
5 admitting anything.

6 MARIA RYAN: Yeah. Well, I think --

7 RUDY GIULIANI: So that's -- that's  
8 what this is.

9 MARIA RYAN: Yeah.

10 RUDY GIULIANI: And they took advantage  
11 of it. Look, nowadays -- I woke up this morning.  
12 I saw it, I said, here we go. Cheap shot again,  
13 another liar. I'll answer it later, and I went  
14 back to sleep.

15 MARIA RYAN: Yeah. Well, you're a good  
16 man. I know you nothing but being honest. Some  
17 people might say too honest, but I thank you for  
18 what you did for this country. When no one would  
19 speak about Ukraine corruption, you spoke about  
20 it. When that laptop -- I'll never forget you  
21 saying, why did it have to be given to me? Now  
22 that I know there's corruption, I have an  
23 obligation to tell the American people. So  
24 those --

25 RUDY GIULIANI: No, I knew the --

1           MARIA RYAN:   -- bright people --

2           RUDY GIULIANI:  -- I knew I could get  
3 crucified.  I knew I was going to be crucified  
4 over --

5           MARIA RYAN:  -- are behind you.

6           RUDY GIULIANI:  -- putting it out.

7           MARIA RYAN:  Yep.

8           RUDY GIULIANI:  When I put out the  
9 original information on Biden, I was told by a  
10 friend, they're going to crucify you.

11          MARIA RYAN:  Yeah.

12          RUDY GIULIANI:  And I actually didn't  
13 think you were.  You know, at then I didn't  
14 tell -- but the time we got to the hard drive, I  
15 knew -- oh, my God, this is going to be --  
16 they're going to -- I think they -- they had  
17 already gotten me thrown out of my law firm.  I  
18 don't remember.  But I mean, this is going to  
19 be -- there could be a disaster for me  
20 (indiscernible).

21          MARIA RYAN:  Well, your law firm is at  
22 a loss.  They're a bunch of losers.

23          RUDY GIULIANI:  They're not really  
24 lawyers.  When you do that, you're really a  
25 lawyer.  You're --

1                   MARIA RYAN: Yeah, when you're not, you  
2 do that.

3                   RUDY GIULIANI: -- you're something  
4 else.

5                   MARIA RYAN: But thanks for having me  
6 on about Bidenomics. But it's something that's  
7 tearing apart this country.

8                   RUDY GIULIANI: Well, thank you Dr.  
9 Maria. You'll be back. And certainly on Sunday  
10 with Uncovering the Truth from 10 to 11.

11                   MARIA RYAN: Yes, sir.

12                   RUDY GIULIANI: We'll be right back.

13                   ADVERTISEMENT: For America's climate  
14 goals, investing in clean energy adds up. But  
15 what doesn't add up is an additionality  
16 requirements for clean hydrogen. Additionality  
17 would put an unnecessary and inequitable burden  
18 on domestic clean hydrogen producers and have  
19 serious consequences for America. America needs  
20 clean hydrogen, but an additionality requirement  
21 just doesn't add up. Get the facts at  
22 [cleanhydrogentoday.org](http://cleanhydrogentoday.org). Paid for by the Fuel  
23 Cell and Hydrogen Energy Association.

24                   (End of requested audio)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the foregoing transcript is a true and accurate record of the proceedings.

*Sonya M. Ledanski Hyde*

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Veritext Legal Solutions  
330 Old Country Road  
Suite 300  
Mineola, NY 11501

Date: August 1, 2023

[0:22:00 - cleanhydrogentoday.org.]

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[client - giuliani]

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[v - zero]

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# **EXHIBIT 5**

---

**From:** [sibley@camarasibley.com](mailto:sibley@camarasibley.com) <[sibley@camarasibley.com](mailto:sibley@camarasibley.com)>  
**Sent:** Monday, July 31, 2023 11:13 AM  
**To:** Houghton-Larsen, M Annie <[MHoughton-Larsen@willkie.com](mailto:MHoughton-Larsen@willkie.com)>  
**Cc:** Gottlieb, Michael <[MGottlieb@willkie.com](mailto:MGottlieb@willkie.com)>; Goverski, Meryl Conant <[MGoverski@willkie.com](mailto:MGoverski@willkie.com)>; John Langford <[john.langford@protectdemocracy.org](mailto:john.langford@protectdemocracy.org)>; Von DuBose <[dubose@dubosemiller.com](mailto:dubose@dubosemiller.com)>; Christine Kwon <[christine.kwon@protectdemocracy.org](mailto:christine.kwon@protectdemocracy.org)>  
**Subject:** Re: Freeman v. Giuliani - Giuliani Nolo Contendre Stipulation

\*\*\* EXTERNAL EMAIL \*\*\*

Yes — he is stipulating to the malice element (to the extent it is necessary) as he would have to for punitive damages, which I acknowledged below. Your papers previously indicated you did not believe that standard applied, so I was proposing a supplemental stipulation to address that issue.

Sent from my iPhone

On Jul 30, 2023, at 9:37 AM, Houghton-Larsen, M Annie <[MHoughton-Larsen@willkie.com](mailto:MHoughton-Larsen@willkie.com)> wrote:

Thanks Joe.

To clarify, we were not asking to negotiate any additional stipulations here, but to confirm our reading of the opposition and stipulation you filed. On the defamation claim, our read of your papers is that Defendant Giuliani has already stipulated to the fact that Mr. Giuliani published his statements with actual malice. In any event, a stipulation of negligence would be insufficient here for several reasons. We'll take that issue up with the Court.

Thank you,  
Annie

**M.Annie Houghton-Larsen**  
**Willkie Farr & Gallagher LLP**  
787 Seventh Avenue | New York, NY 10019-6099  
Direct: [+1 212 728 8164](tel:+12127288164) | Fax: +1 212 728 9164  
[mhoughton-larsen@willkie.com](mailto:mhoughton-larsen@willkie.com) | [vCard](https://vcard.willkie.com) | [www.willkie.com bio](http://www.willkie.com/bio)  
Pronouns: she, her, hers

**From:** Joe Sibley <[sibley@camarasibley.com](mailto:sibley@camarasibley.com)>  
**Sent:** Friday, July 28, 2023 1:13 PM

**To:** Houghton-Larsen, M Annie <MHoughton-Larsen@willkie.com>  
**Cc:** Gottlieb, Michael <MGottlieb@willkie.com>; Governski, Meryl Conant <MGovernski@willkie.com>; John Langford <[john.langford@protectdemocracy.org](mailto:john.langford@protectdemocracy.org)>; Von DuBose <[dubose@dubosemiller.com](mailto:dubose@dubosemiller.com)>  
**Subject:** Re: Freeman v. Giuliani - Giuliani Nolo Contendre Stipulation

\*\*\* EXTERNAL EMAIL \*\*\*

Annie, please see below.

On Wed, Jul 26, 2023 at 1:45 PM Houghton-Larsen, M Annie <[MHoughton-Larsen@willkie.com](mailto:MHoughton-Larsen@willkie.com)> wrote:

Joe,

We are preparing our reply brief in support of Plaintiffs' motion for sanctions. In order to fully formulate our position, we need additional clarity on what Mr. Giuliani's stipulation is proposing.

Our understanding is that Mr. Giuliani is reserving his right to raise the legal defenses of constitutionally protected opinion and statute of limitations and to contest the amount of damages, but that otherwise Mr. Giuliani is admitting to all the elements of liability for all the claims in Plaintiffs' amended complaint. Specifically:

1. Other than any opinion and statute of limitation defenses and the issue of the amount of damages, Plaintiffs understand that Mr. Giuliani has now stipulated to all elements of defamation, including that he published his statements with actual malice.

Since you all are taking the position that actual malice is not required, I think the easier path is to stipulate that actual malice is not the required standard of fault, thereby negating any need for a finding of actual malice. We are also not stipulating that the statements made were statements of fact...I do not believe this is actually an affirmative defense. I believe it is plaintiffs' burden to show statements of fact were made (although this is a pure question of law for the court as I understand it).

1.
  1. Other than any opinion and statute of limitation defenses and the issue of the amount of damages, Plaintiffs understand that Mr. Giuliani has now stipulated to all elements of Plaintiffs intentional infliction of emotional distress claim, including that he intentionally and recklessly engaged in such conduct.

See above on opinion and whether it is an affirmative defense. In addition to not stipulating on the amount of damages (including offsets or settlement credits) we also do not stipulate as to any causal relationship between the conduct/statements and the alleged damages. Otherwise, I believe your statement here is correct.

1.

1. Other than any opinion and statute of limitation defenses and the issue of the amount of damages, Plaintiffs understand that Mr. Giuliani has stipulated to all the elements of Plaintiffs' civil conspiracy claim, including that there was a meeting of the minds on or before December 3, 2020, with Donald Trump and others and that Mr. Giuliani participated in overt acts pursuant to or in furtherance thereof.

Except as per above with damages, etc. yes, that is my understanding.

1.

It is also Plaintiffs' understanding that Mr. Giuliani will not contest willfulness for purposes of punitive damages, should the Court hold him liable.

Yes.

If you could please confirm by **noon EST tomorrow**. Thanks,

Sorry -- I didn't see your request for this to be done so swiftly.

Annie

**M. Annie Houghton-Larsen**

**Willkie Farr & Gallagher LLP**

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[mhoughton-larsen@willkie.com](mailto:mhoughton-larsen@willkie.com) | [vCard](#) | [www.willkie.com bio](http://www.willkie.com/bio)

Pronouns: she, her, hers

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# **EXHIBIT 6**



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**Kyle Cheney** @kyledcheney · 15h

A timeline:

May 1: Rudy says he can't afford to pay Trustpoint One, the vendor searching his accounts in Ruby Freeman lawsuit. He has an arrearage of more than \$320,000.

May 26: Trump PAC pays Trustpoint \$340,000.

May 30: Rudy tells the court his arrearage has been "cured."

ne documents have now been an  
 th multiple litigations and inv  
 keep the documents online. It w  
 with TrustPoint One and to hav  
 documents again for additional  
 ve the funds to pay this amount

TRUSTPOINT.ONE	PO BOX 532292 ATLANTA, Georgia 30353	05/03/2023	LEGAL CONSULTING	13097.69
TRUSTPOINT.ONE	PO BOX 532292 ATLANTA, Georgia 30353	05/31/2023	LEGAL CONSULTING	12000.38
TRUSTPOINT.ONE	PO BOX 532292 ATLANTA, Georgia 30353	05/26/2023	LEGAL CONSULTING	340047.43
TRUSTPOINT.ONE	PO BOX 532292 ATLANTA, Georgia 30353	03/08/2023	LEGAL CONSULTING	2707.00
TRUSTPOINT.ONE	PO BOX 532292 ATLANTA, Georgia 30353	03/29/2023	LEGAL CONSULTING	8759.73
TRUSTPOINT.ONE	PO BOX 532292 ATLANTA, Georgia 30353	02/03/2023	LEGAL CONSULTING	399.67
TRUSTPOINT.ONE	PO BOX 532292 ATLANTA, Georgia 30353	01/05/2023	LEGAL CONSULTING	355.92
TRUSTPOINT.ONE	PO BOX 532292 ATLANTA, Georgia 30353	01/13/2023	LEGAL CONSULTING	29017.68

5. These were all of the electronic devices I used as of April 2021 and had in my possession, custody, or control at that time. All of my [redacted] iCloud data would have also been included in the TrustPoint data because I synced my iCloud to my devices. The messaging data I had on the devices would have included iMessage, text message, WhatsApp, Signal, and Telegram. I am not sure whether data from my social media accounts of YouTube, Facebook, Instagram, and Twitter were extracted from these devices because I do not recall whether I used website access on my devices for these accounts or whether I accessed them from social media apps. If the access was via the web, no data from social media would have been extracted from the devices. Because we have cured the arrearage with TrustPoint and the data is in the process of being unarchived, we will be able to answer this question in the next week or so.

6. The TrustPoint One documents were searched for email files in accordance with

107    1,916    4,863    778.1K



**Kyle Cheney**

@kyledcheney

We also know the arrearage was still current as of May 19, when Giuliani discussed it in open court with Judge Howell.



politico.com

Judge orders Rudy Giuliani to detail finances in election defamation suit

The order comes amid disputes about access to Giuliani's evidence related to a suit filed by 2020 election poll workers.

10.51 PM · Jul 31, 2023 · 44.5K views

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M Post your reply! Reply

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1 retweet 26 views

Thread Reader App @threadreaderapp · 2h @jeanneenabottle Hola, you can read it here: threadreaderapp.com/thread/1686194... See you soon.

Thread reader

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Thread by Kyle Cheney (@kyledcheney), Aug 1

A timeline: May 1: Rudy says he can't afford to pay Trustpoint One, the vendor searching his accounts in Ruby Freeman lawsuit. He has an arrearage...



threadreaderapp.com Thread by @kyledcheney on Thread Reader App @kyledcheney: A timeline: May 1: Rudy says he can't afford to pay Trustpoint One, the vendor searching his accounts in Ruby Freeman ...

19 views

The Nightmare is Not Over @carpediembud · 14h You don't "know" anything that Rudy said. You only know he said it.

Words are your business. Use the wisely.

1 like 178 views

Cindy L Arnevik @cabbageridge · 14h Who else is Trustpoint One working for? Lots of payments to them

4 likes 333 views

David Corbett @DavidCorbett\_CA · 9h To most laymen this is clearly obstruction of justice, witness tampering and garden-variety corruption. To a prosecutor this is an extremely difficult case to prove beyond a reasonable doubt.

108 views

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More

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**circus no bread** @BerkeleyEve · 14h

oh yah HE is the victim here



277



**JClaud** @MezanmiO · 14h

Oh boy 🙄🙄🙄🙄

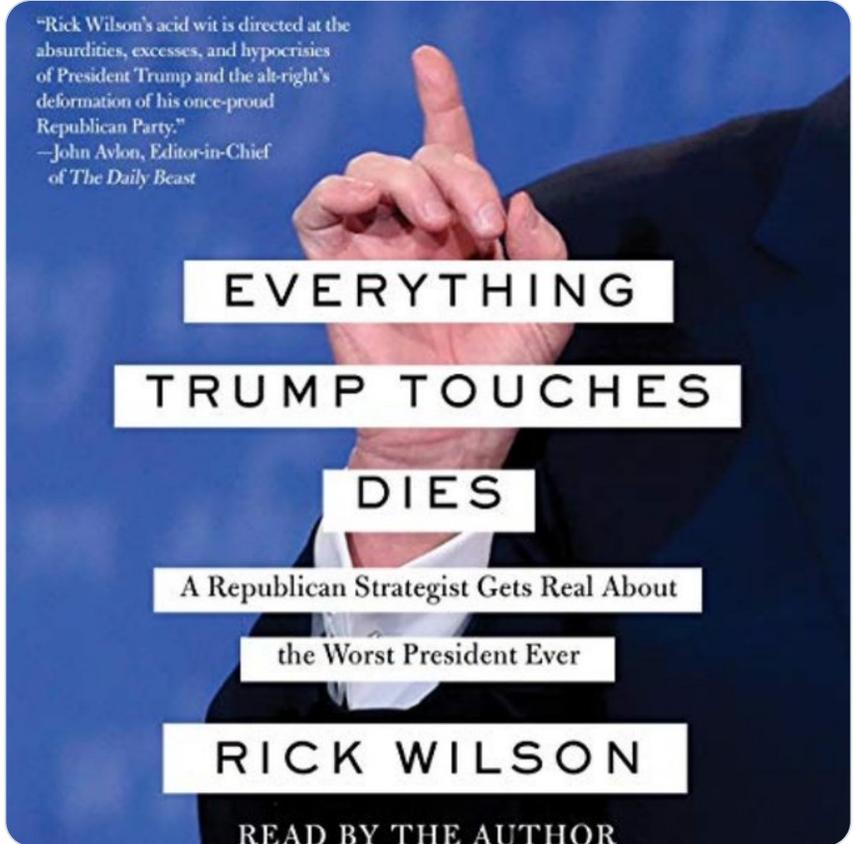


173



**Rebecca Tiernan** @Quesera2uRLN · 14h

oh Sweet Karma



1



1



4



224



5. The TrustPoint One documents have now been archived. I have endured substantial fees and costs in connection with multiple litigations and investigations and I could no longer afford to pay TrustPoint One to keep the documents online. It would cost me over \$320,000.00 to become current on my arrearage with TrustPoint One and to have access to the documents as well costs incurred in searching the documents again for additional files requested by Plaintiffs other than the email files. I do not have the funds to pay this amount at this time.

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Apple MacBook (Model: A1466, Serial # [REDACTED]) (old device of mine pre-dating relevant time frame)

Apple iPad (Model: A1395, Serial # [REDACTED]) (used by me)

Apple iPhone (Model: A1901, Serial # UNK, IMEI: [REDACTED]) (ex-wife Judith's)

Apple iMac Desktop (Model: A1224, Serial # [REDACTED]) (ex-wife Judith's)

5. These were all of the electronic devices I used as of April 2021 and had in my possession, custody, or control at that time. All of my [REDACTED]@icloud.com iCloud data would have also been included in the TrustPoint data because I synced my iCloud to my devices. The messaging data I had on the devices would have included iMessage, text message, WhatsApp, Signal, and Telegram. I am not sure whether data from my social media accounts of Youtube, Facebook, Instagram, and Twitter were extracted from these devices because I do not recall whether I used website access on my devices for these accounts or whether I accessed them from social media apps. If the access was via the web, no data from social media would have been extracted from the devices. Because we have cured the arrearage with TrustPoint and the data is in the process of being unarchived, we will be able to answer this question in the next week or so.

6. The TrustPoint One documents were searched for email files in accordance with Plaintiffs' search terms and any non-privileged documents were produced for the relevant time frame identified by Plaintiffs. I searched my electronic devices obtained after the April 2021 DOJ seizure and there were no non-privileged documents on my new electronic devices and all of those privileged documents were created as a result of this litigation. I found one document that we produced on my social media messaging. I used the search terms provided by the Plaintiffs to conduct the search, which I did manually using the Plaintiffs' provided search terms as they were given to me.