

NEWS & POLITICS

The Austin Law Firm Battling Rudy Giuliani and Sidney Powell Over the “Big Lie”

Charlie Cain and Steve Skarnulis were used to litigating East Texas oil and gas disputes. Then a terrified voting-machine company employee, falsely implicated in the 2020 election’s biggest conspiracy theory, came calling.

By [Peter Holley](#)

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Drew Angerer/Getty

When Charlie Cain, Steve Skarnulis, and several other members of their Austin-based law firm stepped inside Rudy Giuliani’s Manhattan office on a blazing hot morning in mid-August, they found that the building’s air-conditioning system was broken. The office—packed with enough American

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had the feel of a steam room. To compensate for the heat, the 77-year-old Giuliani, who sat near a life-size blowup of his “Person of the Year” cover from the December 2001 issue of *Time* magazine, passed out chilled Coca-Colas and pressed one of the cans to his forehead. It was a friendly, if slightly awkward, gesture, and the last hint of camaraderie before both sides took their places inside a conference room to begin a three-hour deposition that would pit the Texas attorneys against one of the most pugnacious members of former president Donald Trump’s inner circle.

Cain, Skarnulis, and their team were representing Eric Coomer, a former employee of Dominion Voting Systems, a company that manufactures voting machines and tabulators, who had found himself at the center of a conspiracy theory about the election. A few days after the presidential race was called for Joe Biden last November, a right-wing podcaster, Joe Oltmann, alleged that Coomer had tampered with the company’s machines to steal the election from Trump. Oltmann claimed to have infiltrated an antifa conference call in which Coomer could be overheard discussing his plans to upend American democracy. Days later, Giuliani began to spread the conspiracy tale. During a televised press conference on November 19, 2020, Giuliani cited the supposed antifa recording with Coomer. “The man is a vicious, vicious man,” Giuliani said, adding that on the recording Coomer “specifically says that they are going to fix the election.”

Coomer, who occasionally posted about his disdain for Trump on Facebook, has no association with the antifa (short for “anti-fascist”) movement and denies participating in the group phone call cited by Oltmann and Giuliani. Neither of those two have produced any evidence of the alleged call. Giuliani didn’t respond to multiple requests for an interview. Oltmann’s lawyer, Andrea M. Hall, said her client stands by his allegations. “He has never lied and he 100 percent believed that it was Eric Coomer on that antifa phone call,” she said.

Coomer is suing Giuliani for defamation. His suit also targets conservative publications and other prominent figures who served the Trump campaign, including Sidney Powell, a conspiracy-touting Dallas lawyer who briefly represented Trump in election lawsuits. Last week, Coomer **filed a separate suit** against a Colorado media figure and a conservative radio broadcasting company who are also accused of promoting the Coomer conspiracy. Coomer’s team says it hasn’t calculated the exact damages it’s seeking at this stage of the suit, but the number will be in the millions and will include “exemplary damages,” which are typically awarded to make an example of those who commit reckless and harmful behavior.



Giuliani, like all defendants except for the conservative website and cable channel Newsmax, has not retracted his claims about Coomer. The mid-August meeting was part of the discovery process in the suit. Despite the oppressive heat inside the office, the lawyers from Cain & Skarnulis said Giuliani seemed to be in good spirits as they set up a video camera and began their deposition. “I think Giuliani does want to charm at first,” Skarnulis told me on a recent afternoon back in his Austin office. “I think he was playing to the video and liked having a camera there.”

The onetime Mafia crime fighter’s apparent affability, however, was short-lived. A few minutes after the meeting began, the lawyers repeatedly asked Giuliani whether he’d instructed President Trump’s inner circle to prematurely declare victory on election night, as reported in the recently released book, *I Alone Can Fix It* by *Washington Post* journalists Carol Leonnig and Philip Rucker. Giuliani grew increasingly combative, denying the allegation under oath before demanding to know whether an audio recording of him advising declaring premature victory existed. “Tell me who said I said that!” Giuliani can be heard demanding in video footage shown to *Texas Monthly*. “Someone has to have said, ‘Rudy Giuliani said--pffft!’ I didn’t say that so I’m trying to figure out who’s lying!” Cain responded by pointing out that Giuliani hadn’t produced an audio recording of Coomer promising to tamper with the 2020 election, despite on multiple occasions having suggested he had one. Cain wanted to know why Giuliani thought his situation demanded a higher threshold of evidence, attempting to box the former prosecutor into a position that would likely strike a jury as hypocritical. “A totally different thing!” Giuliani shot back.

The intense exchange was one of many that have taken place during recent depositions with some of the most vocal proponents of the “big lie,” the baseless conspiracy theory that the election was stolen from Donald Trump. For more than a year now, the conspiracy has animated the Republican party, to the point that a **majority of Republicans** tell pollsters they believe Trump won the election. Proponents of this fabrication have preemptively sowed doubts about next year’s midterm election and the 2024 presidential contest. But prosecution of those who have spread the lie has been slow. To date, the U.S. Department of Justice has yet to prosecute White House officials who might have **known of plans** for the January 6 Capitol riot, and a congressional committee investigating the insurrection has, in many critics’ eyes, been successfully stymied by subpoena-defying witnesses, such as Trump strategist Stephen Bannon, who are using the slow-moving court proceedings to their advantage.





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The Notorious Mrs. Mossler



Civil courts have become one of the few places where “big lie” promoters are being held to account. Defamation cases, pursued by Coomer and voting machine companies including Dominion, have become an unlikely weapon in the fight against authoritarianism. Coomer’s lawyers believe his case could become one of the most important before the 2024 election. It already has resulted in revealing depositions that have begun to shine a light into Trumpworld disinformation, allowing outsiders to begin mapping the big lie’s origins and revealing how the fabrication was hand-fed to the conservative media ecosystem.

Peter Salib, an assistant law professor at the University of Houston who studies constitutional issues relating to false online speech, said he expects the legal world to closely watch the Coomer case and other similar ones. He said they could be difficult to win: courts have traditionally aimed to preserve as much free speech in the public domain as possible. For Coomer’s case to succeed in court, his lawyers will have to demonstrate “actual malice” on the defendants’ part and will not only have to show that their client’s reputation was damaged by false statements, but that those statements were made intentionally, with a “reckless disregard for the truth.” To meet that standard, it will not be enough to show that Giuliani *merely* made no effort to verify Oltmann’s claim, according to Salib. Rather, lawyers must show he had some reason to doubt it and *then* performed no follow-up investigation before citing it. “If Giuliani did indeed say that Coomer was on some kind of antifa call where he said he was going to change votes, that sounds like the kind of claim that most people would naturally doubt, absent some verification,” Salib said. “If that’s right, *then* it might well be actual malice to do no further investigation.”





Steve Skarnulis (left) and Charlie Cain (right), of Cain & Skarnulis, inside their downtown Austin offices in early November. Earlier this year, the two attorneys agreed to represent Eric Coomer, a former Dominion Voting Systems employee who is suing Rudy Giuliani, Sidney Powell, and multiple conservative media outlets for defamation.

Photograph by Peter Holley

Going to battle with some of Trump's closest allies was never the plan, according to Cain and Skarnulis, whose scrappy Austin law firm has, over the past decade, primarily tried cases involving construction and insurance companies, or East Texas oil and gas disputes. But, by chance, Cain met Coomer in 2019, while celebrating the verdict of another defamation case, completely unrelated to the election, at a bar in Denver, where the firm has a second office. A little more than a year later, as the big lie began to germinate within the right-wing media ecosystem, first implicating Dominion and then, days later, singling out Coomer specifically, the 51-year-old remembered the chance encounter and decided to give Cain and Skarnulis a call. He had begun receiving death threats, and in fear for his life was hiding at a friend's cabin in the Rocky Mountains. "When Dr. Coomer called us I remember him saying, 'Are you sure your firm is able to handle this kind of thing?'" Skarnulis recounted during an interview inside his office in downtown Austin this month. "I said, 'Well, no, but I don't know that anybody has any experience with this and if we can't do it, Charlie and I will be the first to tell you that we need to bring in other help.'"

The decision to take the case was a tough one. Before doing so, both lawyers spoke to their families about the potential risk associated with antagonizing the increasingly violent elements of America's political culture. Their fears have been substantiated. The firm's lawyers have been singled out on Parler and Telegram, two alternative social-media platforms with limited

moderation that have become breeding grounds for extremist right-wing rhetoric. The firm has removed public signage from its Salida, Colorado, office and hired private security guards who accompany them to court appearances, as well as online security experts. Unlike many plaintiffs' lawyers involved in the public spotlight, they've made a point of declining most interview requests.

Coomer's lawsuit is currently pending in a Colorado court, where the defendants, including Giuliani, are attempting to have the case dismissed using Colorado's anti-SLAPP law, a rule that is designed to protect journalists from frivolous lawsuits. Should the case proceed, it is likely headed to the Colorado Supreme Court next year. The firm has an arrangement with Coomer, who is not paying out of pocket, to take a set percentage of any damages he is awarded. In the interim, to cover expenses, which are "significant" according to the lawyers, the firm may introduce a crowdfunding campaign.

Taking on the case has proved to be a heavy lift, one that has required more than one third of the firm's seventeen lawyers working full time. Still, their staff has found itself heavily outnumbered. At a recent hearing about whether the case should move forward, Cain & Skarnulis's six-person team faced off against a group of about thirty lawyers, who packed not only the defense table but also the jury box. Cain said the importance of confronting the big lie—at a time when it's still being nurtured politically and financially—has overridden any concerns about the case's difficulty. Having a front-row seat has reinforced for him how dynamic and dangerous the conspiracy theory remains. "I liken it to a rising sea: it's not going away, and the only way we'll be able to combat this mass movement is by moving to higher ground and shining a light on what's going on," he said. "This case is going to help, but if we're not vigilant in this country things are going to rapidly deteriorate."

Coomer's case might provide a model for understanding how lies about the election were legitimized by Republicans in office and by conservative media outlets. Not long after Oltmann made his claim on YouTube about Coomer, without calling him to verify it, according to the lawsuit, other conservative media outlets began to use Oltmann as a primary source. Gateway Pundit, a conservative news outlet, appears to have published the first article about Coomer. Accusations then rippled across the conservative media landscape, the lawsuit maintains, and eventually were cited in a tweet by Donald Trump's son Eric that reached some 4.5 million social media users. At no point, the suit says, did any media outlet publishing stories about Coomer



The lawyers, who have assigned a full-time staffer to monitor and track newly arrived conspiracies involving their client, say they've been shocked by the number of potential defendants—a list that continues to grow—as well as by the speed with which misinformation spreads. “Just when you think it's been completely disproven, somebody else pops up with an interview on a podcast or cyber symposium where they end up talking about Dr. Coomer and making the same allegations despite an absolute lack of proof,” Skarnulis said. Many appear to be pushing the conspiracy to attempt to overturn the election results, others to attract an audience.

Until consequences manifest, both lawyers said, the proponents of the big lie are likely to view their efforts—no matter how reckless and ill-conceived—as risks worth taking. Giuliani's law license **was suspended** in New York after a court ruled he made “demonstrably false and misleading statements” as he led Trump's challenges of the election results. But the potential consequences of promoting unverified conspiracy theories at Coomer's expense still appear to have been of little concern. “It's not my job, in a fast-moving case, to go out and investigate every piece of evidence that was given to me,” Giuliani said, more than an hour into the August deposition, when Cain asked him to explain why he considered Oltmann credible. “Otherwise, you're never going to write a story. You'll never come to a conclusion.”



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