IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:20-cv-3747-NRN

KEVIN O'ROURKE, NATHANIEL L. CARTER, LORI CUTUNILLI, LARRY D. COOK, ALVIN CRISWELL, KESHA CRENSHAW, NEIL YARBROUGH, and AMIE TRAPP,

Plaintiffs, on their own behalf and of a class of similarly situated persons,

v.

DOMINION VOTING SYSTEMS INC., a Delaware corporation, FACEBOOK, INC., a Delaware corporation, CENTER FOR TECH AND CIVIC LIFE, an Illinois non-profit organization, MARK E. ZUCKERBERG, individually, PRISCILLA CHAN, individually, BRIAN KEMP, individually, BRAD RAFFENSPERGER, individually, GRETCHEN WHITMER, individually, JOCELYN BENSON, individually, TOM WOLF, individually, KATHY BOOCKVAR, individually, TONY EVERS, individually, ANN S. JACOBS, individually, MARK L. THOMSEN, individually, MARGE BOSTELMAN, individually, JULIE M. GLANCEY, DEAN KNUDSON, individually, ROBERT F. SPINDELL, JR, individually, and DOES 1-10,000,

Defendants.

DEFENDANT FACEBOOK, INC.'S MOTION TO STRIKE PLAINTIFFS' RESPONSE AND BRIEF IN OPPOSITION TO FACEBOOK'S MOTION TO DISMISS

Defendant Facebook, Inc. respectfully submits this motion to strike Plaintiffs' Response and Brief in Opposition to Defendant Facebook's Motion to Dismiss ("Response") (Doc. 40), and in support thereof states as follows:

1. On February 16, 2021, Facebook filed a motion to dismiss Plaintiffs' complaint (Doc. 23). The motion is 15 pages long.

2. On March 9, 2021, Plaintiffs filed the Response, which is 25 pages long.

3. On March 9, 2021, Plaintiffs also filed a separate 22-page Response and Brief in Opposition to Defendant Dominion Voting Systems Inc.'s Motion to Dismiss (Doc. 39).

4. Plaintiffs' filing of the Response followed their February 25, 2021 filing of an Election Concerning Consent/Non-Consent to United States Magistrate Judge Jurisdiction, indicating that all parties consent to have Magistrate Judge N. Reid Neureiter conduct all proceedings in this civil action (Doc. 27).

5. Judge Neureiter's Practice Standards apply to civil cases assigned to him by consent of the parties. Practice Standards for Civil Cases, Section A.3. The Practice Standards limit motions to dismiss and responses to such motions to 15 pages, absent leave of the Court. *Id.* Section E.2.

6. Plaintiffs' response is 25 pages long – 40% over the 15-page limit.

7. Plaintiffs did not obtain leave of the Court to file an overlength response.

8. Following efforts to confer pursuant to D.C.Colo.LCivR 7.1, Plaintiffs oppose the motion.

Wherefore, Facebook respectfully requests that the Court: (a) strike Plaintiffs' Response from the record; (b) allow Plaintiffs three days, or such other amount of time that the Court

determines, to file a response to Facebook's motion to dismiss that complies with the Court's practice standards; and (c) declare that the time period within which Facebook may file a reply in support of its motion to dismiss shall begin to run on the date Plaintiffs file a revised response.

Dated: March 10, 2021

Respectfully submitted,

/s/ Joshua S. Lipshutz

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Attorneys for Facebook, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2021, I electronically filed a copy of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to the e-mail addresses denoted on the Court's Electronic Mail Notice List.

/s/ Joshua S. Lipshutz
Joshua S. Lipshutz