CLIENT SUCCESS

Winston Acts as Lead Trial Counsel for Fox News and Fox Corp. in US Dominion Voting Systems Defamation Cases, Settling Matter on Brink of Trial

APRIL 18, 2023

We served as lead trial counsel for Fox News and Fox Corp. in related multibillion-dollar defamation lawsuits brought by US Dominion Voting Systems Corp. and related entities. The *New York Times* described this landmark litigation as "the libel law equivalent of the Super Bowl," and, quoting a veteran First Amendment lawyer, stated that any Fox–Dominion trial was "going to be a dramatic moment in American history." After aggressively litigating the case to the brink of trial, the parties reached a US$787.5M settlement, which was announced after the jury had been sworn in and just before opening statements were to begin.

The basic facts of the case were widely reported. Dominion, an elections technology firm, brought lawsuits against, among others, Fox News and Fox Corp., seeking from each of them US$1.6B in compensatory damages plus punitive damages in an unspecified amount. The lawsuit against Fox News was filed in March 2021; a separate lawsuit against Fox Corp. and Fox Broadcasting was filed in December 2021. After the claims against Fox Broadcasting were dismissed in 2022, the two lawsuits were consolidated and scheduled to be tried together in April 2023. The litigation arose from Fox News' coverage of the 2020 Presidential election, particularly its coverage of allegations by President Trump and his attorneys about Dominion, including that Dominion had "rigged" the 2020 election by flipping millions votes from then-President Trump to now-President Biden.

In late June 2022, Fox News announced that it had tapped Winston Executive Co-Chairman Dan Webb to lead its defense, saying: "Webb's 'vast experience in trial litigation will add depth to our legal team, ensuring the protection of the First Amendment and the fundamental right to a free press remain intact.'" According to the *LA Times,* "some news outlets took [Dan's hiring] as an indication that Fox plan[ned] to go to trial."

From July 2022 to April 2023, the parties engaged in extensive fact and expert discovery. As reported in Law360 in early 2023, the suit "has been marked by furious battling over nearly every motion and development. The case has seen a parade of high-profile network figures and witnesses called in for depositions, led by Rupert Murdoch and marquee Fox personalities, among them Sean Hannity, Jeanine Pirro, Tucker Carlson, Lou Dobbs and Steve Doocy." All told, the parties exchanged over 3 million documents and deposed more than 120 witnesses, including 23 experts.

Despite the contentious nature of the case and the fact that he had made several controversial rulings in the lead-up to trial, the judge overseeing the case made the following closing remarks: "I have been on the bench since

2010. . . I think this is the best lawyering I've had, ever," he said, adding "I would be proud to be your judge in the future."

IMPACT

The significance of the issues being litigated was noted repeatedly in press coverage about the case, particularly as trial approached. In an April 13, 2023, article Law360 quoted one First Amendment scholar as saying that the case "has the potential to become one of the most consequential defamation suits of all time, with ramifications that resonate not just legally, but socially and politically." The US$787.5M settlement was less than half of Dominion's original compensatory damage claim (excluding punitive damages). The settlement allowed Fox to avoid the disruption, distraction, and expense of trial and any subsequent appeals.

(*US Dominion, Inc., et al. v. Fox News Network, LLC* (Case No. N21C-03-257 EMD, Superior Court of the State of Delaware); *US Dominion, Inc.., et al. v. Fox Corp.* (Case No. N21C-11-082 EMD, Superior Court of the State of Delaware))
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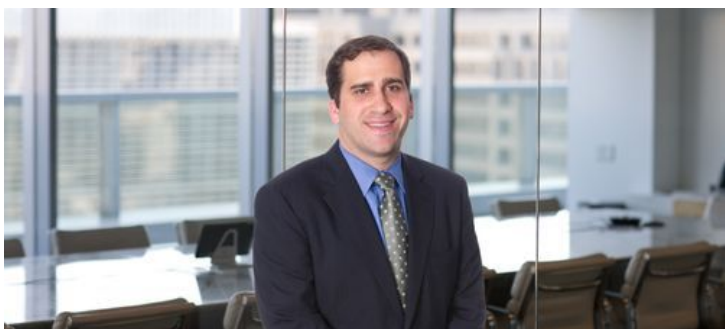

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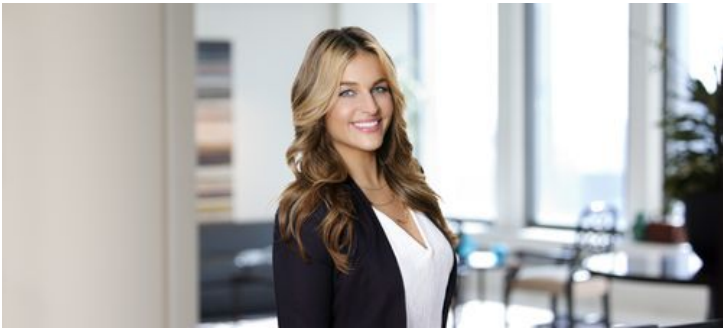Matthew DiRisio

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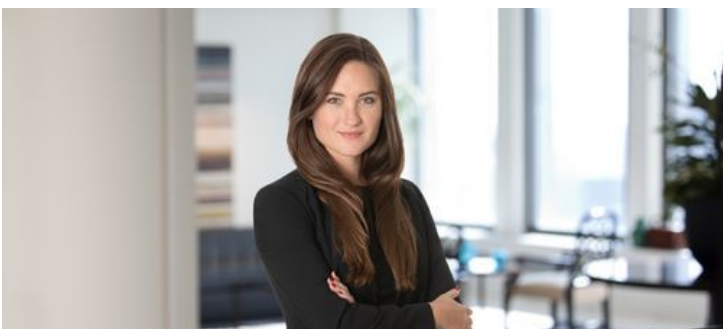Annie R. Steiner

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