

Disinformation on trial | Harvard Law Today

By Jeff Neal

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Does the First Amendment shield major media organizations from responsibility for demonstrably false and possibly harmful statements made on their airwaves? That is the central question in a defamation lawsuit filed by a previously obscure election technology company against Fox News and allies of former President Donald Trump.

On February 4, Smartmatic, whose technology was used in Los Angeles during the 2020 election, sued Fox, anchors Lou Dobbs, Maria Bartiromo, and Jeanine Pirro, and the former president's representatives Rudy Giuliani and Sidney Powell. The company's complaint alleges that Fox "joined the conspiracy to defame and disparage Smartmatic and its election technology and software..." as part of a broader "disinformation campaign" designed to sow doubt about the election's results. This followed similar defamation lawsuits filed against Giuliani and Powell by Dominion Voting Systems in January. In recent weeks, Fox has cancelled Dobbs' show and asked the judge to dismiss the suit, claiming First Amendment protection, arguing: "An attempt by a sitting president to challenge the result of an election is objectively newsworthy." Dominion has also indicated plans to sue MyPillow CEO Mike Lindell for promoting baseless election fraud claims.

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