

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

ABBY GROSSBERG,

Plaintiff,

Case No.:

-- against --

JURY TRIAL DEMANDED

FOX CORPORATION,

FOX NEWS NETWORK, LLC,

STEPHEN POTENZA, LESLEY WEST,

PAUL SALVATY, and SEAN SUBER,

Defendants.

COMPLAINT

Preliminary Statement

1. This is a civil action seeking compensatory and punitive damages for a conspiracy to defame Plaintiff, Abby Grossberg (“Ms. Grossberg”), and to fraudulently induce Ms. Grossberg to make statements against her interest through the publication of an unauthorized transcript that intentionally casts Ms. Grossberg in a false and misleading light based on certain coerced testimony during her third-party deposition in a \$1.6 billion defamation lawsuit filed against Defendants Fox Corporation and Fox News Network, LLC (collectively “Fox News” or “Entity Defendants”), which is currently pending in this Court – i.e., *U.S. Dominion, Inc.*

v. Fox News Network, LLC, Docket No. CV N21C-03-257 EMD (Del. Super., 2021) and *U.S. Dominion, Inc. v. Fox Corporation*, Docket No. C.A. No. N21C-11-082 EMD (Del. Super., 2021) (collectively the “Dominion/Fox Lawsuit”).

2. Ms. Grossberg brings this action against the Entity Defendants as well as Defendants Stephen Potenza, Paul Salvaty, Sean Suber, and Leslie West (collectively “Fox News Attorneys” or “Individual Defendants”), to allege upon knowledge concerning her own experience, and upon information and belief as to all other matters, as follows:

3. For her deposition testimony in the Dominion/Fox Lawsuit, Ms. Grossberg was represented by outside counsel for Fox News, Winston & Strawn LLP (“W&S”), which, in turn, was overseen by Fox News in-house counsel. Collectively, these outside and in-house counsel are the Fox News Attorneys.

4. Upon information and belief, the Fox News Attorneys acted as agents and at the behest of Fox News to misleadingly coach, manipulate, and coerce Ms. Grossberg to deliver shaded and/or incomplete answers during her sworn deposition testimony, which answers were clearly to her reputational detriment but greatly benefitted Fox News.

5. Through concerted efforts and actions such as meetings, conferences, written or verbal statements, telephone calls, and various forms of electronic communication, Defendants – directly and through their agents or principals – did,

in fact, combine or conspire to cause Plaintiff to testify in a sworn deposition in a manner that they knew portrayed her and her female host colleague, Maria Bartiromo (“Ms. Bartiromo”), in a false light in order to inculcate Ms. Grossberg and Ms. Bartiromo while exculpating (at Ms. Grossberg's and Ms. Bartiromo’s expense) certain blame-worthy male colleagues such as David Clark, Senior Vice President, Weekend News (“Mr. Clark”) and Jay Wallace (“Mr. Wallace”), which would, in turn, shift culpability for publishing the alleged defamatory statements about Dominion away from Fox Corporation since these men were and/or had a direct line of communication with the higher ups at the Network and had to endorse the false coverage of Dominion for it to make it on air merely to increase and retain viewership. Defendants combined to undertake this unlawful conduct knowing full well that it would be damaging to Plaintiff’s reputation, especially given the self-publishing nature of her problematic testimony in the context of the notorious lawsuit against Defendants – i.e., the Dominion/Fox Lawsuit – and the likelihood that it would be republished by other news outlets and websites.

6. Specifically, Ms. Grossberg’s impression based on the Fox News legal team’s conduct during her deposition prep sessions, was that she had to downplay how overworked and understaffed she was, as well as diminish her actual position at Fox News, which at all relevant times herein was *de facto* Senior Producer of

Sunday Morning Futures with Maria Bartiromo (“SMFMB”), starring Ms. Bartiromo.

7. In so doing, Defendants sought to obfuscate the truth that Plaintiff reported directly to Mr. Clark at all times relevant herein and that it was Mr. Clark who chose which guests – such as Rudy Giuliani or Sidney Powell – appeared on the SMFMB broadcast.

8. Moreover, the Fox News Attorneys, upon information and belief, at the behest of or in complicity with Fox News, often coached Ms. Grossberg in a coercive and intimidating manner such that Ms. Grossberg had the impression based on their conduct that she had to avoid mentioning key male executives (again to shift liability away from the Network on a corporate level), and not to elaborate on the myriad of complaints she raised about male executives with oversight on SMFMB, like Mr. Clark, or she would be seriously jeopardizing her career at Fox News and would be subjected to worse terms and conditions of employment.

9. Upon information and belief, the Fox News Attorneys, at the behest of, or in complicity with, Fox News manipulated Ms. Grossberg’s deposition testimony to create the false narrative that “nothing falls through the cracks” at Fox News. In doing so, Ms. Grossberg’s own deposition testimony – as manufactured by the Fox News Attorneys – paints a false picture of her as an inept journalist, who ignored relevant warnings from Dominion, and disregarded the truth, and thus

ultimately responsible for the publication of the alleged defamatory information about Dominion.

10. Upon information and belief, Fox News's malicious scheme was designed to draw Ms. Grossberg and her colleague, Ms. Bartiromo, both of SMFMB, to the forefront of the Dominion/Fox Lawsuit and shift focus/culpability away from key male executives and certain inculpatory events regarding them.

11. Despite being assured by the Fox News Attorneys involved in her deposition preparation that they were looking out for her best interests as a witness, Ms. Grossberg was denied the zealous representation that she is entitled to under the law. They also told her that she did not need to get an attorney for herself.

12. Ms. Grossberg's deposition testimony, as manufactured by Fox News, put Ms. Grossberg and Ms. Bartiromo squarely on the frontline of the Dominion/Fox Lawsuit so they could be scapegoated as sacrificial female lambs.

13. Upon information and belief, this is a fate that was never contemplated for any of the male Fox News witnesses prepared by the Fox News Attorneys.

14. Moreover, Ms. Grossberg was not only intimidated and threatened by the Fox News Attorneys during her deposition prep, but she was ultimately denied, inexplicably for many months after she gave testimony and her transcript became available, the opportunity to review and/or correct her resulting deposition testimony until it was too late to avoid its publication.

15. The Fox News Attorneys then incredibly continued to stonewall and shutout Ms. Grossberg after she repeatedly requested a copy of her deposition transcript, as she is entitled to by law under Rule 30(e) of the Rules of Civil Procedure for the Superior Court, and after she expressed grave concerns that her “rights and obligations were not adequately explained” to her and that her testimony might not be “completely accurate.”

16. In stark contrast, many of Ms. Grossberg’s male counterparts – third-party witnesses and Fox News employees – were handled with kid gloves, including by being given their depositions transcripts to review and/or correct months before Ms. Grossberg and well before transcripts from depositions were published. The legal ramifications of this gender-based disparate treatment are being addressed in a separate federal lawsuit against Fox News, and others, which is being contemporaneously filed by Ms. Grossberg in the Southern District of New York – i.e., the situs of the unlawful discrimination, harassment, and retaliation.

17. The instant action, however, addresses, *inter alia*, the false and previously unratified testimony of Ms. Grossberg, which was unauthorized as filed in this Court and subsequently republished by various news outlets.

18. With this tortious conduct, Defendants have engaged in a civil conspiracy to gravely harm and diminish Plaintiff’s journalistic career and

reputation by operation of self-defamations cognizable under Delaware state law for its pecuniary benefit, i.e., to avoid liability in the *Dominion* action.

THE PARTIES

19. Plaintiff Abby Grossberg is a resident of New York County, New York, who is currently, and during all times relevant herein, employed by Defendant Fox News Network LLC.

20. Defendant Fox Corporation is a corporation formed under Delaware law and headquartered in New York. It is a public corporation listed on the Nasdaq stock exchange and the parent company of Defendant Fox News Network LLC, which comprises most of its profits; indeed, according to the New York Times, the Defendant Fox News Network LLC, generated \$899 million in pretax income in 2020, accounting for 95 percent of the Defendant Fox Corporation's total pretax profit.¹

21. Defendant Fox News Network LLC is, upon information and belief, one of the most powerful and far-reaching news organizations in the world. Fox News Network LLC is a limited liability company formed and organized under the laws of Delaware and has its principal place of business in New York. It is wholly owned by Fox Corporation, a Delaware corporation also headquartered in New

¹ N.Y. TIMES, *Fox News Profits Grow Even As Viewership Declines*, October 21, 2021, available at <https://www.nytimes.com/live/2021/05/05/business/stock-market-today> (last accessed on March 20, 2023).

York. Fox News Network LLC operates, among other things, the Fox News Channel, a 24-hour cable news station reaching about 90 million U.S. homes. It averages over three million viewers during its primetime evening news program and nearly two million daytime viewers.

22. Defendant Stephen Potenza, Esq. is the Deputy General Counsel of Fox News, and as such is an agent of the company. Upon information and belief, Defendant Potenza is a resident of the State of New York.

23. Defendant Lesley West, Esq. is a Senior Vice President, Legal & Business Affairs of Fox News, and as such is an agent of the company. Upon information and belief, Defendant West is a resident of the State of New York.

24. Defendant Paul Salvaty, Esq. is a Partner at Winston & Strawn LLP, out of the Los Angeles office. Upon information and belief, Defendant Salvaty is a resident of the State of California.

25. Defendant Sean Suber, Esq. is a Partner at Winston & Strawn LLP, out of the Chicago office. Upon information and belief, Defendant Suber is a resident of the State of Illinois.

JURISDICTION

26. Defendants are subject to the jurisdiction of this Court pursuant to 10 Del. C. § 541.

27. Defendants have intentionally sought and obtained benefits from their tortious and purposeful acts in the State of Delaware.

28. In Delaware, Ms. Grossberg suffered substantial and permanent damage to her personal, professional, and business reputation and character in the general public at large, as well as the nationwide journalism community of which she was a member in good professional standing, and she suffered attendant severe emotional distress, embarrassment, humiliation, and mental suffering, including special injuries of future lost wages in the millions of dollars, and other benefits.

29. A substantial part of the events giving rise to this claim occurred in Delaware, including publication and injury.

FACTS COMMON TO ALL COUNTS

A. Ms. Grossberg's Illustrious Career in Primetime Journalism Leads Fox News to Recruit and Hire Her and She Builds on Her Professional and Ratings Success

30. Ms. Grossberg joined Fox News in 2019 with over 16 years of experience in broadcast journalism. After graduating in 2003, with a Bachelor of Arts in Writing from Johns Hopkins University, Ms. Grossberg began her journalism career at CBS News, with subsequent roles of increasing responsibility at prominent networks including CNN, NBC Universal, and most recently, ABC News, where she worked as a producer on *World News Tonight with David Muir* for three years. In this role, Ms. Grossberg pitched original story ideas, wrote

scripts, and oversaw the production and editing of news packages from inception to air, often on a very tight deadline.

31. While at ABC News, Ms. Grossberg worked with a wide range of anchors, correspondents, and senior staffers on day-of-air pieces regarding the latest breaking news. Additionally, Ms. Grossberg booked guests, created graphics, and fact checked editorial content. She also coordinated with bureau chiefs and desk editors to launch pieces, and mentored junior staff members regarding the research, booking, and production of such pieces.

32. Thereafter, Ms. Grossberg was recruited by Fox News.

33. When she joined Fox News as a Senior Booking Producer for *Sunday Morning Futures with Maria Bartiromo* (“SMFMB”), in or about March 2019, Ms. Grossberg assumed exclusive responsibility for creating and producing a weekly one-hour live program that was consistently rated the #1 show in cable news on Sundays.

34. As part of her duties, Ms. Grossberg determined editorial content and handled all guest bookings, in collaboration with the show’s host, Ms. Bartiromo. In that vein, Ms. Grossberg booked, produced, and wrote scripts for all guest segments, oversaw SMFMB’s control room team on logistics, graphics, promotions, and show elements. Under Ms. Grossberg’s leadership, after only three months, SMFMB’s ratings grew impressively by 40% – *i.e.*, from 1.5 million on

October 7, 2019, to 2.2 million on January 5, 2020, and SMFMB became the number one weekend show on the Network.

B. Ms. Grossberg is Denied Support Staff – Unlike Her Male Counterparts – and Prevented from Having the Title of Senior Producer or Executive Producer, Despite Successfully Performing the Duties of the Role

35. Within merely one month of her hire, Ms. Grossberg encountered systemic chauvinism at Fox News. Despite her herculean efforts to rise in the ranks through hard work and perseverance, Ms. Grossberg was overloaded, undervalued, denied opportunities for a promotion, paid less, and treated significantly worse than her male counterparts, even when those men were eminently less qualified than her and espoused sexist tropes in the workplace on a routine level.

36. As the only Fox News employee assigned to work exclusively on *Sunday Morning Futures with Maria Bartiromo*, Ms. Grossberg successfully performed both the functions of her job, as well as that of an Executive Producer, but was never formally given the title she deserved or appropriate pay differential despite repeatedly requesting both from David Clark, Senior Vice President and Head of Programming, Weekend News, and Lauren Petterson, President of Fox Business & Talent. Instead, Ms. Grossberg was told that even though “there was no denying [she was] talented,” the Company needed a man to control Ms. Bartiromo, whom Mr. Clark and others deemed “crazy,” “menopausal,” “difficult,” a “diva”

and “demanding.” Indeed, Mr. Clark told Matt Kaulbach, the former Senior Producer on SMFMB, *“the less [Ms. Bartiromo] knows the better.”*

37. Fox News executives consistently favored male anchors, as well as their shows and staffs, to the detriment of female anchors and their colleagues like Ms. Bartiromo and Ms. Grossberg. For example, despite Ms. Grossberg and Ms. Bartiromo’s numerous requests to Mr. Clark and Ms. Petterson for additional support staff, these requests were never fulfilled. Ms. Bartiromo herself recognized, *“I am fighting for you and us, so we get the respect we deserve.”*

38. Additionally, shows with male anchors would often lift portions of interviews booked by Ms. Grossberg and conducted by Ms. Bartiromo without providing proper onscreen or verbal credit to SMFMB for breaking those key stories. Ms. Grossberg was frequently restrained by her direct boss, Mr. Clark, who controlled what guests appeared on SMFMB – restricting Ms. Bartiromo from presenting certain guests, while allowing the same to appear on male shows, like Brett Baier or Tucker Carlson. Moreover, Mr. Clark often belittled Ms. Grossberg and Ms. Bartiromo’s efforts, for example, by dismissively calling their interview with the President of the United States, “space filler.”

39. Ms. Bartiromo considered Mr. Clark to be a “liar,” and believed his priority was “to sabotage” her SMF show. As result, she cautioned Ms. Grossberg

that, as two “strong women,” they “cannot get bullied by him” and should “stick together like a steel wall.”

40. In June 2022, Ms. Grossberg hit a breaking point. Despite all her hard work, being eminently qualified and having successfully produced SMFMB with Ms. Bartiromo for two years, Ms. Grossberg realized that she was never going to be made a Senior or Executive Producer on her show since senior management at Fox News wanted a man in the position to “control” Ms. Bartiromo.

41. Ultimately, in August 2022, Ms. Grossberg could no longer tolerate the toxic atmosphere victimizing women on SMFMB and sought a fresh start by accepting a position with Tucker Carlson, the veritable face of Fox News on the Tucker Carlson Tonight (“TCT”) show, thinking that the marginalizing and blatant discrimination surely could not get worse.

42. To her dismay, Ms. Grossberg went from the proverbial frying pan into the fire. As Head of Booking on TCT, Ms. Grossberg continued to endure a work environment that subjugates women based on vile sexist stereotypes, typecasts religious minorities and belittles their traditions, and demonstrates little to no regard for mental health.

43. Fox News hired two people to replace Ms. Grossberg on SMFMB, including *Christopher Faulkner, a floating line producer about whom Ms.*

Bartiromo previously expressed displeasure, who was immediately given the Executive Producer title.

C. To Thrust Exposure for Its Wrongdoing onto Others to Limit its Legal Culpability in the *Dominion* Case, Fox News, Through Its Lawyers, Coerces Ms. Grossberg to Shade Her Deposition Testimony Against Ms. Bartiromo (and Herself) and in Favor of Certain Male Colleagues Deeply Involved in the *Dominion*/Fox Litigation, While Simultaneously Allowing Her to Make Defamatory Statements About her Professionalism and Qualifications as a Journalist

44. Against this backdrop, in the Spring of 2022, Ms. Grossberg was told that she would be deposed in connection with the \$1.6 billion defamation lawsuit filed by Dominion Voting Systems Corp. against Fox News and certain individuals, including Ms. Bartiromo. In March 2022, Fox News requested access to Ms. Grossberg's phone, which she fully complied with and turned over.

45. In early June 2022, Lesley West, Senior Vice President, Legal & Business Affairs contacted Ms. Grossberg and again requested access to her phone.

46. Ms. Bartiromo called Ms. Grossberg to discuss the charges and stated that she had hired her own attorney who had obtained everything that Ms. Grossberg had turned over to the Fox News legal team.

47. Ms. Grossberg's deposition was originally scheduled to take place on August 12, 2022. On August 10, 2022, Ms. Grossberg attended the first of two scheduled days of deposition preparation with a team of Fox attorneys, including Stephen Potenza, Deputy General Counsel, and Lesley West, Senior Vice

President, Legal & Business Affairs, as well as two outside attorneys, Paul Salvaty and Sean Suber, of Winston & Strawn LLP, at the law firm's New York office.

48. Before they began, Ms. Grossberg voiced her concern that Ms. Bartiromo had hired her own attorney and questioned whether she too needed to hire her own counsel. Without hesitation – i.e., before anyone could explore the potential mine field of conflicts inherent in this situation – Mr. Salvaty responded to Ms. Grossberg with a definitive and discouraging “no,” explaining that while some employees (referring specifically to Steve Doocy and his personal attorney as an example) may have retained a personal attorney, it only “complicates” the process and “slows things down.” Ms. West later added that it was “distracting.” It was clear to Ms. Grossberg that if she did not cooperate with them, she would only be further marginalized at the Network, and that the Network would not “have her back.”

49. Ms. Grossberg then asked if she could take notes during the deposition preparation session and was told by Mr. Salvaty it was “not necessary,” and that there was to be “no record” of these preparatory sessions.

50. Mr. Potenza and Ms. West oversaw the entire deposition preparation process.

51. Ms. Grossberg felt coerced and intimidated into not saying anything that would make her become Dominion's “star” witness, which meant to shade her

testimony and not discuss other employees, not say anything that suggested she was a victim of gender discrimination and a hostile work environment, or frankly anything that made Fox News as a corporate entity look culpable.

52. Ms. Grossberg got the impression, based on Fox News's legal team's demeanor and behavior including the scowls she received from Mr. Potenza and Ms. West and emphatic shaking of their heads "no," that she had to avoid questions about her relationship with colleagues such as Ms. Bartiromo and Mr. Clark even if it meant shading the truth to something equivocal and vague just as Fox News coached her to say.

53. Ms. Grossberg felt that she was being intimidated and coerced by the Fox Attorneys and left with the impression she had to downplay the importance of show ratings at Fox News, as this would suggest a motive for why Fox News had allowed the stories about Dominion to go on air. In reality, Ms. Grossberg knew that Ms. Bartiromo was "*obsessed*" with ratings and immediately analyzed them upon their weekly release, demonstrating how important ratings were at Fox News, but got the impression from Fox News's legal team's conduct and behavior wanted her to downplay this fact.

54. Ms. Grossberg was also left with the impression that there would be professional consequences at Fox News if Ms. Grossberg testified that SMFMB was understaffed and that she or Ms. Bartiromo were overworked, stressed, and

overwhelmed by the lack of adequate staffing for their show. In reality, Fox News was well aware that both Ms. Bartiromo and Ms. Grossberg had complained repeatedly about receiving less support and resources than shows that were hosted by male anchors.

55. In fact, Fox News (and presumably its attorneys) knew that these male-anchored shows usually had five (or more) staffers compared to SMFMB's zero to one staffers.

56. During her two days of deposition prep, Ms. Grossberg was shown an email dated September 26, 2020, that she had sent to Kevin Ward, a Researcher in Fox News "brain room" in which she commiserates about having to "run lean" and being "slammed" with work on the show. She left the deposition prep feeling pressured and under the impression that she had to downplay those concerns or else become Dominion's "star" witness.

57. The truth was, the daily experience of being besieged as a professional woman in a hostile, male-dominated environment in which she and Ms. Bartiromo were constantly undermined and scapegoated had taken a devastating toll on Ms. Grossberg's mental health, given the myriad experiences of unequal, sexist, and misogynistic treatment that were indelibly etched into her conscience.

58. Tellingly, not one of the Fox News attorneys advised Ms. Grossberg that by giving such a false/misleading and evasive answers, she not only opened

herself up to civil and criminal liability for perjury but placed all responsibility for the alleged defamation against Dominion on her shoulders, and by implication, those of her trusted female colleague, Ms. Bartiromo, and away from Fox News.

59. Nor did any of the attorneys explain to Ms. Grossberg how such a sworn statement could bring an end to her career.

60. Ms. Grossberg felt that Fox News was more concerned about protecting Mr. Clark and his chauvinistic behavior and constant belittling of her and Ms. Bartiromo.

61. The Fox News attorneys presented Ms. Grossberg with a text message exchange, dated November 29, 2021, between Ms. Grossberg and Ms. Bartiromo in which Ms. Grossberg called Mr. Clark a “smug piece of shit” because he referred to their interview with Donald Trump as “filler.”

62. Ms. Grossberg got the impressions based on Fox News legal team’s behavior and expressions that she had to downplay this exchange and her feelings that Mr. Clark had conveniently abandoned her and Ms. Bartiromo in the immediate aftermath of the 2020 election, and that Mr. Clark (and by extension the higher ups at Fox News with whom he had a direct channel of communication) did not provide any guidance or leadership during that crucial period.

63. In truth – her truth – Ms. Grossberg knew exactly what she believed: Mr. Clark was a misogynist, sexist, dissembling liar who enjoyed sabotaging and

demoralizing powerful women (a view shared by Ms. Bartiromo). This sentiment did not fit into the narrative that Ms. Grossberg felt that the Fox News's attorneys wanted to create to deflect blame from Fox News higher-ups in the Dominion case.

64. Instead, Ms. Grossberg left her deposition prep with the impression that there would be no future for her at Fox News if she were to testify about her truth under oath at her deposition.

65. Ms. Grossberg also left the deposition preparation sessions under the impression and feeling pressured *not to name names or to implicate others, in particular prominent male on-air personalities and Fox News executives.*

66. Ms. Grossberg was also shown a message exchange between herself and David Clark on December 6, 2020, in which Ms. Grossberg informed Mr. Clark that "Rudy [Giuliani] is pre-taping at 9a to air at 10:30a, which is plenty of time to turn." Ms. Grossberg continues to tell Mr. Clark that the show will be referring to President Trump in the cold open and that she "will remind her [Ms. Bartiromo] to raise when discussing GA [Georgia election] if it makes sense." Mr. Clark replies, "Great There will be no 'fact checking' today. And no more Rocco on this show either."

67. Ms. Grossberg felt intimidated and coerced to downplay this exchange even though *Ms. Grossberg understood 'no fact checking' to mean no one, including Mr. Clark, was going to step in to fact check the show, which*

would include Mr. Giuliani's claims of election fraud. Additionally, Ms. Grossberg understood 'no more Rocco' to be a reference by Mr. Clark to Rocco Aloe, a floating Senior producer who had previously fact checked Ms. Bartiromo.

68. Ms. Grossberg also felt pressured and got the impression based on Fox News legal team's conduct that she had to withhold criticism of Fox News with regard to her about her impending job change to the *Tucker Carlson Tonight* show.

69. In fact, Ms. Grossberg believed the hostile work environment at SMFMB created by Mr. Clark and Mr. Andrews in succession was proving detrimental both to her career and her mental health but understood that Fox News's legal team did not want her to go into detail about this during her testimony. Ms. Grossberg also got the instinct impressions that since she would soon be joining Tucker's team, she had to "cooperate" with the company.

70. Already fearful that the role of Executive Producer was almost unattainable for a woman like her at Fox News, Ms. Grossberg convinced herself that discretion would be the better part of valor in this instance and decided she would follow the lead of the attorneys who claimed they represented her best interests in connection with her deposition and kept her truth to herself.

71. Ultimately, after the end of the second day of deposition preparation for Ms. Grossberg, Ms. West emailed Ms. Grossberg at 9:20pm on August 11,

2022, informing her “Apologies for the late email, but the deposition will not proceed tomorrow. We will be in touch about rescheduling.”

72. On August 16, 2022, Ms. Grossberg was called back to the Winston & Strawn offices by Ms. West to meet again with Fox News’s attorneys. Ms. Grossberg was intimidated into surrendering access to all her personal email and social media accounts to them. *In an attempt to shake Ms. Grossberg down, Fox News’s attorneys’ demeanor and conduct gave Ms. Grossberg the distinct impression that if she did not cooperate or was found to be hiding anything, she would have to hire her own attorney, at her own cost.*

73. On September 13, 2022, Ms. Grossberg had another full day of deposition preparation, during which she felt grilled and intimidated by the Fox News Attorneys to provide packaged answers.

74. Ms. Grossberg got the impression based on Fox News legal team’s behavior during the prep session that she needed to deny knowledge about why her deposition was delayed. It was clear to Ms. Grossberg and she got the impression, however, that Fox News’s attorneys were displeased with the forthcoming answers she gave during her prior two prep sessions, and that the attorneys needed more time with her to make sure she got her story straight and in line with the company’s position.

75. Ms. Grossberg felt sick to her stomach with fear, uncertainty, and confusion when she realized what her employer wanted her to do under oath and felt incredibly alone and powerless. Ms. Grossberg also knew, however, that she could not do anything to jeopardize her new position.

D. Ms. Grossberg's Deposition in the Dominion/Fox Lawsuit

76. On September 14, 2022, Ms. Grossberg sat for her deposition, and was examined by Dominion's attorney, Davida Brook, of Susman Godfrey LLP.

77. Ms. Grossberg was asked many of the questions presented to her in the preparation session, including most importantly, the reason for her transition to TCT, how she felt about David Clark, and her relationship with Ms. Bartiromo.

78. Ms. Grossberg was presented with a text message exchange from Mr. Carlson to an unknown person and was asked to read it aloud. The exchange contained statements from Mr. Carlson such as "Sidney Powell is lying. Fucking bitch[,]” and repeatedly referred to Ms. Powell as a "cunt.” Ms. Grossberg was then asked whether what she just read made her feel "uncomfortable,” to which Ms. Grossberg felt that she had to respond, "no,” or else face consequences based on the behavior of Fox News's legal team during her deposition prep sessions.

79. Ms. Grossberg was then asked how she would feel if that type of language was used by Mr. Carlson around her, or even directed towards her, and she responded – as she had been conditioned by the Fox News attorneys – that she

had just started working with him and had not witnessed him use such language so she declined to speculate about how she would react.

80. In truth, Ms. Grossberg knew full well that Mr. Carlson was very capable of using such disgusting language about women. She also knew how terribly she had felt every time she had heard her prior male superiors and colleagues at Fox News spew misogynistic phrases at her (or within her earshot) on a constant basis.

81. The day after her deposition, on September 14, 2023, Mr. McCaskill asked Ms. Grossberg about what she covered in her testimony, and she revealed that Mr. Carlson's name had come up, but that she protected him. Mr. McCaskill said he was happy with the answers she had given and suggested they order the staff lunch to celebrate her defense of Mr. Carlson's misogynistic-laden text. Later that day, an email was sent to the whole TCT team in recognition of "Abby Day."

82. Several days later, Mr. Wells confirmed that he was the anonymous person Mr. Carlson had been communicating with in the text message exchange that was shown to Ms. Grossberg at her deposition.

E. Fox News' Legal Team Inexplicably Refuses to Provide Ms. Grossberg the Opportunity to Review and Correct Deposition Testimony Bordering on Malpractice, Even Though Male Employees Were Given This Opportunity

83. As Ms. Grossberg continued performing her job duties as Head of Booking at *Tucker Carlson Tonight*, she became aware that *many of her male*

colleagues, including Mr. Wells and Eldad Yaron, were provided copies of their deposition transcript to print, review and correct. Ms. Grossberg waited for months to be contacted by the Fox News Attorneys or the Winston & Strawn attorneys regarding her opportunity to do the same, but she heard nothing further from them, nor *was she provided the opportunity to even read, much less correct and sign, the transcript of her deposition.*

84. After reading reports that the Dominion case was scheduled for trial, on January 25, 2023, Ms. Grossberg emailed Mr. Salvaty and Mr. Suber requesting a copy of her deposition transcript and expressing her concern that – upon reflection – she was uncertain that her testimony was fully accurate because of the intimidating, coercive, and confusing “coaching” she had received.

85. Ms. Grossberg explained to Mr. Salvaty and Mr. Suber – the two outside attorneys who were supposed to be representing her interests as a witness during the deposition – that her “rights and obligations as a witness had not been adequately explained to her,” and that she believed her legal team was required to provide her a copy to review, correct (as necessary), and sign, per Delaware Civil Procedure Rule 30.

86. On January 25, 2023, Mr. Suber responded saying that he would “work with the team and talk to Lesley [West] to make sure we get you a copy of your deposition as soon as possible.”

87. On January 26, 2023, Ms. Grossberg responded to Mr. Suber and Mr. Salvaty: “I look forward to reviewing my deposition testimony in order to correctly assess any edits you made and any edits I may have [to make] as well. Can you give me a timeframe of when I should expect to receive the transcript?” Mr. Suber replied that same day: “*Should be soon. We sent it to Fox’s in-house lawyers this morning, so just waiting for them to tell us we can send to you.*”

88. On February 1, 2023, after almost a week of not hearing anything from Mr. Suber, Ms. Grossberg emailed him again: “I’m just following up on my request to view a copy of the deposition transcript that I gave in the Dominion case. You mentioned last Thursday that I would receive it soon, so just wanted to check in to see if you had an update? I ask because I know many colleagues were already provided copies to review after their deposition, and I’m concerned that I haven’t yet seen mine.” Mr. Suber replied that he was, “[e]mailing the internal Fox team now to follow up. I apologize about the delay.”

89. On February 2, 2023, Mr. Suber wrote to Ms. Grossberg: “Still no word from the internal Fox team in response to my email. We have a call with them today, so I will make sure I raise it on the call. I will circle back this afternoon but did not want you to think I was ignoring you or the situation.”

90. The following week, on February 6, 2023, Ms. Grossberg wrote to Mr. Suber: “Can you please let me know who at Fox is holding up sending me my

transcript? As I mentioned, I know of other Fox employees who were sent a copy of their transcript shortly after providing their statement and have read through everything.”

91. Ms. Grossberg did not receive a copy of the deposition transcript until March 3, 2023, and was not advised until March 15, 2023 of a stipulated deadline for submission of errata sheets by March 20, 2023, denying her sufficient time to review the transcript and her rights under Delaware Civil Procedure Rule 30 to review the transcript for thirty days.

92. A copy of the errata sheet Ms. Grossberg prepared, despite the limited time available to her, is attached to this Complaint as **Exhibit A**.

93. The magnitude of the changes that Ms. Grossberg made in her errata sheet ultimately reflected the degree to which she felt intimidated and coerced by the Fox News Attorneys to answer the questions in a way that would not cause Fox News to retaliate against her in the terms and conditions of her employment compared to male employees, but which ultimately had detriment, irreparable harm to her professional reputation.

F. Fox News’ Legal Team Knowingly Permits the Publication of Certain Defamatory Statements Included in an Excerpted Version of Ms. Grossberg’s Testimony Filed with the Court and Made Available to the Press and General Population

94. On January 17, 2023, Dominion filed a motion for summary judgment with the Superior Court of Delaware that cited, among other things, various portions

of Ms. Grossberg’s deposition testimony. Ms. Grossberg was mentioned at least 15 times and her deposition transcript was referred to at least 11 times.

95. On February 16, 2023, a Public Version of Dominion’s Brief in Support of its Motion for Summary Judgment was published and made readily available to the world. See Motion for Summary Judgment, *U.S. Dominion, Inc. v. Fox News Network, LLC*, No. CV N21C-03-257 EMD (Del. Super., 2021) and *U.S. Dominion, Inc. v. Fox Corporation*, No. C.A. No. N21C-11-082 EMD (Del. Super., 2021).

96. Dominion directly cited Ms. Grossberg’s published deposition transcript for the following proposition: “Fox knew the charges were false yet failed to provide viewers with any of the extensive evidence disproving them. [...] This fits with the testimony of Bartiromo’s producer, Abby Grossberg: ‘Q: If someone says something untrue on one of your shows, do you think it’s important to correct it? A: No.’” *Id.* at 170 (citing to Ex. 121, Grossberg 243:11-14).

97. Ms. Grossberg attests that she would have answered differently had she not been conditioned and intimidated by the Fox News Attorneys. Specifically, Ms. Grossberg would have elaborated upon and explained that guests have the right to free speech (within reason), that SMFMB was an interview program, that Ms. Bartiromo asked questions aimed at getting to the bottom of significant issues and

stories, and that it was in fact Ms. Bartiromo's responsibility to scrutinize what a guest says with facts or follow-up questions.

98. After Dominion's Brief in Support of its Motion for Summary Judgment was published various news outlets, including NPR News, The Atlantic, and Raw News, reported on its contents.

99. Based on the statements quoted in the motion for summary judgment attributed to Ms. Grossberg, writers at prominent media outlets called, *and continue to call*, into question Ms. Grossberg's ethics as a journalist and her professional judgment.

100. As a result, Ms. Grossberg began to experience severe anxiety and stress due to the unsealing of her uncorrected transcript as well as the wide publication of these hurtful and defamatory statements.

101. The following day, February 17, 2023, Ms. Grossberg's counsel wrote to Fox News and its outside lawyers at Winston & Strawn LLP requesting the immediate production of Ms. Grossberg's deposition transcript so that she may have an opportunity to review and correct it. Inexplicably, Fox News did not provide her a copy of the transcript until March 3, 2023, despite having a copy of the transcript since at least January 26, 2023.

102. On March 6, 2023, while at work, Ms. Grossberg overheard Ron Mitchell, Senior Vice President of Primetime Programming and Analytics exclaim

to Thomas Fox, that the Fox News Attorneys had warned him that his deposition transcript, related text messages and emails would be released by the Delaware court the following day and reported on in The Washington Post. Mr. Mitchell further exclaimed that Fox News Attorneys had provided him with a binder of all the exhibits, and he lamented that it would take “three days” to read them all. Ms. Grossberg received no such warning from the Fox News Attorneys, nor did she receive a binder of exhibits to review.

103. Indeed, on March 7, 2023, a Public Version of Redacted Exhibits in Support for Dominion’s Motion for Summary Judgment Portions was published and made readily available to the world, including an excerpt of Ms. Grossberg’s deposition transcript. *See* Exhibits 119-121 to the Affidavit of Katherine Peaselee, *U.S. Dominion, Inc. v. Fox News Network, LLC*, No. CV N21C-03-257 EMD (Del. Super., 2021) and *U.S. Dominion, Inc. v. Fox Corporation*, No. C.A. No. N21C-11-082 EMD (Del. Super., 2021).

104. As such, additional statements of Ms. Grossberg’s uncorrected deposition transcript were published to the world, including the following answers that comport with Fox News Attorneys coaching of Ms. Grossberg and their warnings to not name additional male senior executives:

Q. And Mr. Clark had the authority to give you guidance about what content could be on Sunday Morning Futures, correct? A. Correct.

Q. And Mr. Clark had the authority to give you guidance as to which guests could be on Sunday Morning Futures, correct? A. Yes.

Q. And surely there are other individuals above you who could tell you not to have certain content on your program, correct? A. I only dealt with David Clark, who I know would run it up the chain. But to who, I don't know.

Ex. 121, Grossberg 256:13-25; 257: 3-5.

105. Other statements released from her excerpted transcript include the following:

“Q. Do you believe you have an obligation to independently investigate claims made by guests on your show before you bring them on? No, I don't.”

Ex. 121, Grossberg 67:9-1

106. Based on the statements quoted in the redacted exhibits attributed to Ms. Grossberg, writers at prominent media outlets, including the *Los Angeles Times*, once again called into question Ms. Grossberg's ethics as a journalist and her professional judgment.

107. The resulting testimony proffered by Ms. Grossberg as a direct and proximate result of Defendants' wrongdoing is shaded and incomplete, leaving her vulnerable to repeated reputational harm.

108. As a direct and proximate result of the actions of the Defendants as detailed herein, Plaintiff has suffered or will suffer damages including, but not

limited to: the full panoply of damages available under Delaware common law rules for damages; substantial and permanent damage to her personal, professional, and business reputation and character in the local community and the general public at large, as well as in the local and nationwide legal community of which he was a member in good professional standing; severe emotional distress; embarrassment; humiliation; mental anguish; mental suffering; loss of enjoyment of life; disappointment; anger; inconvenience; and other non-pecuniary losses and injuries.

109. Additionally, Plaintiff will suffer economic damages – in the past, present and future – including, but are not limited to loss of wages; loss of other earnings; loss of profit-sharing benefits; loss of pension benefits; loss of retirement benefits; loss of other benefits; decreased earning capacity; and other economic and pecuniary losses. By way of example, Plaintiff’s economic losses alone will exceed millions of dollars over her remaining lifetime.

COUNT I - DEFAMATION

110. Plaintiff re-alleges and incorporates by reference all allegations and paragraphs in this complaint, above and below, as though fully set forth herein.

111. Plaintiff’s right to be free from defamation has been denied under Article I, Section 9 of the Delaware Constitution, the Delaware Bill of Rights and the common law of the State of Delaware.

112. Defendants coached and intimidated Plaintiff to make numerous false statements about herself calling into question her qualifications as a journalist, which upon information and belief have been recorded in Plaintiff's deposition and therefore communicated to others when a public version was published to the court docket.

113. The defamatory nature of the statements would be understood as such by any reasonable third party, by the plain words and by referring to extrinsic evidence, such as Plaintiff's own text messages and emails that contradict the narrative crafted by Fox News.

114. The defamatory statements maligned Plaintiff in her profession to bring Plaintiff's character into disrepute with respect to her employment with Fox News Network, and to detract from liability of Fox News Executives to oversee and manage the content of SMFMB.

115. As set forth herein, Plaintiff has spent over 15 years developing her professional reputation nationally as a meticulous news journalist.

116. The statements listed within injure a person's reputation in the popular sense, diminish the esteem, goodwill, or confidence in which a person is held, excites adverse feelings or opinions against her and exposes her to public contempt, scorn, and shame. In doing so, it also harms a person's reputation, lowers her in the

estimation of the community and deters third persons from associating or dealing with her.

117. Defendants coached and intimidated Plaintiff to make additional false statements which Plaintiff has not yet discovered or yet otherwise learned of, including the unredacted and full transcript of her deposition.

118. Defendants caused the defamatory statements to be communicated to third persons, other than Plaintiff, despite Plaintiff's protests.

119. Defendants acted intentionally and maliciously in an effort to cause Plaintiff to further tarnish her reputation.

120. In the alternative, Defendants acted with negligence and/or reckless disregard (wanton negligence) of the truth concerning the false statements made concerning Plaintiff.

121. As a direct and proximate result, Plaintiff suffered and continues to suffer damages, including but not limited to past, present and future economic damages, damage to her reputation, and emotional distress.

COUNT II – FRAUDULENT INDUCEMENT

122. Plaintiff re-alleges and incorporates by reference all allegations and paragraphs in this complaint, above and below, as though fully set forth herein.

123. Defendants fraudulently induced Plaintiff to make statements against her interest in a deposition in the Dominion/Fox Lawsuit. Specifically, the

Defendants improperly coached Plaintiff to make numerous false statements about herself calling into question her qualifications as a journalist to deflect blame and liability from Defendants and its male hosts and executives. Defendants further intimidated Plaintiff to make such statements or risk her position and career.

124. Defendants knew or believed that the representation made to Plaintiff were false, or were made with reckless indifference to the truth

125. This conduct constitutes fraudulent inducement under Delaware law.

126. As a direct and proximate result of this fraudulent inducement, Plaintiff suffered and continues to suffer damages, including but not limited to past, present, and future economic damages, damage to her reputation, and emotional distress.

COUNT III – FALSE LIGHT

127. Plaintiff re-alleges and incorporates by reference all allegations and paragraphs in this complaint, above and below, as though fully set forth herein.

128. Plaintiff alleges that the Defendants placed her in a false light by inducing her to make statements against her interest in a deposition in the Dominion/Fox Lawsuit. Specifically, the Defendants coerced and intimidated Ms. Grossberg into testifying against her interest in her deposition in the Dominion/Fox Lawsuit and by denying her the opportunity to submit an errata sheet to the transcript

prior to it being used in briefs in the Dominion/Fox Lawsuit and excerpts from her deposition transcript publicly available.

129. Defendants knew that Ms. Grossberg had a reputation for high journalistic standards and professionalism and that her career and livelihood depended on maintaining that reputation.

130. Defendants knew or should have known that Ms. Grossberg relied on the Defendants to protect her professional reputation and to not place her in a false light in connection with her journalistic standards.

131. Despite this, Defendants intentionally coerced and intimidated Ms. Grossberg into providing testimony that placed her reputation in a false light.

132. Defendants did so intentionally to deflect blame and liability in the Dominion/Fox Lawsuit away from Fox News and male on-air hosts and executives.

133. This conduct constitutes false light under Delaware law.

134. As a direct and proximate result of this false light, Plaintiff suffered and continues to suffer damages, including but not limited to past, present and future economic damages, damage to her reputation, and emotional distress.

COUNT IV – CIVIL CONSPIRACY

135. Plaintiff re-alleges and incorporates by reference all allegations and paragraphs in this complaint, above and below, as though fully set forth herein.

136. Plaintiff alleges that Defendants conspired to commit an unlawful act or to commit a lawful act by unlawful means. Specifically, the defendants induced Plaintiff to make false statements against her interest in a deposition in the Dominion/Fox Lawsuit. Specifically, the Defendants improperly coached Plaintiff to make numerous false statements about herself calling into question her qualifications as a journalist and thereby damaging her professional reputation and thereby deflect blame and liability from Defendant and its male hosts and executives. Defendants further intimidated Plaintiff to make such statements or risk her position and career.

137. Defendants held meetings, conferences, telephone calls and held joint strategy sessions towards these ends and to deny Plaintiff's rights following her deposition.

138. This conduct constitutes a civil conspiracy under Delaware law.

139. As a direct and proximate result of this conspiracy, Plaintiff suffered and continues to suffer damages, including but not limited to past, present, and future economic damages, damage to her reputation, and emotional distress.

140. The plaintiff felt coerced and intimidated during deposition preparation sessions with Fox's legal team. As a result, the plaintiff felt compelled to avoid becoming the "star witness" for Dominion to protect her career at Fox News and avoid being subjected to worse terms and conditions of employment than male

employees. The plaintiff was also confused about how to testify truthfully about different types of shows and felt the need to downplay ratings and avoid mentioning colleagues to protect herself.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court

A. Enter a declaratory judgment individually against each Defendant jointly and severally;

B. Enter a judgment individually against each Defendant jointly and severally for compensatory damages;

C. Enter a judgment individually against each Defendant jointly and severally for punitive damages;

D. Enter a judgment individually against each Defendant jointly and severally for costs, pre-judgment and post-judgment interest and attorney's fees; and

E. Grant such other and further relief that the Court deems just and proper.

[Signature Page to Follow]

Respectfully Submitted,

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