

The Honorable Brian McDonald
Hearing Date: Thursday, May 21, 2020
Hearing Time: 9:30 a.m.

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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

WASHINGTON LEAGUE FOR
INCREASED TRANSPARENCY &
ETHICS, a Washington non-profit
corporation.

Plaintiff,

v.

FOX CORPORATION, a Delaware
corporation; FOX NEWS NETWORK, LLC,
a Delaware corporation d/b/a FOX NEWS
CHANNEL; FOX BUSINESS NETWORK, a
for profit company d/b/a/ FOX BUSINESS;
JOHN MOE and JANE MOE, 1-100,

Defendants.

No. 20-2-07428-4 SEA

DECLARATION OF ARTHUR WEST

Declaration of Arthur West - 1

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DECLARATION

I, Arthur West, certify the following to be correct and true, based upon personal knowledge of matters I am competent to testify upon.

I am a member of the Washington League for Increased Transparency and Ethics.(WASHLITE). This organization was founded to pursue public interest litigation on behalf of its members, a purpose that is germane to the instant suit.

I am an investor in and have a commercial interest in *Evolving Medical Solutions*, which is attempting to refine, develop and market a novel Blood Oxygenation System for Covid-19 therapy. This investment and commercial interest predates the filing and amendment of the present lawsuit.

Due to the misinformation and uncertainty spread by FOX News about the seriousness of Covid-19 and its downplaying of the dangers of the virus, we were harmed in the early development and marketing of this potentially lifesaving technology in that potential partners, investors or supporters were uncertain if the Covid-19 virus was actually a significant problem to begin with, and were reluctant to commit.

I believe the delays in moving forward with this technology were critical, caused us to expend time and resources that would not have been expended, and interfered with the rollout of a potentially lifesaving new method of Covid-19 treatment.

In addition to this injury, I have also been injured in that, due to the defendant’s false representations about the danger posed by the virus being taken at face value by a significant portion of the population, the spread of the virus was enabled, and reasonable measures to prevent its spread have been undermined, with the result that impacts upon myself and the economy at large will almost certainly be greater than if their deceptive

1 content had not been transmitted so broadly to the Citizens of this State and Nation, and
2 the international community that also receives content from Fox News.

3 I am ashamed to admit that, as a result of this widely broadcast carrier wave of
4 false information by Fox, I myself did not fully comprehend the dangers posed by the
5 Covid-19 virus until the second week of March. As a result, I failed to order or purchase
6 protective masks and other preventative supplies while they were still available, and have
7 had to go to extreme lengths and/or pay higher prices to obtain these and such regular
8 commodities as paper products, hand sanitizer, and, at times, food. These too, are
9 “Injuries” cognizable under the CPA.

10 Further, since Fox coverage not only minimized the danger posed by the virus, but
11 is actually encouraging people to violate restrictions such as those imposed by our
12 governor, the period during which regular activity cannot safely be resumed has almost
13 certainly been increased, injuring myself and all citizens of this State.

14 I am also in the 6th Month of a 12 Month contract to pay AT&T \$99.13 a Month
15 for Cable TV, which includes Fox News. Sean Hannity, as just one example, appears on
16 My TV through the cable network on Channel 360 at 6:00 – 7:00 P.M. Monday through
17 Thursday. I am also a subscriber to Fox Nation.

18 I have reviewed the instances of Fox Programming cited in the Complaint, and set
19 forth below, and I have personally reviewed these statements as they appear in fox
programming and in excerpts in compendiums such as “Heroes of the Pandumbic”
appearing at <https://www.youtube.com/watch?v=NAh4uS4f78o>

A portion of the false and deceptive content concerniong the Coronavirus that was
and is being transmitted to my residence and over 90% of the households in America is
set forth in particular below

On February 28, 2020 Mr. Hannity, during his evening program entitled “Hannity”
stated that COVID-19 was an invention of the political left in an effort to “bring down the
President.

1 On February 28 Geraldo Rivera stated live and on-air “ The far more deadly, more
lethal threat right now is not the coronavirus, it’s the ordinary old flu.

2 On March 2, 2020, Fox personality Dr. Drew Pinsky state live and on-air: “It’s
3 milder than we thought...the fatality rate is gonna drop. ”

4 March 3 Fox personality Jesse Watters stated live and on-air: “If I get it, I’ll beat it. I’m
not afraid of the coronavirus and no one else should be that afraid either”

5 On March 6th Mark Siegel stayed on air that “This virus should be compared to
the flu because at worst...at worst...worst case scenario this could be the flu.”

6 On March 7, 2020, Fox personality Judge Jeanine Pirro (ret.) stated live and on-
7 air: "It’s a virus...like the flu...the talk about coronavirus being much more deadly doesn’t
reflect reality. ”

8 On March 8, 2020, Fox personality Pete Hegspeth stated live and on-air, “The
9 more I learn about coronavirus, the less concerned I am”

10 On March 9, 2020, Fox personality Laura Ingraham stated live and on-air when
discussing COVID-19 “and the facts are actually pretty reassuring, but you’d never know
11 it watching all this stuff”

12 On March 9, 2020, Fox personality Lou Dobbs stated live and on-air accused “the
left wing media playing up fears of the coronavirus. ”

13 On March 9, 2020, Mr. Hannity on his program stated: “This is scaring the living
hell out of people—I see it, again, like, let’s bludgeon Trump with this new hoax. ”

14 On March 10th, 2020 In this program, Mr. Hannity suggested and/or implied that
15 COVID-19 was a hoax.

16 Also on March 10th, 2020, Fox personality Tomi Lahren, stated she was more
concerned with stepping on a used heroin needle than contracting the coronavirus,
17 thereby diminishing the warnings of public heal officials.

18 On March 10th, 2020 Fox personality Ed Henry stated in reference to the virus,
“when you hear the context it is not quite as scary”

1 On March 11th, 2020, Fox personality Matt Schlapp stated live and on-air: “It is
2 very very difficult to contract this virus” thereby contradicting the warnings of public
3 health officials

4 On March 13, 2020, Trish Regan, on her then program on the Fox Business
5 Channel stated, with the statement “Coronavirus Impeachment Scam” in an electronically
6 generated caption superimposed on and sharing the screen with her:

7 The chorus of hate being leveled at the President is nearing a crescendo
8 as Democrats blame him -- and only him -- for a virus that originated
9 halfway around the world. This is yet another attempt to impeach the
10 President. And sadly it seems they care very little for any of the
11 destruction they are leaving in their wakes. Losses in the stock market,
12 all this unfortunately just part of the political casualties for them...

13 Also on March 13, 2020, Fox personality Ainsley Earhardt stated live and on-air:
14 “it is actually the safest time to fly” thereby diminishing the warnings of public health
15 officials.

16 On April 13, 2020, Fox News Contributor Bill Bennett on the *Fox & Friends*
17 morning program, stated that the COVID-19 pandemic was not a pandemic at all but
18 rather, akin to a seasonal flu.

19 Subsequent to the filing of the Amended Complaint in this matter, Fox News
20 host [Pete Hegseth](#), on May 7, 2020, called upon healthy Americans to “have some
21 courage” and leave their homes to get infected by the coronavirus in order to help attain
22 “herd immunity.”

23 All of the content set forth above has the capacity to deceive consumers, especially
24 since its simple and repetitive message was so widely broadcast via a dominant
25 commercial medium to over 90% of American households. As one master of totalitarian
26 propaganda stated:

27 “The most brilliant propagandist technique will yield no success unless
28 one fundamental principle is borne in mind constantly - it must confine
29 itself to a few points and repeat them over and over.” Joseph Goebbels

1 By confining itself to a few simple points and repeating the over and over, Fox
2 distributed content that was designed to, and had the very real capacity to, deceive
Washington consumers.

3 I understand that in the first sentence of their brief Fox describes our group as the
4 Orwellian “self appointed Ministry of Truth and Committee for Public Safety” and
attempts to argue that counter speech is adequate to remedy any harm they have caused.

5 These representations display a shocking mischaracterization of the facts and
6 demonstrate that while paying lip service to George Orwell’s novel 1984, Fox is ignorant
7 of its actual content or the degree to which Fox News acts as the actual de facto “Ministry
8 of Truth” as well as the electronic cheerleader for the modern day Committee for Public
9 Safety, the heavily armed “Patriot” protesters they so zealously encourage, who like the
10 Committee of Public Safety in the French Revolution, advocate the sacrifice of a portion
of society for economic and social advances. Like other demagogues before¹ them Fox is
unconcerned at its’ own failings, has no fear for the penalties of the laws, and is
disinclined to yield to the necessities of the republic.

11 In his Novel, 1984 George Orwell described a dystopian future society where a
12 large organization, the Ministry of Truth, distributed false news and facts on behalf of
“Big Brother²” to the population of Oceania via their Television sets. As Orwell actually
13 wrote in 1984,

14 The invention of print...made it easier to manipulate public opinion, and
15 the film and the radio carried the process further. With the development
of television, and the technical advance which it made possible...the
possibility of enforcing not only complete obedience to the will of the
state, but complete uniformity of opinion on all subjects, now existed for
the first time.

16 --George Orwell, 1984

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18 ¹ But we can not expect that you should be concerned at your own failings, that you should fear the penalties of the
laws, or that you should yield to the necessities of the republic, for you are not,...., one whom either shame can
recall from infamy, or fear from danger, or reason from madness. *Oratio in Catalinium Prima in Senatu Habita*,
Marcus Tullius Cicero, 63 B.C.

19 ² Coincidentally, in Orwell’s 1984, Big Brother had large posters of himself placed on the sides of buildings, much
like the Fox news personalities do in New York.

1 Fox has been widely compared to a modern day “Ministry of Truth” in the media,
2 with articles in Newsweek, [https://www.newsweek.com/fox-news-donald-trumps-](https://www.newsweek.com/fox-news-donald-trumps-ministry-truth-cia-analyst-1378208)
3 [ministry-truth-cia-analyst-1378208](https://www.newsweek.com/fox-news-donald-trumps-ministry-truth-cia-analyst-1378208), In These Times,
4 [https://inthesetimes.com/article/22196/fox-news-trump-ukraine-fake-news-independent-](https://inthesetimes.com/article/22196/fox-news-trump-ukraine-fake-news-independent-journalism-in-these-times)
5 [journalism-in-these-times](https://inthesetimes.com/article/22196/fox-news-trump-ukraine-fake-news-independent-journalism-in-these-times), and The New Yorker, [https://www.newyorker.com/magazine/](https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house)
6 [2019/03/11/the-making-of-the-fox-news-white-house](https://www.newyorker.com/magazine/2019/03/11/the-making-of-the-fox-news-white-house) all pointing out the danger of Fox’s
7 operations to our democracy.

8 Fox’s content as set forth above is not reasonably subject to counterspeech
9 because it evinces the earmarks of totalitarian propaganda: the “Big lie” that the
10 Coronavirus is not dangerous and that reasonable State measures to stop its transmission
11 should be thwarted. As has been previously recognized:

12 All this was inspired by the principle—which is quite true within itself—
13 that in the big lie there is always a certain force of credibility; because
14 the broad masses of a nation are always more easily corrupted in the
15 deeper strata of their emotional nature than consciously or voluntarily;
16 and thus in the primitive simplicity of their minds they more readily fall
17 victims to the big lie than the small lie, since they themselves often tell
18 small lies in little matters but would be ashamed to resort to large-scale
19 falsehoods.

It would never come into their heads to fabricate colossal untruths, and
they would not believe that others could have the impudence to distort
the truth so infamously. Even though the facts which prove this to be so
may be brought clearly to their minds, they will still doubt and waver
and will continue to think that there may be some other explanation. For
the grossly impudent lie always leaves traces behind it, even after it has
been nailed down, a fact which is known to all expert liars in this world
and to all who conspire together in the art of lying.

— Adolf Hitler, *Mein Kampf*, vol. I, ch. X[1]

By following the credo of “Make the lie big, keep it simple, keep saying it, and
eventually they will believe it,” Fox News employed their dominant position in creation
of cable content to deceive consumers and create a situation where a statistically
significant section of the population believes Fox’s deceptive content and “Even though

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2 By following the credo of “Make the lie big, keep it simple, keep saying it, and
3 eventually they will believe it,” Fox News employed their dominant position in creation
4 of cable content to deceive consumers and create a situation where a statistically
5 significant section of the population believes Fox’s deceptive content and “Even though
6 the facts which prove this to be a falsehood may be brought clearly to their minds, they
7 will still doubt and waver and will continue to think that there may be some other
8 explanation.”

9 This has harmed and continues to injure myself, the members of WASHLITE, and
10 the citizens of the State of Washington in a manner that mere counter speech can not
11 adequately address. As such, the Fox protests too much and misstates reality when
12 alleging that WASHLITE, rather than Fox itself, acts as an Orwellian “Ministry of
13 Truth”.

14 I, Arthur West, certify the foregoing to be correct and true under penalty of perjury
15 of the laws of the State of Washington, based upon personal knowledge of matters I am
16 competent to testify upon.

17 Done this day of May 10th, 2020, in Olympia, Washington.

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