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By [Oliver Darcy](#), [CNN Business](#)

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"This is the definition of defamation."

That's what CNN senior legal analyst Laura Coates told Erin Burnett Thursday night when discussing Smartmatic's [\\$2.7 billion defamation lawsuit](#) against Fox News, three of the network's hosts (Lou Dobbs, Maria Bartiromo, and Jeanine Pirro), Rudy Giuliani, and Sidney Powell.

"When you are making statements that are knowingly false, and you make them with malice, and you actually tarnish reputations and it has a financial consequence — that's why you have defamation lawsuits in the first place," Coates said, explaining the seriousness of the lawsuit.

Coates is not alone in believing Smartmatic's suit poses real threat to Fox. University of Georgia media law professor Jonathan Peters [noted on Twitter](#) that "libel law makes it difficult to prevail where the plaintiff is a public figure and/or where the speech involved a matter of public concern. In various ways, these will be key issues in litigation." But, Peters added that he believed the "smart money" is on Smartmatic.

That seemed to be the general consensus among legal experts who commented on the case Thursday. Despite Fox describing the suit as "meritless," Powell calling it a "political maneuver," and Giuliani saying he looked forward to discovery, most legal experts believed it to have some bite. "This lawsuit is a legitimate threat — a real threat," CNN legal analyst Ellie Honig said. "There is a real teeth to this." And Roy Guterman, who directs the Tully Center for Free Speech at Syracuse University, [echoed to WaPo](#), "This complaint establishes a compelling narrative in its 270-plus pages. It will certainly be interesting to see how the defendants frame their responses."

This is not a nuisance suit

Brian Stelter writes: "Libel suits against media organizations are typically filed on a slippery slope. Journalists have good reason to be concerned about these types of cases. And nuisance lawsuits against newsrooms are a real problem. But I think it's safe to say that Smartmatic's action against Fox is not a nuisance suit, and it has little to do with news. It's going to be hard for Fox to wrap its hosts in a press freedom flag. This case is about entertainers who gave fuel to lies in a desperate bid to keep Trump in power."

"Disinformation has free reign right now"

When I spoke with Smartmatic's lawyer, Erik Connolly of "pink slime" fame, about the case, I did press him on whether he was worried his suit could set a precedent that could ultimately harm press freedoms. His response

was that the lawsuit would actually be beneficial to legitimate news orgs. "I think it's the type of case that has to be brought right now to try to get us away from disinformation," Connolly told me. "Disinformation has a free rein right now. This kind of case can be a shot across the bow that courts can deliver that says, 'Let's get back to reality. Let's get back to factual reporting.'"

A world of people "telling outright lies"

Stelter writes: "I was struck by something Roberta Kaplan, a lawyer representing author E. Jean Carroll, told the



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'What's changed,' Kaplan said, 'and why we're seeing so many more defamation cases today than ever before, is because, frankly, we're living in a world in which people with legitimacy and authority seem to feel no compunction whatsoever about just telling outright lies.' This is partly why other legal experts are saying Smartmatic has a strong argument -- the lies are explicit and easily debunked. And that's why it may not be so hard to prove that Fox and its hosts knew, or should have known, that they were telling lies -- which is the 'actual malice' standard that public figures have to meet in defamation cases..."

The lies have consequences

It's crucial to point out the consequences the slew of conspiracy theories pushed against Smartmatic have had for the company. In its lawsuit, Smartmatic detailed some of the ramifications: a wave of threats against its employees, a "meteoric rise" in cyberattacks, and hundreds of millions of dollars in projected revenue losses. CEO and founder Antonio Mugica told me that there was "no choice" the company had but to file the lawsuit. "The disinformation campaign that was launched against us is an obliterating one. For us, this is existential, and we have to take action."

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