

# OAN Must Face Voting Tech Co. Smartmatic's Defamation Suit

By **Dave Simpson**

Law360 (June 21, 2022, 9:01 PM EDT) -- A D.C. federal judge declined to dismiss Smartmatic's defamation suit against One America News Network, ruling Tuesday that the suit belongs in his court because the voting technology provider's accusations — that OAN intentionally peddled damaging election fraud conspiracy theories — happened at least in substantial part in Washington, D.C.

U.S. District Judge Carl Nichols rejected the far-right cable channel's argument that the court lacks personal jurisdiction over OAN and is the improper venue for Smartmatic USA Corp.'s defamation suit. He found that his court has personal jurisdiction over the suit under D.C.'s long-arm statute because OAN is accused of causing harm in the nation's capital through its actions there.

"Smartmatic has alleged that OAN made numerous allegedly false and defamatory statements in the District," Judge Nichols said in his **opinion**. "Smartmatic has also alleged that OAN in its Washington, D.C., studio researched, edited, produced, and broadcasted interviews with guests who touted allegedly false and defamatory statements. And Smartmatic alleges that OAN published its allegedly false and defamatory statements nationwide, including in the District."

Smartmatic **sued OAN in November**, alleging the network peddled unfounded claims that the firm's voting machines rigged votes in favor of President Joe Biden in 2020.

It said the network aired inaccurate reporting and conducted disinformation campaigns that claimed the company participated in a criminal conspiracy to rig and steal the 2020 U.S. election, undercutting its legal and ethical obligations. Smartmatic said the network's actions have not only caused irreparable damage to the election technology firm's business, but that they also contributed to an erosion of the public trust in the U.S. democratic process.

"Smartmatic is a victim of OANN's decision to increase its viewership and influence by spreading disinformation," the company said in its November complaint against the San Diego-based OAN.

While other news organizations informed their viewers that Biden and Vice President Kamala Harris had won the election, the complaint adds that OAN told its audience that the election had been stolen, and that voting machines had switched votes cast for then-President Donald Trump to his Democratic rival.

"OANN knew it was not true. OANN had seen no evidence to support the assertion. But OANN chose to spread disinformation," the suit contends.

"The first time it happened could be a mistake. The second, third, fourth and fiftieth times it happened were intentional choices. OANN had every opportunity to do the right thing after the 2020 election for President and Vice President of the United States," Smartmatic said. "It could have reported the truth. Instead, OANN chose to do the wrong thing every time. It reported a lie."

In an attempt to toss the suit, OAN argued that it belongs in California, where its satellite dish is located.

OAN "broadcasts its news segments nationwide via a satellite dish in San Diego and does not have contacts with D.C. other than its newsgathering ties to the District," the network had argued.

But on Tuesday, Judge Nichols was not persuaded.

"Smartmatic ... alleges that not only does OAN advertise in and broadcast from the District, but also that the network disseminated some of the allegedly false and defamatory statements in the District," he said. "Those allegations cut against OAN's claim that it just gathers information in the District and sends it back to home base in California."

Also on Tuesday, a Delaware judge ruled that Fox Corp. **must face claims** that Fox News Network published defamatory statements about Dominion Voting Systems Inc. during its coverage of the 2020 presidential election.

In a 25-page opinion, Delaware Superior Court Judge Eric M. Davis found that U.S. Dominion Inc., Dominion Voting Systems Inc. and Dominion Voting Systems Corp. had adequately stated a claim against Fox Corp., the parent of Fox Broadcasting Co. LLC. The court also found, however, that Dominion failed to state a claim against Fox Broadcasting, which it also sued, and dismissed that part of the suit.

Smartmatic is represented by J. Erik Connolly, Nicole E. Wrigley, Lauren C. Tortorella, Emily Newhouse Dillingham, Michael J. Barrie, Kate Harmon and Kathryn E. Clausen of Benesch Friedlander Coplan & Aronoff LLP.

OAN is represented by Blaine C. Kimrey of Vedder Price PC.

The case is Smartmatic USA Corp. et al. v. Herring Networks Inc., case number 1:21-cv-02900, in the U.S. District Court for the District of Columbia.

--Additional reporting by Leslie A. Pappas and Khorri Atkinson. Editing by Dave Trumbore.