

Litigation  
April 19, 2023, 3:09 PM

# Fox Settlement Deal Is Big Win for Dominion's Trial Lawyers

By Brian Baxter and Emily R. Siegel

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- Legal fees yet to be disclosed following \$787.5 million settlement
- Dominion has defamation cases against Newsmax, Giuliani, others

Stephen Shackelford had a grin nearly the size of Texas when he walked out of a Delaware courthouse after finalizing the largest defamation settlement in history.

Shackelford, a partner at Houston-founded Susman Godfrey, was a lead litigator for Dominion Voting Systems Inc. in its blockbuster lawsuit against Fox Corp. The media giant agreed Tuesday to pay \$787.5 million to settle the case, accusing Fox News of bogus theories about a conspiracy to rig the 2020 US presidential election for Joe Biden over Donald Trump.

The settlement is a big win for Dominion and its private equity owner, Staple Street Capital LLC. Shackelford and other litigators working on the case are also set to reap the rewards.

Susman Godfrey is a litigation powerhouse known for taking big ticket cases on contingency fee or using alternative arrangements, rather than charging by the hour. Shackelford declined to disclose the terms of the firm's work for Dominion or how much of the settlement money will go to the company's outside counsel.

The voting technology company "fought to bring the truth to light," Shackelford said via email. He added that he's never represented a company "that has ever had to go through what Dominion has."

## Paying the Lawyers

Shackelford returned to Susman Godfrey as a partner in 2015 after spending more than three years at General Electric Co. His clients have included WeWork Inc. founder Adam Neumann.

The Fox News case has been "well over 100%" of Shackelford's caseload since Dominion filed the lawsuit in [Delaware in early 2021](#), he said.

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Susman, including partners Justin Nelson and Davida Brook, led Dominion's team, along with lawyers from Alexandria, Va.-based Clare Locke, a firm with defamation law expertise, and Delaware's Farnan LLP.

The group squared off with a roster of seasoned litigators for Fox, including former US Solicitor General Paul Clement and veteran Chicago trial lawyer Dan Webb, co-executive chairman of Winston & Strawn.

John O'Connor, a San Francisco litigator and attorney fee expert, said it's likely Dominion used some kind of mixed fee arrangement with its outside lawyers.

"This is the kind of case that required significant resources to pursue and also promised a good result," O'Connor said. "There can be so many ways you structure it."

Contingency deals, in which lawyers forgo upfront and ongoing fees in exchange for a piece of any winnings, are common among plaintiffs lawyers. Contingency fees can reach one-third or more of a judgment or settlement.

Dominion's lawyers may have also turned to an outside funder, O'Connor said. Or they may have agreed to take a lower hourly fee in return for a smaller cut of the winnings.

Shackelford called Clare Locke "talented trial lawyers" and said Farnan partner Brian Farnan helped "navigate all things Delaware" for Dominion's out-of-state counsel. Rodney Smolla, a former dean of the Widener University Delaware Law School and an expert on First Amendment law, also "played a key role in our legal victories," Shackelford said. Smolla last year became president of the Vermont Law and Graduate School.

Viet Dinh, chief legal and policy officer for Fox, didn't respond to a request for comment about whether insurance would pick up some of the company's tab for disbursing Dominion's defamation proceeds.

Webb also didn't respond to a comment request. He worked closely with Clement as lead counsel to Fox.

Other firms representing Fox in the Dominion litigation were litigation boutique Lehotsky Keller, DLA Piper, Los Angeles-based Ellis George Cipollone O'Brien Annaguey, and Delaware's Richards, Layton & Finger, according to court filings. Ellis George hired name partner Patrick Cipollone, a former White House counsel in the Trump administration, to open an office in Washington in 2021.

### **More Suits Looming**

Fox is also facing similar litigation from Smartmatic Corp., a London-based voting technology company. That case, which does involve litigation financing, is now in discovery.

Smartmatic's lead outside lawyer is J. Erik Connolly, a former Winston litigator who joined Benesch, Friedlander, Coplan & Aronoff in 2018.

Connolloy helped a meat producer land a multimillion-dollar “pink slime” defamation settlement, one of the largest on record, with Walt Disney Co.-owned ABC News. Disney disclosed it paid \$177 million beyond its insurance coverage in that deal.

As for Shackelford, he continues to represent Dominion in other court battles. The company has lawsuits pending against conservative media outlets Newsmax Media Inc. and the One America News Network, as well as lawyers Rudy Giuliani and Sidney Powell, and businessmen Mike Lindell and Patrick Burke.

“These are all moving forward,” Shackelford said.

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