

SmileDirectClub Hits NBC With \$2.8B Defamation Suit

By **Dave Simpson**

Law360 (May 18, 2020, 11:07 PM EDT) -- SmileDirectClub hit NBC and one of its reporters with a \$2.8 billion defamation suit in Tennessee state court Monday, alleging that the network's February "hit piece" misled viewers about the safety and effectiveness of the direct-to-consumer 3D-printed teeth alignment products.

SmileDirectClub Inc. alleges that it made hundreds of pages of documents available, proving the quality of its products, and offered interviews with its executives, but that NBCUniversal Media LLC and reporter Vicky Nguyen ignored the evidence and published a Nightly News with Lester Holt broadcast and online report that included more than 40 false and misleading statements about the company.

"SDC brings this lawsuit for a simple reason: NBC must be held accountable for its abuse of power and betrayal of trust," SmileDirectClub said in its complaint. "Viewers and readers across the country turn to the media for the information they need to make decisions about their health and well-being. NBC abused their trust by publishing reports about SDC that were littered with false and misleading statements."

The Feb. 13 news report caused SmileDirectClub's stock price, which was "trending upward" to plummet 15%, the company alleges. Its market capitalization dropped by nearly \$1 billion, the suit alleges.

"Much worse, everyone involved with SDC saw their reputations dragged through the mud," the suit alleges. "SDC's employees and officers across the country, as well as SDC-affiliated doctors, witnessed their hard work being undermined by a news organization and reporter who cared more about ratings and making a splash than the truth."

The complaint is 209 pages and accuses the media company and reporter of 13 counts of common law defamation and one count of violating the Tennessee Consumer Protection Act.

According to the complaint, the report falsely stated that SmileDirectClub's product caused health and physical problems and permanent injuries. It also falsely claimed that the treatment injured two specific patients, the suit alleges. The company alleges that NBC falsely implied that the treatment violates state and federal regulations. Additionally, NBC wrongly said that SmileDirect is "do-it-yourself" dentistry and falsely implied that the company is dishonest, the company said,

SmileDirectClub is represented by Benesch Friedlander Coplan & Aronoff's J. Erik Connolly, who previously represented Beef Products Inc. when it sued Walt Disney Co. over ABC News reports calling its beef product "pink slime." That suit ended with Disney **paying \$177 million, plus insurance recoveries**, to settle.

"SmileDirectClub gave NBC every opportunity to retract this defamatory report and correct the record voluntarily, NBC choose not to [do] so," Connolly said in a release Monday. "At that point, the company had no choice but to bring this lawsuit to defend its brand and the reputation of hundreds of doctors who are using SmileDirectClub's telehealth platform to treat patients every day."

In September, the **company raised \$1.3 billion** in its Skadden-led initial public offering after pricing its shares above the expected range.

The Tennessee-based company priced its 58.5 million-share offering in mid-September at \$23 per share. The company said earlier that month that it planned to price the offering between \$19 and \$22.

Representatives for NBC did not immediately respond to requests for comment Monday.

SmileDirect is represented by J. Erik Connolly of Benesch Friedlander Coplan & Aronoff.

Counsel information for NBC was not immediately available Monday.

The case is SmileDirectClub Inc. et al., v. NBCUniversal Media LLC et al., case number 20C1054, in the Circuit Court for Davidson County, Tennessee.

--Editing by Michael Watanabe.