



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

JAMES RAY EPPS, SR.

Plaintiff,

v.

FOX NEWS NETWORK, LLC,

Defendant.

Case No.

JURY TRIAL DEMANDED

COMPLAINT

1. In the aftermath of the events of January 6th, Fox News searched for a scapegoat to blame other than Donald Trump or the Republican Party. Eventually, they turned on one of their own, telling a fantastical story in which Ray Epps—who was a Trump supporter that participated in the protests on January 6th—was an undercover FBI agent and was responsible for the mob that violently broke into the Capitol and interfered with the peaceful transition of power for the first time in this country's history.

2. Fox's role in creating and disseminating destructive conspiracy theories has already been well documented. Perhaps most notoriously, in the days following the 2020 presidential election, Fox broadcast, amplified, and endorsed false claims about a rigged election.

3. The chief villains in Fox’s story were two voting machine companies: Dominion Voting Systems and Smartmatic.
4. Fox recklessly disregarded the truth—ignoring independent audits, hand recounts, bipartisan election officials, election security experts, judges, and Republican officials—and persisted in sticking to the false narrative.
5. Behind the scenes—away from the red light of rolling cameras—executives, producers, and on-air personalities rejected as preposterous and crazy the claims that Fox was feeding its viewers. But in front of the camera, Fox continued with the lies.
6. The power of Fox’s megaphone turned Dominion and Smartmatic into household names and led to the companies’ employees being harassed and leaving the companies to suffer significant economic harm.
7. The lies that Fox told were heard by Ray and Robyn Epps, loyal Fox viewers and fans of Tucker Carlson and other Fox personalities.
8. Ray and his wife Robyn voted for Donald Trump in 2016 and in 2020.
9. From the stories they heard on Fox and from their own experiences, Ray and Robyn believed that the 2020 election had been stolen from Donald Trump.
10. Ray and Robyn were persuaded by the lies broadcast by Fox asserting that the election had been stolen to exercise their perceived responsibilities as patriotic citizens to gather in the nation’s Capitol on January 6, 2021 to “stop the steal.”

11. Ray and Robyn decided that Ray Epps should attend the January 6, 2021 rally to protest what they were concerned was a rigged election.
12. Epps flew to Washington, DC on January 4, 2021.
13. He proudly wore his red Trump hat throughout Washington D.C., and on January 5th and January 6th he vocally supported and encouraged peaceful protests.
14. The events of January 6, 2021 are well-known. Some of the attendees of the January 6th rally attacked the Capitol, violently gaining entrance to the building and stopping the electoral vote counting that was underway.
15. Reports indicate that 120,000 people attended the Stop the Steal rally on January 6th.
16. Reports indicate that of those 120,000 attendees, as many as 2,500 illegally entered the Capitol building.
17. Having promoted the lie that Joe Biden stole the election, having urged people to come to Washington, DC, and having helped light and then pour gasoline on a fire that resulted in an insurrection that interfered with the peaceful transition of power, Fox needed to mask its culpability. It also needed a narrative that did not alienate its viewers, who had grown distrustful of Fox because of its perceived lack of fealty to Trump.

18. At first, Fox and its on-air personalities sought to blame Antifa for the attack.

19. As information about the rioters circulated, that false narrative became too easily disproven.

20. Still, just as Fox had focused on voting machine companies when falsely claiming a rigged election, Fox knew it needed a scapegoat for January 6th that would help absolve itself and would appeal to its viewers. It settled on Ray Epps and began promoting the lie that Epps was a federal agent who incited the attack on the Capitol:



21. And with that, Fox, and particularly Mr. Carlson, commenced a years-long campaign spreading falsehoods about Epps. Those lies have destroyed Ray's and Robyn's lives. As Fox recently learned in its litigation against Dominion Voting Systems, its lies have consequences.

PARTIES AND RELEVANT NON-PARTIES

22. Plaintiff James Ray Epps, Sr. (“Ray,” “Ray Epps,” or “Epps”) and his wife Robyn Epps are a married couple who resided in Arizona during the relevant period until May 2022, when they moved to the State of Utah, where they currently reside.

23. Defendant Fox News Network, LLC (“Fox”) has overseen the “most-watched” cable news network in America for multiple years running¹. The company was formed and is organized under the laws of Delaware and has its principal place of business in New York. It is wholly owned by Fox Corporation, a Delaware corporation also headquartered in New York. Fox operates the Fox News Channel, the Fox Business Channel, Fox News Radio, and Fox News Digital, which includes the fox.com, foxnews.com, and foxbusiness.com websites, Fox’s social media accounts, and Fox’s digital subscription services, such as Fox Nation, which it refers to collectively as “Fox News Media.” The Fox News and Fox Business Channels are available in over 70 million American households.² Fox repeatedly published defamatory falsehoods about Epps, including by broadcasting and rebroadcasting defamatory statements by Tucker Carlson—who devoted over two dozen segments to Epps—and by republishing those falsehoods across Fox’s

¹ Fox Annual Report (2022), <https://investor.foxcorporation.com/static-files/1ed7c450-e52a-4259-8631-80db9e79be32>.

² *Id.*

websites, social media accounts, and subscription service platforms. Through this effort, Fox's lies reached tens, if not hundreds, of millions of people outside of Fox's regular viewership through further republication by others on social media.

24. Until April 2023, Tucker Carlson was a Fox News personality and the host of Fox's *Tucker Carlson Tonight*. At all relevant times, Carlson was an agent for Fox and, on information and belief, he remains under contract with Fox. Fox removed Carlson from his on-air duties in late April 2023, and it has been reported that one basis for Fox's decision rested on Carlson's defamatory attacks on Epps and Carlson's's purported desire to continue to embrace, promote, and amplify the lies about Epps.

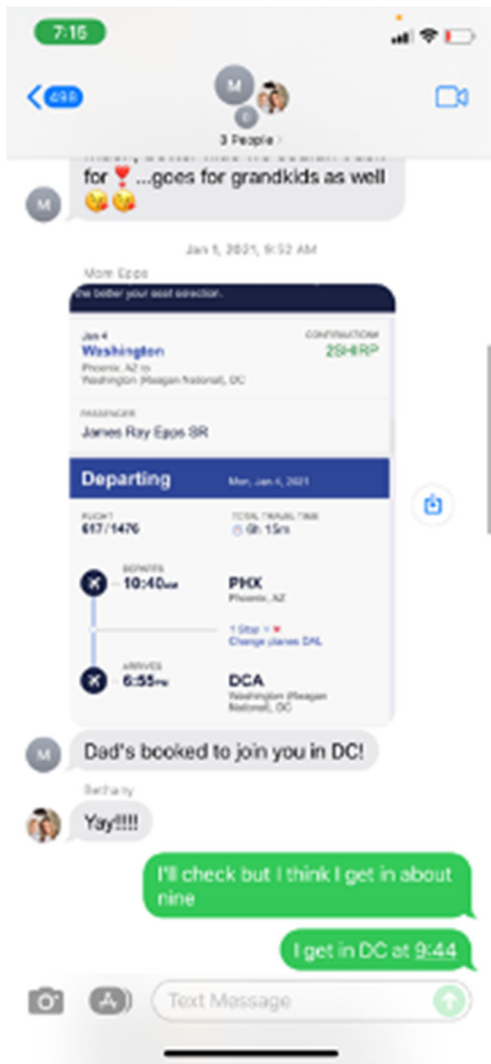
FACTUAL ALLEGATIONS

25. Epps is a poorly cast villain for Fox and Mr. Carlson. Prior to 2022, Epps had consistently voted Republican. He is a former Marine who voted for Donald Trump twice. He was an avid and loyal Fox viewer and a fan of Mr. Carlson's. When Fox, through its on-air personalities and guests, told its audience that the 2020 election had been stolen, Epps was listening. He believed Fox. And when Epps kept hearing that Trump supporters should let their views be known on January 6th in Washington, D.C., Epps took that to heart.

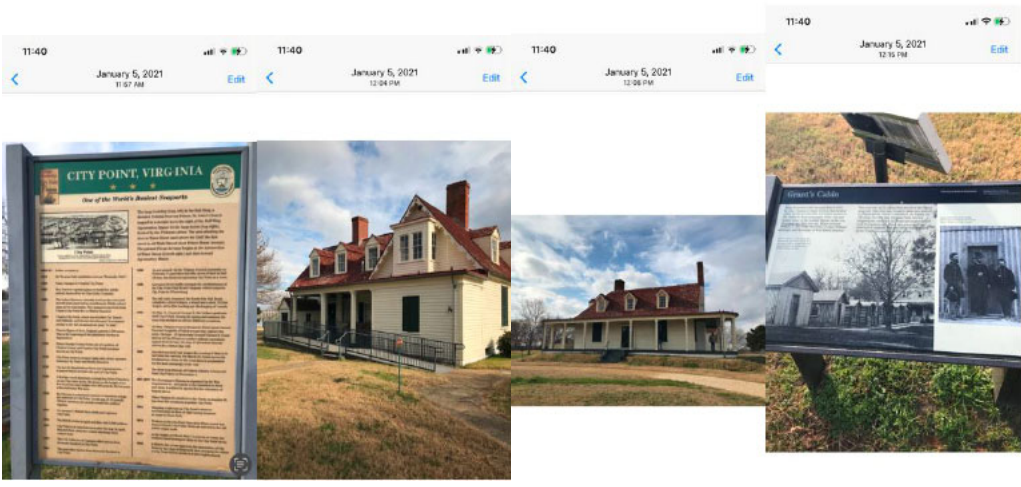
26. At first, Epps didn't think that he could attend the Stop the Steal Rally. He and his wife, Robyn, owned and operated a profitable wedding venue business on

their property in Arizona, and December and January are extraordinarily busy times for outdoor wedding venues in Arizona's pleasant winter climate. However, when Robyn learned that their son, Jim (also a Fox viewer and Trump supporter) would be attending the Stop the Steal Rally, she insisted that Epps go as well. She purchased Epps's plane ticket on January 1, 2021, and reserved him a rental car that same day.

27. Receipts document this, but so do the text messages between Robyn and Jim:



28. Epps arrived in Washington, D.C. late in the day on January 4th and spent the next day touring Virginia with his son and his son's friend. It was a special trip for Epps, as he showed Jim where their ancestors had settled centuries earlier:



29. After a day of sightseeing, Epps, Jim, and Jim's friend returned to DC. Epps went back to his hotel while Jim and his friend went out exploring. Later that night, Jim and his friend called Epps and told him about Trump supporters becoming confrontational with police and Black Lives Matter protestors. Epps decided to see if he could help calm the situation because, according to Epps, "Marines are always in the front." When Epps arrived at the scene, a half dozen or so Trump supporters among a larger group were yelling at police and highly agitated. The lead provocateur was someone Epps would later learn called himself Baked Alaska.

30. Epps engaged with Baked Alaska, who, unbeknownst to Epps, was livestreaming the encounter—his regular modus operandi. Based on his observations of Baked Alaska that night, Epps believed Baked Alaska was seeking to incite violence against the police, calling the officers names and telling them and the crowd that the police had broken their oath. Epps challenged him, telling Baked Alaska and the crowd that attacks on the police and violence were not what their effort was about. As Baked Alaska began to turn the crowd of a dozen or so Trump supporters against him, Epps sought to prove that he was on their side so that he could deescalate the situation—to find common ground with them. He said, "I'm probably gonna go to jail for this. Tomorrow, we need to go into the Capitol. Peacefully." At that time, Epps believed that the Rotunda was open to the public,

like it had been when he visited Washington, DC with his father a decade earlier. Nevertheless, Baked Alaska responded by chanting “Fed, fed, fed,” which a few others in the crowd joined.

31. The next morning, Epps attended the rally, where he learned that the crowd planned to march to the Capitol after President Trump and others delivered speeches on the Ellipse. To his disappointment, he could not hear most of the speeches because he was positioned near someone spreading the gospel through an amplified sound system. Believing that the time had come to protest the election results at the Capitol where the results were about to be certified by Congress, Epps and others began directing people towards the Capitol.

32. When Epps arrived at the Capitol, he made his way to the barricades separating protestors from police, because again, “Marines are always in the front.” Epps sought to diffuse the situation. When agitators started to become more riled up, he tried to calm them.

33. One video shows Epps speaking with a protester named Ryan Samsel at the first barricade, just before Mr. Samsel helped to breach it. When the FBI interviewed Mr. Samsel in January 2021—before Fox spread lies about Epps and before Mr. Samsel had any reason to lie about his interaction with Epps—Mr. Samsel informed the FBI that Epps told him, “Relax, the cops are doing their job.” Unsurprisingly, now that Fox has concocted and promoted lies about Epps, and as

Mr. Samsel prepares to face a trial in his own criminal prosecution, Mr. Samsel has changed his story in hopes of capitalizing on Fox's lies, falsely claiming that Epps instructed him about how to push through the barricades. Not only have Fox's lies caused severe harm to Epps and Robyn, but they have also turned Epps into a character in a cartoonish conspiracy theory used by criminal defendants in a desperate attempt to avoid responsibility for their behavior on January 6th.

34. Despite Epps's attempts to calm those around him, the crowd pushed through the barricades and rushed toward the Capitol.

35. After Mr. Samsel and others broke down the barricades, Epps followed and continued attempting to diffuse the situation. After some in the crowd used a Trump sign as a battering ram, Epps asked police officers if it was acceptable for the protestors to be on a step below the police line. And when the police said it was, Epps patrolled that line, telling anyone who stepped up, to step back. He regularly reminded the Trump supporters to be respectful of the police and was even captured on bodycam videos (that Mr. Carlson gained access to) telling the police that he appreciated them.

36. At one point, a person in the crowd had a medical emergency. Given his EMT training, Epps rushed to help. He, along with a current EMT, helped bring the man out of the crowd to safety. After the man no longer needed assistance, Epps looked back at the Capitol and saw people advancing and climbing the scaffolding

and walls. He was shocked and disappointed. He had concerns about the election and believed it was his duty as a citizen to participate in the protest. But he did not believe violence was appropriate. He left the Capitol grounds and began the long walk back to his hotel.

37. The next day, Epps flew back to Arizona. On January 8, 2021, Epps's brother-in-law informed him that the FBI's website had posted a photograph of Epps, indicating that it was seeking information about him. Within minutes, Epps was on the phone with the FBI, providing his name and information. Four days later, Epps retained an attorney. In March, the FBI met with Epps and then later also met with Jim. In or around July 2021, the FBI removed Epps's picture from its website.

38. That should have been the end of the matter for Epps. No one in the public had heard his name. No one in the public knew anything about him. That changed, though, when Fox—and specifically Mr. Carlson—decided that Epps was the villain they needed to distract from the Dominion lawsuit and their culpability for stoking the fire that led to the events of January 6th.

39. Mr. Carlson took up Baked Alaska's cry and began promoting the idea that the FBI was responsible for January 6th in his series *Patriot Purge*, which Fox released on its streaming service. Since then, Mr. Carlson has become fixated on Epps.

40. Mr. Carlson’s spreading false and unfounded lies about Epps prompted the United States House Select Committee on the January 6th Attack on the United States Capitol (“January 6th Committee”) to interview Epps under oath, review the evidence, and put out a statement confirming that Epps was not a federal agent.

41. On December 14, 2021, Mr. Carlson questioned the January 6th Committee’s dismissal of his Epps conspiracy and attacked former Rep. Liz Cheney (R-WY). [Fox News, *Tucker Carlson Tonight*, 12/14/21]

42. On January 5, 2022, Mr. Carlson stated: “Oh, be sure to check the F.B.I. website. They are posting photos and not of people who actually work for them who were there that day. They’re not only posting photos, they’re taking them off the site, including the most wanted list. Remember Ray Epps?” [Fox News, *Tucker Carlson Tonight*, 1/5/22]

43. On January 6, 2022, Mr. Carlson stated about Epps: “Again, this is not a conspiracy theory. It’s a legitimate question. Why won’t they answer it?” [Fox News, *Tucker Carlson Tonight*, 1/6/22]

44. On January 11, 2022, Mr. Carlson told viewers that Epps was “the central figure” in the January 6th riot. [Fox News, *Tucker Carlson Tonight*, 1/11/22]

45. On January 12, 2022, Mr. Carlson claimed Epps “helped stage-manage the insurrection” and said that Rep. Adam Kinzinger (R-IL) is “withholding critical information from the public.” [Fox News, *Tucker Carlson Tonight*, 1/12/2022]

46. On January 21, 2022, Mr. Carlson told viewers the January 6th Committee is clearly “lying about Ray Epps.” [Fox News, *Tucker Carlson Tonight*, 1/21/22]

47. On January 31, 2022, Mr. Carlson defended the Canadian truckers against accusations of racism and suggested that a man attending with a Confederate flag could be a “Ray Epps”-style government plant to discredit the trucker protest. [Fox News, *Tucker Carlson Tonight*, 1/31/22]

48. On June 7, 2022, Mr. Carlson said if the January 6th Committee wanted to know what happened that day, they should talk to Epps “and various FBI informants.” [Fox News, *Tucker Carlson Tonight*, 6/7/22]

49. On July 13, 2022, Mr. Carlson suggested that the U.S. military was concealing information found through the congressional investigation on January 6th to hide information about Epps. [Fox News, *Tucker Carlson Tonight*, 7/13/22]

50. On July 14, 2022, Tucker Carlson had as his star guest Darren Beattie.



Beattie was the principal person driving the false story that Epps was a federal agent planted as a provocateur to trigger the Capitol violence on January 6th.

Beattie had advanced this theory on his own conspiracy website, *Revolver*. Here is a transcript of that entire broadcast segment:

TUCKER CARLSON (HOST): Darren Beattie is one of the reasons this piece was first written. He's the editor of *Revolver News*, which published the first stories about Ray Epps. Obviously, *The New York Times* is very worried about his reporting. We're happy to have him join us tonight. Darren, thanks so much for coming on. What do you make of this?

DARREN BEATTIE (GUEST): Well, it's pretty remarkable. I mean, just let's take all of this in. The one person caught repeatedly urging people into the Capitol as early as January 5th is the one person of all of the January 6th riot participants that *The New York Times* just happens to write this ultra sympathetic puff piece for. It's—it's quite remarkable.

And to look at the piece itself. As you suggested in your—in your intro, there are some real glaring omissions from a journalistic standpoint to have access to this guy. Number one, in the entire piece, there is no blanket explicit denial on the part of Epps to have been associated with any intelligence group—DHS, JTTF, military intelligence, so forth; just reiterates his very legal denial of being involved with law—law enforcement.

Number two, the piece describes Epps as a Trump supporter. He just went to went to D.C. to defend Trump and to attend the speech on a last-minute thing with his son—to attend Trump's speech on election fraud. The only thing is Epps didn't attend the speech. Epps travels all the way from Arizona to D.C., this big Trump

supporter, and he doesn't even attend the speech. Instead, he fixates on this bizarre mission to get everyone to go into the Capitol. And by the way, he just happens to be hanging out right by the initial breach point near the Peace Monument on the west side of the Capitol before the Proud Boys even get there.

And thirdly, where did Ray Epps get this idea? This whole piece doesn't explore that question at all. Here is the one person calling for everyone to go in. Where did you get that idea, Ray Epps? Did it occur to you out of nowhere did someone tell you to do it? This piece, shockingly, does not explore that question at all, which is the paramount question that's really the animating—the alleged animating focus of the January 6 committee.

So this is so dirty. Ray Epps' behavior was so egregious that he was one of the first 20 on the FBI's most wanted list. He was featured as a star in The New York Times' own documentary on January 6. And now he's un-arrested, unindicted, and he's the only January 6 rioter about whom Adam Kinzinger has nice things to say, and The New York Times is writing puff pieces about.

He's the smoking gun of the entire fed-surrection.

CARLSON: And they go crazy when you ask simple questions like, what was the role of federal law enforcement or the military in this day? And it's been our experience that when they won't answer a question and call you names for asking it, maybe there's something there. I appreciate your pulling this thread relentlessly, Darren Beattie. Thank you.

Average viewers of this broadcast understood the “gist and sting” of the broadcast, considered in its entirety, as communicating as a fact that Epps was a federal agent planted to encourage supporters of Donald Trump to go into the Capitol building

on January 6th—the core false and defamatory allegation upon which this Complaint by Epps against Fox is predicated.

51. On January 4, 2023, Mr. Carlson ended his show asking why Epps was “never charged or arrested or sent to jail” and promising his audience an investigation to mark the anniversary of the January 6th insurrection. [Fox News, *Tucker Carlson Tonight*, 1/4/23]

52. On January 6, 2023, Mr. Carlson again focused on Epps.



The transcript from the segment reads:

TUCKER CARLSON: Nor does anyone in authority want to talk about Ray Epps. Ray Epps, of course, is the man who was caught on tape encouraging the crowd outside the Capitol both on January 5th and 6th to commit felonies by rushing inside. Now what’s interesting is that the January 6th Committee under public pressure did in the end interview Ray Epps. Now we don’t have all of the Committees records about that interview. We should, but we don’t. But some have been released and what they tell is a remarkable story. In the testimony we have, the Committee coaches Ray Epps on how to answer questions about his involvement. Quote, I

was in the front with a few others. I also orchestrated it. I helped get people there. End quote. Now Epps admitted that in a text message to a relative on January 6th. He's admitting crimes. He's never been even charged for those crimes, but what's so fascinating is that when those facts came up in his interview with the Committee, someone on the Committee responds this way—and we're quoting: "I just want to understand a little more your use of the word orchestrated. It sounds to me like at this point when you sent this text you had turned away in part because of seeing some things that you didn't agree with. Is that right? Like when you sent this you were already on your way from the Capitol because of concerns of people taking it in a different direction?" [Fake laughter] Is that the most leading question ever asked in the history of a congressional hearing? Probably. And the whole interview goes on like this. Keep in mind Ray Epps is one of the only people caught on camera that day encouraging others to break the law. He's one of the only ones. And yet he's never been charged and the January 6th Committee was on his side. Why was the Committee and its members working so hard to help Ray Epps? Now, in his interview with the Committee, Ray Epps said he didn't work for law enforcement. Law enforcement in a very specifically worded answer clearly thought through ahead of time. The question is, did Ray Epps work or have any contact with any government agency? Did he talk about January 6th before it happened with any employee of the U.S. government? We don't know. We do know that two years after January 6th, long after an awful lot of other people have gone to jail for walking around the Capitol building, Ray Epps is still a free man. He's never been charged, much less imprisoned in solitary confinement like so many others. Why is that? Well, let's just stop lying. At this point, it's pretty obvious why that is. But, of course, they're still lying about it.

Average viewers of this broadcast understood the “gist and sting” of the broadcast, considered in its entirety, as communicating as a fact that Epps was a federal agent planted to encourage supporters of Donald Trump to go into the Capitol building on January 6—the core false and defamatory allegation upon which this Complaint by Epps against Fox is predicated. Mr. Carlson also falsely claimed that Epps was encouraging others on January 6th to storm the Capitol, and used imagery on screen of Epps talking to Ryan Samsel, who had informed authorities that Epps tried to calm him down and told him, “Relax, the cops are doing their job.”

53. On March 6, 2023, Mr. Carlson deceptively presented cherry-picked January 6th footage while saying: “We know there was some number of undercover federal agents in the crowd at the Capitol. Officials have since admitted that under oath, but what exactly were they doing there? The January 6th Committee worked hard to hide the answer to that question.” After interviewing Rep. Thomas Massie (R-KY) about the footage, Mr. Carlson added, “It’s very clear . . . that federal agents encouraged the violence that day.” He also admitted, “We are just a TV show and we can’t show people without proof of who they really were.” [Fox News, *Tucker Carlson Tonight*, 3/6/23]

54. On March 7, 2023, Mr. Carlson stated, “For some reason,” the January 6th Committee protected Epps. Mr. Carlson added, “He was their ally.” [Fox News, *Tucker Carlson Tonight*, 3/7/23]

55. On March 11, 2023, Mr. Carlson appeared on the *Redacted* podcast that is hosted by former Fox personality Clayton Morris and spoke about the work that he and Fox producers did in reviewing footage from January 6th. Mr. Carlson stated, “Ray Epps clearly was working for somebody. He was not a pure civilian.”

[*Redacted*, 3/11/23]

56. To be clear, other Fox personalities and guests took up this line, too:

- a. **10/25/21:** Laura Ingraham said it’s “very odd” that Epps’ photo was taken off the FBI list. She added that “Epps may have led the breach team that first entered the Capitol on January 6th.” The chyron in the segment read, “Were Federal Assets Involved in Capitol Riot?” [Fox News, *The Ingraham Angle*, 10/25/21]
- b. **12/28/21:** Guest host for *Tucker Carlson Tonight* Will Cain pushed the conspiracy and cited “brand new photos from the Daily Mail” of Epps on his Arizona ranch. [Fox News, *Tucker Carlson Tonight*, 12/28/21]
- c. **1/5/22:** On Laura Ingraham’s show, Rep. Marjorie Taylor Greene (R-GA) and Ms. Ingraham questioned why Epps was removed from the FBI list and has not been arrested. [Fox News, *The Ingraham Angle*, 1/5/22]
- d. **1/10/22:** On Fox’s *Hannity*, Sen. Ron Johnson (R-WI) referenced the conspiracy theory, asking, “What about Epps? Did he work for the

FBI?” [Fox News, *Hannity*, 1/10/22]

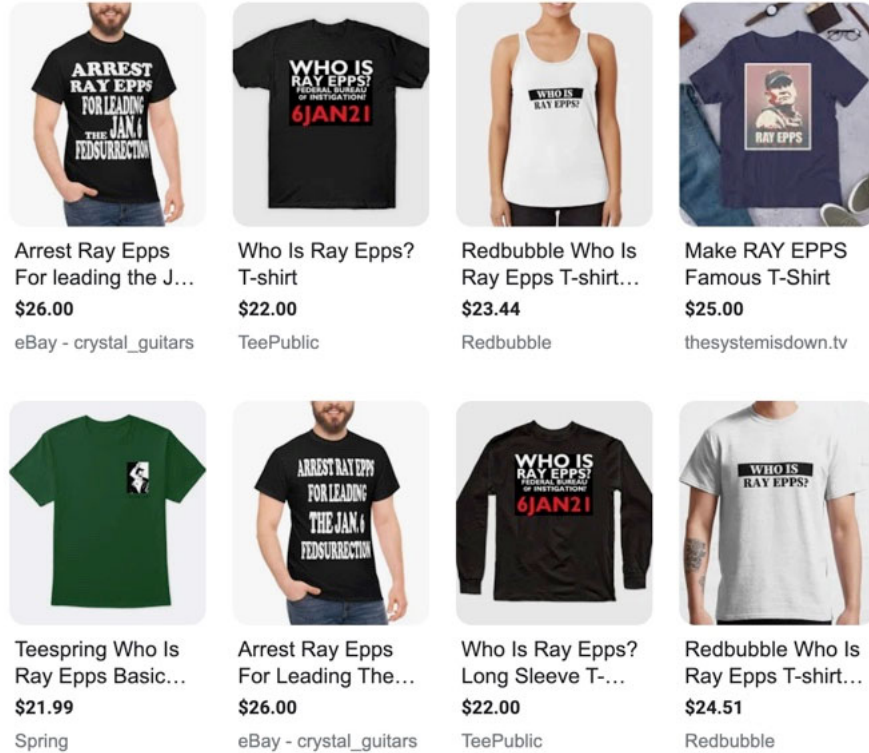
- e. **1/13/22:** On Ms. Ingraham’s show, she questioned why Epps was not charged with conspiracy. Rep. Jim Jordan (R-OH) said he was skeptical about Epps being innocent and wanted to see the interview transcript of him meeting with the January 6th Committee. [Fox News, *The Ingraham Angle*, 1/13/22]
- f. **6/16/22:** On Ms. Ingraham’s show, Rep. Marjorie Taylor Greene (R-GA) complained that the January 6th Committee is not showing footage of Epps, claiming he “was part of the effort to send people into the Capitol.” [Fox News, *The Ingraham Angle*, 6/16/22]

57. Mr. Carlson made clear to his audience that he was not offering an opinion, but fact. He stated as recently as March 11, 2023:

A lot of this was clearly influenced by federal agents or informants. It was, ok? But I did not want to suggest someone was a federal agent or informant unless I knew for a fact because you really could get someone in trouble. Right? If you’re like, this was the guy, and like, we don’t know. I do know for, I mean it’s very clear, something very strange is going on with Ray Epps, we’ve named him repeatedly, we’ve invited him on the show repeatedly, I mean don’t lie to my face, the Ray Epps thing isn’t, isn’t organic, sorry.

58. In other words, Mr. Carlson was bluntly telling his viewers that it was a fact that Epps was a government informant. And they believed him, as shirts being sold

online by individual creators calling for the arrest of Epps and advancing the narrative that he was a government provocateur show:



As well as songs posted about Epps, which refer to him as a federal agent who instigated the attack on the Capitol:



The Ray Epps Song



The Ballad of Ray Epps - "But Ray Epps Did Not Work for Them!" January 6th Insurrection Folk Song!

59. Fox and Mr. Carlson knew the story they were pushing about Epps was a lie.

60. To make the factual assertion that Epps was working for the FBI, Mr. Carlson relied on distorted and selectively edited videos, combined with an untruthful voiceover and a false or misleading chyron.

61. In February 2023, House of Representatives Speaker Kevin McCarthy granted Mr. Carlson access to tens of thousands of hours of security and

surveillance videos from the January 6th attack.

62. Mr. Carlson then returned to the airwaves to continue to lie and mislead about Epps. Among the footage available to Mr. Carlson was bodycam video that fully and conclusively supported Epps's statements that he was acting to deescalate the crowd and contradicted the fantastical conspiracy theory promoted by Mr. Carlson.

63. Mr. Carlson, however, did not present his viewers with these videos that directly contradicted the fiction he had been promoting.

64. Recent disclosures by former Senior Fox Producer Abby Grossberg confirm the view that Mr. Carlson purposefully distorted his presentation of material about January 6th to conform with his false, but preferred, narrative, as Ms. Grossberg's own complaint against Fox states:

137. Upon information and belief, in early-March 2023, Mr. Carlson attempted to spin and manufacture another false narrative to defray blame from Fox News about the January 6th insurrection, this time, characterizing the Capitol attack as an FBI coup, and not the logical result of Fox News's reckless 2020 election fraud coverage. Specifically, Mr. Carlson requested that his team investigate the ongoing Proud Boys trial, which he asserted was "taking forever" because the "Biden Administration [wa]s trying to hide the huge number of FBI spies it had placed in the group." As Head of Booking, Ms. Grossberg was twice directed to reach out to Dan Hull, one of the defense attorneys representing the Proud Boys, who indicated to her that he was available to come on to the TCT show as a guest but emphatically denied Mr. Carlson's theory. Instead, Mr. Hull insisted that "no one made my client go up the hill. The Proud Boys wanted to," and the FBI angle Mr. Carlson sought to peddle was "on the conspiracy side." When Ms. Grossberg relayed Mr. Hull's message to Tom Fox, a Senior Producer for TCT and her superior, he blithely replied "That doesn't fit with what Tucker is looking for. *You'll have to find someone else who will say that.*" Ms. Grossberg was told to ask Mr. Hull yet again if he would reconsider, to which Mr. Hull replied, "Please just tell [Tucker], if I get on the show, I will walk out if he asks about the FBI setting it up. [...] Blaming the FBI for Jan 6th doesn't cut it." Mr. Carlson then requested that Ms. Grossberg investigate whether any other defense attorneys, including Steven Metcalf, would tout the conspiracy on air.

65. Ms. Grossberg has also recently stated:

Ms. Grossberg: For example, right toward the end of my time there, when the January 6th tapes were coming out, Tucker was very set on finding an FBI person who was implanted in the crowd and spinning this conspiracy that they were ultimately the ones responsible for the Capitol attack, not Fox News as they're about to go into the Dominion trial, that it was really, you know, the FBI that set up this thing, not Fox telling the American people that the election rigged and the voting machines did it. And when I went back to them, and said, "Look there was no conspiracy theory here and I called this attorney that is representing one of the Proud Boys and he flat out told me on two occasions, 'There is no conspiracy, get away from this stuff, this is dangerous, tell Tucker to stop. I'll come on your show and represent my client, but I absolutely will walk off if he asks me this.'" And the response was, "Well, find someone else, Tucker is really intent on this." And that wore my mental health too because by that time, I had really begun to connect the dots that the programming that we were putting on the air every night, was not just generating business, but also generating hatred in the audience, and after January 6th, I had this wake up moment that this is hurting people, people are getting angry and people are acting out on that anger and this is not okay and I don't want to be part of that."

Interviewer: And I want to ask you about the tapes. I mean, did he ask you guys to look through the tapes looking for Epps, that what you're suggesting, or other FBI informants?"

Ms. Grossberg: I was not part of the team that look through the tapes. I, prior, my story's long, but I had been on emergency medical leave due to the abuse that took place on that show, so when I came back, they knew I had legal representation, so was not including me in the viewing of the tapes, but they were having me just look for a lawyer of a Proud Boy that was willing to say that there were FBI informants infiltrating the Proud Boys and the oath keepers.

Interviewer: And none of them were?

Ms. Grossberg: Not that I could find, no.

66. Mr. Carlson's disinterest in the truth also led him to disregard Epps's testimony under oath to the January 6th Committee that he was not working for or

associated with a governmental agency:

Q Were you ever-- did you ever -- in the Marines or in the job that you just discussed, were you ever -- did you ever work in law enforcement?

A No, sir.

Q Did you ever work for the FBI?

A No, sir.

Q I just want to clarify because you said earlier that when your son first asked you to travel to D.C. and you said, no, but then you changed your mind, it looks around the new year to go with him, you didn't change your mind because you had been talking to the FBI or law enforcement, correct?

A No, sir.

Q At any point on January 5th -- so we've asked you this question about December 27th through January 4th, but now let's just focus in on January 5th. Did you coordinate or speak with any law enforcement officials from the FBI?

A No, sir.

Q The Metropolitan Police Department?

A No, sir.

Q The CIA or NSA?

A No, sir.

Q Any other law enforcement officials, other than the other folks you mentioned earlier, you might have interacted with at the plaza as you were deescalating?

A No, sir.

Q Got you. Okay. So I just want to recap, then, January 6th. Did you talk to any FBI agents at all while you were in D.C. on January 6th and 7th?

A Not that I'm aware of.

Q Anyone from the CIA or NSA?

A Not to my knowledge, sir.

Q Did you talk to Metropolitan Police Department officers or Secret Service or anyone like that?

A Not to my knowledge. The -- the officers on the steps, I apologized, I talked to them that way, you know.

Q When you -- when you were saying the things that you were saying on January 6th, when you were deescalating or when you were whispering to the guy with the hat on backwards and telling him to calm down or anything, were you doing that because you had been instructed to do so by the FBI or CIA or NSA?

A No, sir.

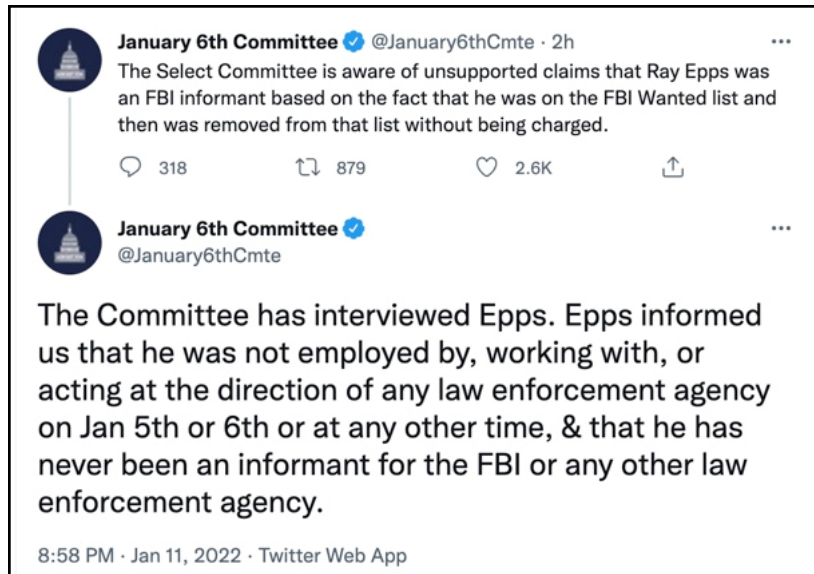
Q Mr. Epps, [REDACTED] asked you if you had talked to anyone. Did you communicate in any other way with any law enforcement officials, FBI or otherwise?

A No, sir.

Q So no text messages, no other type of communication with anyone in law enforcement that day?

A No, sir.

67. Mr. Carlson also ignored the findings of the January 6th Committee making clear that Epps was not working on behalf of the government:



68. And a knowing and reckless disregard for truth is why Mr. Carlson would ignore attorneys representing January 6th defendants, including Nick Smith, an attorney for one of the Proud Boys, who told a court, “In the media, there’s a swirling notion that undercover informants instigated January 6th. That’s not our belief I think it’s slander actually.”

69. Contrary to Fox’s lies, Ray was not a federal agent of any kind, was not law enforcement of any kind, and was not any type of government agent or informant, or acting on behalf of the government in any capacity when he participated in the protests on January 6th.

**FOX’S AND MR. CARLSON’S LIES HAVE CAUSED
IRREPARABLE DAMAGE**

70. The consequences to Ray and Robyn have been astronomical.

71. Ray and Robyn received threatening voicemails, emails, and text messages

because of Mr. Carlson's lies about Epps.

72. People began driving past their farm brandishing weapons and shooting onto their property.

73. Initially, Ray and Robyn had to hire security to keep unwanted visitors off their property when they were holding a wedding ceremony. They received death threats and found bullet casings in their yard:



74. Some examples of the threats include:

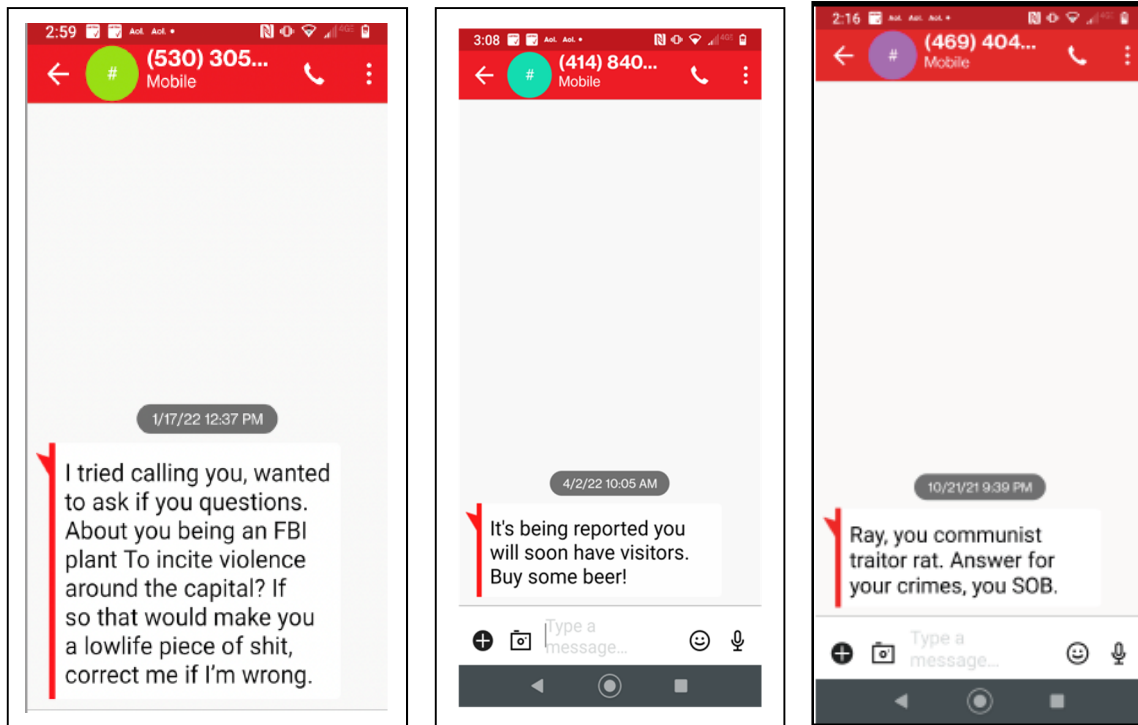
a. **Voicemails:**

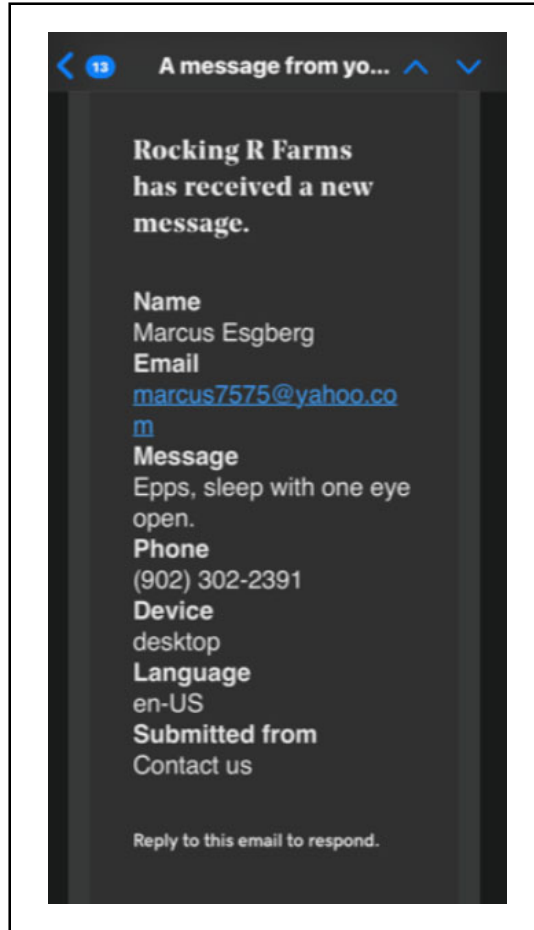
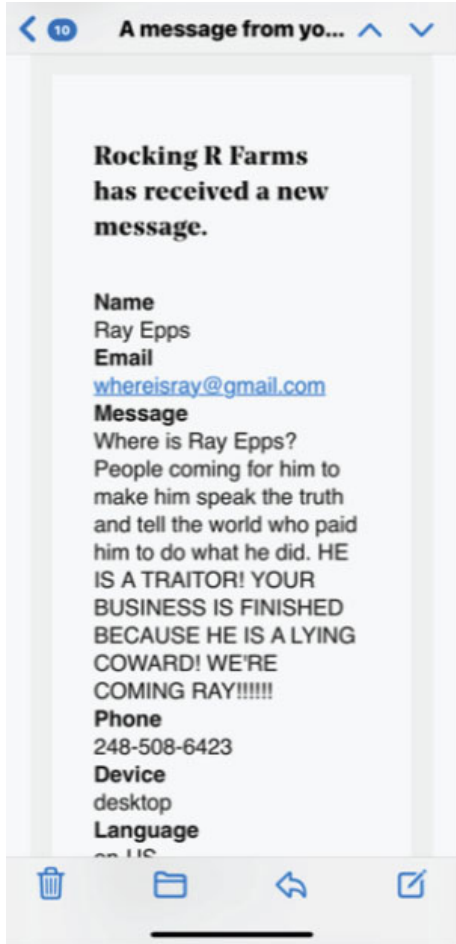
- i. "Yeah, I was calling for Ray Epps. Ray! Hey, FBI agent. We saw you, dude. Not sure how you're feeling about your life right now. Can't be feeling good. Turn yourself in, bud. Nothing

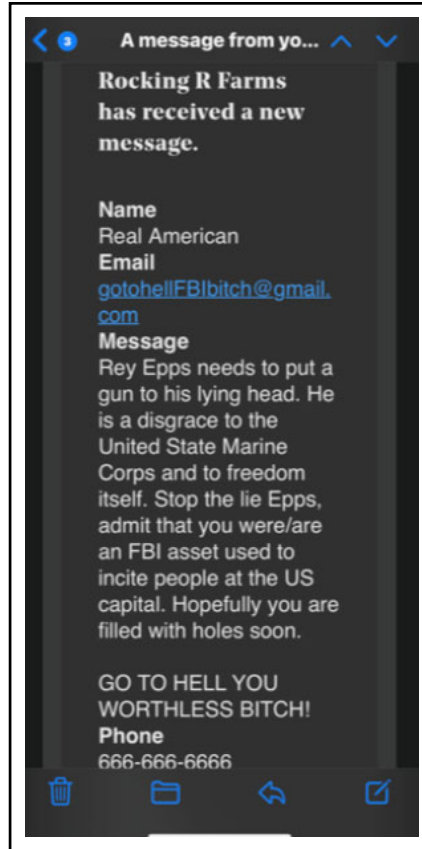
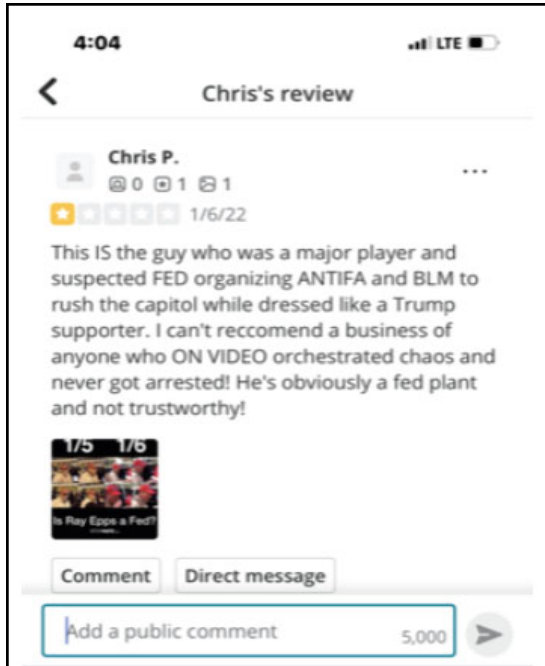
can stop what's coming.”

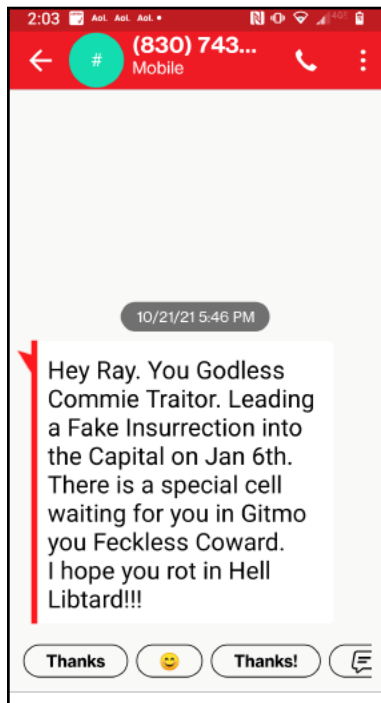
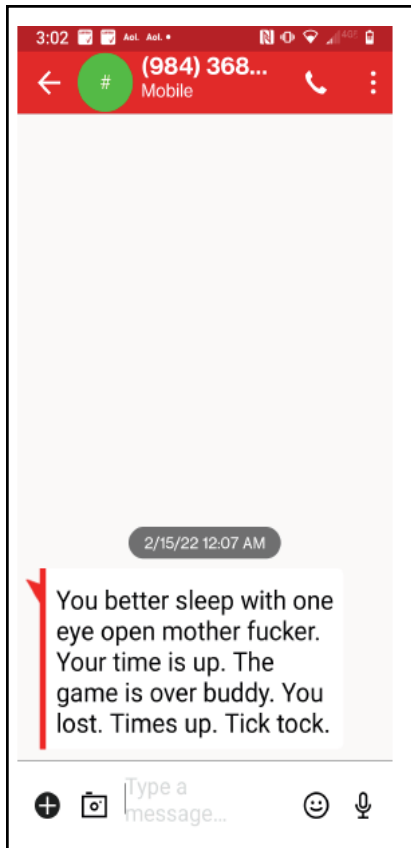
- ii. “I was just checking to see if you guys are planning any more insurrections. Haha. So, it's going to be fun to see your place go down in flames. Haha.”
- iii. “Yeah, hide behind your phone. You've got a known fed traitor running this facility. Everybody in the country is aware of it. I hope your business goes to hell, if it hasn't already, because that's where you belong. Fucking traitor.”
- iv. “It'd be a damn shame to see that place go up in flames.”

b. Messages:









if you mr Epp Read me letter to you i tell you, Sicario look to you
Senior mr Epp my Family we came to the US From Mexico
the Drug gang bring us here For live better life, the drug gang we
stay in house for 2 day before we get mov and we come to connecticut
when we stay at home in Texas we see drug guys have pray to
Santa mivete to come to you to kill i talk to 1 drug man he say
you for trump they no like him they say he do bad to them and you
help trump do bad to drug gang, i see you name and picture i see you
place to live i right on paper to tell you need to be look out these drug
gang people very bad people..



75. Epps also received a message purporting to be from Fox CEO Suzanne Scott:

Rocking R Farms has received a new message.

Name
Suzanne Scott, CEO Fox News

Email
newsmanager@foxnews.com

Message
Come on Ray!..... nobody wants to ruin you and your wife's livelihood or life; people just want truthful answers directly from the source. The people of the United States, whether on the right or left simply want to hear your open and honest story about what happened out there on Jan 5-6th, despite your Lawyers advise. Afterall, the Jan 6th Committee just cleared you in a press release and it appears that the FBI has essentially cleared you as well having removed you from the Capitol's "most wanted list". If you are not an asset of a government agency, law enforcement or otherwise, and you have been cleared or any wrongdoing then I'm sure we will see you at the rally this Weekend in Florence, AZ right? Afterall, it's literally in your backyard this time. If you don't attend the rally, then I think we will have our answer and Trump & the Republicans will at least be partially vindicated for the January 6th mess. Do the right thing my friend, God Bless.....

Phone
(888) 369-4762

Device
desktop

Language
en-US

Submitted from
Contact us

Reply to this email to respond.

Although Epps currently has no way of knowing whether Ms. Scott actually sent this message, one of two things must be true: either she sent it or the individual who did send it thought that the Epps story was so directly linked to Fox that they decided to use Ms. Scott's name as the sender.

76. On January 28, 2022, Epps received an alert from Norton's LifeLock system warning that "identity information" belonging to Epps had been detected on the Dark Web.

77. The next day, the FBI reached out to Epps's attorney to ask about Epps's security because the FBI had learned about threats against Epps.

78. Those concerns are not speculative: Ricky Shiffer, who in August 2022 was

killed after attacking an FBI office in Cincinnati, Ohio, had been so convinced of the lies about Epps that he referred to Epps in his Truth Social account bio.

79. Eventually, the threats became too much.

80. At first, Robyn moved out and stayed with a friend. But she still suffered harassment because people were inundating the business email and her personal phone, which also served as the business's line.

81. Ultimately, Ray and Robyn knew that they could not remain in their home and continue running the business that they had spent a decade building, including depleting Robyn's 401(k) to fund the startup costs.

82. They sold their home to their neighbors for the appraised value of the house Ray and Robyn had owned for a decade.

83. The business simply went with the property for no added value. In fact, Ray and Robyn had to pour tens of thousands of dollars into the business so that their neighbors would purchase the house.

84. Ray and Robyn went from living in a 4,098 square foot ranch house on nearly five acres of land, to living in a fifth wheel RV of no more than 350 square feet.

85. Robyn was forced to give up her dog breeding business, as well.

86. In short, the economic consequences of Fox's lies about Epps are significant.

87. Ray and Robyn lost their investments in Knotty Barn.

88. For example, they had poured hundreds of thousands of dollars into the business to renovate and to build the barn itself.
89. They lost their income from the business.
90. In 2021 alone, Knotty Barn enjoyed gross revenue over \$500,000, with a profit of nearly \$350,000. Reservations for 2022 (booked more than a year in advance) exceeded the 2021 number. Knotty Barn had recently been listed as a [top 5 wedding venue in Arizona](#).
91. And they have incurred significant expenses associated with moving and living in hiding.
92. The emotional and psychological effects of the threats and attacks cannot be overstated. Indeed, they may very well dwarf the economic consequences.
93. Further, Fox was on notice of the destructive consequences of telling lies that harm someone's reputation. The Dominion and Smartmatic complaints documented the harassment that people associated with those companies faced due to Fox's misinformation campaign about voting machines. A July 2022 *New York Times* article about Ray and Robyn focused on the harm done to them by Mr. Carlson's relentless false statements about them. And Mr. Carlson himself acknowledged that he "did not want to suggest that someone was a federal agent or informant unless I knew for a fact, **because you really could get someone in trouble, right?**"

94. Finally, in May 2023, the Department of Justice notified Epps that it would seek to charge him criminally for events on January 6, 2021—two-and-a-half years later. The relentless attacks by Fox and Mr. Carlson and the resulting political pressure likely resulted in the criminal charges.

95. Although it is difficult to believe that the Department of Justice would have pursued this matter if Fox had not focused its lies on Epps, ultimately the criminal charges conclusively demonstrate the falsehood of the story that Mr. Carlson and Fox told about Epps.

96. Epps was not a federal agent. He was a loyal Fox viewer and Trump supporter. Had the Department of Justice charged Epps in 2021, Mr. Carlson would have hailed Epps a hero. Instead, Fox and Mr. Carlson made Epps the central figure in a lie they concocted about January 6, 2021. After destroying Epps's reputation and livelihood, Fox will move on to its next story, while Ray and Robyn live in a 350-square foot RV and face harassment and fear true harm. Fox must be held accountable.

COUNT ONE – DEFAMATION PER SE

97. Epps repeats and re-alleges Paragraphs 1-96 as if set forth fully herein.

98. Fox published the defamatory statements identified above, including all statements made about Epps on the dates identified, by and through Fox's own agents making the statements themselves; by intentionally providing a platform for

guests to appear on Fox programming who Fox and its hosts knew would make such statements on the air and by affirming, endorsing, repeating, and agreeing with the statements of guests on their shows; and by republishing the statements on the air, Fox's websites, Fox's social media accounts, and Fox's other digital platforms and subscription services after the live broadcasts aired.

99. Fox broadcasted the false and defamatory statements of and concerning Epps with actual malice—with knowledge of falsity or reckless disregard for truth or falsity. The existence of actual malice is amply supported by circumstantial evidence currently available to Epps in the public domain and will be further buttressed by evidence adduced in discovery. Among other circumstantial indicia of actual malice, Fox knowingly and intentionally relied on unreliable sources, including, among others Darren Beattie, known by Fox to be a discredited conspiracy theorist. Fox advanced an inherently improbable story—so inherently improbable that only a reckless broadcaster would advance it—namely that FBI agents or other federal law enforcement authorities working under the administration of Donald Trump would employ Epps as a provocateur to advance a federal government agenda to engage in an insurrection and commit violence at the Capitol. Fox engaged in a pre-conceived story line, advancing its false claims against Epps for the callous and cynical purpose of creating a scapegoat to deflect responsibility from Fox's own complicity the January 6 violence by spreading false

conspiracy claims that the election had been stolen. Fox thus had an economic motive to lie and make Epps a scapegoat, seeking to advance an inherently improbable story in order to aggrandize Fox with viewers who were disgruntled with Fox for not standing sufficiently loyal to President Trump. Fox directed its employees to find guests who would spew similar lies about Epps and when prospective guests indicated that such a narrative was false, Fox instead sought out others who would offer a factual assessment in line with Fox's preferred message. Fox engaged in purposeful avoidance of the truth, intentionally ignoring information and evidence that directly contradicted Fox's outlandish lies about Epps. Fox refused to retract, correct, or apologize for its demonstrably false and defamatory accusations against Epps well after Fox knew definitively that they were false, providing yet additional circumstantial evidence of actual malice. Fox thus broadcast its lies about Epps with a high degree of awareness of probable falsity.

100. Fox's statements are reasonably understood to be statements of fact about Epps, and were understood by people who saw, heard, and read them to be statements of fact about Epps. The gist and sting of the statements made by Fox of and concerning Epps, considered individually and in their entirety, was that Epps was a federal agent planted to provoke the insurrection at the Capitol on January 6th.

101. Fox's statements about Epps are false. Epps was not a government agent on January 6, 2021, nor has he ever been.

102. Fox had no applicable privilege or legal authorization to make the false and defamatory statements, or if it did, it abused it.

103. Fox's defamatory statements, whether taken individually or together in their cumulative impact, damaged Epps in the various ways described above.

104. Epps is entitled to punitive damages because Fox's defamatory statements were accompanied with malice, wantonness, and a conscious desire to cause injury. Fox purposefully made the defamatory statements heedlessly and with reckless and willful indifference to Epps's rights.

105. Epps is entitled to punitive damages because Fox published its defamatory statements about Epps with actual malice.

106. Fox's statements are defamatory *per se*, as they impute serious criminal or unethical conduct to Epps. Fox's statements have exposed Epps to the most extreme hatred and contempt. Fox's statements were calculated to—and did in fact—provoke outrage and cause Epps significant harm.

107. Fox's lies about Epps reached hundreds of millions of people and caused enormous harm to Epps. As a result of the defamatory campaign, Epps has suffered the single and indivisible injuries discussed previously, including but not limited to: being harassed and receiving death threats; forced to spend money to protect

himself and his family; forced to give up his businesses and sell his home; forced to flee and live in isolation; and forced to face financial ruin; loss of income; loss of earning capacity; loss of business and business opportunities; suffering, both mental and physical in nature; mental anguish; public humiliation; anxiety; loss of sleep; and loss of appetite. Epps is entitled to damages, including presumed economic damages, as a consequence of Fox's conduct. Epps has suffered special damages, incurring direct economic losses as a result of Fox's defamation, as described in ¶¶ 81-91 above. Epps has suffered presumed and actual damages, through internal emotional anguish and distress, and through external harm to his reputation.

108. Fox published its false and defamatory statements about Epps repeatedly over a substantial period of time. Fox disregarded Epps's sworn testimony, the statements of officials responsible for investigating the January 6th attack on the Capitol, attorneys for January 6th defendants, who labeled Fox's lies against Epps as defamatory, and video footage directly contradicting Fox's defamatory accusations.

109. Fox's lies about Epps were not simply reporting about the news of the day. Rather, Fox, speaking in its own voice, made, published, ratified, endorsed, adopted, and amplified lies about Epps. To be clear, Fox did not falsely assert that Epps was a federal agent acting with a legitimate law enforcement purpose. Fox

did not falsely assert that Epps was an informant for a federal agency. Instead, Fox falsely asserted that Epps was a federal agent who was encouraging and inciting others to engage in unlawful activities. And not just any unlawful activity, but rather, to engage in an attack on the United States Capitol and democracy itself. These statements were defamatory, in that they tended to expose Epps to public contempt, hatred, ridicule, aversion, or disgrace. And as set forth throughout this Complaint, the statements in fact subjected Epps to such contempt, hatred, ridicule, aversion, and disgrace—even to the point of death threats against him.

110. The lies Fox published about Epps were specific and verifiably false, and therefore not “opinion.” Indeed, Mr. Carlson regularly made clear he was speaking about facts and presented Epps being a federal agent provocateur as a “clear” fact. Epps either was or was not a federal agent acting as a provocateur to incite the insurrection. He was not. And the United States government has definitively stated that Epps was not an agent provocateur. The assertion is plainly a false fact capable of being proven false.

111. In sum, as explained above, Fox made these false statements about Epps with actual malice. Fox knew these statements were false. Fox’s lies have had enormous consequences for Epps and Fox must be held accountable for its actions.

112. In view of the foregoing, Epps is entitled to special, actual, presumed, punitive, and other economic damages in an amount to be determined at trial.

COUNT TWO – FALSE LIGHT

113. Epps repeats and re-alleges Paragraphs 1-112 as if set forth fully herein.

114. The actions and statements by Fox described above have placed Epps before the public in a false light.

115. The statements by Fox about Epps would lead the public to believe that Epps was a federal agent working to provoke or otherwise incite others to attack the United States Capitol on January 6, 2021.

116. Fox's published statements about Epps involve a significant misrepresentation of Epps's character, history, activities, and beliefs.

117. Fox's published statements about Epps would be highly offensive to a reasonable person.

118. To reiterate, Fox did not falsely assert that Epps was a federal agent acting with a legitimate law enforcement purpose. Fox did not falsely assert that Epps was an informant for a federal agency. Instead, Fox falsely asserted that Epps was a federal agent who was encouraging and inciting others to engage in unlawful activities. And not just any unlawful activity, but rather, to engage in an attack on the United States Capitol and democracy itself.

119. The offensiveness of the false light is demonstrated, in part, by the scorn and ridicule accompanying the statements from Fox's own on-air personalities and guests.

120. As explained above, Fox had knowledge of the falsity of its assertions about Epps. At a minimum, Fox acted in reckless disregard as to the falsity of its assertions about Epps.

121. Fox's portrayal of Epps has caused Epps significant damages, as a result of the false statements, Epps has suffered the single and indivisible injuries discussed previously, including but not limited to: being harassed and receiving death threats; forced to spend money to protect himself and his family; forced to give up his businesses and sell his home; forced to flee and live in isolation; and forced to face financial ruin, loss of income; loss of earning capacity; loss of business and business opportunities; suffering, both mental and physical in nature; mental anguish; public humiliation; anxiety; loss of sleep; and loss of appetite. Epps is entitled to damages, including presumed economic damages, as a consequence of Fox's conduct.

122. Epps is entitled to punitive damages because Fox's false light statements were accompanied with malice, wantonness, and a conscious desire to cause injury. Fox purposefully made the statements heedlessly and with reckless and willful indifference to Epps's rights.

123. Epps is entitled to punitive damages because Fox published its false light statements about Epps with actual malice.

124. In view of the foregoing, Epps is entitled to actual, presumed, punitive, and

other economic damages in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Ray Epps respectfully requests that the Court enter an award and judgment in their favor, and against Fox News Network LLC, as follows:

- (a) compensatory damages in an amount to be established at trial for economic, emotional, reputational, and other injuries;
- (b) punitive damages in an amount to be determined at trial;
- (c) pre- and post-judgment interest;
- (d) expenses and costs, including attorneys' fees; and
- (e) such other and further relief as the Court deems appropriate.

JURY DEMAND

Plaintiff demand a trial by jury on all claims and issues so triable.

Dated: July 10, 2023

Respectfully submitted,

Of Counsel:

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*Attorneys for Plaintiff James Ray Epps,
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General Information

Case Name	James Ray Epps, Sr. v. Fox News Network
Court	Delaware Superior Court
Date Filed	Mon Jul 10 00:00:00 EDT 2023
Judge(s)	Danielle Brennan
Docket Number	N23C-07-063
Parties	James R. Epps Sr.; Fox News Network