

## Newsmax Moves to Dismiss Smartmatic's Defamation Lawsuit as Meritless

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BOCA RATON, Fla.--(BUSINESS WIRE)--Today, Newsmax Media, Inc. filed a publicly available version of its motion for summary judgment with the Superior Court of Delaware, asking the Court to dismiss in its entirety Smartmatic's defamation lawsuit against Newsmax. (The motion was originally filed on a confidential basis on June 7, 2024.) Newsmax Summary Judgement motion attached.

In its motion, Newsmax argues that Smartmatic's lawsuit is meritless and endangers First Amendment press freedoms.

The motion details Smartmatic's years-long history of controversies. This includes Smartmatic's involvement in an ongoing federal criminal case that alleges the company engaged in a money laundering and bribery scheme involving a foreign election official.

Newsmax asserts that such history bars completely Smartmatic's claim for any damages, let alone the more than one billion dollars it seeks.

Newsmax also argues that, under Florida law, its reporting of the controversy surrounding the 2020 election is protected by the neutral reporting and fair reporting privileges. These privileges ensure that news organizations like Newsmax are protected when reporting on matters of great public interest, like a Presidential election. This is true

even if participants in the controversy, such as the President or his surrogates, make claims that later turn out to be unsupported.

Under the First Amendment, it is considered critically important to the protection of our democracy for the news media to be able to report in real time what is being said by public officials and their representatives, without fear of being sued by a party to the controversy.

In a previous motion before the Delaware court, Smartmatic opposed the application of Florida law to its lawsuit. The court ruled against Smartmatic.

In its summary judgment motion, Newsmax also argues that Smartmatic fails to meet even the most basic criteria for a defamation action.

Notably, Smartmatic fails to meet its burden of proving that Newsmax published its news accounts with a knowing or reckless disregard of their falsity.

Additionally, Smartmatic cannot prove that it has suffered any damages at all caused by anything published by Newsmax.

Newsmax's motion explains Smartmatic's long history of controversy and reputational issues. This includes Smartmatic's first major contract in Venezuela obtained during the Chavez regime. The issues also include Smartmatic's decision to sell a United States subsidiary after the Committee on Foreign Investment in the United States (CFIUS) raised questions about Smartmatic's ownership.

A more recent controversy is Smartmatic and several of its executives' alleged involvement in a scheme to bribe the former head of the Filipino election commission by paying him \$4 million in order to win almost \$200 million in election contracts. The former official, Juan Andres Donato Bautista, is currently facing federal criminal charges in Florida related to this alleged scheme. A federal grand jury investigation into Smartmatic and its executives is ongoing.

Separately from its summary judgment motion, Newsmax recently moved for sanctions against Smartmatic for its alleged failure to timely produce documents related to the federal criminal investigation. The motion also addresses Smartmatic's alleged false representations to the Court about the availability of those documents in discovery.

Newsmax anticipates that the court will hold argument and then rule on Newsmax's motion for summary judgment in the next few months, prior to the scheduled September trial.

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