



FOX'S SETTLEMENT WITH DOMINION UNLIKELY TO COST IT \$787.5M - ASSOCIATED PRESS

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Fox Corp.'s \$787.5 million settlement with Dominion Voting Systems over defamation charges is eye-popping, but the ultimate cost to the media company is likely to be much lower.

On Tuesday, Fox settled with Dominion over charges that Fox News baselessly accused the company of rigging its voting machines against former President Donald Trump in 2020. It was the most-watched media libel case in decades.

Fox had about \$4 billion of cash on hand as of December 2022, and MoffettNathanson analyst Robert Fishman expects the company to pay the settlement during the current quarter.

How much the lawsuit will actually end up costing Fox is unclear because there are ways it can defray some of the expense, primarily through insurance and the use of tax deductions.

Fox can deduct the Dominion settlement from its income taxes as an expense necessary for the cost of doing business. Fox Chief Communications Officer Brian Nick has confirmed the deductibility of the settlement.

Big companies often deduct large settlements to help offset some of the cost, but since settlement amounts are usually confidential, it's difficult to pin down exactly how much they benefit. Payments that are seen as restitution or compensation can be deducted, while payments made to the government or at the direction of a government are usually not deductible.

Robert Willens, a tax professor at the Columbia University School of Business, estimates that after the tax write-off, Fox will incur about three-fourths of the settlement amount, about \$590 million.

"The key is that if the payments are being made to private parties and not at the behest of the government then you can pretty much conclude without any fear of contradiction that the payment will be deductible," he said.

A study by the Government Accountability Office in 2005 found that of 34 settlements totaling over \$1 billion, 20 companies reported deducting some portion or all of their settlement payments. Big banks such as Bank of America and JPMorgan Chase reportedly also deducted portions of their settlements of charges tied the financial crisis of 2008.

Also, if Fox is insured, insurance is likely to cover some of the settlement. Chad Milton, a partner at Media Risk Consultants, said a large

media company such as Fox could have anywhere between \$100 million to \$500 million in coverage, including media liability insurance and other types of insurance.

"It's not hard to stack up \$100 million but as you go higher than that, it gets harder and harder," Milton said.

Usually, there's a certain amount a media company has to pay, which could be in the millions, before insurance kicks in. However, the deductible includes attorney fees, which in a high-profile case like Fox-Dominion could be tens of millions of dollars or higher, so the deductible could be swallowed up just by attorney fees.

One wrinkle: even if an insurance company pays a substantial part of the settlement, there could be an annual aggregate limit of liability, which could mean that insurers wouldn't cover another big-money settlement.

And media companies and insurers don't always agree on who should cover what, since there are caveats written into contracts that allow insurers to avoid paying under certain circumstances. In 2017, Disney settled a defamation suit that was filed in 2012 after ABC aired a segment that questioned the safety of a meat producer's products that critics dubbed "pink slime." But one of its insurers, AIG, ended up suing Disney so it wouldn't have to pay part of the settlement, although AIG eventually lost.

Fox has also said it doesn't expect the settlement to affect its operations.

"We don't expect significant operational effects or changes to our business given our cash flow, strong balance sheet and the health of our business," the company said in a statement after the settlement was announced.

MoffettNathanson's Fishman said everything indicates the company will be able to run its business as usual.

"It isn't clear there has been much, if any, impact of these lawsuits on Fox News' viewership and business," he said.

Fishman said he doesn't expect the settlement to hamper Fox's ability to return money to shareholders, including a \$1 billion accelerated share repurchase program announced in February.

Fox has a similar lawsuit looming with another voting machine company, Smartmatic, but no date has been set and the case might not go to court for a couple of years.

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An earlier version of this story said Disney settled a defamation suit in 2012 after ABC aired a segment that questioned the safety of a meat producer's products. The settlement of the suit was announced in 2017.