

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**Edward Henry,**

Plaintiff,

v.

**National Public Radio, David  
Folkenflik, Turner Broadcasting  
System, Inc., Alisyn Camerota, and  
Brian Stelter,**

Defendants

**Case No. 1:21-cv-5728**

**ORIGINAL COMPLAINT**

NOW COMES Edward “Ed” Henry, the Plaintiff herein, alleging and stating as follows on information and belief:

**Parties**

1. Defendant Ed Henry is a resident of Montgomery County, Maryland. He is a former White House correspondent for CNN and Fox News.

2. Defendant National Public Radio (hereinafter “NPR”) is a nonprofit media organization headquartered in Washington, D.C. NPR regularly does business and broadcasts in New York, and its agent committed tortious acts in New York County, New York.

3. Defendant David Folkenflik is a journalist who works for NPR. He lives and works in New York County, New York.

4. Defendant Turner Broadcasting System, Inc. (hereinafter “CNN”) is a media organization headquartered in Atlanta, Georgia. CNN regularly does business and broadcasts in New York. Its agents committed tortious acts in New York County, New York.

5. Defendant Alisyn Camerota is a program host and opinion commentator for CNN. She lives in Connecticut but works in New York County, New York. Her acts relevant to this complaint occurred in New York County, New York.

6. Defendant Brian Stelter is a program host who discusses news media on CNN. He lives and works in New York County, New York.

### **Jurisdiction and Venue**

7. This Court has jurisdiction under 28 U.S. Code § 1332 because the Plaintiff resides in Maryland and all of the Defendants are domiciled elsewhere, and because the amount in controversy is greater than \$75,000.

8. Venue is proper in the Southern District of New York because each of the Defendants resides in New York or committed tortious acts in New York.

### **Facts**

#### **(A) Background Information.**

9. Ed Henry, a former White House correspondent for CNN and Fox News, co-hosted the popular Fox News program “America’s Newsroom” until June 25, 2020, when he was blindsided by false allegations of sexual assault. He and his accuser, Jennifer Eckhart, had a consensual relationship while they were employed by different divisions of the Fox corporation, but that relationship ended in early 2017. For more than three

years thereafter, she never suggested to anyone that he assaulted her, even when she was *expressly asked* about sexual assault or harassment during an exit interview on June 12, 2020, the day that she was fired from her job at the Fox Business Network. To this day, she has not mustered any corroborating evidence to support the allegation; instead, all of the evidence shows that her allegations are false. Worse, Ms. Eckhart deliberately concealed and misrepresented evidence, and she did so as part of an extortion scheme targeting Mr. Henry and Fox News. As a result of her false allegations, Mr. Henry was fired by Fox News on July 1, 2020.

10. On July 20, 2020, Ms. Eckhart filed suit against Mr. Henry, alleging that she had been “violently raped” by him. *See Jennifer Eckhart and Cathy Areu v. Fox News Network, LLC, et al.*, Case No. 1:20-cv-05593 (S.D.N.Y.) (hereinafter “*Eckart*”). Ms. Eckhart is now on the fourth version of her complaint, and each new version brings more contradictions, absurdities, and judicial admissions. In the most recent version, Ms. Eckhart’s lawyers fabricated anonymous allegations from “Jane Doe” witnesses, and one of those “Jane Doe” witnesses subsequently renounced the allegations that were attributed to her, further alleging that Ms. Eckhart’s lawyers refused to correct the false allegations attributed to her.

11. Ms. Eckhart’s termination from Fox News had absolutely nothing to do with Mr. Henry, a fact that Fox News has confirmed repeatedly. Unfortunately, Ms. Eckhart and her lawyers have a penchant for deception, and one need only look at the most recent version of her complaint to see it. They wrote, for example, that “[o]n February 10, 2020, Ms. Eckart bravely came forward and attempted to expose the toxic work environment

she had been experiencing while employed at Fox News.” See Third Amended Complaint (hereinafter “TAC”) (Doc. No. 113), *Jennifer Eckhart v. Fox News, LLC, et al.*, Case No. 1:20-cv-05593 (S.D.N.Y.) 21, ¶90. In reality, Ms. Eckhart was *summoned* to a meeting with Brad Hirst, her supervisor,<sup>1</sup> and Denise Collins, senior vice president of human resources at Fox News, because she was being placed on a performance improvement plan for unsatisfactory work performance. She never “came forward” about anything, and she certainly didn’t do so “bravely.” The first three versions of Ms. Eckhart’s complaint did not allege that her comments about a “toxic work environment” pertained to sexual misconduct, and indeed her comments had nothing to do with sexual misconduct. Ms. Collins and Mr. Hirst will testify that Ms. Eckhart complained about superiors and co-workers being mean to her (just as she has alleged in all four versions of her complaint), but she never accused Mr. Henry or anyone else of sexual misconduct.

12. In every version of the *Eckhart* complaint, Ms. Eckhart and her lawyers selectively quoted sexually-explicit text messages that Mr. Henry and Ms. Eckhardt exchanged during their consensual affair, omitting those portions that showed the relationship was, in fact, consensual. For example, Ms. Eckhardt’s original complaint alleged that Mr. Henry sent her unwanted “lewd and graphic sexual messages,” including one in which he said, “I’d like to wipe you with my tongue.” In his motion to dismiss, Mr. Henry noted that Ms. Eckhart failed to include her response to that message: “I bet

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<sup>1</sup> Mr. Henry was never Ms. Eckhart’s supervisor and they never worked in the same office. They were both employees of the same company, but they worked in entirely different divisions, a fact acknowledged by Fox News itself.

you would, dirty boy. Come n get it ;).” That sentence alone shoots a gigantic hole through Ms. Eckhart’s claim – in all versions of her complaint – that she *never* had any romantic interest in Mr. Henry. Despite being caught red-handed, Ms. Eckhart and her lawyers included the same half-truth in three subsequent versions of her complaint, *i.e.*, by omitting her response. TAC 14, ¶59. Furthermore, Ms. Eckhart and her lawyers omitted the fact that she had sent unsolicited, sexually-explicit photographs of herself to Mr. Henry while they were dating.

**(B) David Folkenflik and NPR**

13. When Mr. Henry’s termination was announced on July 1, 2020, Mr. Folkenflik published a story on the NPR website that made false or misleading statements about Mr. Henry. A true and correct copy of the article is attached as Exhibit 1. Mr. Folkenflik promoted the story on Twitter:



Mr. Folkenflik's claim that "Fox's top news exec and & top HR official were warned [in 2017] that giving Henry hosting roles would damage reform efforts after harassment scandals there" was completely false. Fox has since declared publicly that the company received no sexual misconduct complaints about Mr. Henry before Ms. Eckhart's allegations in June of 2020.<sup>2</sup> Mr. Folkenflik's tweet was defamatory and portrayed Mr. Henry in a false light because it implied that Mr. Henry had a history of sexual misconduct at Fox News. In particular, it falsely implied that Ms. Eckhart's allegations against Mr. Henry were true insofar as Mr. Henry purportedly had a history of sexual misconduct at Fox News.

14. According to Mr. Folkenflik's July 1, 2020 story, "NPR has learned that Henry was given more prestigious roles by the network despite a colleague's warning to top executives that doing so could damage Fox's efforts at reforming its workplace culture." *See* "Fox News Host Newly Fired For Sexual Misconduct Had Prompted Earlier Warning," July 1, 2020 NPR, <https://www.npr.org/2020/07/01/885956385/fox-news-host-newly-fired-for-sexual-misconduct-had-inspired-earlier-warning> (Exhibit 1).

Mr. Folkenflik continued:

In 2017, a written complaint was filed to senior Fox executives warning against giving Henry greater profile on the air, including as a substitute host and anchor, according to a former colleague with knowledge of those events.

The complaint said the prospect of Henry's greater prominence on Fox was crushing for female colleagues after the network had promised sweeping changes

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<sup>2</sup> Furthermore, Fox never made Mr. Henry aware of any sexual misconduct complaints prior to Ms. Eckhart's, and it is implausible to suggest that the network would hide such information from Mr. Henry after firing much "bigger fish" for sexual misconduct, *e.g.*, former CEO Roger Ailes and top-rated host Bill O'Reilly.

following Ailes' ouster. Among those with whom the complaint was shared: Jay Wallace, Fox's chief news executive, and Kevin Lord, the chief human relations executive who was brought in with the mandate to help transform the culture.

*Id.* The foregoing statements were false, and for the reasons explained above, they were defamatory. On information and belief, the Plaintiff alleges that some of the foregoing defamatory statements were broadcast nationally by NPR and its local affiliates.

15. Mr. Folkenflik has a longstanding grudge against Fox News and those affiliated with the company, and he has even written a book about Fox News. *See Murdoch's World: The Last of the Old Media Empires*, October 22, 2013, <https://www.amazon.com/Murdochs-World-Last-Media-Empires/dp/161039089X>. His false statements about Mr. Henry were reckless at the very least. If Mr. Folkenflik had pressed his anonymous source for a copy of the purported complaint, he would have discovered that there was no such complaint. In all likelihood, Mr. Folkenflik was relying on a hearsay statement from Douglas Wigdor, one of the attorneys representing Ms. Eckhart.<sup>3</sup>

**(C) Brian Stelter, Alysin Camerota, and CNN**

16. On July 21, 2021, the day after Ms. Eckhart filed her lawsuit against Mr. Henry, Mr. Stelter appeared on a program hosted by Ms. Camerota to discuss the lawsuit and its implications. *See* "Camerota on new lawsuit: I guess Fox News is rotten to the

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<sup>3</sup> On or about June 25, 2020, Mr. Wigdor shared a draft of the complaint with lawyers for Mr. Henry and Fox News in an attempt to extort a \$10 million settlement. The draft complaint and the subsequently-filed complaints falsely alleged that Fox News received a previous warning about Mr. Henry in 2017. Mr. Wigdor has a history of sharing draft legal complaints with Mr. Folkenflik before those complaints are filed with the court. In return, Mr. Folkenflik promotes Mr. Wigdor's allegations before a national audience.

core,” CNN, <https://www.cnn.com/videos/business/2020/07/21/stelter-fox-news-lawsuit-ed-henry-camerota-sot-newday-vpx.cnn/video/playlists/top-news-videos/>. At the beginning of the segment, Mr. Stelter declared, “What we see in this lawsuit filed overnight explains why Ed Henry was fired by Fox News several weeks ago,” adding that Mr. Henry “was known to be a problem internally.” Mr. Stelter was relying on Mr. Folkenflik’s false report about an internal complaint, and Mr. Stelter recklessly republished Mr. Folkenflik’s allegation without confirming its authenticity. Furthermore, Ms. Eckhart’s lawsuit does not explain “why Ed Henry was fired by Fox News several weeks ago.” The Plaintiff has attached a copy of his Original Complaint from *Edward Henry v. Suzanne Scott, et al.*, Case No. 2:21-cv-13167 (D.N.J.) as Exhibit 2, and he incorporates it by reference insofar as it explains the *real* reasons why he was fired from Fox News.

17. At the time Mr. Henry was fired from Fox News, the company and its executives already were aware of all the events outlined above in Paragraphs 9-12. In other words, Fox News already knew that Ms. Eckhart was making false allegations against Mr. Henry *before* it fired Mr. Henry. Mr. Henry will show that he was scapegoated by Fox News CEO Suzanne Scott and President Jay Wallace in order to divert attention from other internal scandals involving “bigger fish” at Fox News. Those scandals could (and may yet) cost some senior Fox executives their jobs if revealed publicly.<sup>4</sup> As a journalist, Mr. Stelter should have known that allegations in a lawsuit are

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<sup>4</sup> Ironically, during the July 21, 2020 segment, and while discussing efforts to end sexual harassment and misconduct at Fox News, Mr. Stelter stated as follows:



not necessarily true, yet he adopted the allegations as if they were true.

18. Later in the July 21, 2020 segment, Ms. Camerota posed a series of rhetorical questions to allege that Ms. Eckhart's allegations against Mr. Henry were true:

And didn't [Fox News] know this? When that outside law firm Paul Weiss did their investigation back in 2016, didn't Ed Henry's name come up? Didn't they know things about Ed Henry and yet they promoted him? And doesn't that tell us all we need to know about the culture?

The last "question" plainly indicates that the three prior "questions" were intended as statements of fact. *See, e.g., Lutz v. Watson*, 136 A.D.2d 888, 890, 525 N.Y.S.2d 80, 81 (1988)(defamatory statements may be occur in the form of a question); *see also Houraney v. Burton & Associates, P.C.*, 08 CV 2688 CBA LB, 2011 WL 7428805, at \*5 (E.D.N.Y. Nov. 21, 2011)(same), report and recommendation adopted, 08-CV-2688, 2012 WL 626324 (E.D.N.Y. Feb. 27, 2012). Contrary to Ms. Camerota's allegations, Fox News didn't "know" that Mr. Henry had engaged in sexual harassment – much less rape – and that's because Mr. Henry had not engaged in sexual harassment or rape.

19. Ms. Camerota's reference to the "outside law firm Paul Weiss" was also reckless and misleading. It is widely known that in 2016, during the aftermath of sexual harassment allegations made by Gretchen Carlson and other women against then-Fox News CEO Roger Ailes, the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP

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*"The [Fox News] executives have done a lot in the last four years to try to make improvements, to try to make changes. There are new hotlines. There are new meetings and councils. There have been changes at Fox."*

Mr. Stelter does not know as much as he thinks he does.

was hired to investigate sexual misconduct throughout the company. *See, e.g.*, Alex Weprin, “Report: 21st Century Fox retains Paul, Weiss to look into Ailes claims,” July 11, 2016 *Politico*, <https://www.politico.com/media/story/2016/07/report-fox-retains-paul-weiss-to-look-into-ailes-claims-004663/>. In her original complaint filed on July 20, 2020, Ms. Eckhart alleged that “[d]uring the Paul Weiss investigation, multiple women complained that Mr. Henry had subjected them to sexual harassment and/or unwanted sexual messages.” Original Complaint (Doc. No. 1), *Eckhart*, Case No. 1:20-cv-05593, 19, ¶85. That statement was (and is) totally false and defamatory, and Ms. Camerota repeated the false allegation as if it was true.

20. Toward the end of the July 20, 2020 segment, Mr. Stelter said, “It is incredible to think that four years after Ailes was forced out this is still going on at Fox News.” *See* Charlie Nash, “Ex-Fox News Host Says She Has Changed Her Mind: New LawsUIT Proves Fox News ‘Rotten to the Core,’” July 21, 2020 *Mediaite*, <https://www.mediaite.com/tv/ex-fox-newser-alisyn-camerota-changes-mind-after-lawsuit-fox-news-rotten-to-the-core/>. Shortly thereafter, Ms. Camerota said, “I’m sad to think that four years after Roger Ailes was gone that the young women there feel like they’re still having to operate in this culture.” *Id.* In context, both Mr. Stelter and Ms. Camerota were indicating that Ms. Eckhart’s allegations against Mr. Henry were true, and as such those allegations were proof of ongoing problems at Fox News.<sup>5</sup> Indeed there

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<sup>5</sup> Lest Mr. Stelter or Ms. Camerota dispute that conclusion, consider the headline for the *Mediaite* article, *i.e.*, “Ex-Fox News Host Says She Has Changed Her Mind: New LawsUIT Proves Fox News ‘Rotten to the Core’” (emphasis added).

were (and are) ongoing problems at Fox News, but those problems lay at the feet of Ms. Scott and Mr. Wallace. Mr. Henry was used as a scapegoat by Ms. Scott and Mr. Wallace, and Defendants Stelter, Camerota, and Folkenflik took the bait, recklessly promoting the myth that Mr. Henry was fired for sexual harassment or assault.

21. Like Mr. Folkenflik, Ms. Camerota and Mr. Stelter have longstanding grudges against Fox News and/or individuals associated with the company. Ms. Camerota alleged in 2017 that she had been sexually harassed by Mr. Ailes while working at Fox News. For his part, Mr. Stelter has been railing against Fox News for most of the nearly eight years that he has been employed by CNN. His book, *Hoax: Donald Trump, Fox News, and the Dangerous Distortion of Truth*, was published in May of 2021, and it highlighted Mr. Stelter's angry obsession with Fox News. As journalists, Ms. Camerota and Mr. Stelter (like Mr. Folkenflik) should have known that allegations in a lawsuit are not necessarily true, and that one may not recklessly portray those allegations as true. Likewise, they should have known that they could not haphazardly repeat the unproven allegations of another journalist, *i.e.*, Mr. Folkenflik. Because of their animosity, however, Ms. Camerota and Mr. Stelter smeared Mr. Henry in order to impugn Fox News.

### **Claims**

22. All of the foregoing paragraphs are incorporated herein by reference.

23. Mr. Henry asserts defamation and defamation *per se* claims against all Defendants under Maryland law. Alternatively, Mr. Henry asserts defamation and defamation *per se* claims against all Defendants under New York law. For the reasons set

forth above, all of the Defendants acted with malice toward Mr. Henry, namely by intentionally or recklessly making false statements about him.

24. Mr. Henry asserts claims for false light invasion of privacy against all Defendants under Maryland law.

**Request for Relief**

Mr. Henry seeks actual damages and punitive damages for the foregoing claims, as well as any costs, fees, reimbursements or other relief that may be awarded by the Court.

**THE PLAINTIFF DEMANDS A JURY TRIAL.**

Respectfully submitted,

**/s/ Ty Clevenger**

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