

# *City of Monroe Employees' Retirement System, derivatively on behalf of Twenty-First Century Fox, Inc. v. Rupert Murdoch, et al.*

**COURT:** Delaware Court of Chancery  
**CASE NUMBER:** 2017-0833  
**CASE LEADERS:** Max W. Berger, Mark Lebovitch, Rebecca E. Boon

## **21<sup>st</sup> Century Fox Establishes Landmark Council to Remedy Workplace Harassment Issues**

In July 2016, former Fox News anchor Gretchen Carlson filed a public sexual harassment lawsuit against Roger Ailes, the longtime CEO of Fox News. The deplorable conduct at the top signaled a deeper problem. BLB&G and City of Monroe (Michigan) Employees' Retirement System asserted Monroe's statutory right to make a demand for books and records to investigate possible wrongdoing by the 21CF Board of Directors (the "Board") and certain senior executives. The matter became even more significant as the harassment claims expanded to include Bill O'Reilly and others, and broad race discrimination claims also came to light.

Through BLB&G and Delaware counsel Grant & Eisenhofer, Monroe explored the possibility of initially not filing these claims against the Board publicly, while investigating the facts and exploring whether Fox was serious about making substantive changes to how it policed workplace misconduct. This allowed for a constructive dialogue with the Company's inside and outside counsel. 21CF agreed to provide broad documentary and witness discovery.

After over a year of litigation and complex negotiations, on November 20, 2017, the parties made public the terms of an historic settlement that gives Fox an opportunity to go from a company notoriously beset by workplace impropriety into a standard-bearer for creating, fostering and protecting a healthy and inclusive workplace culture - and by extension, preserving and creating stockholder value.

The settlement includes two key components:

- The creation of the "Fox News Workplace Professionalism and Inclusion Council" ("WPIC") of experts, a majority of whom are independent of the Murdoch family and outside the Company and Board; and
- One of the largest financial recoveries - \$90 million - ever obtained in a pure corporate board oversight dispute (recouped for the company from management).

## **The Workplace Professionalism and Inclusion Council - Complete Transparency**

The WPIC has the power to oversee and recommend policies and procedures and other reforms needed to address and correct the problems at Fox News, including the hiring of outside consultants and conducting of independent investigations. It is composed of the chief human resources officers of the Company and Fox News, as well as four independent appointees, with two nominated by Monroe and two by the Company.

The Council includes: former federal judge Barbara Jones, and three of the corporate world's most notable leaders in crafting policies to fight corporate discrimination and harassment, and providing opportunities and protection for all employees - Sylvia Hewlett, Brande Stellings and Virgil Smith.

The WPIC will provide the Nominating and Corporate Governance Committee of the Board with drafts of the majority and any minority reports, in order to facilitate Board-level engagement and possible resolution of issues reflected in those reports. The Company's annual report will identify the WPIC's efforts and Fox will make public on their websites the majority and any minority reports of the Council.

The WPIC has been established for a term of five years, and any decision to modify or terminate the WPIC taken at the end of its term shall be made by the Board publicly with a detailed description of the Board's reasoning.

Commenting on the settlement, BLB&G senior founding partner Max Berger said:

"Through this settlement, Fox News is taking historic steps to address harassment, discrimination and retaliation in the workplace. Corporate boards have an obligation to implement such policies and structures. We believe this will be a model for corporations across the country to protect their employees from these kinds of abuses and enhance shareholder value."

On February 9, 2018, the Court granted final approval of the settlement.

## Case Documents

- November 28, 2017 - Scheduling Order
- November 20, 2017 - Verified Derivative Complaint
- November 20, 2017 - Stipulation and Agreement of Settlement, Compromise, and Release
- November 20, 2017 - Non-Monetary Relief
- November 20, 2017 - Plaintiffs' Brief in Support of Motion for Preliminary Approval of Proposed Settlement and Entry of Scheduling Order
- November 20, 2017 - Declaration of Professor Suzanne B. Goldberg, Columbia Law School, In Support of Settlement
- November 20, 2017 - Declaration of Professor Lawrence A. Hamermesh, Widener University Delaware Law, In Support of Settlement