

# Fox, Axed Host Can't Shake Producer's Sex Harassment Case

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By **Anne Cullen** · September 9, 2021, 5:38 PM EDT

A former network producer suing Fox News and ousted host Ed Henry for sexual harassment won the green light Thursday to move ahead with the bulk of her New York federal court case, including allegations that the network should've known about Henry's misconduct.

While U.S. District Judge Ronnie Abrams agreed to knock some of Jennifer Eckhart's claims out of the case, she upheld her allegations of sexual harassment and retaliation against both the network and the former host, as well as sex trafficking, gender violence and revenge porn allegations against Henry.

Eckhart, who **filed suit last year**, alleges that Henry consistently preyed on young female journalists he worked with, and that in Eckhart's case, the harassment escalated to a violent rape in his New York City hotel room in 2017. After she spoke up, Eckhart says, Henry continued to rise at the network while she was driven out.

She says Fox either knew or should have been on notice about Henry's sexual malfeasance at work, and Judge Abrams said Thursday that Eckhart had brought enough to the table to make that claim.

"At this juncture, the court concludes that Eckhart has plausibly alleged that the network knew or should have known about Henry's sexually harassing behavior," the judge said.

Eckhart also alleges that Henry's legal team broke the law when they **made public several explicit, redacted photos** of Eckhart. Judge Abrams concluded that this allegation could go forward in her lengthy decision Thursday.

"The court does not take lightly the profound invasion of privacy and bodily autonomy the filing of these photographs must have caused Ms. Eckhart," the judge said. "It thus concludes that this action was not a 'reasonable defensive measure,' and because the publication of images such as these might deter a future victim from bringing litigation, Eckhart has plausibly pled that the filing of these images was retaliatory."

Eckhart's legal team said they're pleased with the "well-reasoned" decision Thursday.

"Neither Fox News nor Ed Henry succeeded in their early attempts to escape liability as to Ms. Eckhart's allegations of rape, sexual assault and unlawful termination," **Wigdor LLP** partner Michael J. Willemin said in a statement. "Both parties remain in the case with

respect to these important allegations."

He also lauded the court for recognizing the harm his client faced when Henry lodged the explicit photos on the case docket.

"We intend on pushing this case forward expeditiously and asking a jury to hold both Fox News and Mr. Henry accountable for their alleged conduct," Willemin said.

Eckhart brought the lawsuit alongside Cathy Areu, a frequent on-air guest for Fox, who alleged she experienced misogyny at the network and was denied a full-time job after she rebuffed sexual advances from top on-air talent.

Areu had named both Fox and Henry in her case, as well as prominent employees Tucker Carlson, Sean Hannity and Howard Kurtz, though Judge Abrams threw out the entirety of her claims in a separate order Thursday.

The judge found that Areu couldn't bring hostile work environment claims against the network and its talent because she wasn't technically a Fox employee.

As for the rest of her allegations, including that she was subjected to a more difficult hiring process than male counterparts, the judge found she hadn't provided enough evidence to back up this claim.

Judge Abrams sent Areu back to the drawing board on her complaint, offering her a chance to revamp her filing, which will be due by the end of the month. A lawyer for Areu said they're considering it.

"Given the technical basis for the dismissal, we are taking the time to review Ms. Areu's opportunity to amend the complaint, as the court suggested," said James Vagnini of Valli Kane & Vagnini LLP.

Also on Thursday, Judge Abrams shot down **a flurry of sanctions motions** that came from Fox, Henry and Areu over various filings and litigation tactics. "Neither party's zealous advocacy in this contentious case warrants sanctions," she said in reference to the bids fired off by Areu and Fox in their dispute over whether Areu filed "frivolous" claims.

She also rejected Henry's sanctions bid against Eckhart's legal team for purportedly including false information in her complaint, finding Eckhart "still purports to have a good faith basis to believe the allegations are true."

A spokesperson for Fox News said they're pleased that Areu's case was dismissed, and they "remain committed to defending against the baseless allegations against Fox outlined in Jennifer Eckhart's claims."

"As we have previously stated, upon first learning of Ms. Eckhart's allegations against Ed Henry, FOX News Media immediately commenced a thorough independent investigation and within six days dismissed Mr. Henry for cause," the spokesperson said. "We look forward to proving through the discovery process that FOX News Media takes harassment allegations seriously and acted appropriately."

A lawyer for Henry said the former Fox host was happy with the court's decision to nix Areu's claims but said the court made a mistake by letting many of Eckhart's allegations stand.

"Mr. Henry is pleased with the court's decision to dismiss all of Areu's claims against him but disappointed with the court's ruling in Eckhart which, he believes, misapplied the applicable law and undermined Mr. Henry's legitimate efforts to defend himself against Eckhart's false allegations," said Catherine M. Foti, a partner at Morvillo Abramowitz Grand Iason & Anello PC, in an emailed statement.

"Mr. Henry welcomes the opportunity to move this case to the next stage where he is confident the evidence will prove Eckhart's claims are baseless," Foti said.

Eckhart is represented by Michael J. Willemin, Douglas Wigdor and Renan Varghese of Wigdor LLP.

Areu is represented by James Vagnini, Sara Wyn Kane, Matthew L. Berman, Monica Hincken and Robert John Valli Jr. of Valli Kane & Vagnini LLP.

Fox News is represented by Kathleen M. McKenna, Lloyd B. Chinn, Keisha-Ann G. Gray, Danielle J. Moss and Yonatan L. Grossman-Boder of Proskauer Rose LLP and Anthony J. Dick, J. Benjamin Aguiñaga and Ariel N. Volpe of Jones Day.

Henry is represented by Catherine Foti and Elkan Abramowitz of Morvillo Abramowitz Grand Iason & Anello PC and Jayne Weintraub and Jon Sale of Sale & Weintraub PA.

The case is Jennifer Eckhart et al. v. Fox News Network LLC et al., case number 1:20-cv-05593, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Tim Ryan and Braden Campbell. Editing by Abbie Sarfo.