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Victory For Fox News Network vs. Chicago Tribune over 'Red Eye' name

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Novack and Macey partners Steve Novack, Don Tarkington and Andrew Fleming and associates Ken Abell and John Haarlow teamed with Dori Hanswirth and Kate Bolger of Hogan & Hartson in New York to successfully defeat The Chicago Tribune's attempt to enjoin their client, Fox News Network, LLC, from using "Red Eye" in the name of its new late night television program.

The Tribune alleged that Fox News' national television show named "Fox News Red Eye with Greg Gutfeld" infringes on the Tribune's use of the trademark "RedEye" for its local Chicago newspaper. After defeating a motion for temporary restraining order, the trial team engaged in expedited discovery and briefing in preparation for a three-day preliminary injunction trial before United States District Judge Elaine E. Bucklo of the Northern District of Illinois.

After the trial, Judge Bucklo held in a 25 page written opinion that the Tribune was not entitled to a preliminary injunction prohibiting Fox News from using "Red Eye" in its name. The Court found, among other things, that the television show and the newspaper are not similar products, that there was no evidence of confusion among consumers or advertisers, and that Fox News did not intend to pass its television show off as belonging to the Tribune. The Court also held that the harm to Fox News that would result from forcing it to change the name of its show would be too great to warrant an injunction.

For further information please contact Don Tarkington, Managing Partner at 312.419.6900.

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