



LAWSUIT REFORM ALLIANCE OF NEW YORK

SUPPORT

BILL NUMBER:	S.52A (HOYLMAN)/A.5991(Weinstein)
SUBJECT:	Awarding of Attorneys Fees in Frivolous Actions
DATE:	July 16, 2020
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Summary:

This legislation would award costs and attorneys fees in strategic lawsuits against public participation (SLAPP) and expand the application of actions for public participation.

Why we support this legislation:

Prevents the Courts from Becoming a Weapon

- Too often our civil justice system is misused. In the case of SLAPP lawsuits, these suits are specifically misused to silence free speech and drive up legal costs against lawful critics. The net effect of these suits is to use the court system as a tool for abuse rather than justice. Awarding attorneys fees for those defending against SLAPP actions will both decrease the likelihood of these abusive suits, and protect those subject to them.

Avoids Attorney “Fee Mining”

- As we have seen with Americans with Disability Act (ADA) and other causes of action where attorneys fees are awarded, attorneys often drive the litigation in order to generate fees. These legislation is unlikely to encourage the practice of “fee mining” because it is the defense, not the plaintiffs, who are awarded attorney’s fees. Therefore, this requires an initial action outside the control of the party awarded attorneys fees, and thus will not be subject to the “fee mining” we have seen in other areas of law.

Encourages Free Speech and Public Participation

- Many objectors and critics may be deterred by the threat of costly and drawn out litigation. Providing protections for these objectors will ensure that these voices will not be stifled by the legal system.

Frees Up Valuable Court Resources for Cases with Merit

- This legislation also allows for earlier dismissal of frivolous cases, which would free up time and court resources for more meritorious cases.

The Lawsuit Reform Alliance of New York is a not-for-profit association of businesses, healthcare professionals, membership organizations, and concerned citizens dedicated to reform of the legal system in order to foster a better business climate, promote job growth and address the growing cost of lawsuit abuse.