

HOUSE BILL 263

D3

6lr0489

By: **Delegate Rosenberg**

Introduced and read first time: January 25, 2016

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2016

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Strategic Lawsuits Against Public Participation**

3 FOR the purpose of altering the conditions under which a lawsuit is deemed to be a
4 strategic lawsuit against public participation (SLAPP suit); altering the conditions
5 under which a defendant in a SLAPP suit is not civilly liable for certain
6 communications; ~~altering the remedies available to a defendant in an alleged SLAPP~~
7 ~~suit; requiring a court to hear and rule on a motion to dismiss an alleged SLAPP suit~~
8 ~~within certain time periods; providing that a motion to dismiss shall be deemed~~
9 ~~denied if the court fails to rule on the motion within a certain time period; requiring~~
10 ~~a court to dismiss a SLAPP suit under certain circumstances; providing for the~~
11 ~~admissibility and effect of a certain finding; requiring a court to stay discovery and~~
12 ~~other pending hearings or motions in an alleged SLAPP suit until a certain time;~~
13 ~~providing a certain exception; requiring a court to award costs and reasonable~~
14 ~~attorney's fees under certain circumstances; providing that a ruling or failure to rule~~
15 on a certain motion is immediately appealable; providing for the application of this
16 Act; and generally relating to SLAPP suits.

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 5–807 and 12–303
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2015 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 UNITED STATES CONSTITUTION OR THE MARYLAND CONSTITUTION OR
2 DECLARATION OF RIGHTS regarding any matter within the authority of a government
3 body or any PUBLIC issue OR ISSUE of public [concern] INTEREST.

4 (d) ~~(1)~~ A defendant in an alleged SLAPP suit may move to~~l~~:

5 (1) Dismiss~~l~~ ~~DISMISS~~ the alleged SLAPP suit~~l~~, in which case the court
6 shall hold a hearing on the motion to dismiss as soon as practicable; or

7 (2) Stay all court proceedings until the matter about which the defendant
8 communicated to the government body or the public at large is resolved~~l~~.

9 ~~(2) THE COURT SHALL:~~

10 ~~(i) HOLD A HEARING ON A MOTION TO DISMISS AS SOON AS~~
11 ~~PRACTICABLE, BUT NOT MORE THAN 30 DAYS AFTER THE MOTION IS FILED; AND~~

12 ~~(ii) RULE ON THE MOTION WITHIN 60 DAYS AFTER THE~~
13 ~~HEARING.~~

14 ~~(3) IF THE COURT FAILS TO RULE ON A MOTION TO DISMISS WITHIN~~
15 ~~THE TIME REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE MOTION~~
16 ~~SHALL BE DEEMED TO HAVE BEEN DENIED.~~

17 ~~(4) IF, AFTER A HEARING, THE COURT FINDS THAT THE LAWSUIT IS A~~
18 ~~SLAPP SUIT, THE COURT SHALL DISMISS THE SLAPP SUIT UNLESS THE COURT~~
19 ~~FINDS THAT THE PLAINTIFF HAS ESTABLISHED A PROBABILITY THAT THE PLAINTIFF~~
20 ~~WILL PREVAIL IN THE LAWSUIT.~~

21 ~~(5) IF THE COURT FINDS THAT THE PLAINTIFF HAS ESTABLISHED A~~
22 ~~PROBABILITY OF PREVAILING IN THE LAWSUIT:~~

23 ~~(i) THE FACT THAT THE FINDING HAS BEEN MADE AND THE~~
24 ~~SUBSTANCE OF THE FINDING IS NOT ADMISSIBLE IN EVIDENCE AT ANY LATER STAGE~~
25 ~~IN THE LAWSUIT; AND~~

26 ~~(ii) THE FINDING MAY NOT AFFECT THE BURDEN OF PROOF~~
27 ~~APPLIED IN THE LAWSUIT.~~

28 ~~(E) (1) THE COURT SHALL STAY DISCOVERY AND ANY OTHER PENDING~~
29 ~~HEARINGS OR MOTIONS IN THE LAWSUIT ON THE FILING OF A MOTION TO DISMISS~~
30 ~~UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(2) A STAY UNDER THIS SUBSECTION SHALL REMAIN IN EFFECT UNTIL THE COURT RULES ON THE MOTION TO DISMISS.~~

~~(3) NOTWITHSTANDING A STAY ORDERED UNDER THIS SUBSECTION, THE COURT ON MOTION AND FOR GOOD CAUSE SHOWN MAY ORDER SPECIFIED DISCOVERY OR OTHER HEARINGS OR MOTIONS TO BE CONDUCTED.~~

~~(F) (1) THE COURT SHALL AWARD A DEFENDANT WHO PREVAILS ON A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION COSTS AND REASONABLE ATTORNEY'S FEES INCURRED IN CONNECTION WITH THE MOTION TO DISMISS.~~

~~(2) IF THE COURT FINDS THAT A MOTION TO DISMISS UNDER SUBSECTION (D) OF THIS SECTION IS FRIVOLOUS OR SOLELY INTENDED TO CAUSE UNNECESSARY DELAY, THE COURT SHALL AWARD COSTS AND REASONABLE ATTORNEY'S FEES TO THE PREVAILING PLAINTIFF.~~

~~(G) A RULING OR FAILURE TO RULE ON A MOTION TO DISMISS UNDER THIS SECTION IS IMMEDIATELY APPEALABLE UNDER § 12-303 OF THIS ARTICLE.~~

~~{(e)}~~ ~~(H)~~ This section:

(1) Is applicable to SLAPP suits notwithstanding any other law or rule; and

(2) Does not diminish any equitable or legal right or remedy otherwise available to a defendant in a SLAPP suit.

12-303.

(A) A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:

(1) An order entered with regard to the possession of property with which the action is concerned or with reference to the receipt or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order;

(2) An order granting or denying a motion to quash a writ of attachment; and

(3) An order:

(i) Granting or dissolving an injunction, but if the appeal is from an order granting an injunction, only if the appellant has first filed his answer in the cause;

(ii) Refusing to dissolve an injunction, but only if the appellant has first filed his answer in the cause;

1 (iii) Refusing to grant an injunction; and the right of appeal is not
2 prejudiced by the filing of an answer to the bill of complaint or petition for an injunction on
3 behalf of any opposing party, nor by the taking of depositions in reference to the allegations
4 of the bill of complaint to be read on the hearing of the application for an injunction;

5 (iv) Appointing a receiver but only if the appellant has first filed his
6 answer in the cause;

7 (v) For the sale, conveyance, or delivery of real or personal property
8 or the payment of money, or the refusal to rescind or discharge such an order, unless the
9 delivery or payment is directed to be made to a receiver appointed by the court;

10 (vi) Determining a question of right between the parties and
11 directing an account to be stated on the principle of such determination;

12 (vii) Requiring bond from a person to whom the distribution or
13 delivery of property is directed, or withholding distribution or delivery and ordering the
14 retention or accumulation of property by the fiduciary or its transfer to a trustee or receiver,
15 or deferring the passage of the court's decree in an action under Title 10, Chapter 600 of
16 the Maryland Rules;

17 (viii) Deciding any question in an insolvency proceeding brought
18 under Title 15, Subtitle 1 of the Commercial Law Article;

19 (ix) Granting a petition to stay arbitration pursuant to § 3-208 of this
20 article;

21 (x) Depriving a parent, grandparent, or natural guardian of the care
22 and custody of his child, or changing the terms of such an order; and

23 (xi) Denying immunity asserted under § 5-525 or § 5-526 of this
24 article.

25 **(B) A PARTY MAY APPEAL FROM A RULING OR FAILURE TO RULE ON A**
26 **MOTION TO DISMISS AN ALLEGED SLAPP SUIT UNDER § 5-807 OF THIS ARTICLE.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
28 apply only prospectively and may not be applied or interpreted to have any effect on or
29 application to any cause of action arising before the effective date of this Act.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2016.