**Opposition Statement SB 315/HB70**
**Courts – Civil Actions – Strategic Lawsuits Against Public Participation**

Laura Bogley, JD
Director of Legislation, Maryland Right to Life

**We Respectfully Oppose SB 315/HB70**

On behalf of our chapters and members across the state, we strongly object to SB315/HB70.

**This bill will *enable* frivolous SLAPP suits and restrict the exercise of free speech in Maryland.**

The bill, as written would restrict free speech and deny legal remedy in conflict with the purpose of the original statute, which was enacted to *prevent* Strategic Lawsuits Against Public Participation or "SLAPP" suits, which waste public tax dollars in frivolous lawsuits.

The bill would weaken the original statute and create a huge legal loophole for news outlets and other bad actors to evade legal liability for acts of defamation including libel and slander. The bill favors those with economic and political advantage who can afford to drag out costly litigation in an attempt to bring individuals and nonprofit organizations to bankruptcy.

**In 2021, the Washington Post testified in favor of this bill after a 2019 defamation lawsuit was filed against them by Nicolas Sandman, a Catholic pro-life teenager who was the target of misleading, biased news coverage during the National March for Life in Washington, D.C. in 2019. In July 2020 the Washington Post reached a settlement with Sandman for an undisclosed amount, after an independent investigation revealed that the Post's accusations against the teen were in fact, false. READ MORE.**

The bill would unfairly burden individuals and organizations, by imposing a subjective set of criteria to deny only certain individuals and organizations legal remedy against SLAPP suits. This questionable standard would be impossible for courts to apply equitably and would be highly likely to have a discriminatory effect. The language would substitute free speech with personal or political value judgments. What may or may not be "in the public interest" or what may or may not "confer a significant benefit", is not a settled matter of law but a matter for debate.

**Contrary to prior testimony of bill proponents, application of this bill would not be limited to consumer or trade practices (as evidenced by the word "OR" in Subsection (c ) III.**

The bill also would undermine the judicial requirement of **standing**, by allowing legal actions on behalf of the general population or some subset of the population otherwise loosely defined.

**We specifically object to the legal loophole created by the following proposed language:**

> (C)**A LAWSUIT IS NOT A SLAPP SUIT IF**:(1) THE LAWSUIT IS BROUGHT IN THE PUBLIC INTEREST OR ON BEHALF OF THE GENERAL PUBLIC AND EACH OF THE FOLLOWING CONDITIONS EXISTS:(I) EXCEPT FOR CLAIMS FOR ATTORNEY'S FEES, COSTS, OR PENALTIES,THE PLAINTIFF DOES NOT

SEEK ANY RELIEF GREATER THAN OR DIFFERENT FROM THE RELIEF SOUGHT FOR THE GENERAL PUBLIC OR A CLASS OF WHICH THE PLAINTIFF IS A MEMBER;
(II)THE LAWSUIT, IF SUCCESSFUL, WOULD ENFORCE AN IMPORTANT RIGHT AFFECTING THE PUBLIC INTEREST AND WOULD CONFER A SIGNIFICANT BENEFIT, PECUNIARY OR NONPECUNIARY, TO THE GENERAL PUBLIC OR A LARGE CLASS OF PERSONS; AND (III) PRIVATE ENFORCEMENT IS NECESSARY AND PLACES A DISPROPORTIONATE FINANCIAL BURDEN ON THE PLAINTIFF IN RELATION TO THE PLAINTIFF'S STAKE IN THE MATTER; **OR**

In conflict with federal court precedent, this bill attempts to authorize frivolous and costly suits that will likely **target pro-life speech which has been under attack as commercial speech** in Maryland. In *Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Baltimore, 879 F.3d 101 (4th Cir. 2018)*, the City of Baltimore acting on behalf of abortion advocates, attempted unsuccessfully to put pro-life pregnancy centers out of business by enacting a targeted ordinance against **commercial** speech as "deceptive advertising".

The federal appeals court for the 4th Circuit affirmed the lower court's decision in favor of the pro-life pregnancy center, noting that ***"the City has considerable latitude in regulating public health and deceptive advertising. But Baltimore's chosen means here are too loose a fit with those ends, and in this case compel a politically and religiously motivated group to convey a message fundamentally at odds with its core beliefs and mission."*** The City also failed to establish that the pro-life pregnancy center was engaged in commercial or professional speech, which required the Court to apply higher scrutiny against the government action. Without proving the inefficacy of less restrictive alternatives, providing concrete evidence of deception, or more precisely targeting its regulation, the City was not able to prevail.

**The Maryland General Assembly enacted the underlying statute to defend the exercise of free speech against Strategic Lawsuits Against Public Participation. We respectfully urge you to protect that right and the integrity of this Assembly, by rejecting Senate Bill 315 and its broad expansion of SLAPP suits.**

Respectfully Submitted,

Laura Bogley, JD

MDRTL

# Pro-Life Teen Nicholas Sandmann Wins Settlement From Washington Post For Smearing Him

National | *Micaiah Bilger* | Jul 24, 2020 | 1:15PM | *Washington, DC*

Covington Catholic High School teen Nicholas Sandman won a second defamation settlement against a major news outlet, he and his lawyers announced Thursday.

The pro-life teen was the target of misleading, biased news coverage during his Kentucky high school's trip to the March for Life in 2019. On Thursday, Sandmann said his lawyers and the Washington Post reached a settlement agreement, WLWT News 5 reports.

"On 2/19/19, I filed $250M defamation lawsuit against Washington Post. Today, I turned 18 & WaPo settled my lawsuit. Thanks to [attorneys Lin Wood and Todd McMurtry] for their advocacy. Thanks to my family & millions of you who have stood your ground by supporting me. I still have more to do," Sandmann wrote Friday on Twitter.

In the lawsuit, Sandmann accused the newspaper of "wrongfully targeting and bullying" him "because he was the white, Catholic student wearing a red 'Make America Great Again' souvenir cap on a school field trip to the Jan. 18 (2019) March for Life in Washington, D.C."

The details of the settlement were not released publicly. A spokesperson for The Washington Post told Fox News, "We are pleased that we have been able to reach a mutually agreeable resolution of the remaining claims in this lawsuit."

Many news outlets implied Sandmann and other Covington students were racist based on a short video showing a brief confrontation between them and Native American protester Nathan Phillips near the Lincoln Memorial. The negative publicity led to death threats and the temporary closure of his Catholic high school for several days due to security concerns.

Later, however, longer video footage of the incident disproved many of the claims against Sandmann and other students from the school.

***Click Like if you are pro-life to like the LifeNews Facebook page!***

Wood congratulated the teen on the settlement Friday and wished him a happy birthday, noting that their lawsuits against other news outlets are still pending. These include NBC, ABC, CBS, Rolling Stone, Gannett and the New York Times.

"More presents to be delivered to you this next year," Wood wrote on Twitter. "You deserve justice. We all deserve justice."

Earlier this year, Sandmann's lawyers reached a similar settlement with CNN.

The lawsuits came after an independent investigation confirmed that a group of Covington Catholic teens told the truth about their viral confrontation with a Native American man in Washington, D.C. The report by Greater Cincinnati Investigation, Inc. states that the pro-life teens did not initiate the confrontation or use any racial slurs against Native American Nathan Phillips or the Black Hebrew Israelites group.

"We found no evidence of offensive or racist statements by students to Mr. Phillips or members of his group," the report states. "We found no evidence that the students performed a 'Build the Wall' chant."

Previously, Wood said Phillips told "lies and false accusations" about Sandmann and other students after the Jan. 18, 2019 incident.

Phillips did not participate in the independent investigation. According to Townhall, he lied about the students chanting "Build the wall!" and his Vietnam service.

"We have attempted to reach out to Mr. Phillips by phone and by e-mail, informing him that we desired to interview him in person and that we were prepared to meet him in Michigan or any location he might prefer," the investigators wrote. "We also sent Mr. Phillips' daughter an e-mail as they both appear to be involved in the Native Youth Alliance and have shared their e-mail addresses after the event to thank everyone for reaching out and supporting them."

They said Phillips never responded.

"Mr. Phillip's public interviews contain some inconsistencies, and we have not been able to resolve them or verify his comments due to our inability to contact him," the investigators continued.

They said it was the Black Hebrew Israelite group that yelled racial slurs against the boys as well as Native Americans.

In an statement after the initial publicity, Sandmann said he was confused by the whole incident and he smiled only to let the other protesters know that he would not be intimidated.

"I am a faithful Christian and practicing Catholic, and I always try to live up to the ideals my faith teaches me – to remain respectful of others, and to take no action that would lead to conflict or violence," he said.