

SENATE BILL 568

Senate Judicial Proceedings Committee

February 20, 2024 at 1:00 pm

OPPOSITION TO BILL

By Claudia Barber, Attorney at Law

I oppose Senate Bill 568. The Strategic Lawsuits Against Public Participation bill has grave consequences against public figures by arming citizens with the right to report anything and everything to public entities and rewarding those citizens with ulterior motives, who do the reporting, with blanket immunity and attorney's fees. This is a win for book banning fanatics and those opposed to diversity, equity and inclusion policies using first amendment protections as dog whistle protections. Not even civil rights litigants enjoy this special attention to resolve a case quickly by making a special motion.

On January 6, 2021, now known as INSURRECTION DAY, we saw how people engaged in conspiracy theories wrongly claimed First Amendment protection for their insurrectionist acts of terror. The First Amendment should never again be used as a reason to harm individuals or destroy human beings.

One of the pitfalls of this legislation is that it does not protect innocent victims such as public figures or politicians who may have rivals instigating stories by using public records, resources and government agencies to create news stories to smear an opponent. It particularly impacts people of color and their communities when misinformation is spread to newspapers and destroys individuals' livelihood and reputation.

In 2016, an ex-judge filed a dubious ethics complaint against me asking my employer to remove me from office because I ran in a partisan primary. What the complainant did not do is tell my employer that the office of judge for the Circuit Court is not a partisan office. It was important to not tell this truth because that would have destroyed his plan to have me fired for an ethics

violation, which was later used on campaign literature by four sitting judges. The purpose of filing the ethics complaint was to harm my livelihood because the complainant demanded my employer terminate me. All this was done so four sitting judges could advance in their contested judicial election for a 15-year term in 2016.

After making Freedom of Information Act requests, I learned that the complainant's pursuit of my termination was deeper than just filing an ethics complaint. He provided my employer with multiple photos and documents that were intended to cast me in a negative light to my employer. For example, my presence at a festival where I was meeting and greeting voters at a democratic booth was intentionally misrepresented as engaging in partisan affairs, in hopes that would be sufficient evidence to include in a removal hearing.

When the complainant was sued for making many misrepresentations to my employer, he attempted to use the SLAPP act in another jurisdiction as a shield of immunity to protect him from liability.

Before voting yes on this legislation, please reconsider the impact this legislation has on the community and on individuals. This legislation impacts people of color who are often powerless to challenge vengeful acts of this type bent on advancing other people's candidacy. It has been more than six years since this ethics complaint was filed, and I have spent an enormous amount of legal expenses trying to defend my reputation. Many cases remain pending at this time. Just as Bryan Stevenson noted who authored JUST MERCY, and currently serves as the executive director for the Equal Justice Initiative, we cannot rely on the judiciary to protect the wrongly convicted. Nor can we rely on the judiciary to see ulterior motives and protect those innocently attacked as I was in 2016.