



MARYLAND GENERAL ASSEMBLY

House Judiciary Committee

Written Testimony of Timothy G. Nelson on behalf of the Maryland-DC-Delaware Broadcasters Association Regarding House Bill 434

(Courts – Strategic Lawsuits Against Public Participation)

Submitted February 10, 2025

Thank you for the opportunity to submit this written testimony regarding House Bill 434, “Courts – Strategic Lawsuits Against Public Participation.” My name is Tim Nelson, and I serve as counsel to the Maryland-DC-Delaware Broadcasters Association (“MDCD” or the “Association”).¹ On behalf of the Association and its Members, which include approximately 20 television stations and 110 radio stations, I thank the Committee for holding a hearing on House Bill 434 and considering the Association’s perspective. I write to express MDCD’s support of House Bill 434.

House Bill 434, along with its companion legislation in the Senate, Senate Bill 167, would amend Maryland’s current law regarding so-called strategic lawsuits against public participation (“SLAPPs”) by positively addressing weaknesses in the current law, while also striking an appropriate balance between protecting speech and permitting meritorious lawsuits to proceed.

In particular, MDCD believes that the current text of Maryland’s law, initially adopted more than 20 years ago, must be updated to continue to meaningfully protect free speech—including reporting, commentary, and debate—and to account for legal and societal developments since the law’s passage. Indeed, House Bill 434 would help advance the purpose of Maryland’s current law, which, like other anti-SLAPP laws around the country, protects free speech by allowing courts to dismiss frivolous lawsuits that—although having no chance to succeed—threaten an expensive defense, thereby punishing and discouraging speech. House Bill 434 would accomplish in a common-sense and appropriate manner updates necessary to ensure the continued efficacy of Maryland’s existing law, most notably by better: (1) defining what qualifies as a SLAPP; and (2) allowing courts to require SLAPP plaintiffs to foot the bill for the resources their lawsuits drain.

To better define what qualifies as a SLAPP, House Bill 434 appropriately focuses the inquiry primarily on speech and actions “in connection with a public issue or an issue of public interest” and whether a plaintiff’s lawsuit regarding such speech or actions “has substantial

¹ The Maryland-DC-Delaware Broadcasters Association is a voluntary, non-profit trade association that advocates for the interests of its member radio and television stations and, more generally, the interests of broadcasting in Maryland, Delaware, and Washington, D.C.

justification in law and fact.” This goes to the core of the harm caused by SLAPPs; such lawsuits are used by those who wish to silence critical speech *with little if any regard for the legal and/or factual merits of their lawsuit*. It is thus not only proper, but desirable, for a determination to be made regarding the justification for a lawsuit that a defendant believes to be a SLAPP.

Under current Maryland law, however, a lawsuit cannot be classified as a SLAPP unless a determination is made that the suit was “brought in bad faith.” Notably, unlike House Bill 434’s objective inquiry regarding whether a lawsuit has substantial legal or factual justification, whether a suit was “brought in bad faith” involves a nebulous, subjective inquiry into the state of mind and intent of the individual or entity who filed the lawsuit. This increases uncertainty, as well as judicial and societal costs, in litigating under Maryland’s current anti-SLAPP law, which undermines its purpose. House Bill 434 would help resolve those problems.

Additionally, as noted above, House Bill 434 would allow courts to require SLAPP plaintiffs to shoulder the aggregate expenses their lawsuits generate. Unlike current law, House Bill 434 would expressly allow a court to “award costs and reasonable attorney’s fees to” the party who was subjected to a SLAPP suit “if the court determines that justice and equity require it.” Again, this practical modification of Maryland’s current law successfully targets a core component of SLAPP suits, given that plaintiffs typically file such suits knowing that the legal expenses of those they sue will likely far exceed their own. By allowing courts to shift that expense paradigm, House Bill 434 would simultaneously better protect those against whom SLAPP suits are levied and hold the filers of SLAPP suits accountable for their actions.

For all the foregoing reasons—as well as other beneficial changes House Bill 434 would make to current Maryland law²—MDCD supports this legislation.

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² Among other things, MDCD further notes and supports HB 434’s additional language requiring a judge to “rule expeditiously” on the merits of whether a lawsuit is a SLAPP.

