S 244157

IN THE
SUPREME COURT OF CALIFORNIA

FILMON.COM, INC.,
Petitioner,

v.

DOUBLEVERIFY, INC.,
Respondent.

AFTER DECISION BY THE COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION THREE
Case No. B264074

OPENING BRIEF ON THE MERITS

BAKER MARQUART LLP
Ryan G. Baker (Bar No. 214036)
Scott M. Malzahn (Bar No. 229204)
Blake D. McCay (Bar No. 272315)
2029 Century Park East, Suite 1600
Los Angeles, CA 90067
Telephone: (424) 652-7800
Facsimile: (424) 652-7850

Attorneys for Petitioner
FilmOn.com, Inc.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Federal Cases

State Cases

State Statutes

Other Authorities

IN THE
SUPREME COURT OF CALIFORNIA

FILMON.COM, INC.,
Petitioner,

v.

DOUBLEVERIFY, INC.,
Respondent.

AFTER DECISION BY THE COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION THREE
Case No. B264074

OPENING BRIEF ON THE MERITS

THE ISSUE AS FRAMED BY THIS COURT IN ITS ORDER GRANTING REVIEW

1. In determining whether challenged activity furthers the exercise of constitutional free speech rights on a matter of public interest within the meaning of Code of Civil Procedure section 425.16, should a court take into consideration the commercial nature of that speech, including the identity of the speaker, the identity of the audience and the intended purpose of the speech?

INTRODUCTION AND SUMMARY OF ARGUMENT

In the opinion below, the Second District Court of Appeal dramatically expanded the scope of subdivision (4) of California Code of Civil Procedure Section 425.16(e)(4) (the "catch-all provision").[1] Based on a highly attenuated chain of causal reasoning about potential downstream

[1] California's anti-SLAPP statute is codified in Code of Civil Procedure section 425.16 *et seq.* (hereinafter, the "anti-SLAPP statute").

consequences of the allegedly protected activity, the lower court found that the sale of a purely private online advertising report constitutes protected speech in furtherance of a matter of public interest or concern. The court's departure from existing anti-SLAPP jurisprudence creates further confusion and uncertainty in the already nebulous area of defining an issue of public interest or concern under the catch-all provision of the anti-SLAPP statute. It also creates an enormous legal barrier to holding companies accountable for their false and misleading statements, even when that speech takes place entirely in secret and serves only private commercial interests. Such is not the purpose of the anti-SLAPP statute. This Court should reverse.

Plaintiff FilmOn.com, Inc. ("FilmOn") filed this action after it discovered that defendant DoubleVerify, Inc. ("DoubleVerify") had provided at least one of FilmOn's former clients with a confidential report that falsely accused FilmOn of displaying "adult content" and unauthorized copyrighted work on its websites. Those false and misleading statements caused FilmOn to lose advertising business, which led to this lawsuit for trade libel and other business torts. Though the libelous speech appeared in confidential business reports that were not shared with anyone except the specific paying DoubleVerify customer, DoubleVerify filed a special motion to strike. It argued that the contents of its reports constituted "protected activity" under the catch-all provision codified in subdivision (e)(4) of Code of Civil Procedure section 425.16.

The trial and appellate courts both agreed with DoubleVerify, finding that FilmOn's complaint arises out of protected activity. Under the guise of "broadly" interpreting California's anti-SLAPP statute, the courts below used the statute as a sledgehammer to dismiss a purely private trade libel dispute between two commercial businesses at its inception. In its opinion, the court of appeal erroneously dismissed the commercial nature of DoubleVerify's speech as legally irrelevant, holding, *inter alia*, the anti-

SLAPP statute "applies to private communications" and "[w]hether a statement concerns an issue of public interest depends on the content of the statement, not the statement's speaker or audience." (Typed Opn. 19-20.) In so doing, it gave DoubleVerify (and similar businesses) license to confidentially whisper absolutely anything about anyone for profit with impunity. The decision turns the intended purpose of the anti-SLAPP statute on its head and, unless reversed, will further confuse an already muddled area of law.

This Court should reverse and use this opportunity to clarify the meaning of the express statutory limitations on the scope of the catch-all provision in the anti-SLAPP statute. While this Court has yet to provide definitive guidance, other appellate courts have wisely held that that commercial speech "is entitled to less protection than other safeguarded forms of expression" under the anti-SLAPP statute. (*See, e.g., All One God Faith, Inc. v. Organic & Sustainable Indus. Standards, Inc.* (*OASIS*) (2010) 183 Cal. App. 4th 1186, 1208.) This Court should resolve the jurisprudential confusion in the case law as exemplified by the decision below, and provide a conceptual framework for understanding the public interest requirement in the anti-SLAPP statute that distinguishes between cases involving commercial versus non-commercial speech. The decision below blurs that critical distinction.

Instead of relying on factually similar commercial speech cases, the appellate court below erroneously relied on distinguishable cases that involved statements by individuals about the identities and locations of specific people – alleged child molesters, registered sex offenders and others – who pose a risk of harm to children. Clearly, those cases implicate kinds of non-commercial speech that are of profound interest to local communities and further a public dialogue. "It would be helpful for the Supreme Court to issue a definitive statement of the application of section

425.16 to commercial speech." Jerome I. Braun, *California's Anti-SLAPP Remedy After Eleven Years* (2003) 34 McGeorge L. Rev. 731, 754-55.

With respect to the Issue Presented, this Court should hold that the identity of the speaker, the identity of the audience, and the intended purpose of the speech are all important considerations in determining whether speech is protected by the anti-SLAPP statute. There are good "reasons for the distinction between the protections given to commercial and noncommercial speech," *Nagel v. Twin Laboratories, Inc.* (2003) 109 Cal. App. 4th 39, 46-47, and "categorizing a particular statement as commercial or noncommercial speech requires consideration of three elements: the speaker, the intended audience, and the content of the message." (*Rezec v. Sony Pictures Entertainment, Inc.* (2004) 116 Cal. App. 4th 135, 140.) Based on these common-sense considerations, DoubleVerify simply cannot uphold its burden of showing that the libelous speech in its confidential business reports "arises from" any act in "furtherance of" the constitutional right of petition or the constitutional right of free speech "in connection with a public issue or a public interest[.]" (*See* Code Civ. Proc. § 425.16(e)(4).)

This Court should reverse for several reasons. First, DoubleVerify cannot demonstrate its purely confidential reports were intended to contribute to any public dialogue or otherwise "further" the exercise of free speech rights. Ordinary commercial speech about a particular business or product is entitled to less protection than other safeguarded forms of expression under the anti-SLAPP statute (*see, e.g., OASIS*, 183 Cal. App. 4th at 1208; *Nagel*, 109 Cal. App. 4th at 46; *Rezec,* 116 Cal. App. 4th at 140–41), especially where (as here) that speech is kept entirely confidential and not made public to any portion of the public.

Second, DoubleVerify's reports were not made in connection with an issue of "public interest." It is well established that a private business

dispute does not turn into a matter of public interest merely because it relates in some abstract way to a larger topic of interest to the public. *(See, e.g., Rivero v. American Federation of State, County and Municipal Employees, AFL-CIO* (2003) 105 Cal. App. 4th 913, 925 (affirming denial of anti-SLAPP motion in a libel case brought by an employee against a union, reasoning that union's argument that the allegedly libelous statements made about the specific employee related to a "generalized" concern about employment practices within the University of California system "sweeps to broadly" and the statements did not in fact further any public interest); *Consumer Justice Center v. Trimedica International, Inc.* (2003) 107 Cal. App. 4th 595.) The mere fact that copyright infringement and the "presence of adult content on the Internet generally" may be of widespread concern to the public (Typed Opn. 15) does not convert DoubleVerify's purely private communications to clients about FilmOn's content into protected activity.

Third, FilmOn's underlying claims "arise from" wrongful conduct (*i.e.*, DoubleVerify's classification of FilmOn websites with "Adult Content" and "Copyright Infringement" tags), not protected speech. The mere fact that speech may be evidence in a case does not insulate otherwise tortious conduct from liability. Indeed, in the closest case to this one, the First District found a trade association's act of labeling particular products as "organic" did not arise out of or further free speech rights in connection with an issue of public interest. (*See OASIS*, 183 Cal. App. 4th at 1205-10.)

Although there is no dispute that the anti-SLAPP statute is to be considered "broadly," the statute has limitations. This case involves communications outside those limitations. The anti-SLAPP statute was enacted to prevent large and powerful interests from quashing speech by burying those who dared exercise their rights under an avalanche of legal fees. But under the decision below, the statute would allow large and

powerful interests to squash legitimate commercial suits in their infancy under the guise of free speech. Unfortunately, "[t]he cure has become the disease," and anti-SLAPP motions are "just the latest form of abusive litigation." (*Navalier v. Sletten* (2002) 29 Cal. 4th 82, 96 (J. Brown, dissenting); *see also Moore v. Shaw* (2004) 116 Cal. App. 4th 182, 200 n. 11 (finding anti-SLAPP motion to be frivolous and noting the "increasing frequency" of such motions and the burden imposed on opposing parties and the courts).) This Court should reverse.

STANDARD OF REVIEW

A court's ruling on an anti-SLAPP motion to strike is reviewed de novo as to both prongs. (*See, e.g., Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal. 4th 260, 269 fn. 3; *Flatley,* 39 Cal. 4th at 325.)

STATEMENT OF THE CASE

A. Factual Background.

1. DoubleVerify's Business.

DoubleVerify, a for-profit corporation, offers online tracking, verification and "brand safety" services to Internet advertisers. (AA 41, 63.) Clients that place pop-up and banner advertisements online hire DoubleVerify to assist them with their advertising strategy, with the objective of maximizing the value of the dollars spent on advertising over the Internet and protecting the client's brand. (RB 8-9.) Among other things, DoubleVerify assists clients in targeting their online advertisements to the desired target demographic, provides information to clients about potential advertising platforms, and monitors existing advertisements to ensure that those advertisements appear on-line and are visible as agreed, and provides information to clients about potential advertising platforms. (*Id.*) DoubleVerify provides these commercial services to some of the biggest companies in the world, including many Fortune 500 companies. (RB 9.) Thus, for a company like FilmOn that depends heavily on

advertising revenue (Typed Opn. 3), the information DoubleVerify supplies its clients about FilmOn's advertising platforms has the potential to make or break FilmOn's business.

As DoubleVerify admits, a typical client provides DoubleVerify its advertising goals, as well as any desired technical benchmarks (such as a goal to obtain a certain number of page views, to focus on a particular target demographic, or to foster desirable associations and avoid undesirable associations). (AA 63-65; RT 18:16-17.) For instance, a company like Red Bull may request that DoubleVerify assist it with selecting advertising platforms consistent with an "edgy adult oriented" demographic, while a company like Disney may ask DoubleVerify to help make sure its advertisements appear on more family-friendly websites. (RB 9 fn.1.)

DoubleVerify generates website reports that it refers to as "Impression Quality Reports" (hereinafter, "IQR Reports"), which are tailored to the needs of the individual client. These customized reports purport to provide accurate and reliable information about potential advertising platforms based on topics relevant to the client's advertising strategy. Its IQR Reports are designed to provide information about such topics as (1) the presence of "inappropriate content," (2) "geo-targeting" of advertisements, (3) "competitive separation," (4) "ad placement," (5) "fraud detection," and (6) "ad viewability." (Typed Opn. 3; AA 65, 138, 141 RT 18:19-28; 21:24-25.)

To create an IQR Report, DoubleVerify employs a "categorization algorithm [that] analyzes [a potential advertising] site from both a contextual and technical angle." (AA 66.) DoubleVerify then applies a "measurement code" to advertisements to track their appearance and location on the Internet. (AA 65.) DoubleVerify classifies websites based on these automated processes, and also relies heavily on manual Internet

searches of publicly available information by live people. (AA 65-71.) Based on the information that is collected, DoubleVerify generates IQR Reports that are designed to provide data in two columns: (1) one column that purports to show technical data concerning websites, ad placement and viewability; and (2) a second column containing tags designed to aid a given client in determining whether particular websites are consistent with the client's brand. IQR Reports do not contain any detailed analysis, but instead purport to contain raw data identifying particular websites, the number of impressions associated with those websites, and certain "tags" or classifications along with a standardized glossary that provides working definitions for the tags. (Typed Opn. 3.)

DoubleVerify's contracts expressly require clients maintain the confidentiality of IQR Reports. That is for a good reason. DoubleVerify's business model depends on the public not knowing what information it reports to an individual client. DoubleVerify sells the confidential IQR Reports to clients, which expect to obtain a competitive advantage over their competitors. If those IQR Reports were publicly available, clients would not need DoubleVerify's services or products. (Typed Opn. 17; RT 26:21-28.)

2. DoubleVerify's Confidential Reports About FilmOn Websites.

FilmOn provides web-based entertainment, including hundreds of television channels, premium movie channels, pay-per-view channels and over 45,000 video-on-demand titles. FilmOn distributes programming on various website domains, including filmon.com, demand.filmon.com, lenovo.filmon.com, omniverse.filmon.com, staging.filmon.com, ftth.filmon.com, us.filmon.com and samsung.filmon.com (collectively, the "FilmOn Websites"). (Typed Opn. 3.)

Prior to the filing of this action, FilmOn noticed an initially unexplained uptick in the number of clients cancelling advertising agreements with FilmOn. Subsequently, in late 2013, FilmOn learned from one of its former clients that DoubleVerify had provided an IQR Report containing false and disparaging classifications about one or more of FilmOn's websites. (AA 138-139, 149.) Those reports falsely classified the FilmOn Websites with the tags "Copyright Infringement: File Sharing" and "Adult Content." (AA 149.) According to its standardized glossary, DoubleVerify defines websites included in the "Copyright Infringement: File Sharing" category as "sites, presently or historically, associated with access to or distribution of copyrighted material without appropriate controls, licensing or permission; including but not limited to, sites electronically streaming or allowing user file sharing of such material." (AA 67.) DoubleVerify defines "Adult Content" as "Mature topics which are inappropriate viewing for children including explicit language, content, sounds and themes." (AA 144.) Other than these definitions and the tags, DoubleVerify's IQR Report about FilmOn did not contain any other information or analysis. (RT 18:19-28; 20:19-26.)

Although IQR Reports are confidential, one of FilmOn's former clients provided FilmOn with an excerpt from one such report about the FilmOn Websites. (AA 138-139, RT 21:24-28.) That excerpt displayed the following information:

Domain/Sub-domain	**Total IMP**	**Categories**
filmon.com	23,768	Copyright Infringement: File Sharing
demand.filmon.com	306	Copyright Infringement: File Sharing

lenovo.filmon.com	113	Copyright Infringement: File Sharing
omniverse.filmon.com	59	Copyright Infringement: File Sharing
staging.filmon.com	11	Copyright Infringement: File Sharing
ftth.filmon.com	5	Copyright Infringement: File Sharing
us.filmon.com	4	Copyright Infringement: File Sharing
samsung.filmon.com	4	Copyright Infringement: File Sharing

(AA 138-139, RT 18:19-28, 20:19-26, 21:24-28.) This IQR Report excerpt is the alleged speech or petitioning activity at issue in this case. (AA 42-43.) DoubleVerify's counsel confirmed that this excerpt, obtained by FilmOn, "[is] supposed to be confidential to the client." (RT at 21:24-25.)

On December 12, 2013, FilmOn sent a cease and desist letter to DoubleVerify in which it demanded that DoubleVerify remove its harmful tags and issue a correction. (AA 138-139.) Later, DoubleVerify disclosed it had included FilmOn in the "Adult Content" category, as well. (AA 64, 72.) In communications between the parties' counsel, DoubleVerify initially refused to confirm or deny that the "Adult Content" tag was tantamount to a claim that the FilmOn Websites contained pornography, which they do not. DoubleVerify later admitted that the "Adult Content" tag was something more akin to an "R" rating for a movie or a "TV-MA" (mature audiences) rating for a television show. (AA 7, 72; RB 14.) To date, however, DoubleVerify has never taken action to clarify to advertisers that FilmOn's content is not pornographic. Additionally, DoubleVerify has

refused to take any action to limit the application of its "Adult Content" tag solely to the channels on FilmOn's family of networks that arguably contain anything akin to "adult" content.

After supposedly conducting an investigation into the FilmOn "Copyright Infringement: Streaming or File Sharing" and "Adult Content" classifications, DoubleVerify elected to maintain those classifications. FilmOn has since been informed of additional reports of companies refusing to do business with it on account of DoubleVerify. (AA 186-187.) FilmOn, though letters, phone calls and meetings, attempted to provide DoubleVerify with information sufficient to demonstrate that DoubleVerify's designations were inaccurate. Those efforts failed. FilmOn sued DoubleVerify on October 27, 2014. (AA 242.)

B. Trial Court Proceedings.

On November 24, 2014, FilmOn filed an amended Complaint against DoubleVerify and AOL, Inc.[2] (AA 1-31.) In sum and substance, the amended complaint alleged that DoubleVerify falsely classified FilmOn Websites with the tags "Copyright Infringement" and "Adult Content," and then compounded that error by willfully refusing to adjust or explain its tags in light of evidence brought to its attention by FilmOn. FilmOn further alleges DoubleVerify makes false and misleading representations about the accuracy of its services. (*Id.*) It asserted causes of action against DoubleVerify for trade libel, tortious interference with contract, tortious interference with prospective economic advantage, unfair competition, false advertising, slander and libel. (AA 1-31.)

FilmOn alleges DoubleVerify classified the FilmOn Websites incorrectly and applied false and misleading tags in its IQR Reports. DoubleVerify's sale of – and profit from – those disparaging classifications, and the corresponding harm to FilmOn, is the basis of this

[2] Pursuant to a settlement, AOL was dismissed on April 9, 2015.

action. FilmOn alleged DoubleVerify had "falsely classif[ied] the FilmOn Websites under the categories of 'Copyright Infringement-File Sharing' and 'Adult Content.'"[3] (Typed Opn. 4.)

On January 26, 2015, DoubleVerify filed an anti-SLAPP special motion to strike. (AA 32-54.) DoubleVerify argued its confidential reports provide information relating to matters of public interest and fall within the catch-all provision in the anti-SLAPP statute (AA48), which protects "conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest." (Code Civ. Proc. § 425.16(e)(4).)

DoubleVerify's motion also relied heavily on the argument that because FilmOn – or more particularly, the founder of FilmOn – was in the public eye, this dispute was one of public importance. (AA 41-42.) To support this argument, DoubleVerify submitted a 747-page appendix, consisting of general news articles about the topics of copyright infringement and adult content on the Internet, three news articles in *Fortune*, *Business Insider* and *The Hollywood Reporter* about lawsuits filed against FilmOn for copyright infringement, legal filings from that copyright

---

[3] For example, though certain FilmOn entities have been involved in copyright litigation in three different federal circuits regarding an on-line service that allowed FilmOn users to access free-to-air broadcast programming over the Internet, the district courts in those circuits reached different and conflicting opinions as to the legality of this service. (*See e.g., Fox Television Stations, Inc. v. AereoKiller, LLC* (C.D. Cal. 2015) 115 F. Supp. 3d 1152, 1154 (FilmOn is potentially entitled to a compulsory license as a cable system under Section 111 of the Copyright Act); *Fox Television Stations, Inc. v. FilmOn X, LLC* (D.D.C. 2015) 150 F. Supp. 3d 1, 32 (FilmOn is not entitled to a compulsory cable system license under Section 111 of the Copyright Act).) After the Ninth Circuit issued its opinion and oral arguments took place before two other appellate courts, the parties involved in the litigation reached a settlement. As a result, no court ever finally adjudicated the issue of copyright infringement.

litigation, and articles about the subjects of copyright infringement and adult content online. (*See id.*) Aside from an obscure one-page blog post that mentioned this lawsuit (AA 57), none of the materials submitted by DoubleVerify to the trial court referred to the facts giving rise to this action.

At the hearing on DoubleVerify's anti-SLAPP motion, the trial court seemed to be under the (false) impression that DoubleVerify's IQR Reports are published to the general public. Even though those reports are confidential, the trial court analogized DoubleVerify's IQR Reports to the well-advertised movie rating system used by the Motion Picture Association of America ("MPAA"). The trial court found that what DoubleVerify is "doing" is "not any different . . . than the Motion Picture Association putting ratings on movies[.]" (RT at 3:12-14.) Indeed, the trial court repeatedly analogized DoubleVerify's *confidential* reports to different kinds of *public* rating systems. (RT at 4:9-11 ("You know, we are all being rated. There is a website that rates judges."); RT at 4:10-13 ("You walk into a restaurant and you get an A, B or C, but you don't walk into a restaurant that gets a B or C. And it impacts on us, but I do think, if done correctly, it is a very valuable public function, and I think we are better for it."); RT at 3:18-21 ("I can only speak as a parent and grandparent, a parent of four and grandparent of eleven. I appreciate when I read adult content.").

On April 22, 2015, the trial court granted DoubleVerify's anti-SLAPP motion. (RT 3:18-21, 4:9-11, 4:10-13, 6:21-23; AA 217-230.) It found that "DoubleVerify has submitted evidence demonstrating the public interest in Plaintiff FilmOn's content, the lawsuits filed against it, and its founder Alkiviades David." (AA 224.) It further concluded that "DV's services advance the public interest in the regulation of internet content for children, transparency and accountability for advertiser, alerting the public of potential intellectual property theft and safety of the Internet from fraud,

malware and other concerns." (AA 223.) It thus dismissed the lawsuit on the basis that the IQR Reports constitute "protected activity" under the anti-SLAPP statute. (AA 224.)

C. Court of Appeal's Decision.

On appeal, FilmOn argued that DoubleVerify could not uphold its burden of showing that its IQR Reports constitute "protected activity" under the anti-SLAPP statute. FilmOn argued that DoubleVerify's confidential reports that classified FilmOn Websites with tags for "Copyright Infringement" and "Adult Content" were not made in connection with an issue of public interest and did not further the exercise of free speech rights.

On June 29, 2017, the Second District Court of Appeal affirmed the trial court's dismissal. Based on the legislative mandate that the anti-SLAPP statute be broadly construed, it held that "it is *irrelevant* that DoubleVerify made its reports confidentially to its subscribers." (*Id.* at 20 (emphasis added).) Relying on two defamation cases involving statements made "in closed meetings" or in "private[]" about an alleged child predator and a youth basketball coach, the court held that "the anti-SLAPP statute 'applies to private communications concerning issues of public interest.'" (*Id.* at 19-20 (quoting *Terry v. Davis Community Church* (2005) 131 Cal. App. 4th 1534; and discussing *Hecimovich v. Encinal School Parent Teacher Organization* (2012) 203 Cal. App. 4th 450.) Like the trial court, it went so far as to compare IQR Reports to movie ratings published by the MPAA, even though – unlike the MPAA's movie ratings – DoubleVerify's IQR Reports are kept confidential, and are not widely distributed. (*Id.* at 16.)

The appellate court reasoned that the public was interested generally in the presence of adult content online and "in the prevention of copyright infringement." (*Id.* at 20.) Based on this broad and amorphous public

interest and several press articles in *Fortune*, *Business Insider* and *Hollywood Reporter* that had commented on "FilmOn's legal entanglements" in copyright disputes, the court ruled that the IQR Reports constitute "a matter of public interest." (*Id.* at 15-16.) Additionally, the appellate court disagreed with the holding in *Wilbanks v. Wolk,* (2004) 121 Cal. App. 4th 883, that a "statement must in some manner itself contribute to the public debate" to be of "widespread public interest[.]" (*Id.* at 17.) Finally, the appellate court attempted to distinguish the First District Court of Appeal's decision in *OASIS.* (*Id.* at 15.)

ARGUMENT

A. The Anti-SLAPP Statute And Catch-All Provision.

The anti-SLAPP statute exists "to encourage continued participation in matters of public significance." (*Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal. 4th 53, 59–60 (quoting Code Civ. Proc. § 425.16, subd. (a), as added by Stats.1992, *60 ch. 726, § 2, p. 3523).) The Legislature enacted section 425.16 to prevent and deter 'lawsuits brought primarily to chill the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances.' (*Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal. 4th 260, 278.)

The genesis of the anti-SLAPP statute arose when the legislature noted a disturbing rise in wealthy, powerful, and politically well-connected business interests filing suits to shut down dissent by less powerful and wealthy citizens or public interest groups by burying them in legal fees. As the state Assembly noted in enacting the bill: "SLAPP suits . . . are, typically, brought by a well-heeled plaintiff against a less well-financed defendant for the purpose of intimidating and, ultimately, silencing the defendant . . . . The obvious intent of the SLAPP suit is to discourage the citizen from "speaking," including statements made by the citizen at, and in, public forums, such as city council hearings and 'letters-to-the-editors.'"