

The Sierra Club is the nation's largest environmental organization and is governed by a board of directors. Club Members for an Honest Election (CMHE) sued the Club, generally challenging the results of the Club's board of directors election.

In 2003, the Club's board of directors was divided between a majority supporting the leadership of its executive director and a minority faction seeking changes in the Club's direction.

The board held a special meeting to consider issues related to the upcoming election and took two actions that led to this litigation. The board approved a request to circulate in chapter newsletters an article asserting that, because of traditionally low member participation in its elections, the Club was vulnerable to take-over efforts by people with agendas differing from a majority of the Club's membership. The board also approved that an "urgent election notice" be attached to the front of election materials. The notice warned of outsiders trying to influence the election.

When the election was over, CMHE argued that the board acted improperly at its special meeting. It sought various forms of relief, including replacing certain board members with directors that CMHE favored.

The Club responded by filing a "special motion to strike" (also known as an "anti-SLAPP motion"). Special motions to strike are used *by defendants* early in a lawsuit to dismiss actions that generally are filed to stifle a defendant's First Amendment free speech rights. Ruling that voting by the board was a protected activity under the First Amendment, the trial court partially granted the Club's special motion to strike and ordered CMHE to pay the Club attorneys' fees and costs.

Both parties appealed. The legal issue in this case concerns attorneys' fees and costs. When a lawsuit is dismissed because of an anti-SLAPP motion, the party that sued can be ordered to pay the other side's attorneys' fees and costs. CMHE argues that the motion should not have been granted and they should not have to pay the Club's attorneys' fees and costs.