

February 25, 2016

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
United States House of Representatives

The Honorable John Conyers, Jr.  
Ranking Member, Committee on the Judiciary  
United States House of Representatives

The Honorable Trent Franks  
Chairman, Subcommittee on Constitution and Civil Justice  
United States House of Representatives

The Honorable Steve Cohen  
Ranking Member, Subcommittee on Constitution and Civil Justice  
United States House of Representatives

Dear Chairman Goodlatte, Ranking Member Conyers, Chairman Franks, and Ranking Member Cohen,

On behalf of the undersigned, we write to express our support for H.R. 2304, the SPEAK FREE Act, and urge you to advance this bill as quickly as possible.

On May 13, 2015, Representatives Blake Farenthold (R-TX) and Anna Eshoo (D-CA) introduced this bill in a bi-partisan effort aimed at supporting the rights of all Americans affected by meritless lawsuits designed to chill their rights of free speech and petition. The bill now has 30 additional co-sponsors, from both parties.

These SLAPP suits (Strategic Lawsuits Against Public Participation) are lawsuits designed to silence and harass people who exercise their rights to free speech and petition by forcing them to spend time and money to defend against meritless lawsuits brought by those who disagree with the message of their speech and petition activities. SLAPP filers don't go to court to seek justice. Rather, SLAPPs are intended to intimidate those who disagree with the SLAPP filer by draining the target's financial resources. SLAPPs are effective because even a meritless lawsuit can take years and many thousands of dollars to defend against. To end or prevent a SLAPP, those who speak out on issues of public interest frequently agree to muzzle themselves, apologize, or "correct" statements.

Every American, from consumers reviewing the services of a merchant online, to reporters revealing information that some would rather see kept quiet, to citizens speaking out against a development in their community, are potential targets of a SLAPP suit. The Internet age has encouraged and grown citizen participation in democracy through self-publishing, citizen journalism and other forms of speech online. Unfortunately, abuses of the legal system, aimed at silencing these citizens, have also grown.

While some states have combated this form of bullying by enacting anti-SLAPP laws, almost half of the states do not have legislation that protect against SLAPPs. Even where there are state laws, those laws vary in strength and breadth. This patchwork of state laws allows “forum shopping” by plaintiffs, who can file their SLAPPs in jurisdictions where anti-SLAPP protections are absent or weak. Plaintiffs can also avoid state anti-SLAPP laws by filing a federal claim in federal court. Federal anti-SLAPP legislation would close these loopholes and protect Americans in all states and at the federal level from SLAPPs.

Numerous events over the past few years highlight the need for more communication about important issues. Financial health, public safety, environmental well-being, national security, and government accountability all demand an active, engaged citizenry. Technology now makes it possible for everyone to don the hat of journalist, editor, town crier or anonymous pamphleteer. The SPEAK FREE Act is particularly timely. It protects and encourages critical open dialogue, whether that speech takes place in the town square, on a cable news network, or online on a blog or consumer review site.

While this is not the first time a bill like this has been introduced, it is the first time in history that it has been introduced with bi-partisan co-sponsors. We applaud all of the co-sponsors’ efforts and encourage you to support this important legislation as well.

Sincerely,

American Center for Democracy  
American Society of News Editors  
Association of Alternative Newsmedia  
Avvo  
California Anti-SLAPP Project  
Electronic Frontier Foundation  
Media Law Resource Center  
Newspaper Association of America  
Public Knowledge  
Public Participation Project  
Reporters Committee for Freedom of the Press



## Public Participation Project

- Fighting for Free Speech -

**FOR IMMEDIATE RELEASE:**

### **SPEAK FREE Act, Strengthening First Amendment Rights, Introduced With Bi-Partisan Co-Sponsors in the House**

On May 13, 2015, bi-partisan co-sponsors in the House introduced the SPEAK FREE Act of 2015, a law designed to protect Americans from meritless lawsuits that target their First Amendment rights. Representatives Blake Farenthold (R-TX) and Anna Eshoo (D-CA) introduced the bill in a bi-partisan effort aimed at supporting the rights of all Americans affected by meritless SLAPP suits.

Strategic Lawsuits Against Public Participation, or SLAPPs, are lawsuits used to silence and harass critics by forcing them to spend time and money to defend these meritless suits. SLAPP filers don't go to court to seek justice. Rather, SLAPPs are intended to intimidate those who disagree with the SLAPP filer by draining the target's financial resources. SLAPPs are effective because even a meritless lawsuit can take years and many thousands of dollars to defend. To end or prevent a SLAPP, those who speak out on issues of public interest frequently agree to muzzle themselves, apologize, or "correct" statements.

Every American, from consumers reviewing the services of a merchant online, to reporters revealing information that some would rather see kept quiet, to citizens speaking out against a development in their community, are potential targets of a SLAPP suit. The Internet age has encouraged and grown citizen participation in democracy through self-publishing, citizen journalism and other forms of speech online. Unfortunately, abuses of the legal system, aimed at silencing these citizens, have also grown. As PPP Board Member Eric Goldman, who is a professor at Santa Clara University School of Law and Co-Director of the High Tech Law Institute, points out:

Society benefits when consumers share their critical consumer reviews and social media complaints, but those negative comments often trigger strongly-worded legal threats. Anti-SLAPP laws tell consumers that they can ignore bullying tactics, which helps keep this socially important content from being scrubbed from the Internet.

While some states have combated this form of bullying by enacting anti-SLAPP laws, almost half of the states do not have legislation that protect against SLAPPs. Those laws on the books vary in strength and breadth. This patchwork of state laws allows "forum shopping" by plaintiffs, who can file their SLAPPs in jurisdictions where anti-SLAPP protections are absent or weak. Plaintiffs can also avoid state anti-SLAPP laws by filing a federal claim in federal court. Federal anti-SLAPP legislation would close these loopholes and protect Americans in all states and at the federal level from SLAPPs.

Numerous events over the past few years highlight the need for more communication about important issues. Financial health, public safety, environmental well-being, national security, and government accountability all demand an active, engaged citizenry. Technology now makes it possible for everyone to don the hat of journalist, editor, town crier or anonymous pamphleteer. The SPEAK FREE Act is particularly timely. It protects and encourages critical open dialogue, whether that speech takes place in the town square, on a cable news network, or online on a blog or consumer review site.

PPP founder and Board President Mark Goldowitz, who is also the Director of the California Anti-SLAPP Project, said, "This is a historic occasion. After more than six years of hard work, and with support from more than 100 organizations and businesses, for the first time a bi-partisan bill to enact federal anti-SLAPP legislation has been introduced in Congress. What a great day!"

PPP Board Vice President Jeremy Rosen, who is a partner at Horvitz & Levy, LLP, added:

As a lawyer who has represented dozens of parties on both sides of anti-SLAPP litigation in California, I have firsthand knowledge of the important role the anti-SLAPP statute plays in protecting the constitutional rights of free speech and petition in California. The protection of these First Amendment rights should not depend on what state a lawsuit is brought in. For this reason, a federal anti-SLAPP statute that uniformly protects such constitutional rights across the nation is long overdue.

PPP Board member Laura Prather, who is a partner at Haynes and Boone, LLP, and led the efforts to enact anti-SLAPP legislation in Texas, said:

Anti-SLAPP legislation is a bi-partisan issue that involves protecting those who lawfully speak from intimidation through the court system and creating a mechanism for early dismissal of vindictive lawsuits that have no merit. This is why Texas lawmakers unanimously passed anti-SLAPP legislation which was supported by trial lawyers, those in favor of tort reform, business groups and public interest groups alike. We are encouraged by Rep. Farenthold's and Rep. Eshoo's bi-partisan bill to provide anti-SLAPP legislation on a federal level and hope that it garners similar wide-spread support.

While this is not the first time a bill like this has been introduced, it is the first time in history that it has been introduced with bi-partisan co-sponsors. Chairman Darrell Issa (R-CA), Chairman Trent Franks (R-AZ), and Rep. Jared Polis (D-CO) are also original co-sponsors of the legislation. PPP applauds their efforts and is proud to support the SPEAK FREE Act of 2015.

*Evan Mascagni is the Policy Director of the Public Participation Project, an organization dedicated to enactment of strong federal and state legislative protections against SLAPPs. He can be reached at [emascagni@anti-slapp.org](mailto:emascagni@anti-slapp.org) and 804-723-0565.*

# Editorial U.S. needs an anti-SLAPP law like California's



HR 2304 by Rep. Blake Farenthold (R-Texas) would allow people sued in federal court or in states with little protection against SLAPPs to have a federal judge dismiss frivolous claims based on speech "made in connection with an official proceeding or about a matter of public concern." Above, Farenthold during a meet and greet in Coprus Christi, Texas on August 8, 2013. (Todd Yates / Associated Press)

AUGUST 16, 2015, 5:00 AM

**I**t's a sadly familiar sight in courthouses around the country: A deep-pocketed corporation, developer or government official files a lawsuit whose real purpose is to silence a critic, punish a whistleblower or win a commercial dispute. That's why California enacted a law in 1992 to give people a preemptive legal strike against frivolous lawsuits that seek to muzzle them on public issues. This sort of safeguard doesn't exist in almost two dozen other states or in federal law, unfortunately, but a group of tech-friendly lawmakers is trying to change that.

Although the lawsuits in question can assert many different types of claims, including defamation and unlawful interference, the legal profession knows them as "strategic lawsuits against public participation," or SLAPPs. Twenty-eight states have enacted anti-SLAPP laws that offer varying degrees of protection against such abuse, with California's widely considered the broadest. It works this way: When someone is hit with a lawsuit that feels like a SLAPP, he or she can quickly file a motion to strike. The court then puts the original lawsuit on hold

while determining whether the person was, in fact, being sued for exercising free-speech rights, petitioning the government or speaking in a public forum on "an issue of public interest." If so, the court will toss out the lawsuit unless the plaintiff can show that the claims are legitimate and likely to succeed at trial. To guard against abusive anti-SLAPP motions, the side that loses such a case has to pay the other side's legal fees.

California's law has survived numerous challenges over the years, prompting those with sketchy claims to take them to states with weaker laws or to file their cases in federal court. A good example is the City of Inglewood's legal action against a resident who published videos on YouTube blasting Mayor James T. Butts Jr. Rather than suing the resident, Joseph Teixeira, in state court, where the lawsuit would be subject to an anti-SLAPP motion, the city sued him in federal court for infringing the city's copyrights by copying snippets of the official videos taken of the City Council's public meetings.

Efforts to create a federal anti-SLAPP law started at least six years ago, but this year marks the first time that a sizable and bipartisan group is backing such a bill. One impetus is the growing number of SLAPPs aimed at Web-based businesses that provide a forum for the public to discuss, rate and criticize the world around them. The proposal — [HR 2304](#) by Rep. [Blake Farenthold](#) (R-Texas) — has at least two dozen cosponsors. Borrowing heavily from California's law and a similar statute in Texas, the bill would allow people sued in federal court or in states with little protection against SLAPPs to have a federal judge dismiss frivolous claims based on speech "made in connection with an official proceeding or about a matter of public concern." The bill, which would leave in place strong state laws such as California's, strikes a reasonable balance between the competing interests involved, and lawmakers should move it forward.

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**This article is related to:** Editorials, Opinion, Blake Farenthold

September 16, 2015

The Honorable Bob Goodlatte  
Chairman  
Committee on the Judiciary  
United States House of Representatives  
2309 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Trent Franks  
Chairman  
Subcommittee on Constitution and Civil Justice  
United States House of Representatives  
2435 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable John Conyers  
Ranking Member  
Committee on the Judiciary  
United States House of Representatives  
2426 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Steve Cohen  
Ranking Member  
Subcommittee on Constitution and Civil Justice  
United States House of Representatives  
2404 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Goodlatte, Chairman Franks, Ranking Member Conyers, and Ranking Member Cohen:

We are a group of law professors and scholars of the law from across the country (see Attachment A showing the locations of this letter's supporters). We write this letter to urge you to support and help advance the bipartisan SPEAK FREE Act of 2015 as quickly as possible to protect Americans from abusive lawsuits that suppress their free speech rights.

As professors, we routinely take public positions on controversial high-profile matters. As a result, we face legal threats—and, sometimes, meritless lawsuits—intended to keep us from contributing to the public discourse. *See, e.g.,* Welch v. University of San Diego, 2015 WL 1542078, 2015 Cal. App. Unpub. LEXIS 2299 (Cal. App. Ct. Apr. 2, 2015). The SPEAK FREE Act of 2015 will give us more freedom to do our work as academicians, researchers and public commentators on important legal and policy matters.

When those legal threats emerge, we as professors are comparatively fortunate; we often have the legal and financial resources of our institution to help defend our speech. Most Americans, however, lack such advantages when their speech is challenged. Technology has enabled anyone to become an online journalist, editor, town crier, or anonymous pamphleteer—especially via consumer review websites, where citizens help their peers find quality vendors and avoid shady ones. But when those speakers face legal challenges to exercising their free speech rights, they face a serious dilemma: they can stand by their speech and risk financially ruinous legal defense costs, or they can try to avoid litigation at any cost by shutting up, even when the demands are clearly retaliatory or improper attempts by a plaintiff to silence critics and intimidate other Internet users from speaking up.

Anti-SLAPP laws help Americans navigate this dilemma by ending abusive anti-speech lawsuits early and making overreaching plaintiffs pay the legal fees and costs for those lawsuits. In this way, anti-SLAPP laws provide a crucial counterweight to keep legal proceedings from silencing voices that we all need to hear.

Some states have already enacted anti-SLAPP laws, but almost half of the states have not, and the existing laws vary in strength and breadth. This patchwork of state laws allows “forum shopping” by plaintiffs, who can file abusive anti-speech lawsuits in jurisdictions where anti-SLAPP protections are absent or weak. Plaintiffs can also avoid state anti-SLAPP laws by filing a federal claim in federal court. By closing these loopholes, the SPEAK FREE Act of 2015 would protect the speech of all Americans in all courts.

For these reasons, now is the time for Congress to come together and enact this bipartisan bill. We encourage you to advance this bill as quickly as possible and to strongly support it to show Americans how much you value their free speech rights.

Thank you for your consideration,



Professor Eric Goldman  
Santa Clara University School of Law \*

On behalf of himself and the 58 supporters listed on the following table:

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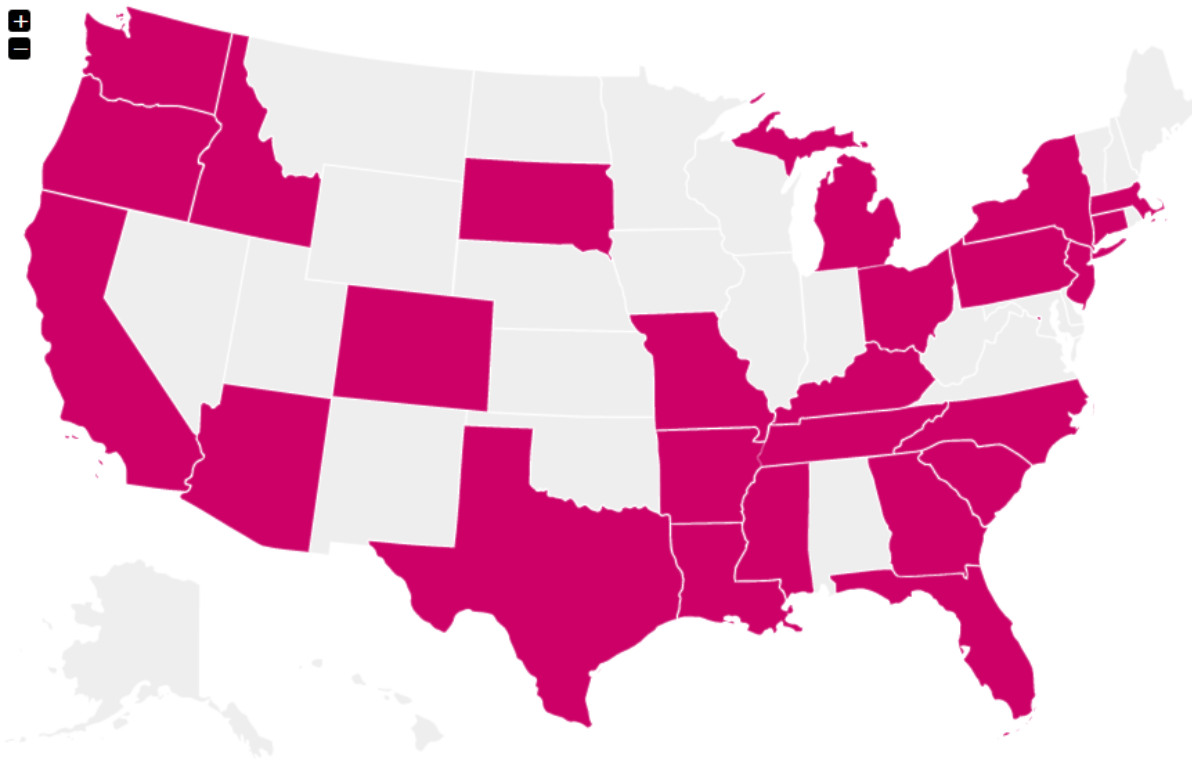
\* All affiliations are listed for identification purposes only



<b>Name</b>	<b>Affiliation (for identification purposes only)</b>
Donald K. Anton	University of Colorado School of Law (Distinguished Visiting Scholar)
David Ardia	University of North Carolina School of Law
Timothy K. Armstrong	University of Cincinnati College of Law
Hope Babcock	Georgetown University Law Center
Derek E. Bambauer	University of Arizona James E. Rogers College of Law
Jane Bambauer	University of Arizona James E. Rogers College of Law
Sandra S. Baron	Yale Law School's Information Society Project and Abrams Institute for Freedom of Expression (Senior Fellow)
Jeremy Bock	The University of Memphis Cecil C. Humphreys School of Law
John E. Bonine	University of Oregon School of Law
Michael C. Blumm	Lewis and Clark Law School
Annemarie Bridy	University of Idaho College of Law
John C. Brittain	David A. Clarke School of Law School, University of the District of Columbia
Brandon Butler	American University Washington College of Law (Practitioner-in-Residence)
Dr. Irene Calboli	Texas A&M University School of Law
Megan M. Carpenter	Texas A&M University School of Law
Michael A. Carrier	Rutgers Law School
Colleen Chien	Santa Clara University School of Law
Philip E. Cleary	University of Massachusetts School of Law
Juscelino F. Colares	Case Western Reserve University School of Law
Rebecca Curtin	Suffolk University School of Law
Frank Deale	CUNY Law School
Myanna Dellinger	University of South Dakota School of Law
Frances S. Fendler	University of Arkansas at Little Rock Bowen School of Law
A. Michael Froomkin	University of Miami School of Law
Brian L. Frye	University of Kentucky College of Law
Deborah Gerhardt	University of North Carolina School of Law
Dale D. Goble	University of Idaho College of Law
Leah Chan Grinvald	Suffolk University Law School
Hugh C. Hansen	Fordham University School of Law
Yaniv Heled	Georgia State University College of Law
Robert A. Heverly	Albany Law School
Oliver A. Houck	Tulane Law School
David Hricik	Mercer Law School
William S. Jordan, III	The University of Akron School of Law
Jessica M. Kiser	Gonzaga University School of Law
Mae Kuykendall	Michigan State University College of Law
Stacey M. Lantagne	The University of Mississippi School of Law
Mark A. Lemley	Stanford Law School
David S. Levine	Elon University School of Law
Lyrissa Lidsky	University of Florida Fredric G. Levin College of Law

Yvette Joy Liebesman	Saint Louis University School of Law
Ryke Longest	Nicholas School of the Environment, Duke School of Law
Brian J. Love	Santa Clara University School of Law
Daniel R. Mandelker	Washington University in Saint Louis School of Law
James Edward Maule	Villanova University School of Law
Stephen M. Maurer	Goldman School of Public Policy, University of California at Berkeley
Stephen McJohn	Suffolk University Law School
Joel A. Mintz	Nova Southeastern University College of Law
Ira Steven Nathenson	St. Thomas University School of Law
Lisa Ramsey	University of San Diego School of Law
Robert D. Richards	Pennsylvania Center for the First Amendment, Penn State University
Jorge R. Roig	Charleston School of Law
Pamela Samuelson	UC Berkeley School of Law
Jessica Silbey	Northeastern University School of Law
Joshua M. Silverstein	University of Arkansas at Little Rock, William H. Bowen School of Law
Robert N. Strassfeld	Case Western Reserve University School of Law
Catherine Tucker	MIT Sloan School of Management
Rebecca Tushnet	Georgetown University Law Center

**Attachment A**  
**Location of Letter Supporters**



June 15, 2015

The Honorable Bob Goodlatte  
Chairman  
Committee on the Judiciary  
United States House of Representatives  
2309 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable John Conyers  
Ranking Member  
Committee on the Judiciary  
United States House of Representatives  
2426 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Trent Franks  
Chairman  
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Justice  
United States House of Representatives  
2435 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Steve Cohen  
Ranking Member  
Subcommittee on Constitution and Civil  
Justice  
United States House of Representatives  
2404 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Goodlatte, Ranking Member Conyers, Chairman Franks, and Ranking Member Cohen:

Every year, many Americans are sued for speaking out on issues they feel are important to express. And these lawsuits don't discriminate - they include consumers expressing dissatisfaction through an online review site, individuals who are simply voicing their opinions about events taking place in their communities and even American journalists reporting on matters of public concern. These lawsuits are called Strategic Lawsuits Against Public Participation (SLAPPs) and they are used to censor and intimidate critics through legal action.

Different laws and rules separately govern the federal and state legal systems. Thus, a federal anti-SLAPP law would protect defendants sued in federal court. Importantly, it would also allow state court cases to be transferred to federal court so defendants can take advantage of the federal law's speech protections. This is critical for state court defendants in the 22 states that are currently unprotected by anti-SLAPP laws, and in states with weak anti-SLAPP laws that do not do enough to protect speech.

SLAPPs stifle public debate, threaten news reporting and diminish civic engagement – principles fundamental to our democracy. Every American is at risk for future litigation. That is why we are joining together to express our support for the SPEAK FREE Act of 2015 (H.R. 2304). This bipartisan legislation, introduced by Rep. Blake Farenthold and Rep. Anna Eshoo, strengthens First Amendment protections while bolstering the information economy that thrives on open public discourse and civic participation.

The SPEAK FREE Act will allow federal courts to determine whether a lawsuit targeting speech is a SLAPP and dismiss any bogus claims unless the plaintiff can show that the suit would

succeed on the merits. It also includes important fee-shifting provisions that protect defendants who prevail on an anti-SLAPP motion from having to pay the staggering legal fees, fees that have bankrupted countless defendants who were forced to defend themselves against meritless lawsuits. The legislation was carefully drafted to respect and maintain the difficult balance of protecting citizens' free speech while avoiding overly punitive measures so as not to deter the filing of valid lawsuits and ensure every deserving party gets their day in court.

The SPEAK FREE Act would be a nationwide backstop to stop SLAPPs from stifling free speech. We encourage you to advance this bipartisan legislation as swiftly as possible.

Respectfully,



Computer & Communications Industry Association  
Tech Advocacy Since 1972



Internet Association



ONLINE NEWS ASSOCIATION



Media Law Resource Center  
520 8th Avenue, North Tower – 20th Floor  
New York, NY 10018 (212) 337-0200

Written Testimony of George Freeman, Executive Director, Media Law Resource Center  
IN SUPPORT OF H.R. 2304, THE SPEAK FREE ACT  
Before the House of Representatives Judiciary Committee  
Subcommittee on the Constitution and Civil Justice  
June 22, 2016

Mr. Chairman Franks, Ranking Member Cohen, and Distinguished Members of the Subcommittee,

I thank you for the privilege to present written testimony on behalf of the Media Law Resource Center (MLRC) in support of H.R. 2304, the SPEAK FREE Act. I am writing as the Executive Director of the MLRC.

Founded in 1980 as the “Libel Defense Resource Center,” the MLRC is the leading trade organization for media organizations and media law firms in the United States. Our membership of more than 120 media companies and 200 law firms represents the entire range of media, from the United States’ largest publishers, broadcasting networks, and digital platforms to local newspapers and radio stations, and from the nation’s most prominent and experienced media law firms to solo practitioners. The MLRC’s current member list is attached hereto. We are a member-funded Section 501(c)(6) non-profit organization, and have received no government grants or contracts in the current or previous two fiscal years.

The primary function of the MLRC is to support the work of our members in advancing First Amendment and media rights. We carry out that function by analyzing emergent or recurring legal issues that impact freedom of expression, providing professional resources and educational events for our members and the public, and coordinating legislative and judicial efforts by our members. In particular, we have focused on the issue of strategic lawsuits against public participation (SLAPPs), the subject of the bill now before the Subcommittee.

SLAPP lawsuits represent a direct perversion of our system of justice in order to deprive citizens of their First Amendment rights, with regard to both sharing and receiving informational and cultural content. These lawsuits are most appalling when they are filed by large corporations

to silence individuals, as in the paradigmatic example of a real estate developer suing a homeowner who raises objections before a zoning board. However, there is perhaps a greater danger when SLAPP lawsuits are directed at a media outlet, because such a suit has the potential to chill the dissemination of such kinds of information to the public at large.

Indeed, the litigation costs involved in defending against SLAPPs can be prohibitive not only for individuals but for media organizations of all sizes, which must weigh the expenditure of defense costs against the substantial costs of developing, producing and distributing new content. Further complicating the issue, there is no single form of SLAPP suit and no single context in which these cases are brought; a SLAPP suit could as easily be a meritless trademark lawsuit by a disgruntled manufacturer against a product reviewer as it is a developer's censorious defamation claim against a homeowner.

Due to the persistence and prevalence of this form of abuse of the courts, the MLRC and our various members have become deeply involved in the promulgation, expansion, and understanding of anti-SLAPP laws in the various states over the last twenty years. As a result, the MLRC has a thorough understanding of both the successes and limitations of current anti-SLAPP legislation at the state level. While potent anti-SLAPP laws such as those in California,<sup>1</sup> Texas<sup>2</sup> and Nevada<sup>3</sup> have provided a quick exit from censorious and meritless lawsuits for many defendants (and conserved substantial judicial resources in those states' courts), state legislation is not a complete solution for three principal reasons.

First, twenty-two states (including Iowa and Ohio) and all U.S. territories except Guam currently have no statutory protection against SLAPP lawsuits.<sup>4</sup> Meanwhile, of the twenty-eight states and two additional U.S. jurisdictions<sup>5</sup> that have anti-SLAPP laws, ten (notably including

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<sup>1</sup> Cal. Civ. Proc. Code 425.16 (2010).

<sup>2</sup> Texas Citizens Participation Act, H.B. No. 2973 (2011).

<sup>3</sup> Nev. Rev. Stat. 41.650 (2010).

<sup>4</sup> Colorado has no statute on point but its citizens enjoy a limited form of judicially created protection against SLAPP suits to penalize petitioning activity, *see Protect Our Mountain Environment, Inc. v. Dist. Ct.*, 677 P.2d 1361 (Colo. 1984).

<sup>5</sup> The additional jurisdictions are the District of Columbia, *see D.C. Law 18-0351* (2011), and Guam, *see Guam Code Ann. tit. 7 §§ 17101-17109* (1998).

Arizona,<sup>6</sup> Tennessee,<sup>7</sup> and New York<sup>8</sup>) are substantially limited in their scope and provide limited (if any) protection for journalists and media outlets. Outside of narrowly defined circumstances, media organizations and citizens speaking on issues of public concern in these states have no anti-SLAPP protection, and can be targeted with SLAPP lawsuits with relative impunity.

Second, even in states with robust anti-SLAPP laws, plaintiffs can sometimes evade those laws by filing state law SLAPP claims in federal court under diversity jurisdiction. There is a split between the federal circuits on whether state anti-SLAPP laws apply to state law claims in federal diversity cases, with the U.S. Courts of Appeals for the First,<sup>9</sup> Fifth,<sup>10</sup> and Ninth<sup>11</sup> Circuits holding that such laws do apply to state claims, while the U.S. Court of Appeals for the D.C. Circuit<sup>12</sup> has reached the opposite result. The U.S. Supreme Court declined to address the circuit split earlier this year when it denied certiorari in a case from the Ninth Circuit, leaving the issue in substantial doubt.<sup>13</sup>

Finally, state anti-SLAPP laws generally do not apply to federal claims filed in federal court. Thus, meritless cases nominally filed under federal statutes such as the Lanham Act's false advertising provisions<sup>14</sup> are not subject to current anti-SLAPP laws. Even in those federal circuits that do apply state anti-SLAPP laws to state claims in diversity, federal law claims might nevertheless proceed with chilling effect.

It is critical to note that while federal laws, just like state laws, have substantive limitations that might allow a defendant to obtain pre-trial dismissal of these claims, this only deals with the result of the case and not the procedural cost to get there. Nothing prevents SLAPP claims from being filed, and the point of a SLAPP suit is not to win. Rather, it is to force

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<sup>6</sup> Ariz. Rev. Stat. Ann. 12-751 (2011).

<sup>7</sup> Tenn. Code Ann. 4-21-1003 (2011).

<sup>8</sup> N.Y. Civ. Rights Law 70-a (McKinney 2011).

<sup>9</sup> *Godin v. Schenks*, 629 F.3d 79 (1st. Cir. 2010).

<sup>10</sup> *Henry v. Lake Charles Am. Press, L.L.C.*, 566 F.3d 164 (5th Cir. 2009).

<sup>11</sup> *U.S. ex rel. Newsham v. Lockheed Missiles & Space Co.*, 190 F.3d 963 (9th Cir. 1999).

<sup>12</sup> *Abbas v. Foreign Policy Grp., LLC*, 783 F.3d 1328 (D.C. Cir. 2015).

<sup>13</sup> *Mebo Int'l, Inc. v. Yamanaka*, No. 14-15359, 607 Fed. Appx. 768 (9th Cir. July 20, 2015), *cert. den.*, 577 U.S. \_\_\_\_ (Mar. 21, 2016).

<sup>14</sup> 15 U.S.C. §§ 1125(a).



a speaker or publisher to expend significant financial resources to defend itself in court, or better (from the SLAPP plaintiff's perspective) to force a settlement in which the defendant agrees to withdraw its statement and shut up. Therefore, if would-be SLAPP plaintiffs can accomplish their goals by filing a federal claim, they will. For that reason, the federal gap in state anti-SLAPP law coverage will push SLAPP cases into federal court until corrective measures are taken.

The MLRC strongly supports the enactment of a federal anti-SLAPP law that would close the holes in anti-SLAPP protection nationwide, and urges the committee to support H.R. 2304. It has been our privilege to facilitate discussions among media stakeholders regarding the scope of the SPEAK FREE Act and its balance between addressing the problem of SLAPP suits and avoiding an undue burden on legitimate claims (including those that might be asserted by media organizations), and we are committed to serving that function moving forward. We are available to respond to any questions the Committee might have.

<b>Company</b>	<b>Website</b>
21st Century Fox, Inc.	<a href="http://www.21cf.com">www.21cf.com</a>
A & E Television Networks	<a href="http://www.aetv.com">www.aetv.com</a>
Aaron & Sanders, PLLC	<a href="http://www.aaronsanderslaw.com">www.aaronsanderslaw.com</a>
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Amazon	<a href="http://www.amazon.com">www.amazon.com</a>
American Media, Inc.	<a href="http://www.americanmediainc.com">www.americanmediainc.com</a>
American Public Media Group	<a href="http://www.americanpublicmedia.org">www.americanpublicmedia.org</a>
AOL Inc.	<a href="http://www.aol.com">www.aol.com</a>
Aon Risk Services	<a href="http://www.aon.com">www.aon.com</a>
Archer & Greiner, P.C.	<a href="http://www.archerlaw.com">www.archerlaw.com</a>
ARTstor	<a href="http://www.artstor.org">www.artstor.org</a>
Associated Newspapers Ltd	<a href="http://www.associatednewspapers.com">www.associatednewspapers.com</a>
The Associated Press	
Association of American Publishers	<a href="http://www.publishers.org">www.publishers.org</a>
Atlantic Media	<a href="http://www.atlanticmedia.com">www.atlanticmedia.com</a>
The Authors Guild, Inc.	<a href="http://www.authorsguild.org">www.authorsguild.org</a>
AXIS PRO	<a href="http://www.axisproinsurance.com">www.axisproinsurance.com</a>
Baker & Hostetler LLP	<a href="http://www.bakerlaw.com">www.bakerlaw.com</a>
Baker & McKenzie LLP	<a href="http://www.bakermckenzie.com">www.bakermckenzie.com</a>
Ballard Spahr LLP	<a href="http://www.ballardspahr.com">www.ballardspahr.com</a>
Banki Haddock Fiora	<a href="http://www.bhf.com.au">www.bhf.com.au</a>
Barclay Damon, LLP	<a href="http://www.barclaydamon.com">www.barclaydamon.com</a>
Barnes & Thornburg LLP	<a href="http://www.btlaw.com">www.btlaw.com</a>
Bartolome & Briones	<a href="http://www.bartolomebriones.com">www.bartolomebriones.com</a>
Bauer Publishing Group	<a href="http://www.bauer-usa.com">www.bauer-usa.com</a>
Bernardi, Ronayne & Glusac, P.C.	<a href="http://www.brgpclaw.com">www.brgpclaw.com</a>
Bersenas Jacobsen Chouest Thomson Blackburn LLP	<a href="http://www.lexcanada.com">www.lexcanada.com</a>
BH Media Group, Inc.	<a href="http://www.omaha.com">www.omaha.com</a>
Bingham Greenebaum Doll LLP	<a href="http://www.bgdlegal.com">www.bgdlegal.com</a>

<b>Company</b>	<b>Website</b>
Blake, Cassels & Graydon LLP	<a href="http://www.blakes.com">www.blakes.com</a>
Blish & Cavanagh, LLP	<a href="http://www.blishcavlaw.com">www.blishcavlaw.com</a>
Bloomberg L.P.	<a href="http://www.bloomberg.com">www.bloomberg.com</a>
Bond, Schoeneck & King, PLLC	<a href="http://www.bsk.com">www.bsk.com</a>
Bonneville International Corporation	<a href="http://www.bonneville.com">www.bonneville.com</a>
Borden Ladner Gervais LLP	<a href="http://www.blg.com">www.blg.com</a>
Bose McKinney & Evans LLP	<a href="http://www.boselaw.com">www.boselaw.com</a>
Boston Globe Media Partners, LLC	<a href="http://www.bostonglobe.com">www.bostonglobe.com</a>
Bostwick Law	<a href="http://www.bl1law.com">www.bl1law.com</a>
Bradley Arant Boult Cummings LLP	<a href="http://www.babc.com">www.babc.com</a>
Brand Activation Association, Inc.	<a href="http://www.baalink.org">www.baalink.org</a>
Brian MacLeod Rogers, Barrister & Solicitor	
Bristows LLP	
Broadcasting Board of Governors/Voice of America	<a href="http://www.bbg.gov">www.bbg.gov</a>
Broadway Video Entertainment	<a href="http://www.broadwayvideo.com">www.broadwayvideo.com</a>
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP	<a href="http://www.brookspierce.com">www.brookspierce.com</a>
Brown Rudnick LLP	<a href="http://www.brownrudnick.com">www.brownrudnick.com</a>
Bryan Cave LLP	<a href="http://www.bryancave.com">www.bryancave.com</a>
Burch Porter & Johnson, PLLC	<a href="http://www.bpjlaw.com">www.bpjlaw.com</a>
The Bussian Law Firm PLLC	<a href="http://www.bussianlaw.com">www.bussianlaw.com</a>
Butler Snow LLP	<a href="http://www.butlersnow.com">www.butlersnow.com</a>
Butzel Long	<a href="http://www.butzel.com">www.butzel.com</a>
BuzzFeed	<a href="http://www.buzzfeed.com">www.buzzfeed.com</a>
Byelas & Neigher	<a href="http://www.byelasandneigher.com/">http://www.byelasandneigher.com/</a>
Cades Schutte LLP	<a href="http://www.cades.com">www.cades.com</a>
Cahill Gordon & Reindel LLP	<a href="http://www.cahill.com">www.cahill.com</a>
California Newspaper Publishers Association	<a href="http://www.cnpa.com">www.cnpa.com</a>
Cameron A. Stracher, Esq.	
Campbell & Williams	<a href="http://www.campbellandwilliams.com">www.campbellandwilliams.com</a>
Capitol Broadcasting Company, Inc.	<a href="http://www.cbc-raleigh.com">www.cbc-raleigh.com</a>
Carlton Fields Jordan Burt	<a href="http://www.cfjblaw.com">www.cfjblaw.com</a>
Carson McDowell LLP	<a href="http://www.carson-mcdowell.com/">http://www.carson-mcdowell.com/</a>
CBS Broadcasting Inc.	<a href="http://www.cbs.com">www.cbs.com</a>
CBS Corporation	<a href="http://www.cbscorporation.com">www.cbscorporation.com</a>
CBS Interactive Inc.	<a href="http://www.cbsinteractive.com">www.cbsinteractive.com</a>

Company	Website
CBS Radio, Inc.	<a href="http://www.cbsradio.com">www.cbsradio.com</a>
Charles A. Brown, Attorney At Law	<a href="http://www.charlesabrownesq.com">www.charlesabrownesq.com</a>
Charles Glasser LLC	
Chatillon Weiss PLLC	<a href="http://www.chatillonlaw.com">www.chatillonlaw.com</a>
Christian & Barton, LLP	<a href="http://www.cblaw.com">www.cblaw.com</a>
Chubb Specialty Insurance	<a href="http://www.chubb.com">www.chubb.com</a>
CNA Insurance	<a href="http://www.cna.com">www.cna.com</a>
Connecticut Broadcasters Association	<a href="http://www.ctba.org">www.ctba.org</a>
Consumers Union of U.S., Inc.	<a href="http://www.consumer.org">www.consumer.org</a>
Cooley LLP	<a href="http://www.cooley.com">www.cooley.com</a>
Courthouse News Service	<a href="http://www.courthousenews.com">www.courthousenews.com</a>
Covington & Burling LLP	<a href="http://www.cov.com">www.cov.com</a>
Cowan, DeBaets, Abrahams & Sheppard LLP	<a href="http://www.cdas.com">www.cdas.com</a>
Cox Enterprises, Inc.	<a href="http://www.coxenterprises.com">www.coxenterprises.com</a>
Crain Communications Inc.	<a href="http://www.crain.com">www.crain.com</a>
Cravath, Swaine & Moore LLP	<a href="http://www.cravath.com">www.cravath.com</a>
The Daily Beast Company	<a href="http://www.thedailybeast.com">www.thedailybeast.com</a>
Daily News, L.P.	<a href="http://www.nydailynews.com">www.nydailynews.com</a>
Damm & Mann	<a href="http://damm-mann.de/en/">http://damm-mann.de/en/</a>
David J. Weinert	
David M. Snyder, P.A.	<a href="http://www.dms-law.com">www.dms-law.com</a>
David Price Solicitors & Advocates	<a href="http://www.dpsa.uk">www.dpsa.uk</a>
Davis Law, PLLC	<a href="http://davis-lawfirm.com">davis-lawfirm.com</a>
Davis Wright Tremaine LLP	<a href="http://www.dwt.com">www.dwt.com</a>
Debevoise & Plimpton LLP	<a href="http://www.debevoise.com">www.debevoise.com</a>
Denise B. Leary	
Dentons US LLP	<a href="http://www.dentons.com">www.dentons.com</a>
Dinsmore & Shohl LLP	<a href="http://www.dinsmore.com">www.dinsmore.com</a>
Discovery Communications, LLC	<a href="http://www.discovery.com">www.discovery.com</a>
DLA Piper US LLP	<a href="http://www.dlapiper.com">www.dlapiper.com</a>
Doerner, Saunders, Daniel & Anderson	<a href="http://www.dsda.com">www.dsda.com</a>
Donald M. Craven, P.C.	<a href="http://www.cravenlawoffice.com">www.cravenlawoffice.com</a>
Donaldson & Callif, LLP	<a href="http://www.donaldsoncallif.com">www.donaldsoncallif.com</a>
Dorsey & Whitney LLP	<a href="http://www.dorsey.com">www.dorsey.com</a>
Doughty Street Chambers	<a href="http://www.doughtystreet.co.uk">www.doughtystreet.co.uk</a>
Dow Jones & Company	<a href="http://www.dowjones.com">www.dowjones.com</a>

Company	Website
Duane Morris LLP	<a href="http://www.duanemorris.com/">http://www.duanemorris.com/</a>
The E. W. Scripps Company	<a href="http://www.scripps.com">www.scripps.com</a>
Ellen Goodman, Esq.	
Epstein Becker & Green, P.C.	<a href="http://www.ebglaw.com">www.ebglaw.com</a>
ESPN, Inc.	<a href="http://www.espn.com">www.espn.com</a>
Essex Richards, P.A.	<a href="http://www.essexrichards.com/">http://www.essexrichards.com/</a>
Evans Law Group, P.C.	
Faegre Baker Daniels LLP	<a href="http://www.faegrebd.com">www.faegrebd.com</a>
Fairfax Media Limited	<a href="http://www.fxj.com.au">www.fxj.com.au</a>
Faruki Ireland & Cox P.L.L.	<a href="http://www.ficlaw.com">www.ficlaw.com</a>
Fasken Martineau DuMoulin LLP	<a href="http://www.fasken.com">www.fasken.com</a>
Fenno Law Firm, LLC	<a href="http://www.fennolaw.com">www.fennolaw.com</a>
Fenwick & West LLP	<a href="http://www.fenwick.com">www.fenwick.com</a>
The Financial Times Limited	<a href="http://www.ft.com">www.ft.com</a>
The First Amendment Center	<a href="http://www.firstamendmentcenter.org">www.firstamendmentcenter.org</a>
First Amendment Coalition	<a href="http://www.firstamendmentcoalition.org">www.firstamendmentcoalition.org</a>
First Look Media, Inc.	<a href="http://www.firstlook.org">www.firstlook.org</a>
Fish & Richardson P.C.	<a href="http://www.fr.com">www.fr.com</a>
Fishman Haygood, L.L.P.	<a href="http://www.fishmanhaygood.com">www.fishmanhaygood.com</a>
Foley & Lardner LLP	<a href="http://www.foley.com">www.foley.com</a>
Forbes Media LLC	<a href="http://www.forbes.com">www.forbes.com</a>
Fox Networks Group	
Fox News Network, LLC	<a href="http://www.foxnews.com">www.foxnews.com</a>
Fox Rothschild LLP	<a href="http://www.foxrothschild.com">www.foxrothschild.com</a>
Fox Television Stations, Inc.	<a href="http://www.fox.com">www.fox.com</a>
Frankfurt Kurnit Klein & Selz, P.C.	<a href="http://www.fkks.com">www.fkks.com</a>
Frost Brown Todd LLC	<a href="http://www.frostbrowntodd.com">www.frostbrowntodd.com</a>
Funkhouser Vegosen Liebman & Dunn Ltd.	<a href="http://www.fvldlaw.com">www.fvldlaw.com</a>
Gannett Company, Inc.	<a href="http://www.gannett.com">www.gannett.com</a>
Garvey Schubert Barer	<a href="http://www.gsblaw.com">www.gsblaw.com</a>
Gawker Media, LLC	<a href="http://www.gawker.com">www.gawker.com</a>
George Brothers Kincaid & Horton, L.L.P.	<a href="http://www.gbkh.com">www.gbkh.com</a>
Getty Images	<a href="http://www.gettyimages.com">www.gettyimages.com</a>
Gibson, Dunn & Crutcher LLP	<a href="http://www.gibsondunn.com">www.gibsondunn.com</a>
Giordano, Halleran & Ciesla, PC	<a href="http://www.ghclaw.com">www.ghclaw.com</a>
Global Witness	<a href="http://www.globalwitness.org">www.globalwitness.org</a>

<b>Company</b>	<b>Website</b>
The Globe and Mail, Inc.	<a href="http://www.globeandmail.com">www.globeandmail.com</a>
Globosat Comercialização De Conteúdos S.A.	<a href="http://canaisglobosat.globo.com/index.php/about">http://canaisglobosat.globo.com/index.php/about</a>
Godfrey & Kahn, S.C.	<a href="http://www.gklaw.com">www.gklaw.com</a>
Google Inc.	<a href="http://www.google.com">www.google.com</a>
Gowling WLG (Canada) LLP	<a href="http://www.gowlings.com">www.gowlings.com</a>
GRAEF Rechtsanwälte	<a href="http://www.graef.eu">www.graef.eu</a>
Graham Holdings Company	<a href="http://www.ghco.com">www.ghco.com</a>
Gravel & Shea	<a href="http://www.gravelshea.com">www.gravelshea.com</a>
Graves, Dougherty, Hearon & Moody, P.C.	<a href="http://www.gdhm.com">www.gdhm.com</a>
Graydon Head	<a href="http://www.graydon.com">www.graydon.com</a>
Greenberg Traurig	<a href="http://www.gtlaw.com">www.gtlaw.com</a>
Greenpeace International	<a href="http://www.greenpeace.org">www.greenpeace.org</a>
Guardian News & Media Ltd	<a href="http://www.guardian.co.uk">www.guardian.co.uk</a>
Hachette Book Group	<a href="http://www.hachettebookgroupusa.com">www.hachettebookgroupusa.com</a>
Hall, Estill, Hardwick, Gable, Golden & Nelson	<a href="http://www.hallestill.com">www.hallestill.com</a>
Haynes and Boone LLP	<a href="http://www.haynesboone.com">www.haynesboone.com</a>
The Hearst Corporation	<a href="http://www.hearstcorp.com">www.hearstcorp.com</a>
Henry R. Kaufman, P.C.	<a href="http://www.hrkaufman.com">www.hrkaufman.com</a>
Herzfeld & Rubín, P.C.	<a href="http://www.herzfeld-rubin.com">www.herzfeld-rubin.com</a>
Hinckley, Allen & Snyder LLP	<a href="http://www.hinckleyallen.com/">http://www.hinckleyallen.com/</a>
Hiscox Media	<a href="http://www.hiscox.com">www.hiscox.com</a>
Hogan Lovells US LLP	<a href="http://www.hoganlovells.com">www.hoganlovells.com</a>
Holland & Knight LLP	<a href="http://www.hklaw.com">www.hklaw.com</a>
Home Box Office, Inc.	<a href="http://www.hbo.com">www.hbo.com</a>
Honigman Miller Schwartz and Cohn LLP	<a href="http://www.honigman.com">www.honigman.com</a>
Howard Kennedy LLP	<a href="http://www.howardkennedyfsi.com">www.howardkennedyfsi.com</a>
Hubbard Broadcasting, Inc.	
Hunton & Williams	<a href="http://www.hunton.com">www.hunton.com</a>
International Media Lawyers Project - Law Firms	
International Media Lawyers Project - Media Entities	
Jackson Kelly PLLC	<a href="http://www.jacksonkelly.com">www.jacksonkelly.com</a>
Jackson Walker LLP	<a href="http://www.jw.com">www.jw.com</a>
Jassy Vick Carolan LLP	<a href="http://www.jassyvick.com">www.jassyvick.com</a>
Jenner & Block LLP	<a href="http://www.jenner.com">www.jenner.com</a>

Company	Website
John A. Lindburg	
John Wiley & Sons, Inc.	<a href="http://www.wiley.com">www.wiley.com</a>
Jones Day	<a href="http://www.jonesday.com">www.jonesday.com</a>
Joshua Koltun, Attorney	<a href="http://www.koltunattorney.com">www.koltunattorney.com</a>
K & L Gates LLP	<a href="http://www.klgates.com">www.klgates.com</a>
Karen Williams Kammer, PA	
Katten Muchin Rosenman LLP	<a href="http://www.kattenlaw.com">www.kattenlaw.com</a>
Kelley Drye / White O'Connor	<a href="http://www.kelleydrye.com">www.kelleydrye.com</a>
Kennedy Van der Laan	<a href="http://www.kvdl.nl">www.kvdl.nl</a>
Kilpatrick Townsend & Stockton LLP	<a href="http://www.kilpatricktownsend.com">www.kilpatricktownsend.com</a>
King & Ballow	<a href="http://www.kingballow.com">www.kingballow.com</a>
Knight Chair in Investigative Reporting	<a href="http://www.investigativenewsnetwork.org">www.investigativenewsnetwork.org</a>
Koley Jessen P.C., L.L.O.	<a href="http://www.koleyjessen.com">www.koleyjessen.com</a>
Lathrop & Gage LLP	<a href="http://www.lathropgage.com">www.lathropgage.com</a>
Laury M. Frieber, Esq.	
The Law Office of Karlene Goller PC	
Law Offices of D. John McKay	
Law Offices of Jennifer A. Klear	<a href="http://www.klearlawfirm.com">www.klearlawfirm.com</a>
Law Offices of Judith B. Bass	<a href="http://www.jbbasslaw.com">www.jbbasslaw.com</a>
Law Offices of Kathleen Conkey	<a href="http://www.conkeylaw.com">www.conkeylaw.com</a>
Law Offices of Stephen J. Burns	<a href="http://www.sjburnslaw.com">www.sjburnslaw.com</a>
LeClairRyan	<a href="http://www.leclairryan.com">www.leclairryan.com</a>
Leopold, Petrich & Smith PC	<a href="http://www.lpsla.com">www.lpsla.com</a>
Levine Sullivan Koch & Schulz, L.L.P.	<a href="http://www.lskslaw.com">www.lskslaw.com</a>
Lewis Rice LLC	<a href="http://www.lewisrice.com">www.lewisrice.com</a>
Lightfoot Franklin & White, LLC	<a href="http://www.lfwlaw.com">www.lfwlaw.com</a>
Loeb & Loeb LLP	<a href="http://www.loeb.com">http://www.loeb.com</a>
Lowe, Stein, Hoffman, Allweiss & Hauver L.L.P.	<a href="http://www.lowestein.com">www.lowestein.com</a>
Macmillan	<a href="http://us.macmillan.com/SMP.aspx">http://us.macmillan.com/SMP.aspx</a>
Mandell Menkes LLC	<a href="http://www.mandellmenkes.com">www.mandellmenkes.com</a>
The Maneke Law Group, L.C.	<a href="http://www.manekelaw.com">www.manekelaw.com</a>
Marsh, Inc.	<a href="http://www.marsh.com">www.marsh.com</a>
Matrix Chambers	
Mayer Brown LLP	<a href="http://www.mayerbrown.com">www.mayerbrown.com</a>
The McClatchy Company	<a href="http://www.mcclatchy.com">www.mcclatchy.com</a>
McCusker Anselmi Rosen & Carvelli, PC	<a href="http://www.marc-law.com">www.marc-law.com</a>

Company	Website
McGuireWoods LLP	<a href="http://www.mcguirewoods.com">www.mcguirewoods.com</a>
Media General, Inc.	<a href="http://www.mediageneral.com">www.mediageneral.com</a>
Media Insurance Brokers Limited	<a href="http://www.mediainsurance.com">www.mediainsurance.com</a>
Media Law Resource Center, Inc.	<a href="http://www.medialaw.org">www.medialaw.org</a>
Media Legal Defence Initiative	<a href="http://www.mediadefence.org">www.mediadefence.org</a>
Media Risk Consultants LLC	<a href="http://www.mediariskconsultants.com">www.mediariskconsultants.com</a>
Melkonian & Co.	
Meredith Corporation	<a href="http://www.meredith.com">www.meredith.com</a>
Michael R. Scherr Law Corporation	
Microsoft Corporation	<a href="http://www.microsoft.com/en-us/">http://www.microsoft.com/en-us/</a>
Miller Korzenik Sommers Rayman LLP	<a href="http://www.mkslex.com">www.mkslex.com</a>
Minter Ellison	<a href="http://www.minterellison.com">www.minterellison.com</a>
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.	<a href="http://www.mintz.com">www.mintz.com</a>
Montgomery McCracken Walker & Rhoads LLP	<a href="http://www.mmwr.com">www.mmwr.com</a>
Morgan Lewis	<a href="http://www.morganlewis.com">www.morganlewis.com</a>
Motion Picture Association of America, Inc.	<a href="http://www.mpa.org">www.mpa.org</a>
MPA - The Association of Magazine Media	<a href="http://www.magazine.org">www.magazine.org</a>
Munger, Tolles & Olson LLP	<a href="http://www.mto.com">www.mto.com</a>
Mutual Insurance Company, Limited	<a href="http://www.mutualinsurance.bm">www.mutualinsurance.bm</a>
National Association of Broadcasters	<a href="http://www.nab.org">www.nab.org</a>
National Geographic Society	
National Press Photographers Association	<a href="http://www.nppa.org">www.nppa.org</a>
NBCUniversal	<a href="http://www.nbcuni.com">www.nbcuni.com</a>
Neal, Gerber & Eisenberg LLP	<a href="http://www.ngelaw.com">www.ngelaw.com</a>
Nesbitt, Vassar & McCown, L.L.P.	<a href="http://www.nvmlaw.com">www.nvmlaw.com</a>
Netflix, Inc.	
New York Public Radio	<a href="http://www.wnyc.org">www.wnyc.org</a>
The New York Times Company	
The New Yorker Magazine	
News Corporation	<a href="http://www.newscorp.com">www.newscorp.com</a>
News UK	<a href="http://www.news.co.uk">www.news.co.uk</a>
Newsday LLC/News 12 Networks LLC	<a href="http://www.cablevision.com">www.cablevision.com</a>
Newspaper Association of America	<a href="http://www.naa.org">www.naa.org</a>
Nixon Peabody LLP	<a href="http://www.nixonpeabody.com">www.nixonpeabody.com</a>
North Jersey Media Group Inc.	<a href="http://www.northjersey.com">www.northjersey.com</a>



<b>Company</b>	<b>Website</b>
Norwick, Schad & Goering	<a href="http://www.norwickschad.com">www.norwickschad.com</a>
NPR	
NSN Law Firm	<a href="http://www.nsn-law.com">www.nsn-law.com</a>
Orr & Reno, P.A.	<a href="http://www.orr-reno.com">www.orr-reno.com</a>
Oxford University Press Inc.	<a href="http://www.oup.com/us/">www.oup.com/us/</a>
Parr Brown Gee & Loveless	<a href="http://www.parrbrown.com">www.parrbrown.com</a>
Parsons Behle & Latimer	<a href="http://www.parsonsbehlelaw.com">www.parsonsbehlelaw.com</a>
Patterson Belknap Webb & Tyler LLP	<a href="http://www.pbwt.com">www.pbwt.com</a>
Paul, Hastings, Janofsky & Walker LLP	<a href="http://www.paulhastings.com">www.paulhastings.com</a>
Peifer, Hanson & Mullins, P.A.	<a href="http://www.peiferlaw.com">www.peiferlaw.com</a>
Penguin Random House LLC	<a href="http://global.penguinrandomhouse.com/">http://global.penguinrandomhouse.com/</a>
Pennsylvania NewsMedia Association	<a href="http://www.panewsmedia.org">www.panewsmedia.org</a>
Pepper Hamilton LLP	<a href="http://www.pepperlaw.com">www.pepperlaw.com</a>
Perkins Coie LLP	<a href="http://www.perkinscoie.com">www.perkinscoie.com</a>
Peter L. Skolnik, LLC	
Phelps Dunbar LLP	<a href="http://www.phelpsdunbar.com">www.phelpsdunbar.com</a>
PR Newswire Association LLC	<a href="http://www.PRNewswire.com">www.PRNewswire.com</a>
Preti Flaherty Beliveau & Pachios, LLP	<a href="http://www.preti.com">www.preti.com</a>
Prince Lobel Tye LLP	<a href="http://www.princelobel.com">www.princelobel.com</a>
ProPublica	<a href="http://www.propublica.org">www.propublica.org</a>
Proskauer Rose LLP	<a href="http://www.proskauer.com">www.proskauer.com</a>
QBE Insurance	<a href="http://www.QBENA.com">www.QBENA.com</a>
Quattlebaum, Grooms & Tull PLLC	<a href="http://www.qgtlaw.com">www.qgtlaw.com</a>
Radio Television Digital News Association	<a href="http://www.rtdna.org">www.rtdna.org</a>
Rahdert, Steele, Reynolds and Driscoll, P.L.	<a href="http://www.rahdertlaw.com">www.rahdertlaw.com</a>
Randazza Legal Group	<a href="http://www.randazza.com/">http://www.randazza.com/</a>
Reed Smith LLP	<a href="http://www.reedsmith.com">www.reedsmith.com</a>
Reuters America LLC	<a href="http://www.reuters.com">www.reuters.com</a>
Rodey, Dickason, Sloan, Akin & Robb, P.A.	<a href="http://www.rodey.com">www.rodey.com</a>
Ronald J. Hedges LLC	
Rothwell, Figg, Ernst & Manbeck, P.C.	<a href="http://www.rothwellfigg.com">www.rothwellfigg.com</a>
RPC	<a href="http://www.rpc.co.uk">www.rpc.co.uk</a>
Rushton, Stakely, Johnston & Garrett, P.A.	<a href="http://www.rushtonstakely.com">www.rushtonstakely.com</a>
Satterlee Stephens Burke & Burke LLP	<a href="http://www.ssbb.com">www.ssbb.com</a>
Saul Ewing LLP	<a href="http://www.saul.com">www.saul.com</a>
SBS	<a href="http://www.sbs.com.au">www.sbs.com.au</a>

Company	Website
Schiff Hardin LLP	<a href="http://www.schiffhardin.com">www.schiffhardin.com</a>
Schnader, Harrison, Segal & Lewis	<a href="http://www.schnader.com">www.schnader.com</a>
Scottsdale Insurance Co.	<a href="http://www.scottsdaleins.com">www.scottsdaleins.com</a>
Sedgwick LLP	<a href="http://www.sedgwicklaw.com">www.sedgwicklaw.com</a>
Sheppard Mullin Richter & Hampton LLP	<a href="http://www.sheppardmullin.com">www.sheppardmullin.com</a>
Showtime Networks Inc.	<a href="http://www.sho.com">www.sho.com</a>
Sidley Austin LLP	<a href="http://www.sidley.com">www.sidley.com</a>
Simon & Schuster	
Simons Muirhead & Burton	<a href="http://www.smab.co.uk">www.smab.co.uk</a>
Simpson Grierson	<a href="http://www.simpsongrierson.com">www.simpsongrierson.com</a>
Skadden, Arps, Slate, Meagher & Flom LLP	<a href="http://www.skadden.com">www.skadden.com</a>
SmithDehn LLP	<a href="http://www.smithdehn.com">www.smithdehn.com</a>
Steven P. Suskin, Attorney At Law	<a href="http://www.suskinlaw.com">www.suskinlaw.com</a>
Stevens Martin Vaughn & Tadych, PLLC	<a href="http://www.smv.com">www.smv.com</a>
Strassburger, McKenna, Gutnick & Gefsky	<a href="http://www.smgglaw.com">www.smgglaw.com</a>
Stuart F. Pierson	
Tantalo & Adler LLP	<a href="http://www.ta-llp.com">www.ta-llp.com</a>
Taylor Wessing LLP	<a href="http://www.taylorwessing.com">www.taylorwessing.com</a>
Tegna, Inc.	<a href="http://www.tegna.com">www.tegna.com</a>
Telegraph Media Group	<a href="http://www.telegraph.co.uk">www.telegraph.co.uk</a>
Thai Public Broadcasting Service	<a href="http://www2.thaipbs.or.th">www2.thaipbs.or.th</a>
Thomas & LoCicero PL	<a href="http://www.tlolawfirm.com">www.tlolawfirm.com</a>
Thompson Coburn LLP	<a href="http://www.thompsoncoburn.com">www.thompsoncoburn.com</a>
Time Inc.	<a href="http://www.timewarner.com/corp/businesses/detail/time_inc">www.timewarner.com/corp/businesses/detail/time_inc</a>
Time Warner Cable, Inc.	<a href="http://www.timewarnercable.com">www.timewarnercable.com</a>
Trey Rick Law PLLC	<a href="http://www.treyricklaw.com">www.treyricklaw.com</a>
Tribune Media Company	<a href="http://www.tribunemedia.com">www.tribunemedia.com</a>
Tribune Publishing Company LLC	<a href="http://www.tribpub.com">www.tribpub.com</a>
Troutman Sanders LLP	<a href="http://www.troutmansanders.com">www.troutmansanders.com</a>
Turner Broadcasting System, Inc.	<a href="http://www.turner.com">www.turner.com</a>
Univision Communications Inc.	<a href="http://www.univision.net">www.univision.net</a>
Vedder Price P.C.	<a href="http://www.vedderprice.com">www.vedderprice.com</a>
Venable LLP	<a href="http://www.venable.com">www.venable.com</a>
Viacom Media Networks	
Vinson & Elkins	<a href="http://www.velaw.com">www.velaw.com</a>
Vox Media, Inc.	<a href="http://www.voxmedia.com">www.voxmedia.com</a>

Company	Website
Waller Lansden Dortch & Davis, LLP	<a href="http://www.wallerlaw.com">www.wallerlaw.com</a>
Walter   Haverfield LLP	<a href="http://www.walterhav.com">www.walterhav.com</a>
Ward & Ward, PLLC	<a href="http://www.wardlawdc.com/">http://www.wardlawdc.com/</a>
The Washington Post	
Weil, Gotshal & Manges LLP	<a href="http://www.weil.com">www.weil.com</a>
Wenner Media LLC	
WETA	
Wiggin LLP	<a href="http://www.wiggin.co.uk/">http://www.wiggin.co.uk/</a>
Wikimedia Foundation	
Willcox & Savage, P.C.	<a href="http://www.willcoxandsavage.com">www.willcoxandsavage.com</a>
Williams & Anderson PLC	<a href="http://www.williamsanderson.com">www.williamsanderson.com</a>
Williams & Connolly	<a href="http://www.wc.com">www.wc.com</a>
Willkie Farr & Gallagher LLP	<a href="http://www.willkie.com">www.willkie.com</a>
Wilmer Cutler Pickering Hale and Dorr LLP	<a href="http://www.wilmerhale.com">www.wilmerhale.com</a>
Wilson Sonsini Goodrich & Rosati	<a href="http://www.wsgr.com">www.wsgr.com</a>
WNET	<a href="http://www.wnet.org">www.wnet.org</a>
Wyatt, Tarrant & Combs LLP	<a href="http://www.wyattfirm.com">www.wyattfirm.com</a>
Wyche, P.A.	<a href="http://www.wyche.com">www.wyche.com</a>
Yahoo! Inc.	<a href="http://www.yahoo.com">www.yahoo.com</a>
Yale Press	

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STATEMENT TO  
HOUSE JUDICIARY COMMITTEE / SUBCOMMITTEE  
ON THE CONSTITUTION AND CIVIL JUSTICE

**Re: H.R. 2304 SPEAK FREE ACT HEARING  
JUNE 22, 2016**

Thank you to the Committee's Chairman, Members and Staff for allowing me the opportunity to address this committee with a statement regarding H.R. 2304 and the need for anti-SLAPP protection.

I have experienced first-hand the hardship and injustice of being the victim of a SLAPP. Deep-pockets Los Angeles Jewish Home for the Aging hired national law firm Arent Fox to sue us for defamation for communication with our own attorney.

The lawsuit was in retaliation against an 86-year-old retired 2<sup>nd</sup> grade school teacher, breast cancer survivor and diabetic resident, her daughter and me, as a family friend, for reporting elder financial and physical abuse, healthcare claims irregularities, missing drugs and HIPAA transgressions at L.A. Jewish Home to government agencies. The consumer reporting resulted in investigations, including by the FBI, and numerous citations issued by the State of California against L.A. Jewish Home.

Not only was the communication with our own attorney privileged as a matter of law, but the statement that L.A. Jewish Home withheld critical diabetes test results was found to be true by State investigators. Further, a declaration filed by Arent Fox and L.A. Jewish Home unwittingly revealed that they preplanned to sue for *something*, anything, before alleged causes of action were even purported to have occurred. A lawsuit in search of causes of action.

The trial court ruled that the L.A. Jewish Home's defamation action was a violation of California's anti-SLAPP law and was stricken, affirmed by the Court of Appeal, with L.A. Jewish Home's lawsuit subsequently dismissed unconditionally in its entirety. An example of California's procedural remedy effectively addressing the bullying of SLAPPs.

--End--

Respectfully submitted,  
David Dizenfeld

Glassdoor, Inc.  
100 Shoreline Hwy  
Mill Valley, CA 94941

Testimony of  
Tom O'Brien  
Deputy General Counsel  
Glassdoor, Inc.

IN SUPPORT OF H.R. 2304, SPEAK FREE Act  
Before the U.S. House Judiciary Committee,  
Subcommittee on the Constitution and Civil Justice  
June 22, 2016

On behalf of Glassdoor's more than 600 employees and approximately 30 million monthly unique users, we appreciate the opportunity to share Glassdoor's perspective on the important issue before you – and why we strongly support the SPEAK FREE legislation to enhance free speech protections for all Americans.

### **About Glassdoor**

California-based Glassdoor is a growing jobs and recruiting marketplace in which employees and job seekers anonymously rate and review employers on important characteristics like culture, career advancement, work-life balance, the job interview experience and benefits. Employees can also anonymously share their salary and other compensation. Only Glassdoor combines this vast array of user-generated content with available jobs to help job seekers make better, more informed decisions about where they work. Since we launched publicly in 2008, we have collected more than 12 million pieces of content for more than 540,000 companies in 190 countries.

Unlike other user-generated review and rating services that often instantly post community contributions, Glassdoor pre-moderates all submitted company reviews using human and/or technological screening processes to ensure contributions from our users comply with Glassdoor's community guidelines and terms of service and are not the result of systematic abuse. If a submission is determined to be in violation, it will never go live in our marketplace. Glassdoor rejects approximately 5 to 10 percent of all contributions each month.

Glassdoor works hard to ensure company reviews are balanced and data shared in the community is useful. When submitting a review on their current or former employer, we ask our users to include both "pros" and "cons" about working for the organization, and offer the opportunity to leave "advice to senior management." Ratings are left using a 5-point Likert scale, and the average rating on Glassdoor is 3.2, with more than 70 percent of users reporting they are "satisfied" in their job. Workers also can share if they would recommend their employer to a friend – approximately 50 percent say they would.

The level of workplace transparency made possible by Glassdoor is changing how people search for jobs and how companies recruit, and is contributing positively to the U.S. labor market. By allowing people to get an "inside look" at what it is really like to work somewhere, we enable better matches between job seekers and employers that can help reduce turnover, increase employee satisfaction and ultimately create more stability for people, companies, the labor market and the economy. American workers increasingly believe in the importance of workplace transparency to help them find the right companies to work for, and to avoid companies where they believe they will not be professionally or personally satisfied. This level of transparency also helps employers attract the right candidates for their company and culture.

### **Anonymous Free Speech is Paramount – and Most Employers Embrace It**

Glassdoor actively supports the rights of all Americans to freely share their opinions about anything, including speech protected under the First Amendment including matters of public concern such as workplace environments, without fear of intimidation or retaliation. We also

believe that information is power, and individuals should be empowered with data and insights so they can make better decisions about important areas of their lives. Where one chooses to work is a critically important life decision that can have serious ramifications if one makes a wrong decision.

At Glassdoor, we recognize the seriousness and importance of sharing opinions anonymously about where one works. A job is someone's livelihood and opinions about a company's management and working conditions are extremely valuable to other workers. Protecting anonymous free speech is paramount as, without anonymity, workers are far less likely to share their true opinions, compensation and other important information about their job that can help others, including employers. Divulging identities of anonymous workers can negatively impact someone's job, livelihood and/or career and have a chilling effect on important free speech that positively affects the U.S. labor market.

Most employers agree workplace transparency is the new normal and engage with employees and candidates on Glassdoor. Tens of thousands employers actively participate in the Glassdoor marketplace via free or paid services, which allows them to post jobs, interact with employees and candidates by responding to reviews, update profile information, provide company updates, manage their employer brand, promote their benefits and access basic talent analytics.

### **Bad Actor Employers Seek to Chill Employee Free Speech**

Occasionally, however, company management does not like what employees and/or former employees have to say about their jobs and workplaces on Glassdoor, and they attempt to sue our anonymous users and contact our company to request that we remove the review and/or divulge the identity of the anonymous user(s). This represents a very small portion of employers on Glassdoor – less than one percent of the total 540,000 companies rated or reviewed on our platform globally. But to the hundreds of Glassdoor users who have been the subject of or threatened with legal action, the impact is monumental.

We actively investigate each employer inquiry regarding a review to ensure that the flagged content adheres to our community guidelines and terms of use. In some instances, the employer's request to retract the review is legitimate, and we remove it from our platform. However, a growing number of employer requests do not include legitimate claims, and instead leverage Strategic Lawsuits Against Public Participation, or SLAPPs, in an attempt to remove reviews and/or obtain users' identities. These frivolous lawsuits have no merit and use the threat of extensive legal complications and expenses to seek to chill the legitimate free speech of their current or former workers.

While the Communications Decency Act, Section 230, generally immunizes Glassdoor from claims arising from the user-generated reviews posted on our website, our anonymous users are not protected against being listed as defendants in SLAPP suits.

In the past year alone, Glassdoor has received approximately 250 legal demand letters to remove reviews and/or turn over our users' identities. During this time, our users have been the subject of nearly 50 court cases brought by employers across 14 states. At the time of submission of this testimony, there are 14 active legal cases directed at approximately 83

Glassdoor anonymous users in six states. In almost all of these cases, the reviews in question reflect opinions of current or former employees.

### **Glassdoor's Efforts to Protect Employee Anonymity**

Glassdoor's standard practice is to fight SLAPPs on our users' behalf to protect their anonymity and right to free speech by opposing subpoenas and discovery actions that request the identifying information of our users. If necessary, we vigorously fight in court to prevent any of our users' information from being disclosed.

We usually prevail because employers' lawyers typically give up after we file our objections and make clear that we are prepared to fight in court for our right to object on our users' First Amendment grounds. In those cases, where companies still want to pursue legal action, courts have almost always ruled in favor of Glassdoor and its users, citing the fact that Glassdoor is an online review site where people share opinions, and that it is expected that any reasonable person will read and interpret the reviews in question as opinions.

The following are three recent examples of cases, initiated by the following companies, involving Glassdoor users that were fought on First Amendment grounds:

**Logic Planet Inc.:** Lawsuit by New Jersey-based software consulting company citing 10 Glassdoor reviews as defamatory. Glassdoor prevailed in a motion to fight a New Jersey subpoena and an opposition to motion to compel enforcement of a California subpoena. Ultimately, Marin County Superior Court in California found the reviews were not defamatory: *"While the court appreciates the Plaintiff's desire to vindicate itself from unflattering rhetoric, the balance weighs in favor of First Amendment protections."*

**Delta Technical Solutions, Inc.:** Pre-trial discovery proceeding by Chicago-based recruiting and staffing firm citing six Glassdoor reviews. The Cook County Circuit Court in Illinois found the reviews were not defamatory: *"The context of the posts, a site devoted to an exchange of opinions by employees of various businesses of their own employment experiences with those businesses, supports that the statements here are nothing more opinions rather than verifiable facts."*

**SunEnergy1, LLC :** A motion to fight a Delaware subpoena issued by North Carolina-based solar developer and contractor company citing two reviews as defamatory. The New Castle County Superior Court in Delaware found the reviews were not defamatory: *"The content of the reviews on Glassdoor.com are such that it should be obvious to any reasonable person that the authors (all listed as current or former employees) are using the website as a vehicle to express their personal opinions about the company in question....Glassdoor.com is a website for employment and company evaluation-it is not a news website...Nor is it a website where a person would go to find detailed factual information about a company such as earnings reports and SEC filings. It is quite evident to the Court that Glassdoor.com is a website where people go to express their personal opinions having worked for a company-not a website where a reasonable person would go looking for objective facts and information about a company."*



## **The Devastating Impact of SLAPPs on Free Speech**

In most cases involving Glassdoor users, SLAPPs are not about valid legal claims, but instead appear to be emotional reactions of company leaders to workers publicly sharing their personal opinions about their job, company and management, and attempts by employers to intimidate and retaliate against employees for speaking out. The mere threat of legal action often chills free speech as anonymous reviewers elect to remove their reviews when notified by Glassdoor that their employer shared a legal demand letter. Glassdoor estimates that more than 100 reviews have been removed by our users within the past year in response to employer threats and/or legal action.

Sometimes the removal of a review is not enough for an employer. Some employers choose to continue legal action to unmask the identity of a current or former employee – long after the review has been removed from Glassdoor – to retaliate.

One such case involves a company and its former employee, who will be referenced to as “Megan.” Megan agreed to let Glassdoor include her story in this testimony, but asked that we not use her real name or the name her former employer, so as not to agitate the employer due to active litigation.

In 2014, in a pre-trial discovery motion, under a court order, Glassdoor was forced to turn over Megan’s name to her former employer. To date, this is the single instance where Glassdoor has been required to turn over information about any users’ identities to any employer.

Megan elected to remove her review in 2015 in an attempt to prevent going to court. However, the owner of the business was not satisfied and has continued to pursue legal action. It appears the owner is more interested in retaliation against Megan for speaking out.

Today, Megan is still in litigation. She has racked up more than \$8,000 in legal fees and for a young mother of two, this is a significant burden and source of severe emotional distress. Since leaving her review, Megan has moved on to a new job that she loves, and where her co-workers did not know about her legal challenges – until recently.

While Megan completed her obligatory deposition nearly a year ago, the owner of her former employer has effectively evaded participating in a deposition for more than one year. During this time, her former employer has changed legal counsel multiple times and continues to try to delay proceedings. In recent months, the employer’s legal counsel has subpoenaed and attempted to depose two of Megan’s co-workers at her current job, neither of whom work closely with Megan. This SLAPP has now impacted Megan’s reputation at her current employer. And unfortunately it has no end in sight.

## **Federal Anti-SLAPP Legislation is Needed**

Twenty eight states have enacted Anti-SLAPP laws. In some states, like California where Glassdoor is headquartered, Anti-SLAPP provisions provide important protections for individuals targeted by SLAPP lawsuits that allow courts to quickly dismiss frivolous claims and also include fee-shifting provisions that permit defendants who prevail in meritless SLAPP suits to recover legal fees from plaintiffs.

However, some of these states only have limited protections. For example, while Florida has an Anti-SLAPP provision that covers various forms of media, it still does not extend protection to community discussions on Internet forums like Glassdoor. This means that even if an individual is subject to a SLAPP in Florida for posting anonymously on Glassdoor or other user-generated review sites, they will not be able to file an Anti-SLAPP motion and recover legal fees if the lawsuit is frivolous.

With many Americans living in states with little or weak protection from SLAPPs, U.S. citizens could be unfairly targeted for exercising their free speech rights and face significant legal fees to defend themselves against these meritless suits. The inconsistency in state laws allows “forum shopping” by plaintiffs, who can file their SLAPPs in jurisdictions where anti-SLAPP protections are absent or weak. We believe Federal legislation is the only way to resolve this patchwork of state laws to provide all Americans with the same important protections that allow courts to quickly dismiss frivolous SLAPPs and shift legal expenses to plaintiff parties. It is important to note that this Anti-SLAPP legislation does not in any way prohibit valid legal claims from being brought to court.

If enacted, Federal legislation would act as a compelling deterrent for companies and individuals against filing baseless SLAPPs that attempt to intimidate and punish Americans for exercising their First Amendment right to express their opinions. We have seen this effect in California, where there is a strong Anti-SLAPP statute. All Americans, regardless of where they live, deserve protection from SLAPPs in which they are forced to legally defend themselves at significant personal expense. A Federal Anti-SLAPP law would provide a powerful tool to fight back against those institutions and individuals that seek to discourage free speech and participation in public conversations.

The right to free speech is a fundamental right for all Americans. Individuals should not be subjected to litigation solely designed to keep them silent or make them pay the consequences. Federal legislation is the only way to ensure that all Americans are protected and are able to contribute and benefit from Glassdoor and other platforms that help inform the way they live their lives. On behalf of American workers and our 30 million monthly unique users, we respectfully urge swift consideration of the SPEAK FREE Act of 2015 before the House Judiciary Committee and strongly support efforts to pass this important legislation quickly.

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# Internet Association

June 22, 2016

The Honorable Trent Franks  
Chairman  
Subcommittee on the Constitution and Civil Justice  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Steve Cohen  
Ranking Member  
Subcommittee on the Constitution and Civil Justice  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

*RE: Hearing on "Examining H.R. 2304, the SPEAK FREE Act."*

Dear Chairman Franks and Ranking Member Cohen:

The Internet Association commends you for holding today's hearing on the "Securing Participation, Engagement, and Knowledge Freedom by Reducing Egregious Efforts (SPEAK FREE) Act of 2015." This legislation will provide robust and necessary federal protection for consumers across the country threatened by meritless lawsuits that attempt to censor online speech.

The Internet Association works to advance policies that foster innovation, promote economic growth, and empower people through the free and open Internet.<sup>1</sup> The internet creates unprecedented benefits for society, and as the voice of the world's leading internet companies, we ensure stakeholders understand these benefits. Internet platforms have democratized the way we travel, shop, and make decisions about everyday products and services. By empowering users to make informed decisions about how and where they spend their money, billions of dollars per year of value is created through the so-called "consumer surplus."<sup>2</sup> The core American value of protecting free speech is fundamental to the ability of platforms to enable consumers to derive transparent and valuable information online. Threats to online expression, including by strategic lawsuits against public participations (or SLAPPS), undermine our platforms' ability to operate effective forums for user discourse and must be prevented.

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<sup>1</sup> The Internet Association's members include Airbnb, Amazon, Coinbase, DoorDash, Dropbox, eBay, Etsy, Expedia, Facebook, FanDuel, Google, Groupon, Handy, IAC, Intuit, LinkedIn, Lyft, Monster Worldwide, Netflix, Pandora, PayPal, Pinterest, Practice Fusion, Rackspace, reddit, Salesforce.com, Snapchat, Spotify, SurveyMonkey, Ten-X, TransferWise, TripAdvisor, Turo, Twitter, Uber Technologies, Inc., Yahoo!, Yelp, Zenefits, and Zynga.

<sup>2</sup> Hal Varian, The value of the Internet now and in the future, *The Economist* (Mar. 10, 2013, 3:49PM), <http://www.economist.com/blogs/freeexchange/2013/03/technology-1>; Shane Greenstein, Measuring consumer surplus online, *The Economist* (Mar. 11, 2013, 3:20PM), <http://www.economist.com/blogs/freeexchange/2013/03/technology-2>.



## Internet Association

The Internet provides users with unique platforms for expressing opinions on important issues and to search to find quality goods and services. From the more than 320 million user reviews on TripAdvisor, to the 100 million local reviews on Yelp, and product reviews on Amazon, online expression helps consumers search and make informed decisions. It also helps good businesses by injecting transparency into the market by providing valuable information that consumers have come to expect and rely upon.

Unfortunately, SLAPPs work to inculcate a culture of censorship throughout the U.S. economy and in social discourse. Legal threats that challenge user speech put individual citizens in a difficult position: the financial risk of defending legitimate expression is too high for most Americans. These cases are incredibly burdensome, both in terms of time and money. The average SLAPP case lasts 40 months, and the average claim of damages is a staggering \$9.1 million. The mere threat of these lawsuits may be enough to silence online speech and force user censorship, exploiting our legal system to intimidate innocent consumers.

While a limited number of states have passed laws to stem the tide of meritless lawsuits filed for the sole purpose of stifling public debate, it is time that we address the issue on a federal level. The critical right to free speech as Americans – including online reviews and comments from customers – should not be curtailed.

The SPEAK FREE Act would resolve this problem by putting in place a nationwide, uniform structure to oversee SLAPP suits. The bill would create expedited procedure to end these lawsuits early on, providing individuals a robust tool to fight back against attempts to censor speech. In addition, the SPEAK FREE Act contains fee-shifting provisions so that individuals who win an anti-SLAPP case are not forced to pay the copious legal fees that arise from having to defend themselves.

We urge you to support the SPEAK FREE Act and look forward to working with you to advance this critical legislation.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Beckerman".

Michael Beckerman  
President & CEO

CC: The Honorable Bob Goodlatte, Chairman, Committee on the Judiciary  
The Honorable John Conyers, Ranking Member, Committee on the Judiciary

# Media Alliance

**The following statement is attributed to Tracy Rosenberg, Executive Director of the Media Alliance:**

SLAPPs are lawsuits designed not to prevail on the merits, but to exhaust the target into silence and as long-time advocates for civic engagement, public participation, whistleblower rights, and the right of principled dissent, we believe the Speak Free Act is necessary to combat this kind of judicial abuse.

This legislation would be of significant value for defendants in the 22 states that do not have anti-SLAPP laws, allowing cases brought in state courts to be transferred to federal court. The proposed law also allows SLAPP defendants to retain their anonymity, which in cases related to online communications, can sometimes be an important matter for physical safety. The proposed law also awards attorneys fees for defendants when cases are found to be without merit, an important disincentive for harassment/intimidation motivations that sometimes cause the filing of SLAPP suits.

We wholeheartedly support this legislation and ask Bay Area legislators to co-sponsor the bill in the House of Representatives and the Senate.

*Media Alliance is a media resource and advocacy center for media workers, non-profit organizations, and social justice activists. Our mission is excellence, ethics, diversity, and accountability in all aspects of the media in the interests of peace, justice, and social responsibility.*



**Computer & Communications  
Industry Association**  
Tech Advocacy Since 1972

**The following statement is attributed to Daniel O'Connor, Vice President of Public Policy at the Computer & Communications Industry Association (CCIA):**

"From a policy perspective, the SPEAK FREE Act is a no-brainer. That also explains why it has such broad, bipartisan support. The Internet has democratized public debate and public expression, and Internet users have been empowered to participate in public debate in ways never before possible. The growth of Internet platforms that enable speech, elicit opinions and enable public sharing has proven a boon not just to companies that create the technology, but also the public at large. However, modern technology is not immune to old-fashioned abuse of the legal system. Those with deep pockets and quick tempers can -- and often do -- use the legal system to threaten people just for speaking their minds. Even when these lawsuits have little chance of prevailing on the merits, average citizens often do not have the resources to defend themselves in court. When faced with high legal costs, most Americans acquiesce to having their speech unjustly stifled. This is not acceptable. Going broke should not be the price of speaking up."