



NEW JERSEY STATE BAR ASSOCIATION

May 15, 2023

Via Regular and Electronic Mail

The Honorable Raj Mukherji
433 Palisade Avenue
Jersey City, New Jersey 07307

The Honorable Joseph A. Lagana
205 Robin Road, Suite 122
Paramus, New Jersey 07652

Re: S2802 (Lagana)/A4393 (Mukherji) – Uniform Public Expression Protection Act

Dear Assemblyman Mukherji and Senator Lagana:

On behalf of the New Jersey State Bar Association, I convey to you concerns relative to S2802/A4393, which provides for an expedited motion and process for dismissal of “Strategic Lawsuit Against Public Participation” (SLAPP) matters. Fundamentally, the NJSBA supports access to the courts. It also remains concerned about the draining of judicial resources resulting from frivolous litigation. This legislation certainly seeks to address this, but seems to single out particular types of lawsuits overlooking that the New Jersey Rules of Court already address frivolous litigation and fee shifting in the context of alleged frivolous claims.

By singling out specific causes of action, this bill seemingly elevates those causes of action above other potential frivolous litigation that are equally as chilling. The New Jersey Rules of Court already provide a mechanism to expedite a disposition of potentially frivolous litigation. Rule 1:4-8 outlines the process applicable to all causes of action – not just the ones enumerated within the bill – and also includes fee shifting as one of the enumerated sanctions for filing a frivolous lawsuit.

We understand the importance of ensuring that people can speak out on an issue without fear. We also balance that against the rights of parties to access the courts if they find that they are in need of court involvement. By identifying specific causes of action that would fall under this expedited process, it places other causes of action that may be frivolous further back on the court calendar without any basis. It additionally carves out a subset of procedures relative to a specific claim, deviating from standard civil procedures applicable to all claims. While the goal may be laudable, the effects on litigants and courts adjudicating these types of claims are a concern to the NJSBA.

For the reasons stated above, we suggest you reconsider the passage of this legislation. Thank you for your consideration of the NJSBA's concerns. Please feel free to contact me at lchapland@njsba.com or 732-214-8510.

On behalf of the NJSBA, thank you for your continued leadership.

Very truly yours,

Lisa Chapland, Esq.

cc: Jeralyn L. Lawrence, Esq., NJSBA President
Timothy F. McGoughran, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director