



February 4, 2020

Att: The Honorable Luke H. Clippinger, Chair  
House Judiciary Committee  
Maryland General Assembly  
House Office Building, Room 101  
6 Bladen St., Annapolis, MD 21401

Dear Sir,

Patuxent Riverkeeper supports HB-379 because it strengthens the current State laws related to SLAPP lawsuits. Our organization has recently been the target of such a SLAPP lawsuit. I will explain very generally about the circumstances to illustrate why we need to update these anti-SLAPP laws.

Patuxent Riverkeeper, like all licensed Waterkeeper organizations, and like many other citizen watchdog groups relies heavily on citizen participation to do our work of helping to enforce environmental laws and to protect public health and safety from environmental threats. It is part of our charter and our licensing to respond to citizen complaints related to water quality pollution. But if citizens fear communicating with us about local water quality problems, and if our organization or civic-minded complainants face civil lawsuits as a reprisal for using the First Amendment, then our efforts at promoting enforcement of environmental laws would be chilled if citizens are potentially subject to SLAPP lawsuits for their trouble.

In 2016 Patuxent Riverkeeper was the target of a classic SLAPP suit. Our research revealed that a polluter has been fined by the State and County authorities for numerous violations of water quality laws, zoning laws, public health laws and more. When we wrote a single letter to the Maryland Department of the Environment relating our concerns about this particular enterprise and its numerous violations, we learned that the State Attorney General's office was already prosecuting them. Completely independent of our own report, the State of Maryland Department of the Environment imposed over \$300,000 of fines and then entered into a consent decree with the violator. Subsequently the same violator filed a defamation and false light lawsuit against our organization arguing that our single written report to the State resulted in economic loss and moreover damage to their reputation with a member of the Maryland Senate. Intriguingly, their claim for damages was precisely the amount of their State fines.

malicious lawsuits and speedily dispose of them in order to protect already crowded court dockets

Interestingly, when we contacted the referenced member of the Maryland Senate, he told us that while he was contacted by this business hoping for assistance at reducing their State fines, he was unable or unwilling to help them when his own research revealed the extent and the magnitude of their ongoing violations, and the pending State legal enforcement case against them. In essence, a Maryland Senator conducted his own investigation and reached the same conclusion we did! Moreover, the polluter had a history of filing similar lawsuits against various neighbors who complained about the disruptions to residential life caused by his business.

*Thank* The case against us was eventually dismissed after nearly a year of legal depositions, pre-trial motions and legal expenditure. It was dismissed with a strong admonishment against baseless and harassing lawsuits. But, our organization had to bear the cost and time investment of defending a legal case where the plaintiffs had already conceded in a consent decree virtually all the violations we complained about in our original letter to the State. And today, they remain in violation of that same consent decree. At the initial judicial hearing held to adjudicate our motion for summary judgment, not only did the plaintiffs fail to actually produce the actual letter to MDE that they claim defamed them, but the judge declined to dismiss the case and scheduled it for trial. In short, the current SLAPP statute was of no help in preventing the expense and effort of a needless and pointless trial. Actually, there was no indication that the judge actually weighed the current SLAPP Statute in this latest decision. Notably, the existing statute expressly forbids prosecution based upon citizen's written communications with their government. Interestingly, our tormentors made clear that they might drop the lawsuit against us if we simply revealed the names and identities of any neighboring citizen complainants we might have been in touch with, presumably so they might be "SLAPP'ed" as well.

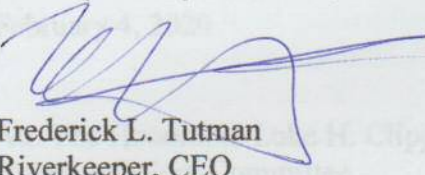
So the present day SLAPP statute as currently written really does not serve as a deterrent to frivolous and malicious prosecution. Had HB-379 been passed into law it would have provided clearer guidance and potentially spared both the public and private cost of a trial that is no more than a form of economic harassment and bullying by monied and guilty bad actors. In our case there was absolutely no question that the litigation was a reprisal for nothing more than good faith citizen vigilance reporting violations to the lawful authorities. In that instance, the State was doing its job by prosecuting this violator. *But the violator was and continues to attack citizens as a vindictive reprisal in order to deter future such reports and watchfulness.* This legal case, issued in bad faith as well as many others just like it, continue to consume both public and private resources needlessly for a cases highly likely to fail on merit. Their point is entirely to silence citizens. Clearly, the purpose is not really to prevail but rather to stall and tie up citizen resources, to intimidate and compel citizens to be silent about reporting information about pollution that is their right--and to get them to spend their resources on defending lawsuits instead of on continued vigilance. Moreover, it seeks to coerce the disclosure of further information about other citizens. In the end, this enterprise with a massive history of past and present violations sought to further suppress citizen participation and vigilance, while evading compliance with the relevant environmental laws.

Several other States have SLAPP suit statutes that are much more stringent and forceful than the ones currently in effect here in Maryland. The current statute was a good start but ultimately it is not equal to its goals, if the aim of the Statute is and was to deter frivolous and/or

malicious lawsuits and speedily dispose of them in order to protect already crowded court dockets, and to spare citizens the distress of being sued for doing the right thing.

So clearly, the laws need to be made stronger in order to protect both citizens as well as society from harassment from monied and aggressive violators who want to contort the legal process in order to stifle citizen engagement. We urge you to give a favorable report on HB-379 that is much needed to spare civic - minded Marylanders the trouble of defending malicious lawsuits that intentionally attack our rights.

Thank you very much for your consideration.



Frederick L. Tutman  
Riverkeeper, CEO  
Patuxent Riverkeeper

House Office Building, Room 161  
6 Bladen St., Annapolis, MD 21401

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**Patuxent Riverkeeper Center; 17412 Nottingham Road; Upper Marlboro, MD 20772 301-276-7913**

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