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for purposes of identification.*

April 23, 2015

Assemblyman Ira Hansen, Chair
Assemblyman Erven Nelson, Vice Chair
Assembly Committee on Judiciary
Nevada State Assembly
Room 3127
401 South Carson Street
Carson City, Nevada 89701

VIA EMAIL AND U.S. MAIL

Re: Senate Bill 444

Dear Members of the Assembly Committee on Judiciary,

The Reporters Committee for Freedom of the Press writes to express its concerns regarding Senate Bill 444, which is currently before the Assembly. If passed, the bill would eviscerate vital protections currently afforded to those who speak on matters of public interest under Nevada's anti-SLAPP law (NRS 41.635-41.670). By making it much easier for plaintiffs seeking to stifle public debate to embroil reporters, news organizations, and other speakers in expensive, protracted litigation over meritless claims, SB444 will chill speech on matters of interest and importance to the public. Nevada is renowned for its robust protections for freedom of speech, including its anti-SLAPP law. The Assembly should not allow special interests to weaken that law to suit their own narrow, self-interested ends. We strongly urge the members of the Assembly Committee on Judiciary and the Assembly as a whole to reject this measure.

The Reporters Committee is an unincorporated nonprofit association of news reporters and editors dedicated to safeguarding the right to a free and unfettered press guaranteed by the First Amendment. Since 1970, the Reporters Committee has served as a resource and advocate for members of the press and the public on important matters impacting freedom of speech.

Strategic Lawsuits Against Public Participation, or SLAPPs, are a common tool used to intimidate critics and silence public comment. By suing reporters and critics for defamation and other speech-related claims—even when the speech is clearly protected as opinion or is not otherwise illegal—SLAPP plaintiffs force speakers to spend time and money defending themselves in court. Indeed, the mere threat of a costly, extended lawsuit can bully speakers into silence, or even into retracting their statements. In that way, even a meritless lawsuit can have a serious chilling effect on speech. And, because the goal of a SLAPP plaintiff is not necessarily to win the suit, but rather to intimidate and quiet critics, it is no deterrent to a SLAPP plaintiff that his or her lawsuit is without merit.

Anti-SLAPP laws such as Nevada's provide a remedy for SLAPP suits by allowing the person sued to file a motion to strike the case when it involves speech on a matter of public interest. Under current Nevada law, the burden of proof is on the plaintiff to show by clear and convincing evidence that they have a likelihood of succeeding on the merits of his or her claim. By placing the burden on the plaintiff, the law provides a mechanism to end frivolous lawsuits aimed at stifling speech at an early stage. It also discourages SLAPP suits from being brought in the first place, by providing for penalties for plaintiffs that wage such meritless suits.

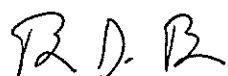
SB444 would remove the safeguards given to speakers under the current anti-SLAPP law, and render it an ineffective means for protecting the exercise of First Amendment rights. By shifting the burden of proof from the plaintiff to the defendant by requiring that the plaintiff make only a prima facie showing of a likelihood of success on the merits, the law would no longer provide relief from protracted litigation, and speakers would be faced with incurring substantial legal fees to rebut plaintiffs' claims. Furthermore, the bill's modification of the language describing the speech protected by the anti-SLAPP law from "speech on *matters of public interest*" to the narrower "speech on *issues of public concern*" makes valuable speech of importance to the public vulnerable to SLAPP suits. In addition, the bill's removal of the \$10,000 penalty that can be levied against an unsuccessful SLAPP plaintiff, and the reduction in time for a defendant to respond to a suit with an anti-SLAPP motion, also make it less likely that Nevada's anti-SLAPP law will deter meritless suits and protect citizens engaged in public debate.

SLAPP suits damage democracy by chilling citizen involvement and public participation in government. In response to this phenomenon, twenty eight states, the District of Columbia, and the U.S. territory of Guam, have enacted some form of anti-SLAPP statute, while courts in Colorado, Connecticut, and West Virginia— states without anti-SLAPP statutes— recognize a common law defense to lawsuits that target acts aimed at petitioning the government for action on issues of public importance. This widespread recognition of the serious problem posed by SLAPPs underscores the risk of allowing such lawsuits to proliferate. It is critically important that Nevada not abandon the important protections afforded by its anti-SLAPP law—protections for speech on matters of public interest that have served the citizens of this State well.

(continued on next page)

The Reporters Committee urges you and your colleagues to reaffirm Nevada's commitment to safeguarding the exercise of First Amendment freedoms, and to reject Senate Bill 444, the purpose and effect of which would be to deprive the people of Nevada of robust public debate.

Sincerely,

A handwritten signature in black ink, appearing to read "B. D. B.", written in a cursive style.

Bruce D. Brown
Executive Director
Reporters Committee for Freedom of the Press

cc: Bonnie Borda Hoffecker, Committee Manager
Assembly Committee on Judiciary