

# Illinois' Anti-SLAPP Statute: A Potentially Powerful New Weapon for Media Defendants

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In August 2007, Illinois became the twenty-sixth state to enact anti-SLAPP protection into law. The jury, however, is still out as to what exactly the Illinois Citizen Participation Act (CPA)<sup>1</sup> will mean in practice, especially for media defendants. Despite the CPA's enactment more than a year ago, to date there appears to be only one decision involving a CPA motion filed by a media defendant. In three other cases in which a media defendant has filed a CPA motion, two settled before the court ruled on the motion, and as of the writing of this article, the other motion is still pending. Despite this dearth of judicial guidance, the broad language of the CPA and a few decisions involving nonmedia defendants suggest that the CPA may provide the media with another useful weapon for fighting lawsuits arising from certain types of speech.

## Key Provisions

Section 110/5, the public policy introduction, is the most extensive provision of the CPA. It declares that the "constitutional rights of citizens and organizations to be involved and participate freely in the process of government must be encouraged and safeguarded with great diligence." That provision further provides that "information, reports, opinions, claims, arguments and other expressions" are vital to democracy and that there must be the "utmost protection for the free exercise of these rights of petition, speech, association and government participation." After noting the disturbing increase in SLAPP suits, the provision declares that the CPA strikes a balance between

the rights of persons to file lawsuits for injury and the constitutional rights to petition, speak freely, associate freely, and otherwise participate in government.

Section 110/10 sets forth six CPA definitions. Among the most notable is that "government" includes the "electorate." Also, a "person" is defined to include corporations, organizations, and associations, thereby suggesting that media defendants can take advantage of the CPA.

Section 110/15 provides that the CPA applies to any motion against a claim that is "based on, relates to, or is in response to any act or acts of the moving party in furtherance of the moving party's rights of petition, speech, association, or to otherwise participate in government." The only stated limitation comes in the next sentence, which states that the acts discussed are immune from liability, "regardless of intent or purpose, except when not genuinely aimed at procuring favorable government action, result or outcome." This language appears to come from the 1991 U.S. Supreme Court *Noerr-Pennington* doctrine case, *City of Columbia v. Omni Outdoor Advertising*.<sup>2</sup> Indeed, the sponsor of the CPA legislation in the Illinois House of Representatives stated that the CPA codifies the standard from *Omni* "when dealing with citizen participation lawsuits."<sup>3</sup>

Section 110/20 sets forth the timing and standards applied to CPA motions, which differ in many key respects from the timing and standards applied to other motions to dismiss filed under the various provisions of the Illinois Code of Civil Procedure. First, the court must rule on a CPA motion within ninety days after the plaintiff has received notice of the motion. Second, the court shall grant a CPA motion unless the court finds that the plaintiff has produced "clear and convincing evidence that the acts of the moving party are not immunized from,

or are not in furtherance of acts immunized from, liability" by the CPA. Third, while a CPA motion is pending, discovery is suspended unless the plaintiff shows good cause for discovery into the narrow subject of whether the movant's acts are covered by the CPA. Fourth, the movant is allowed an appeal as a matter of right provided that the appeal is filed within ninety days after a trial court's order denying a CPA motion, or if the court failed to rule within the ninety-day time period.

Section 110/25 provides that the court shall award a successful moving party reasonable attorney fees and costs incurred in connection with the CPA motion.

Section 110/30, which sets forth the construction of the act, may be one of the most important. It provides that the CPA should be "construed liberally to effectuate its purposes and intent fully." When read in conjunction with the policy statement, i.e., "The laws, courts, and other agencies of this State must provide the utmost protection for the free exercise of these rights of petition, speech, association, and government participation,"<sup>4</sup> the provision bolsters the argument that media defendants are included within the scope of the CPA's protections.

## CPA Motions to Date

Of the few decisions that have been issued, many address whether the CPA can be applied retroactively. Retroactivity will become less of an issue because the statute was enacted more than a year ago, and many of the torts at issue in the types of lawsuits to which the CPA applies have a one-year statute of limitations.<sup>5</sup> Thus, new suits likely will concern conduct arising after the effective date of the statute.

Some of the decisions concern other aspects of the CPA, including whether a party can amend its complaint after a CPA motion has been filed and the scope of the appellate court's

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jurisdiction to hear CPA appeals. These are key issues when assessing how much protection the CPA will afford defendants. So far, however, there are no appellate or Illinois Supreme Court decisions on these or any other CPA-related issues, although at least two cases involving CPA motions are on appeal as of the publication of this article. Nevertheless, the following cases and motions that have arisen from the CPA to date offer useful insight into the potential benefits to media defendants:

### **Condo Association Controversy**

*Shoreline Towers Condominium Association v. Gassman*<sup>6</sup> involved an acrimonious battle in which a resident sued the condominium association over a rule that prohibited displaying personal objects in doorways. The resident alleged that this rule violated her right to practice her religion and display a mezuzah.

After the association amended its rules to permit the mezuzah and other religious symbols, the association and the association president sued the resident, claiming that she engaged in a campaign of harassment and intimidation against them. This campaign allegedly included supplying inaccurate information about the association to a local Jewish newspaper, ripping down flyers, influencing others to provoke altercations with the association, and accusing the association of theft. The association president's claims for defamation alleged that the resident made accusations that he was a drug dealer, a homosexual, and anti-Semitic.

The defendant resident filed a motion to dismiss under the CPA, arguing that the complaint against her was the result of her filing suit and making complaints about religious discrimination. In response, the plaintiffs countered that the CPA should not apply because the defendant's issues about the condominium policies already had been resolved. The court rejected this argument stating "the statutory language clearly demonstrates that the statute does not require there be pending attempts to further the party's moving rights."<sup>7</sup> Next, the plaintiffs argued that the dispute was a "personal issue" and did not involve "issues of major public concern."<sup>8</sup> The court rejected this argument because of the changes made to the association rules.

The court also addressed whether

the CPA can be applied retroactively. Following the statutory language that the CPA is to be construed broadly to effectuate its purposes and citing to case law involving application of California's anti-SLAPP statute, the court held that the CPA is procedural in nature and therefore can be applied retroactively.<sup>9</sup>

The court, however, did not dismiss the plaintiffs' complaint in its entirety. Instead, the court concluded that only some of the actions in the complaint were a result of defendant's exercise of her constitutional rights through her original litigation against the condominium association. As a result, the court dismissed six of the ten counts in the complaint (including the defamation counts by the association arising from accusations of theft).

The court, however, declined to dismiss the defamation claims brought by the association president (including accusations that he was a drug dealer), explaining that those claims had "nothing to do with the other disputes or her lawsuits but constitute affirmative statements on [defendant's] part to damage" the president.<sup>10</sup> The court held that the anti-SLAPP laws, such as the CPA, are "intended to protect those who speak out on public issues from being sued into silence" but they are not intended to

protect those who actually commit torts. Anti-SLAPP legislation does not permit a person to actually defame another and then seek the protection of the statute. The law is intended to protect those who are in danger of being sued solely because of their valid attempts to petition the government.<sup>11</sup>

It appears the court's rationale for distinguishing the various claims was that once the dispute between the parties became more of a personal smear campaign than a battle against the condominium association's rules, the defendant was no longer protected by the CPA. However, this distinction is somewhat illusory upon further analysis. Some of the defendant's actions against the association appeared more like a personal battle and some of the statements about the president of the association appeared more related to the alleged religious discrimination. The court's ruling also appears to conflict with the plain language of the

CPA. Unlike some other anti-SLAPP statutes, a claim is barred by the CPA if the defendant's conduct and purpose fit within the statute, regardless of whether the plaintiff's claim would be meritorious but for the CPA's protections.

### **Planned Parenthood**

*Scheidler v. Trombley*<sup>12</sup> stems from a heated public controversy over plans by a medical facility in Aurora, Illinois, to house a Planned Parenthood clinic. A group opposed to the clinic protested through rallies, prayer vigils, and a letter-writing campaign. Planned Parenthood also wrote letters to Aurora officials and placed an advertisement in a local paper appealing to citizens of Aurora to express their support of the clinic to their local representatives. Asserting two theories of liability, the group that opposed the clinic sued Planned Parenthood for defamation based on its letters and advertisement. First, the plaintiffs argued that the Planned Parenthood letters defamed them by accusing them of having a well-documented history of violence and criminal activity. Second, plaintiffs argued the advertisement defamed them because it discussed an earlier verdict against them for unlawful activities.

The circuit court judge granted Planned Parenthood's CPA motion dismissing the amended complaint, holding that Planned Parenthood's communications at issue were "acts in furtherance of the constitutional rights to petition, speech, association, and participation in government and were genuinely aimed at procuring favorable government action, result, or outcome."<sup>13</sup> The court carefully examined and rejected plaintiffs' arguments as to why the CPA should not apply and in so doing wrote the most in-depth examination of the CPA to date.

The court initially considered the plaintiffs' argument that the Illinois General Assembly did not intend to immunize defamation claims under the CPA. In rejecting this argument, the court held that the "plain and ordinary language of Section 15 does not appear to expressly state any limitation in the application of immunity for tortious or malicious acts such as libel or slander."<sup>14</sup> The court then noted that even though such a limitation did not expressly exist, § 15 was ambiguous because it appears to exclude inquiry as

to subjective intent behind the acts but then includes inquiry as to the genuine aim of the acts. The court examined the legislative history and the sponsoring state representative's statement that the CPA would codify the *Omni* decision.<sup>15</sup> The court held that the inquiry under the CPA as to whether the acts at issue were "genuinely aimed at procuring favorable government action, result or outcome" was similar to whether an act was a sham under *Omni* and was first and foremost an objective test.<sup>16</sup> Therefore, there was no implied legislative intent to provide inquiry into subjective intent or malice, and torts such as defamation were not excluded from the scope of the CPA. In so ruling, the court compared the CPA to Minnesota's anti-SLAPP statute, which explicitly carves out from its protection "conduct or speech [that] constitutes a tort."<sup>17</sup>

The court next rejected plaintiffs' argument that the CPA is unconstitutional because applying it to defamation claims would deprive plaintiffs of a remedy for harm to their reputation. The court pointed to other privileges that render otherwise defamatory conduct immune and held that the CPA's explicit purpose is to "strike a balance between the rights of persons to file lawsuits for injury" and constitutional rights to free speech and petition, and that it is not within the court's purview to redo the legislative balance.<sup>18</sup>

Turning on the merits of the case, the court found that Planned Parenthood's communications were protected because they sought the continued cooperation of the City of Aurora and the "electorate."<sup>19</sup>

After the court granted Planned Parenthood's CPA motion, the plaintiffs were allowed to amend their complaint to add additional claims, and Planned Parenthood filed another CPA motion seeking dismissal of the amended claims. The fourth amended complaint was based on two Planned Parenthood press releases, an open letter to a local newspaper, and a statement to the media.

In December 2008, the court dismissed the amended claims as to the press releases under the CPA but denied the motion as to the claims regarding the open letter and statement to the media. The court held that the press releases were almost verbatim recitations of what Planned Parenthood actually petitioned before the City Council and therefore

were covered by the CPA. As to the open letter to the local newspaper and the statements to the press, the court held that they were not protected by the CPA at this stage of the litigation because the communications were only about one plaintiff's violent history and were not petitioning either government officials or the electorate to actually do something. The judge noted, however, that Planned Parenthood could replead the CPA as an affirmative defense and seek summary judgment on the CPA defense after discovery on whether Planned Parenthood was acting in furtherance of its protected rights. Planned Parenthood has filed a motion to reconsider the court's decision regarding the open letter.

#### Public Meetings

In *Wright Development Group, LLC v. Walsh*,<sup>20</sup> the plaintiff, a developer, sued the condominium association president of one of its developments as well as two newspapers. The plaintiff claimed that the individual defendant (Walsh) had made defamatory statements during a public meeting (sponsored by an alderman) about plaintiff's allegedly faulty work and that Walsh's defamatory statements were republished by the newspapers. Defendant Walsh filed a CPA motion, and the court, pursuant to CPA § 20, allowed limited discovery into whether the CPA covered Walsh's acts.

After discovery, the court denied Walsh's CPA motion, holding that his statements to newspaper reporters after the public meeting were outside of the CPA's coverage. According to the court, he was not "trying to procure favorable government action . . . because the Alderman's representatives ha[d] left the room." The court, contrary to the CPA language, also ruled that the statute needed to be strictly construed.

Furthermore, when defendant Walsh asked the court to certify its findings so as to allow an appeal by permission, the circuit court denied the request, finding that an appeal would not materially advance the case and that there were no grounds for a difference of opinion on the law. Walsh apparently requested certification instead of seeking appeal as a matter of right as granted by the CPA, because Illinois Supreme Court Rule 307, which determines which actions can be appealed as of right, has not yet been amended to address the CPA. As

a result, defendant Walsh petitioned the Illinois Supreme Court for a supervisory order, arguing that the lower court's error was so obvious that due process makes it appropriate for the state supreme court to intervene. This matter is still pending as of the time of this writing.

#### *Mund v. Brown*

In *Mund v. Brown*,<sup>21</sup> plaintiff sued for malicious prosecution, abuse of process, and intentional infliction of emotional distress, alleging that the two defendants improperly challenged his acquisition of certain parcels of lands. The trial court denied the defendants' CPA motion in a one-page order without explanation.<sup>22</sup> On appeal, the Illinois appel-

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late court held that the CPA presented a separation-of-powers issue because its creation of an appeal by right from an interlocutory order appears to conflict with the Illinois Supreme Court's power to prescribe the conditions for interlocutory appeals. The appellate court requested supplemental briefing on the separation-of-powers issue, which governs its own jurisdiction to hear the appeal. At the time of writing, the issue remained pending.

#### Citizens Group's Website

In *Consociate v. Daniels*,<sup>23</sup> plaintiffs, who were administrators of the health plan for the City of Decatur, Illinois, sued defendants, a citizens group that ran a website allegedly containing defamatory statements about plaintiffs.<sup>24</sup> After defendants filed a motion to dismiss under the CPA, plaintiffs filed a motion to voluntarily dismiss their case. The court granted the motion, effectively permitting them to avoid having to pay attorney fees under the CPA. Defendants moved to reconsider, arguing that if the CPA is to have any real protection for defendants, a plaintiff should not be permitted to voluntarily dismiss and potentially replead.

Defendants based their arguments on numerous California anti-SLAPP cases allowing for attorney fees even after a plaintiff has voluntarily dismissed. This motion to reconsider is still pending.<sup>25</sup>

### Investigative Reporting

Catherine Doubek was a police detective who allegedly had helped her husband in restraining, torturing, and interrogating one Joseph Rossi, who they believed had stolen equipment from Doubek's husband's trucking and excavation company.<sup>26</sup> Months later, portions of an interview with Rossi

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about the incident were part of a larger investigative report by a Chicago television station (CBS) about the Chicago Police Department's (CPD) failure to properly investigate allegations of police misconduct. CPD reacted promptly to the report. The day of the broadcast, plaintiff was placed on administrative leave and CPD's then-dormant investigation was reopened. Several months later, the plaintiff's husband and brother-in-law were criminally charged.

On June 30, 2008, CBS moved to dismiss the case under the CPA and to recover fees and costs. CBS argued that this sort of public interest journalism was speech "genuinely aimed at procuring favorable government action, result, or outcome" under the statute and therefore immunized.<sup>27</sup>

Plaintiff sought an extension to respond to the motion and sought leave to take discovery on the broadcaster's intent in producing the report. In opposition, CBS argued that the Illinois legislature had chosen an objective standard, through its statement of purpose and by expressly adopting the *Noerr-Pennington* language, and therefore discovery into alleged subjective intent was irrelevant to the issue to be decided in the anti-SLAPP motion. Essentially, CBS argued that because it was apparent from the face of the broadcast that the goal was to prompt government action, and that action in fact followed, CBS

should prevail as a matter of law.

Following the briefing, plaintiff dismissed her lawsuit with prejudice, each side bearing its own costs and fees.

### Media Defendant

The first decision on a CPA motion by a media defendant, *Sandholm v. Kuecker*,<sup>28</sup> was handed down on December 10, 2008. In that case, plaintiff was an embattled high school basketball coach. Some parents started a campaign to remove plaintiff as head coach, and a radio station hosted and moderated a program with the parents. During that program, the radio station's general manager discussed the parents' dissatisfaction with the school board's decision to retain the coach. Several days later, the radio station aired a compilation of the parents' comments about the head coach. The coach sued several of the parents, the radio station, and its general manager for defamation, false light, and several other claims.

Defendants moved under the CPA to dismiss the complaint. In dismissing all counts of the complaint, the court first acknowledged that the CPA "appeared to be one of the most far reaching" of all anti-SLAPP statutes. The court then rejected plaintiff's claim that the radio station and manager could not receive CPA protection because they got involved in the controversy only after the school board already had voted to retain the plaintiff. The court stated that plaintiff's argument read the CPA too narrowly and that publicizing parents' disapproval with the school board's decision was actually part of the process.

The court then rejected plaintiff's argument, based on the holding in *Shoreline*, that the CPA was not intended to protect those who actually commit defamation. The court noted that the *Shoreline* decision dismissed all counts except those that had "nothing to do with the requested government action. It does not follow then that one can conclude that the immunity sections of the CPA do not apply to defamation actions." The court then agreed with the *Scheidler* analysis, which found that the CPA immunized protected conduct, even if it is defamatory.

### Other CPA Motions

In at least two other cases in the Cook County circuit courts, plaintiffs have settled their actions after defendants

filed CPA motions. The CPA appears to be working in that it is leading to quick resolution of SLAPP lawsuits. But even those cases have required several rounds of briefing as CPA movants have had to explain to the courts the new statute and its implications. In one of these cases, *Waguespack v. Matlak*,<sup>29</sup> the court initially held that the CPA was not retroactive, in part because the court did not have the entire statute before it at the time of its decision. On reconsideration after reviewing the entire statute, the court held that the CPA was retroactive. After the court resolved that issue, the case settled. The other case, *Jaeger v. Okan*,<sup>30</sup> involved a defamation and conspiracy action against individuals who voiced opposition to a potential real estate development.

### Merits of the Underlying Claim

On its face, the CPA provides broader protection than some other anti-SLAPP statutes because it appears to provide absolute immunity if the actions at issue actually involve "the right to petition, speech, association or to otherwise participate in government" and are not a sham, regardless of the merits of the underlying claim.

Under the California anti-SLAPP statute, a plaintiff can defeat the anti-SLAPP motion if the plaintiff can prove a probability of success on its underlying claim.<sup>31</sup> For example, in *Lieberman v. KCOP Television, Inc.*,<sup>32</sup> the California Court of Appeal first ruled that defendant television station's undercover reporting of a doctor's practice was in furtherance of the media's rights. However, the court conducted the second inquiry under the California anti-SLAPP statute and found that the plaintiff had established that he could prove a violation of a state eavesdropping statute.<sup>33</sup>

Other anti-SLAPP statutes, including those in Indiana and Louisiana, also consider the merits of the underlying claim in determining the statute's applicability. Indiana's law requires that a defendant's act be lawful, which courts have interpreted to mean that a plaintiff, in response to an anti-SLAPP motion, can put forward evidence of actual malice to defeat the motion.<sup>34</sup> Louisiana's anti-SLAPP statute mirrors California's provision that allows a plaintiff to establish a probability of success on the claims to overcome a

defendant's anti-SLAPP motion.<sup>35</sup>

Thus, although the California, Indiana, and Louisiana anti-SLAPP statutes take into account the ultimate defenses, the Illinois CPA seems to focus solely on whether the defendant was exercising its protected rights in hopes of government or electorate action. The merits of the underlying claim should be irrelevant. For example, as seen in the Planned Parenthood case, there was no need for the court to determine whether the plaintiff might ultimately prevail on several of the claims because the court decided that the defendants' acts were in furtherance of their constitutional rights and intended to procure government or electorate action.<sup>36</sup>

The *Shoreline* decision, however, seems to suggest otherwise when it states that "[a]nti-SLAPP legislation does not permit a person to actually defame another and then seek the protection of the statute." The court's reasoning seems contrary to the plain language of the CPA and also somewhat contradictory to the *Shoreline* ruling itself. *Shoreline* apparently was not persuasive to the courts in *Sandholm* or Planned Parenthood, which both had the *Shoreline* decision before them when they dismissed many claims under the CPA notwithstanding the potential defamatory nature of the statements. Indeed, the *Sandholm* court explicitly rejected that part of the *Shoreline* holding.

### Applying the CPA to Media Defendants

*Sandholm* is the only available Illinois decision on a CPA motion brought by a media defendant, although others have been filed. One of the first CPA motions to be filed came in a high-profile defamation case against a media defendant. In *Thomas v. Page*,<sup>37</sup> Illinois Supreme Court Justice Robert Thomas sued the *Kane County Chronicle* for an article that criticized how Thomas handled a prosecutor's disciplinary hearing. After Justice Thomas was awarded a \$7-million-dollar jury award (subsequently reduced to \$4 million by the trial judge), Illinois passed the CPA. Defendants filed a petition for relief from judgment, seeking to afford themselves of the protections under the newly enacted anti-SLAPP statute. Before the court could rule on defendant's motion, including the issue of whether the CPA could apply

retroactively, the parties settled for an amount less than the trial judge award.

Given the breadth of the CPA itself and the underlying policy rationale, the CPA seems applicable to media defendants. The reasoning and holding in *Sandholm* support this conclusion. As with any statutory argument, the first place to look is the language, and the CPA has some of the broadest language of any state anti-SLAPP statutes.<sup>38</sup> The CPA considers corporations and organizations to be "citizens," which means that media entities can be citizens within the meaning of the statute.<sup>39</sup> The CPA also defines "government" to include the "electorate."<sup>40</sup> This means that acts attempting to influence the voting public, as opposed to merely trying to directly influence the government, are protected by the CPA.

Additionally, the reasoning in decisions concerning other states' anti-SLAPP statutes supports the conclusion that the CPA applies to media defendants. As detailed above, the CPA specifically invokes the constitutional right of free speech. Courts in other states have recognized the right of free speech as the foundation upon which to provide anti-SLAPP protection to news-gathering activities. This should be especially true under the CPA, which specifically provides that its protections are to be construed broadly.<sup>41</sup>

Among other issues, the courts have yet to address the scope of protection for the news media. Strong arguments can be made for broad protection of media activities, including the fact that the press serves as a check on government and the actions of public officials. This type of argument was advanced in the *Doubek* case, resulting in a voluntary dismissal by the plaintiff.

### Conclusion

In the coming months, there are likely to be additional decisions on CPA motions that should provide guidance as to how the CPA will be applied in practice. This guidance should include how the CPA will be applied in cases involving media defendants, whether the court's inquiry is limited to the nature of the defendant's conduct and not the merits of the underlying claim, how broadly the courts will interpret "acts attempting to influence the government or the electorate." So far, it appears based on the language of the CPA itself,

and the few decisions to date, that the CPA could be one of the strongest anti-SLAPP laws in the country affording significant protections to media defendants who are engaged in traditional First Amendment activities. □

### Endnotes

1. 735 ILCS § 110/1 (2007).
2. 499 U.S. 365 (2001). In *Omni*, an outdoor advertising company brought an antitrust action against a competitor and city that adopted rezoning ordinances restricting billboards. The Court held that the *Noerr-Pennington* doctrine, which was only one of several issues in the case, protects a party from incurring liability under the antitrust laws if the alleged anticompetitive acts were "genuinely aimed at procuring favorable government action." *Id.* at 380-82. That language is commonly referred to as the sham exception because it is supposed to preclude *Noerr-Pennington* protection for parties who conduct campaigns that are ostensibly directed toward influencing government action but in reality are attempts to interfere with the business of a competitor. Given the breadth of the CPA, it appears that the Illinois General Assembly ultimately provided similar *Noerr-Pennington*-like protection in a wider variety of situations, albeit with the same sham exception discussed in *Omni*.
3. S.B. 1434, 95th Gen. Assemb., Reg. Sess. (Ill. May 31, 2007), House of Representatives Transcript, p. 58, available at <http://www.ilga.gov/house/transcripts/htrans95/09500065.pdf>.
4. 735 ILCS § 110/5 (2007).
5. See, e.g., 735 ILCS § 5/13-201 (Illinois statute provides one-year limitation for "[a]ctions for slander, libel or for publication of matter violating the right of privacy"); *Schaffer v. Zekman*, 554 N.E.2d 993 n.2 (Ill. App. Ct. 1990) (one-year statute of limitations applies to both defamation and false light invasion of privacy claims).
6. No. 07 CH 062783 (Cook Co., Ill.).
7. Mar. 25, 2008 Order, at 9.
8. *Id.*
9. *Id.* at 10-12.
10. *Id.* at 13.
11. *Id.*
12. No. 07 L 513 (Kane Co., Ill.).
13. Sept. 2, 2008 Order, at 9 (citing 735 ILCS 110/15).
14. *Id.* at 3.
15. *Id.* at 3-5.
16. *Id.*
17. *Id.* at 5 (citing MINN. STAT. ANN. § 554.03).
18. *Id.* at 6.

19. *Id.* at 8–9.
20. No. 07 L 10487 (Cook Co., Ill.).
21. No. 05-L-83 (St. Clair Co., Ill.).
22. Aug. 13, 2008 Order.
23. No. 07-L-68 (Macon Co., Ill.).
24. May 27, 2009 Order.
25. *E.g.*, *e-cash Tech., Inc. v. Guagliardo*, 127 F. Supp. 2d 1069, 1083–84 (C.D. Cal. 2000) (awarding attorney fees and costs notwithstanding plaintiff’s voluntarily dismissal of the action after the defendants filed anti–SLAPP motion).
26. *Doubek v. CBS Broadcasting, Inc.*, No. 08-L-4627 (Cook Co., Ill.).
27. *See, e.g.*, *Boxcar Dev. Corp. v. New World Commc’ns of Atlanta, Inc.*, No. 08CV2248, 2008 WL 1943313 (Ga. May 1, 2008) (applying anti–SLAPP law to television broadcaster and holding “[b]y its very nature, an investigative news report is a medium that seeks to influence the public or State government.”).
28. No. 08 L 19 (Lee Co., Ill.).
29. No. 07 L 3680 (Cook Co., Ill.).
30. No. 07 L 004940 (Cook Co., Ill.).
31. CAL. CIV. PROC. CODE § 425.16 (b)(1).
32. 110 Cal. App. 4th 156, 166–67 (2003).
33. *Id.*
34. *See Shepherd v. Schurz Commc’ns, Inc.*, 847 N.E.2d 219, 225–26 (Ind. Ct. App. 2006).
35. *See Johnson v. KTBS, Inc.*, 889 So. 2d 329, 332 (La. Ct. App. 2004) (affirming dismissal of anti–SLAPP motion for a news broadcast about murder victims where plaintiffs could not establish defamation was of and concerning them and could not present evidence of actual malice).
36. *Scheidler v. Trombley*, 07 L 513 (Kane Co., Ill.), Sept. 2, 2008 Order, at 8.
37. No. 04 LK 13 (Kane Co., Ill.).
38. For a comparative review of various anti–SLAPP statutes and their applications to media defendants, see Shannon Hartzler, Note, *Protecting Informed Public Participation: Anti–SLAPP Law and the Media Defendant*, 41 VAL. U. L. REV. 1235 (2007).
39. 735 ILCS § 110/10 (2007).
40. *Id.*
41. *Id.* § 110/30(b).