

Ad IDEM

Canadian Media Lawyers Association

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Ad IDEM/Canadian Media Lawyers Association welcomes the passage of the British Columbia Protection of Public Participation Act (Bill 2) by the unanimous vote of the British Columbia Legislative Assembly.

Too often, the high cost of litigation and the threat of damages awards can be used as a weapon by the wealthy and powerful to silence critics, both journalists as well as ordinary citizens and activists.

The *Act*, a form of anti-SLAPP (“strategic lawsuit against public participation”) legislation, promotes and protects freedom of expression and freedom of the media, by creating court procedures allowing for, in appropriate circumstances, the early and cost-effective dismissal of lawsuits designed to silence communications in the public interest.

The *Act* allows a defendant in a defamation lawsuit to apply to court on the basis that his or her communication relates to a matter of public interest. The burden then shifts to the plaintiff to show that the lawsuit has substantial merit, that the defendant has no valid defence, and that the harm likely caused by the alleged defamation is serious enough that the public interest in allowing the lawsuit to proceed outweighs the public interest in protecting the defendant’s public expression. If the claim is dismissed, the court can order the plaintiff to fully or partly pay for the defendant’s legal costs, as well as damages if the lawsuit is brought in bad faith or for an improper purpose.

At the same time, the *Act* is not a licence to defame: if the target of the communication can show that they have likely suffered real harm, or that the communication is malicious or not on a matter of public interest, the lawsuit will likely be permitted to proceed.

British Columbia joins Ontario and Quebec as the only Canadian provinces with this form of protective legislation. Ad IDEM/CMLA encourages all remaining Canadian legislatures to adopt similar anti-SLAPP legislation in order to protect the expressive rights of their citizens.

The *Act* is not yet in force, but is expected to receive Royal Assent and become law in the coming weeks.

Ad IDEM/CMLA is a national association of lawyers dedicated to the promotion and protection of freedom of expression and freedom of the media throughout Canada. Our objective is “*to reaffirm every day, in every court in our country, the importance of these freedoms*”.

Members of the Ad IDEM/CMLA Board of Directors would be happy to comment or field inquiries on the new *Act*.

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