

UnhappyFranchisee.Com

Sen. Larry Farnese

1802 S. Broad Street

Philadelphia, PA 19145

Dear Senator Farnese:

I would like to offer my story and this written testimony in support of Senate Bill 1095 and the crucial need for anti-SLAPP legislation in Pennsylvania.

I am a professional business writer and web publisher who works from my home in Lancaster, PA. Drawing on my 25 years of franchise industry experience, I publish several informational websites that provide free guidance to individuals considering starting a small business through the purchase of a franchise. My most popular website is UnhappyFranchisee.Com. UnhappyFranchisee.Com is the only information source that enables current and former franchisees to share their experiences and provide candid, unsanitized, insider advice to those about to risk their homes, savings and financial futures on franchise investments that typically run in the hundreds of thousands of dollars.

UnhappyFranchisee.Com has received dozens, if not hundreds, of messages from individuals and families from Pennsylvania and throughout the U.S. thanking the site for keeping them from making potentially devastating financial decisions. As you would imagine, disreputable, fly-by-night and/or failing franchise organizations peddling high-risk and doomed business opportunities want these warnings to disappear to keep future victims uninformed and unwarned. In the past 7 years, I have been threatened, bullied, cyber-attacked and served with two SLAPP lawsuits.

Last year, I was served with a \$30,000 defamation lawsuit (*BEAUTIFUL BRANDS INTERNATIONAL LLC, v. SEAN KELLY Oklahoma District Court County of Tulsa No. CJ-2013-2344*) over an innocuous comment about a failing franchise company. The Plaintiff's CEO later admitted he filed to vindictively coerce me to remove non-defamatory content about his company. The Plaintiff dropped the lawsuit and apologized, but left me with approximately \$15,000 in legal fees to out-of-state attorneys.

Currently, I am battling a \$35,000,000 defamation suit that, in my opinion and the opinion of every 1st Amendment expert I have consulted, clearly meets the definition of a SLAPP (*Golob v. Kelly, California Superior Court, County of Mendocino, Case Number SUUK CV PO-1463543*). While we have only filed our initial arguments and our motion to strike, I have already incurred over \$30,000 in legal fees to out-of-state attorneys and related costs.

Pennsylvania Business Owners & Residents Are Under Attack by SLAPPs

In a conference call with his attorney Nikolaus Reed, the Plaintiff Mark Golob who filed the \$35M lawsuit against me openly admitted that his intention was to force me to remove all references from my website about him and his failed franchise company. Since much of the content is in the form of 3rd party comments (for which I, as a web publisher, am not liable under Section 230 of the United States Code) on posts published in 2008 (well outside the 1-year statute of limitations for defamation), the Plaintiff and his attorney filed a lawsuit based on the untrue allegation that I published a post in January, 2014 that contained defamatory statements about him.

The claim that I published a blog post about the Plaintiff in 2014 is a lie, and the Plaintiff did not provide me or the court with a copy of the alleged defamatory publication.

Despite the utter preposterousness of a defamation lawsuit filed without proof that defamatory statements exist or ever existed, I have had to incur more than \$30,000 in legal costs (thus far) defending against this blatant and cynical attack on my 1st Amendment rights. While the alleged publishing took place in Pennsylvania, my fate rests with a California court on the other side of the country. I did not challenge jurisdiction because California has enacted relevant anti-SLAPP legislation while Pennsylvania has not.

In my opinion, the Plaintiff and his attorney didn't even waste time fabricating an even remotely plausible argument, as their fabricated claim is having the desired effect of causing me financial hardship and threatening my ability to operate my PA-based corporation and earn a living. With effective anti-SLAPP legislation in place, such corporate bullies would have to think long and hard before attacking Pennsylvania residents with such tactics.

We Need Senate Bill 1095 to Defend Pennsylvania Citizens, Pennsylvania Businesses and the Freedom of Speech

As a Pennsylvania citizen, business owner and taxpayer, I am distressed that the laws in my home state do not protect me from those who are perverting the civil court system to engage in corporate bullying and personal vendettas.

I am distressed that the SLAPP lawsuit I am facing may result in closing down my site, and depriving Pennsylvania residents with critical information that could save them from financial devastation.

I am distressed that I have had to rely on out-of-state attorneys and courts to defend my rights.

Most of all, I am distressed that Pennsylvania currently does not have effective anti-SLAPP legislation to ensure that those who can afford expensive law firms and mean-spirited, vindictive lawsuits are able to deprive those who can't of their fundamental right to freedom of speech.

I believe passage of Senate Bill 1095 will help to protect the fundamental rights of Pennsylvanians and penalize those who seek to pervert the civil justice system for their own gain.

Thank you,

Sean Kelly

Owner, Relentless, Inc. (A PA Subchapter S Corporation)

Publisher, UnhappyFranchisee.Com

PS I have expressed my support online at:

<http://www.unhappyfranchisee.com/mark-golob-lawsuit-pa-anti-slapp/>

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