

April 21, 2009

Honorable Ellen Corbett
California State Senate
State Capitol, Room 5108
Sacramento, CA 95814

SB 320 : SUPPORT

Dear Senator Corbett,

[Californians Aware](#) supports your SB 320, which would prohibit state courts from recognizing a defamation judgment obtained in a foreign jurisdiction, unless the court determines the defamation law applied in the case provides at least as much protection for freedom of expression as offered by the First Amendment and California Constitution.

Since 1992, Californians and others sued for libel or slander in this state can respond immediately with a motion to strike under Code of Civil Procedure Section 425.16. If the lawsuit reacts to a statement by the defendant “in connection with a public issue,” the court will grant the motion, forcing the plaintiff to satisfy the court without further discovery or other skirmishing that the lawsuit is a probable winner because the offending statement is an actionable defamation without privileges or other defenses.

Thus a meritless but ruinously costly libel suit can be aborted at the outset, and the person sued can get the court to order the unjustified plaintiff to pay his or her attorney’s fees for having to make the motion to strike. The result is not to eliminate defamation suits in California—the substantive law on libel and slander has not changed—but to greatly reduce court attacks on protected speech and press by screening out those with no chance of winning on the merits but likely to impose great litigation costs on the defendants before being ultimately stopped.

This bill simply ensures that defamation judgments from foreign legal systems that offer neither an anti-SLAPP filter nor constitutional or other rules with a bias toward the speaker or writer on public issues, as do both federal and state courts in California, cannot take advantage of that bias against free speech and press when they come here seeking enforcement.

Thank you for leading the effort for this badly needed reform.

Sincerely,

Terry Francke
General Counsel