

SLAPPED: A Tool for Activists

Part 5: How to Guard Against SLAPP Suits



There is no foolproof way to avoid being SLAPPED. However, the vast majority of individuals involved in community engagement will never be the target of a SLAPP suit. The goal of this information is **NOT** to discourage anyone from exercising their First Amendment rights.

Nonetheless, it pays to be proactive prior to engaging in community activism and to consider the possibility of being SLAPPED before it happens. Being prepared will decrease the likelihood of being SLAPPED and encourage confident public participation.

Proactive Steps to Take to Guard Against Being SLAPPED

1. **Know your rights.** You have the First Amendment right to the freedom of speech and to petition your government. However, threatening or harassing speech is usually not protected.
2. **Tell the truth, and base your speech on facts.** Truth is an absolute defense to a defamation claim. Avoid using broad generalizations or speculation. Instead use fact-based statements. Generally, public comments, statements or expressions of opinion should have some basis in fact. If you are unsure whether your statements could potentially subject you to a lawsuit, first seek advice from an attorney or organization knowledgeable about First Amendment rights.
3. **Do research and keep records.** Fact-check your information, and cite to legitimate sources. It is probably best if your planned action is not based solely upon something you read on the internet, especially if that something is simply the expression of an opinion.
4. **Review your homeowners or renters insurance.** Some liability policies provide coverage for damages and legal fees that result from a variety of legal claims such as defamation.
5. **Research the subject of your free speech activity.** For example, look for information which would indicate if the individual or entity has a reputation of being ‘SLAPP-happy,’ i.e., whether it has sued others for criticizing its activities.
6. **If you are planning to stage a protest demonstration involving other individuals:**
 - Follow the above guidelines.
 - Be aware of all signs, slogans, or chants to be used in the protest.

- Limit the use of email communications between participants or the media regarding the demonstration, as those communications could be subject to discovery if a lawsuit were filed.
- Verify whether the area where the demonstration is to occur is permissible under city ordinances and if a permit must first be obtained.
- Inform local law enforcement of the time and date of the demonstration.
- Avoid blocking sidewalk or highway traffic, and do not walk or stand on private property.
- Designate at least one person to take pictures or video of the demonstration and provide copies of the footage to the organizers.
- Consider asking all participants to direct media inquiries to a predetermined member of the demonstration so the messaging remains clear.

What to Do if You Have Been SLAPPed

If you are or think you may be the target of a SLAPP suit, seek legal assistance as soon as possible as there are strict deadlines to respond to a complaint against you.

DISCLAIMER – This information is not, nor is it intended to be, legal advice. The information regarding SLAPP suits is meant to provide the public with general information as part of our ongoing educational efforts. Every case depends on the specific facts and circumstances involved. Do not wait for a response from us. Your problem may have a deadline for legal action. Seek help from an attorney immediately. We may contact you for further information.