

GREENPEACE

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Chairman Raskin, Ranking Member Mace, and members of the committee, thank you for the invitation to participate in this hearing. My name is Deepa Padmanabha and I am Deputy General Counsel for Greenpeace USA, one of the leading organizations exposing global environmental problems and promoting solutions that are essential to a green, just, and peaceful future. I am pleased to have the opportunity to discuss attacks on free speech in the form of Strategic Lawsuits Against Public Participation, or SLAPPs.

I walked through the doors of Greenpeace USA 11 years ago because I truly believed in its mission. I never could have imagined that a few years later, my career would become dedicated to protecting our fundamental right to free speech.

In May 2016, Greenpeace USA was hit with its first SLAPP filed by Resolute Forest Products, one of Canada's largest logging companies, alleging damages of \$100 million for publicly challenging the company's forestry practices. And not long after, in 2017, we were hit with a very similar suit brought by Energy Transfer, the company behind the Dakota Access pipeline, claiming \$300 million in damages for allegedly orchestrating the resistance at Standing Rock. At issue in both lawsuits was our right to make the public aware of business practices we believe are harmful to both our health and our planet.

What made these lawsuits different from previous SLAPPs was the use of the Racketeer Influenced and Corrupt Organizations Act - or RICO - a law designed to go after the mafia. These companies were trying to equate advocacy work to protect our planet with organized crime. And the similarity between the lawsuits was no coincidence; it was the same lawyers behind both suits, who indicated they were shopping this tactic around. It was clear that these corporations were trying to send a message to small groups, activists, and anyone and everyone with a voice: watch out, or you will be next.

We knew we had to fight these lawsuits head on because their implications reached well beyond Greenpeace: the fundamental right to speak out, organize, resist, and show solidarity across movements was under threat. Our First Amendment right to free speech was in jeopardy. Smaller groups could be sued into silence by the mere filing of a suit of this magnitude, which is the precise intention behind this tactic.

We quickly realized that we were not in this fight alone. Groups across issue areas - from the environment, to human rights, to labor and beyond - came together to send a message that when you go after one of us, you go after all of us. That was the birth of Protect the Protest, a coalition created to fight back against the use of SLAPPs.

While we successfully got RICO thrown out of both lawsuits, these corporations continue to pursue whatever claims they can to consume our resources and distract us from our work to protect the planet and its people. They also use other SLAPP tactics, including third party subpoenas, to go after small groups and individuals. The costs associated with

these lawsuits are a drop in the bucket for these companies, but they are an existential threat to public watchdogs who play a critical role in our society.

So here we are, more than six years from when the first SLAPP was filed against us, still forced to invest time and resources into these legal battles that otherwise would have been used to protect communities and the environment from toxic pollution and the existential threat of climate change. While our window to fight the climate crisis continues to shrink, we have to win because the voices of those who protect our planet and our communities cannot be silenced.

Whether you support or oppose our positions, it is non-negotiable that Greenpeace (and everyone else) has a right to freely discuss, criticize and/or denounce practices that impact our health and our livelihoods. That is what the First Amendment guarantees. SLAPPs put that healthy debate on ice. Corporations with deep pockets can effectively buy freedom from criticism by censoring their opponents.

Now is a critical moment for Congress to act and introduce federal anti-SLAPP legislation. Thirty-two states and the District of Columbia have enacted common sense anti-SLAPP legislation, and all were introduced in a bi-partisan or nonpartisan fashion. While federal legislation might not put an end to all SLAPPs, it would be a significant step towards becoming a nation of justice, where our fundamental right to speak truth to power is protected.

Attachments:

Greenpeace USA SLAPPs summary

“Pipeline Company Issues Broad Subpoena to News Site that Covered Protests Against it,” *The Intercept*, April 3, 2021.