Reducing the Number of Frivolous Lawsuits

On June 19, 2007, the Legislative Assembly of Alberta passed Bill 18, or the Judicature Amendment Act, 2007 [1]. The Bill is a legislative response to the growing number of frivolous lawsuits before Alberta courts. It expands section 23 of the previous Act by permitting courts to immediately stop proceedings of "vexatious" lawsuits, and allowing defendants to make counter applications against the party that initiated the lawsuit. The Bill also permits court hearings to be before a single judge.

British Columbia has enacted similar legislation, and Quebec, New Brunswick, and Nova Scotia are considering such laws. For these latter provinces, and Quebec in particular, the concern is not so much the frivolous lawsuits brought forward by individuals. Rather, the focus is lawsuits brought forward by large corporations in an attempt to stifle democratic activities against them by members of the public. These lawsuits are known as Strategic Lawsuits Against Public Participation, or SLAPPs, and are defined as "civil actions with no reasonable basis or merit advanced with the intent of stifling participation in public policy and decision-making" [2].

SLAPPs, though a recent phenomenon in Canada, are well-known in the United States. Canadian courts first became aware of SLAPP lawsuits in the case MacMillian Bloedel v. Galiano Island Trust Committee et al. [3], in which a development company wanted damages from ten residents of Denman Island, B.C., for setting up an information table at the company's work site. The table was an attempt by the residents to raise awareness of the logging company's violation of local by-laws. In two later cases dealing with the same issue, namely Fraser v. Saanich and Daishowa Inc v. the Friends of the Lubicon, Canadian courts became receptive to the "implications of SLAPP suits, and more willing to chastise litigants for launching unreasonable actions" [4]. Indeed, given the waste of valuable court resources by SLAPPs and the silencing effect on public participation, Bill 18 appears to be a timely legislative response to a growing problem for Canadian courts.

Cases

- MacMillian Bloedel v. Galiano Island Trust Committee et al., [1995] B.C.J. No. 3132 (B.C.C.A).
- Fraser v. Saanich, [1999] B.C.J. No. 3100 (B.C. Sup. Ct.).
- Daishowa Inc v. the Friends of the Lubicon, [2000] O.J. No. 1605 (ON C.A.).

Sources

- Bill 18, Judicature Amendment Act, 2007, 3rd Sess., 26th Leg., Alberta,

2007 (assented to 19 June 2007).
- Kevin Dougherty, “Quebec moves to rein in legal bullying” (19 July 2007), The Gazette.

Further Reading

- Chris Tollefson, “Strategic Lawsuits and Environmental Politics: Daishowa Inc. v. Friends of the Lubicon” (1996) 31 Journal of Canadian Studies 119.
- Fiona Donson, Legal Intimidation (London: Free Association Books, 2000).
- George W. Pring & Penelope Canan, SLAPPs: Getting Sued for Speaking Out (Philadelphia: Temple University Press, 1996).

[1] Bill 18, Judicature Amendment Act, 2007, 3rd Sess., 26th Leg., Alberta, 2007 (assented to 19 June 2007).
[2] Bram Rogachevsky, “Strategic Lawsuits Against Public Participation: Combating an Assault on the Democratic Process” 6 Appeal: Review of Current Law and Law Reform 28-35 (2000), at para. 5.
[3] Fraser v. Saanich, [1999] B.C.J. No. 3100 (B.C. Sup. Ct.). and Daishowa Inc v. the Friends of the Lubicon, [2000] O.J. No. 1605 (ON C.A.).
[4] Supra note 2 at para. 27.