

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 897
May 5, 2021
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10445-LRa-111B

Short Title: Address False Campaign Claims.

(Public)

Sponsors: Representative Szoka.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPEDITIOUSLY ADDRESS ACCUSATIONS OF FALSE CLAIMS MADE
3 BY POLITICAL CAMPAIGNS AND TO APPROPRIATE FUNDS FOR THAT PURPOSE.
4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) Article 17 of Chapter 1 of the General Statutes is amended by adding
6 a new section to read:

7 "**§ 1-149.1. Special motion to strike; purpose; availability; burden; appeal.**

8 (a) Purpose. – The General Assembly finds that the public has an interest in knowing
9 whether campaign claims are false or defamatory prior to casting votes in an election. This public
10 interest should be balanced against political candidates' right to freedom of speech. Therefore, it
11 is the purpose of this section to expedite resolution of certain lawsuits against political candidates
12 and campaigns.

13 (b) Motion. – A claim for relief against a person arising from any act of the person which
14 could reasonably be construed as an act in furtherance of the person's seeking elected public
15 office shall be subject to a motion to dismiss or strike unless the court determines that (i) the
16 nonmoving party's claim has a substantial basis in law or a substantial argument for modifying
17 the law and (ii) the nonmoving party has established that there is a probability of that party
18 prevailing on the claim.

19 (c) Determination. – In making the determination under subsection (b) of this section, the
20 court shall consider the pleadings and supporting and opposing affidavits stating the facts upon
21 which the liability or defense is based. If the court determines that the nonmoving party under
22 subsection (b) of this section has established a substantial basis or argument for the claim and a
23 probability that the nonmoving party would prevail on the claim, neither that determination nor
24 the fact of the determination shall be admissible in evidence at any later stage of the case or in
25 any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be
26 affected by the determination in any later stage of the case or in any subsequent proceeding.

27 (d) Stay. – All discovery and any pending hearings or motions in the action shall be stayed
28 upon the filing of a motion to dismiss or a motion to strike made under this section until a final
29 decision on the motion, except that the court, on noticed motion and for good cause shown, may
30 order that specified discovery or other hearings or motions be conducted notwithstanding this
31 subsection.

32 (e) Priority of Calendaring. – The hearing of the motion shall be advanced and take
33 precedence over all other causes upon the court calendar, as follows:

34 (1) If the motion is filed within 30 days of the election day for the public office,
35 the court shall hear the motion within five days of its filing. The court shall
36 issue its order on the motion within five days of the hearing.



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1 (2) If the motion is filed between 31 and 60 days before the election day for the
2 public office, the court shall hear the motion within 10 days of its filing. The
3 court shall issue its order on the motion as soon as practicable, but in no case
4 shall that period exceed 10 days.

5 (3) If the motion is filed between 61 and 90 days before the election day for the
6 public office, the court shall hear the motion within 15 days of its filing. The
7 court shall issue its order on the motion as soon as practicable, but in no case
8 shall that period exceed 15 days.

9 (4) If the motion is filed more than 91 days before the election day for the public
10 office, the court shall hear the motion within 21 days of its filing. The court
11 shall issue its order on the motion as soon as practicable.

12 (f) Fees and Costs. – The court shall award attorneys' fees and costs of litigation, in an
13 amount to be determined by the court based on the facts and circumstances of the case, as follows:

14 (1) To a prevailing moving party on a motion to strike under this section.

15 (2) To a prevailing nonmoving party if the court finds that a motion under this
16 section is frivolous or solely intended to cause unnecessary delay.

17 Attorneys' fees and costs under this section may be requested by motion at any time during
18 the course of the action but must be requested not later than 45 days after the final disposition,
19 including, but not limited to, dismissal by the plaintiff of the action.

20 (g) Appeals. – Notwithstanding G.S. 1A-1, Rule 54; 1-277; or 7A-27, an order granting
21 or denying a motion to dismiss or a motion to strike under this section is subject to an immediate
22 appeal because such order deprives the appellant of a substantial right unless there is a review
23 before final judgment.

24 (h) Miscellaneous. – Nothing in this section precludes the right of any party to any
25 recovery otherwise authorized by law."

26 **SECTION 1.(b)** This section becomes effective October 1, 2021, and applies to civil
27 actions commenced on or after that date.

28 **SECTION 2.(a)** Effective July 1, 2021, there is appropriated from the General Fund
29 to the Administrative Office of the Courts the sum of one hundred thousand dollars (\$100,000)
30 in nonrecurring funds for the 2021-2022 fiscal year to implement the provisions of this act.

31 **SECTION 2.(b)** Effective July 1, 2021, there is appropriated from the General Fund
32 to the State Board of Elections the sum of ten thousand dollars (\$10,000) in nonrecurring funds
33 for the 2021-2022 fiscal year for the Board's activities relating to this act.

34 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
35 law.