
New York First Department Clarifies the Applicability of New York's Anti-SLAPP Statute

Date: 06/21/24

Anti-Strategic Lawsuits Against Public Participation (“anti-SLAPP”) laws are designed to discourage the use or threat of litigation to stifle free expression. In November 2020, New York State amended its anti-SLAPP statute to greatly expand its protections. Since this amendment, federal courts have wrestled with whether the law (or portions of it) apply in federal cases — sometimes struggling to determine which provisions are substantive (and therefore applicable in federal actions) and which are procedural (and therefore inapplicable).

On November 28, 2023, in *161 Ludlow Food v. L.E.S. Dwellers*, the Appellate Division of the Supreme Court of New York, First Department, offered some clarity, holding that New York’s anti-SLAPP procedural rules under Civil Practice Law and Rules (“CPLR”) Sections 3211 and 3212 operate independently of the provisions of New York’s anti-SLAPP statute that permit parties to recover attorneys’ fees and punitive damages. Therefore, the portions of the statute that permit the recovery of attorneys’ fees and punitive damages are substantive provisions that apply in federal actions.

Attorneys

- Joel Kurtzberg
- Miles Wiley