No. 20-CV-318

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

L. MORGAN BANKS, III, *et al*.,
APPELLANTS,

v.

DAVID H. HOFFMAN, *et al*.,
APPELLEES.

ON APPEAL FROM A JUDGMENT OF THE
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

BRIEF FOR APPELLEE THE DISTRICT OF COLUMBIA

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INTRODUCTION

The Home Rule Act upholds an interest fundamental to District of Columbia residents: self-government. Critical to this interest is the ability of residents to elect members of the Council with broad authority to legislate on "all rightful subjects of legislation" in the District. One exception to this authority is that the Home Rule Act prohibits the Council from enacting legislation amending any provision of Title 11 of the D.C. Code—concerning the organization and jurisdiction of the courts. Over the past five decades, however, this Court has consistently interpreted this limitation narrowly, and flexibly, so as not to thwart the Home Rule Act's paramount purpose of self-government. As interpreted, the limitation precludes only legislation that amends Title 11 itself or runs directly contrary to its terms. Those interpretive decisions have effectively become woven into the fabric of Home Rule in the District.

Against this backdrop, the Council has enacted numerous statutes to create and protect substantive rights for District residents. The District's Anti-SLAPP Act is one such example. Comparable to legislation now in effect in a majority of states, it is designed to prevent the use of private lawsuits to chill persons from exercising their right to speak on matters of public interest. To this end, it allows a defendant to file a "special motion to dismiss" to ensure quick resolution of legally insufficient claims that arise from activity protected under the Act. Plaintiffs contend that the Act

thereby violates a provision of Title 11 giving the Superior Court the authority to adopt and modify rules of procedure.

This challenge to the validity of the Anti-SLAPP Act conflicts with this Court's prior decisions, which flexibly allow the Council and courts to have concurrent authority over matters of procedure so that the Council can effectuate its legislative policy goals. Plaintiffs ask this Court to adopt a different test that would invalidate any Council-enacted statutory provision for the courts to apply that is "procedural, at least in part" or "answers the same question" as a federal rule of procedure. This not only risks gutting the Anti-SLAPP Act—which this Court has repeatedly upheld against past challenges—but also a wide range of other statutory provisions embedded throughout the D.C. Code. The result would upset settled rights and expectations, sowing confusion and inviting perpetual litigation. This Court should reject plaintiffs' novel and unsupported effort to restrict the Council's ability to legislate, which disregards decades of precedent and practice under Home Rule.

STATEMENT OF THE ISSUES

1. Whether the Anti-SLAPP Act's "special motion to dismiss" provision is consistent with the Home Rule Act, where the Anti-SLAPP Act does not amend, or run directly contrary to, the terms of Title 11 of the D.C. Code but exercises the Council's broad authority to create substantive rights and remedies, even if indirectly affecting court procedures as to a specific type of claim.

2. Whether the Anti-SLAPP Act's "special motion to dismiss" provision complies with the First Amendment right to access the courts, where the provision does not prevent the filing of claims but merely ensures expeditious consideration of a claim's merits based on the legal sufficiency of the evidence.

STATEMENT OF THE CASE

Three retired Army colonels—L. Morgan Banks III, Debra L. Dunivin, and Larry C. James—filed this suit seeking compensatory and punitive damages against defendants David Hoffman, his law firm Sidley Austin LLP and Sidley Austin (DC) LLP, and the American Psychological Association ("APA") for defamation per se, defamation by implication, and false light invasion of privacy. Joint Appendix ("JA") 318-47. Defendants filed special motions to dismiss under the District's Anti-SLAPP Act, D.C. Code § 16-5501 *et seq*. JA 432, 702. When plaintiffs moved to declare the Act void under the Home Rule Act and unconstitutional under the First Amendment, *see* JA 2043, the District intervened to defend its legislation, 11/15/19 District Br. 1. After rejecting those challenges, JA 2043, the Superior Court granted the special motions and dismissed the case with prejudice, JA 2221. Plaintiffs filed a timely appeal. After a division of this Court reversed the judgment of dismissal, the Court vacated the Division's decision and granted rehearing en banc. 1/23/24 Order.

STATEMENT OF FACTS

1. The District's Anti-SLAPP Act.

Like legislatures in most states, the Council of the District of Columbia has enacted an anti-SLAPP statute to protect free expression and the exercise of political rights. D.C. Council, Report of Comm. on Public Safety and the Judiciary on Bill 18-893, at 3 (Nov. 18, 2010) (noting that the Council joined nearly 40 other jurisdictions that had already adopted or were considering anti-SLAPP legislation).[1] The Anti-SLAPP Act of 2010, D.C. Code § 16-5501 *et seq.*, targets strategic lawsuits against public participation ("SLAPPs"), which are "filed by one side of a political or public policy debate aimed to punish or prevent the expression of opposing points of view." *Competitive Enter. Inst. v. Mann*, 150 A.3d 1213, 1226 (D.C. 2016)). The goal of a SLAPP is "not to win the lawsuit but to punish the opponent[s] and intimidate them into silence" by requiring them to "dedicate a substantial[] amount of money, time, and legal resources" to litigation. Report on Bill 18-893, at 1, 4. To remedy this problem, the Act "create[s] a substantive right not to stand trial and to avoid the burdens and costs of pretrial procedures" when defendants face legally insufficient claims. *Mann*, 150 A.3d at 1231. As the Committee Report explains, the Act confers on SLAPP defendants "substantive rights to expeditiously and economically dispense

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[1] As of September 2023, 33 states and the District of Columbia have anti-SLAPP statutes. Reps. Comm. for Freedom of the Press, *Anti-SLAPP Legal Guide*, https://bit.ly/4cKpgUK (last visited Apr. 8, 2023).

of litigation to prevent their engaging in constitutionally protected actions on matters of public interest." Report on Bill 18-893, at 4.

Among its provisions, the Anti-SLAPP Act authorizes a defendant to file a "special motion to dismiss" to quickly eliminate meritless claims. D.C. Code § 16-5502. In such a motion, to be filed within 45 days of service of the claim, the defendant must make "a prima facie showing that the claim at issue arises from an act in furtherance of the right of advocacy on issues of public interest." *Id.* § 16-5502(a) to (b). If the defendant makes a prima facie showing, the burden shifts to the plaintiff to demonstrate "that the claim is likely to succeed on the merits." *Id.* This Court has interpreted the Act to require that the "plaintiff present an evidentiary basis that would permit a reasonable, properly instructed jury to find in the plaintiff's favor." *Mann*, 150 A.3d at 1261-62. "If the plaintiff cannot meet that burden, the motion to dismiss must be granted, and the litigation is brought to a speedy end." *Id.* at 1227.

Once a special motion to dismiss is filed, "discovery proceedings on the claim shall be stayed until the motion has been disposed of." D.C. Code § 16-5502(c)(1). However, "[w]hen it appears likely that targeted discovery will enable the plaintiff to defeat the motion and that the discovery will not be unduly burdensome, the court may order that specified discovery be conducted." *Id.* § 16-5502(c)(2). To meet the standard to obtain discovery, a plaintiff must show "more than 'good cause.'" *Fridman v. Orbis Bus. Intel. Ltd.*, 229 A.3d 494, 512 (D.C. 2020). A plaintiff bears

the burden "to articulate how targeted discovery will enable him to defeat the special motion to dismiss" and to "show that it is 'likely' the discovery will produce that result." *Id.* at 512-13. The Act further directs the court to "hold an expedited hearing on the special motion to dismiss" and "issue a ruling as soon as practicable" afterward. D.C. Code § 16-5502(d).

2. The Present Case.

A. Plaintiffs' complaint.

Plaintiffs are three retired Army colonels who served as military psychologists involved in drafting and implementing policies regarding national security interrogations. JA 247-50, 258. According to their complaint, in the wake of September 11, 2001, the American public began to closely scrutinize "the role of psychologists and psychiatrists" in alleged abusive interrogations of government detainees. JA 258; *see* JA 257. In 2004, "[a]mid [this] growing press coverage," "*The New York Times* published an article regarding the possible involvement of psychologists in abusive interrogations." JA 258. Responding to those accusations, the APA assembled a group—known as the Psychological Ethics and National Security ("PENS") Task Force—"to explore the ethical dimensions of psychology's involvement and the use of psychology in national security-related investigations." JA 258 (quotation marks omitted). Two plaintiffs were members of the task force, and the other plaintiff "propose[d] members for it." JA 250; *see* JA 259.

After meetings in 2005, the PENS Task Force issued "twelve statements about the ethical obligations of the APA members" to establish guidelines on how psychologists could ethically assist with national security interrogations. JA 259; *see* JA 2167. The recommendations did not outright ban psychologists from assisting with interrogations. *See* JA 2167. The APA Board approved and endorsed the recommendations less than a week after the task force issued them. JA 259-60.

In 2014, then-*New York Times* reporter James Risen published a book titled *Pay Any Price: Greed, Power and Endless War*. JA 237. The book claimed that the APA had "colluded with the Bush administration, the Central Intelligence Agency[,] . . . and the U.S. military to support torture." JA 237; *see* JA 2165.

In response to the book, the APA commissioned the law firm Sidley Austin LLP ("Sidley") to conduct an independent review of issues relating to the APA's ethical guidance for interrogations. JA 237; *see* JA 2224. Hoffman was the lead Sidley partner assigned to the matter. JA 251. The review culminated in Sidley's investigative report to the APA, JA 237, entitled "Independent Review Relating to APA Ethics Guidelines, National Security Interrogations, and Torture" ("the Report"), JA 2225. Primarily authored by Hoffman, JA 251, the Report concluded that "key APA officials . . . colluded with important [Department of Defense] officials to have APA issue loose, high-level ethical guidelines that did not constrain [the Department of Defense] in any greater fashion than existing [Department of Defense] interrogation

guidelines." JA 2246. According to the complaint, the Report specifically "identifie[d] each [p]laintiff by name as being an active partner or participant . . . in this collusive joint enterprise." JA 238.

Plaintiffs alleged that the Report was false in three primary respects. JA 241. First, the Report asserted that plaintiffs and others colluded by ensuring that the task force's guidelines "were no more restrictive than 'existing' military guidelines," which were, according to the Report, "too loose to constrain abuses that amounted to torture." JA 241. Second, the Report stated that from 2006 to 2009, plaintiffs and others "prevent[ed] the APA from banning psychologists' participation in national-security interrogations." JA 241. Finally, the Report concluded that plaintiffs and others "mishandl[ed] ethics complaints to protect national-security psychologists from censure." JA 241. Plaintiffs alleged that defendants either knew these three statements were false or acted in regardless disregard of their truth. JA 241.

B. The special motion to dismiss.

Defendants filed special motions to dismiss under the District's Anti-SLAPP Act, D.C. Code § 16-5502. JA 432, 702. Both motions argued that, because the Report was "in furtherance of the right of advocacy on issues of public interest," JA 449, 716, the Act shifted the burden to plaintiffs to show a likelihood of success on the merits—and that plaintiffs were unable to meet this burden. JA 449-64, 716-33. Defendants asserted that plaintiffs were public officials, and that plaintiffs' allegations

failed to demonstrate that defendants had acted with malice. JA 456-64, 720-33. Plaintiffs moved for targeted discovery under the Act, and following a hearing, the court granted that motion in part. JA 735, 853, 952-56.

During briefing, plaintiffs moved to declare the Act void and unconstitutional, 1/8/19 Mot., and the District intervened to defend the Act, 11/15/19 Br. 1. Plaintiffs argued that the Act was void under the District's Home Rule Act prohibition on the Council enacting "any act, resolution, or rule with respect to any provision of Title 11." 1/8/19 Mot. 1 (quoting D.C. Code § 1-206.02(a)(4)). The Title 11 provision that they cited was D.C. Code § 11-946, which provides in part: "The Superior Court shall conduct its business according to the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure (except as otherwise provided in Title 23) unless it prescribes or adopts rules which modify those Rules." *See* 1/8/19 Mot. 1. Plaintiffs contended that the Anti-SLAPP Act impermissibly "creates new procedures that are not contained in the Federal Rules of Civil Procedure." 1/8/19 Mot. 1. They further argued that the Anti-SLAPP Act was unconstitutionally overbroad on its face—by affecting "legitimate suits brought to address real wrongs"—and otherwise imposed "impermissible obstacles" to the right of access to the courts. 1/8/19 Mot. 2.

The court denied plaintiffs' motion. JA 2043. It found that the Anti-SLAPP Act "does not alter the jurisdiction of the courts, or otherwise interfere with the court's structure or core functions contrary to the Home Rule Act." JA 2049. The court also

reasoned that the Anti-SLAPP Act creates "*substantive rights*"—as both the legislative history and this Court's precedents confirm—and that the Home Rule Act allows the Council to change the substantive law that courts apply. JA 2049 & n.4. The Anti-SLAPP Act simply "establish[es] a framework to balance the competing interests of adversarial parties in a particular set of circumstances which is 'not [] redundant relative to the rules of civil procedure.'" JA 2050 (quoting *Mann*, 150 A.3d at 1238). Even assuming a conflict between the Anti-SLAPP Act and a court rule, "the Act would prevail since a rule 'may not supersede an inconsistent provision of the District of Columbia Code.'" JA 2050 (quoting *Ford v. ChartOne, Inc.*, 834 A.2d 875, 879 (D.C. 2003)). The court further held that the Act complied with the First Amendment—it was not overbroad, nor did it burden plaintiffs' right to access the courts because it did not prevent meritorious claims from proceeding. JA 2055.

On March 11, 2020, after completion of targeted discovery and supplemental briefing, the court granted defendants' special motions to dismiss. JA 2164-66. The court first determined that defendants had made a prima facie showing that each activity that plaintiffs challenged was covered under the Act. JA 2175-78. It found that the Report was protected "advocacy," JA 2176, and that each plaintiff was a "public official" for purposes of defamation, JA 2178-82. The burden then shifted to plaintiffs to show a likelihood of success on the merits. JA 2211. The court first concluded that one of plaintiffs' arguments—that the APA had "republished" the

Report by linking to it on its website—failed as a matter of law. JA 2182-84. The court then found that plaintiffs had not proffered evidence to convince a reasonable jury that defendants had acted maliciously in publishing the Report. JA 2184-91. But even if plaintiffs were private figures (rather than public officials), the court found that they had still not offered evidence that defendants had "fail[ed] to observe an ordinary degree of care in ascertaining the truth of an assertion before publishing it to others." JA 2191 n.10 (alteration in original) (quoting *Kendrick v. Fox Television*, 659 A.2d 814, 822 (D.C. 1995)). Finding that plaintiffs' claims were legally insufficient, the court dismissed the case with prejudice. JA 2191-92.

On appeal, a division of this Court issued a decision—later vacated by the en banc Court—that would have invalidated the Anti-SLAPP Act's discovery-limiting provision, *id*. § 16-5502(c), and its expedited hearing provision, to the extent that it would curtail discovery, *id.* § 16-5502(d). *Banks v. Hoffman*, 301 A.3d 685, 704 (D.C. 2023), *vacated by* 2024 WL 255419 (Jan. 23, 2024). The Division reasoned that because the discovery-limiting provisions for special motions to dismiss "conflict with [Fed. R. Civ. P.] 56"—which places fewer limits on discovery prior to summary judgment, *see* Fed. R. Civ. P. 56(d)—the Anti-SLAPP Act necessarily "violates the Home Rule Act." *Id.* at 704. This conclusion relied on the test for whether state laws apply in federal court cases based on diversity jurisdiction. *Id.* at 702-04. The Division further found no construction that could save these statutory provisions,

rejecting any "possibility . . . of adopting a broad or fluid interpretation of a term or phrase used in Title 11 or in the Home Rule Act in a way that" would permit "deference to the Council's intent." *Id.* at 699.

STANDARD OF REVIEW

This Court reviews legal questions, including questions of statutory and Constitutional interpretation, de novo. *Mann*, 150 A.3d at 1233.

SUMMARY OF ARGUMENT

1.A. The District's Anti-SLAPP Act does not violate the Home Rule Act's narrow limitation on the Council's legislative authority. As well established by this Court's precedent, that limitation, D.C. Code § 1-206.02(a)(4), forecloses the Council only from enacting laws that "attempt[] to amend [D.C. Code Title 11] itself" or "run directly contrary to [its] terms." *Woodroof v. Cunningham*, 147 A.3d 777, 782, 784 (D.C. 2016). The Anti-SLAPP Act, including its "special motion to dismiss" provision, does not amend Title 11 itself. It does not change a word of D.C. Code § 11-946, which enables the Superior Court to adopt and modify rules of procedure. The Act also does not run directly contrary to that section's terms because the court's rulemaking authority remains intact. To suggest a direct conflict between the Anti-SLAPP Act and Section 11-946, plaintiffs assume that the Superior Court's rulemaking authority on any matter of procedure is exclusive. But interpreted narrowly, and in "a flexible, practical manner," *id.* at 784, Section 1-206.02(a)(4) does

not exclude the Council's policymaking role in this area. Like the federal Rules Enabling Act and most state systems, legislatures and courts may exercise concurrent authority. Indeed, in the District, statutes prevail over court rules if the two cannot be reconciled.

At minimum, the Council must be permitted to enact substantive law that affects court rules *indirectly*. Substance and procedure can be fluid concepts, and substantive rights often have a procedural dimension. As this Court has repeatedly recognized, the Anti-SLAPP Act creates substantive rights to guard against the use of litigation to chill free speech. Its provision for a special motion to dismiss concerns only a small subset of claims arising from protected activity and does not alter generally applicable rules of procedure. Any effect on court rules is indirect at best.

The conclusion that the Anti-SLAPP Act is within the Council's authority is compelled by this Court's decision in *Bergman v. District of Columbia*, 986 A.2d 1208, 1226 (D.C. 2010). That decision upheld a statute governing lawyers' intrusive solicitation of car accident victims, even though Title 11 gave this Court authority to enact rules governing attorney conduct, which also covered intrusive solicitation. The Court recognized that its own authority was not exclusive and that the Council could legislate in this area too. *Bergman*'s reasoning is consistent with the practice in other states, recognizing the shared responsibility and cooperation between the legislative and judicial branches when substance and procedure intermix. Moreover, the Act's

special motion to dismiss provision does not displace Superior Court Rule of Civil Procedure 56. Defendants retain the ability to move for summary judgment under Rule 56, and so the Act and rule do not conflict.

B. Plaintiffs' overly restrictive interpretation of the Home Rule Act disregards Congress's intent. Beyond the paramount purpose of the Act to grant self-government to District residents, Section 1-206.02(a)(4) was intended to preserve the jurisdiction, organization, and structure of the courts and ensure the judiciary's independence. The Anti-SLAPP Act impairs none of those aims. And even where legislation has gone further than the Anti-SLAPP Act—affecting the court's jurisdiction "in a sense"—this Court has upheld such legislation because it did not threaten the purpose behind the Home Rule Act's limitation. *Woodroof*, 147 A.3d at 784.

C. Plaintiffs' Home Rule Act theory would also lead to illogical, and potentially disastrous, results. First, it would threaten the validity of, and balloon litigation over, whole chapters of the D.C. Code addressing all aspects of what could be described as procedure. For example, numerous Council-enacted statutes concern evidentiary burdens or limit discovery in ways indistinguishable from those that, in plaintiffs' view, invalidate the Anti-SLAPP Act. Second, there is a serious question whether the courts could fill the law-making vacuum that would be created by invalidating all these statutory provisions, since court-created rules may not abridge or modify substantive rights. Third, plaintiffs' interpretation creates a disparity in the

treatment of civil and criminal rules without any rational basis. After all, because Section 11-946 allows the criminal rules to be altered by Tile 23, which the Council expressly has authority to amend, the Council may effectively alter the criminal rules. To avoid an irrational disparity, the Home Rule Act should sensibly permit the Council to have a similar legislative role regarding the civil rules.

D. Finally, whether the Council can enact the Anti-SLAPP Act has nothing to do with whether the Act would apply in federal diversity actions. That standard—which generally disfavors applying state rules in federal court to ensure national uniformity—is entirely different than the Home Rule Act standard for legislation.

2. The Anti-SLAPP Act does not violate plaintiffs' First Amendment right to access the courts because claimants do not have a right to pursue legally insufficient claims. Courts around the country have consistently upheld statutes that offer a mechanism to expeditiously resolve claims on their merits. The District's Anti-SLAPP Act does exactly this—if a claim arises from protected activity, plaintiffs have the opportunity to show that their claim has a legally sufficient evidentiary basis.

ARGUMENT

I. The Anti-SLAPP Act Is Valid Under The Home Rule Act.

Congress passed the Home Rule Act in 1973 to allow the District to exercise self-governance. *Apartment & Off. Bldg. Ass'n v. Pub. Serv. Comm'n*, 203 A.3d 772, 778 (D.C. 2019); *see* D.C. Code § 1-201.01 *et seq.* The "paramount purpose" of the

Home Rule Act is "to grant the inhabitants of the District of Columbia powers of local self-government," much like a state legislature. *Woodroof*, 147 A.3d at 784; D.C. Code § 1-201.02(a). The Home Rule Act thus gives the Council "broad authority to legislate upon 'all rightful subjects of legislation within the District.'" *Woodroof*, 147 A.3d at 782 (quoting D.C. Code § 1-203.02); *see District of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 110 (1953) (interpreting the phrase "all rightful subjects of legislation" in the District of Columbia Organic Act "as broad as the police power of a state"). Such broad legislative authority was also designed to "relieve Congress of the burden of legislating upon essentially local District matters." D.C. Code § 1-201.02(a). Congress carved out only limited exceptions. Relevant to plaintiffs' challenge here, the Council lacks authority to "[e]nact any act, resolution, or rule with respect to any provision of Title 11 (relating to organization and jurisdiction of the District of Columbia Courts)." D.C. Code § 1-206.02(a)(4).

"As the legislative history demonstrates, this portion of the Home Rule Act was primarily concerned with preserving the organization and structure of the newly created court system (established in Title 11) and the independence of the judiciary." *Woodroof*, 147 A.3d at 784. A few years earlier, through the District of Columbia Court Reorganization Act of 1970, Pub. L. No. 91-358, tit. I, 84 Stat. 475, Congress had created a new local court system. Because early drafts of the Home Rule Act would have authorized the Council, shortly after taking office, "'to completely alter

and thus to obliterate the structure, organization and jurisdiction of the District of Columbia courts,' judges of the District courts strongly suggested 'that the new judicial system should be allowed to mature and gain experience before [being] subject[ed] . . . to further major modifications.'" *Woodroof*, 147 A.3d at 783 (quoting House Comm. on the District of Columbia, 93d Cong., 2d Sess., Home Rule for the District of Columbia at 1417, 1421 (Comm. Print 1974) ("Home Rule Comm. Print")).

This Court has long construed Section 1-206.02(a)(4) as a "narrow exception to the Council's otherwise broad legislative power 'so as not to thwart the paramount purpose'" of the Home Rule Act. *Andrew v. American Imp. Ctr.*, 110 A.3d 626, 629 (D.C. 2015) (quoting *Bergman*, 986 A.2d at 1226). Accordingly, this Court has read Section 1-206.02(a)(4) "narrowly to mean" only "that the Council is precluded from amending Title 11 *itself*." *Price v. D.C. Bd. of Ethics & Gov't Accountability*, 212 A.3d 841, 845 (D.C. 2019) (emphasis added). The Court thus asks whether the challenged legislation "attempt[s] to amend [Title 11] itself" or "run[s] directly contrary to the terms of Title 11." *Woodroof*, 147 A.3d at 782, 784. This limitation also is not applied "rigidly," but "in a flexible, practical manner." *Id.* at 784. In considering whether Council legislation runs afoul of this limitation, the Court has "attempted to respect the intent of the Council as expressed in the 'overarching statutory scheme'" that it has enacted. *Id.* at 782. This Court has similarly declared that "the D.C. Council's interpretation of its responsibilities under the Home Rule Act

is entitled to great deference." *Tenley & Cleveland Park Emergency Comm. v. D.C. Bd. of Zoning Adjustment*, 550 A.2d 331, 334 n.10 (D.C. 1988).

Applying these principles, the Anti-SLAPP Act does not violate the Home Rule Act because it does not amend or run directly contrary to the terms of Title 11. Indeed, plaintiffs' contrary theory ignores the structure and purposes of the Home Rule Act. And their theory, if adopted, would result in absurd and drastic consequences, including potentially invalidating swaths of the D.C. Code. This Court should reject that cramped interpretation of the Home Rule Act and reaffirm the Council's broad legislative power delegated by Congress.

A. The Anti-SLAPP Act comports with the Home Rule Act because it does not amend or run directly contrary to the terms of Title 11.

The Anti-SLAPP Act passes the established test under Section 1-206.02(a)(4): it neither "attempt[s] to amend [Title 11] itself" nor "run[s] directly contrary to the terms of Title 11." *Woodroof*, 147 A.3d at 782, 784. The Title 11 provision at issue here, D.C. Code § 11-946, provides:

> The Superior Court shall conduct its business according to the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure (except as otherwise provided in Title 23) unless it prescribes or adopts rules which modify those Rules. Rules which modify the Federal Rules shall be submitted for the approval of the District of Columbia Court of Appeals, and they shall not take effect until approved by that court. The Superior Court may adopt and enforce other rules as it may deem necessary without the approval of the District of Columbia Court of Appeals if such rules do not modify the Federal Rules.

Enacted as part of the Court Reorganization Act, Section 11-946 recognized the potential need to deviate from the federal rules "because of the peculiar local jurisdiction or because of the particular exigencies of the local situation." S. Rep. No. 91-405, at 21 (1969).[2]

To begin, the Anti-SLAPP Act does not amend Title 11 itself, as it "do[es] not change a single word" of Section 11-946. *Apartment & Off. Bldg. Ass'n*, 203 A.3d at 782; *see Woodroof*, 147 A.3d at 782. The Act does not "run directly contrary" to the terms of Section 11-946 either. *Woodroof*, 147 A.3d at 784. The Act does not remove that section's default rule that the Superior Court follow the Federal Rules of Civil and Criminal Procedure. *See* D.C. Code § 11-946. The Superior Court retains the authority to modify the federal rules and adopt its own rules. *See id*. And the same limitation on that authority exists as before: the Superior Court must obtain the approval of this Court before it may modify the federal rules. *See id*. Instead, the Anti-SLAPP Act merely outlines standards and processes for dismissing a special subset of cases based on the nature of a plaintiff's cause of action. It does not speak in

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[2] Prior to the Court Reorganization Act, Congress had given less flexibility to depart from the federal civil rules. *See* D.C. Code § 13-101(a) (1967) (directing that the rules of the D.C. Court of Appeals and the civil division of the Court of General Sessions "shall conform as nearly as practicable to the forms, practice, and procedure prescribed by the Federal Rules of Civil Procedure") (repealed by the Court Reorganization Act § 142(1)(A), 84 Stat. at 552).

any way to Title 11. Thus, on this basis alone, the Anti-SLAPP Act does not transgress the narrow limitation on the Council's authority in Section 1-206.02(a)(4).

1. Section 11-946 does not preclude the Council's ability to enact laws that have some procedural effect.

To argue that the Anti-SLAPP Act runs directly contrary to Title 11, plaintiffs suggest that Section 11-946 grants the Superior Court the *exclusive* authority to adopt any procedure governing its business. *See* Br. 23-24. Thus, in their view, the Council would have no authority—despite the subsequent creation of Home Rule—to legislate anything of a "procedural nature" applicable to Superior Court proceedings. Br. 22, 23. That is a remarkable proposition that finds no support in the legislative text, history, or purpose, or indeed anywhere in the implementation of Home Rule in its half-century of existence.

First, although the Anti-SLAPP Act does not conflict with the Federal Rules of Civil Procedure, it would be valid under the Home Rule Act even if it did. Again, the proper test is whether the Anti-SLAPP statute "run[s] directly contrary to the terms of Title 11" of the D.C. Code, not whether it alters some other provision of law, such as a court rule. *Woodroof*, 147 A.3d at 784. The only arguable conflict with Title 11 here would be if Title 11 conferred *exclusive* authority on the Court to make both rules and alterations to the law affecting procedure. But Title 11 does no such thing. This Court has always viewed the courts and the Council as having *concurrent* authority over court rules, such that each is able to make adjustments when warranted. This

respects the inherent authority of the courts over matters of pure judicial administration while allowing the Council to implement its legislative policy goals, in a targeted manner, with respect to particular types of claims and actions.

Indeed, this Court has long held that whenever a statute conflicts with a court rule, such that the two cannot be reconciled, it is *the statute* that prevails. For example, this Court has expressly rejected that "[S]ection 11-946 grant[s] the Superior Court (or this [C]ourt) the power to overturn any District of Columbia statute by adopting a court rule." *Flemming v. United States*, 546 A.2d 1001, 1004 (D.C. 1988). Similarly, "a Federal Rule which, by Act of Congress, becomes a Superior Court rule" may not "supersede an inconsistent provision of the District of Columbia Code." *Id.* at 1005. This Court has repeatedly "annulled Superior Court rules that [run] contrary" to District statutes—not the other way around. *Ford*, 834 A.2d at 879; *see, e.g.*, *Fleming*, 546 A.2d at 1005 (invalidating part of Super. Ct. Crim. R. 23(b), identical to the corresponding federal rule, because it conflicted with a D.C. Code provision guaranteeing 12-person juries absent stipulation); *Sanker v. United States*, 374 A.2d 304, 309-10 (D.C. 1977) (invalidating part of Super. Ct. Crim. R. 32, essentially identical to the federal rule, that conflicted with the District's probation statute).

An interpretation of Section 11-946 enabling the Council to alter court rules through legislation—in addition to allowing revision by the courts—preserves the Council's "broad authority to legislate upon 'all rightful suects of legislation within

the District.'" *Woodroof*, 147 A.3d at 782 (quoting D.C. Code § 1-203.02). It would also sensibly parallel the federal scheme for court rules. The Rules Enabling Act, 28 U.S.C. § 2072, gives the federal courts the authority to make their own rules, but Congress still retains the ability to modify them.[3] There is no reason that the same should not be true in the District, particularly where the Court Reorganization Act serves as the equivalent of the Rules Enabling Act for purposes of District law and could easily be read to mirror its provision of concurrent authority. *See In re C.A.P.*, 356 A.2d 335, 343 (D.C. 1976) (relying on the Rules Enabling Act to interpret the scope of the courts' authority under Section 11-946). Moreover, most states also grant courts and legislatures concurrent authority over rulemaking. *See* Bill Rafferty, *Who Makes the Rules of Practice and Procedure: The Legislature, the Judiciary, or Both?*, Nat'l Ctr. for State Cts. (Oct. 6, 2021), https://bit.ly/3xjRxRv (identifying just 13 states with courts having "explicit and exclusive constitutional power in this area"); Christopher Reinhart & George Coppolo, *Court Rules in Other States—Legislative Approval*, Conn. Off. of Legis. Rsch. (Dec. 30, 2008), https://bit.ly/3PJYcuU.

[3] To be sure, while Congress could change the Rules Enabling Act, the Council cannot change Section 11-946. But again, the Anti-SLAPP Act does not purport to alter the terms of that section. And, as discussed *infra*, there is no indication that the Home Rule Act meant to completely preclude the Council from passing legislation with some procedural effect—and there are many indications in the legislative text and otherwise that the Council is permitted to do just that.

Consistent with the spirit of the Home Rule Act, the District's Council should have the same prerogative.

Second, even if the Court believes that the Council cannot *directly* repeal or amend the federal rules under Section 11-946, Title 11 nonetheless must permit the Council to enact substantive legislation that affects the rules *indirectly*. After all, there is a "definitional mire" created by separating the "procedural" from the "substantive"—and thus a difficulty in trying to sort out what might affect court rules versus what is pure substantive law. *Pratt v. Nat'l Distillers & Chem. Corp.*, 853 F.2d 1329, 1335 (6th Cir. 1988). The "two categories are not rigid boxes, but are subtle and fluid"; substantive rights often require procedures to be effective, and many procedures have some substantive effect as well. *Id.*; *see D.C. Metro. Police Dep't v. Fraternal Ord. of Police*, 997 A.2d 65, 82 (D.C. 2010) (noting that "the distinction between procedure and substance is a bit artificial and elusive"). Precluding the Council from even indirectly impacting court rules and procedures through targeted, substantive legislation would severely restrict its ability to legislate, contrary to the paramount purpose of the Home Rule Act. *See Woodroof*, 147 A.3d at 784 ("[T]he Home Rule Act does not prevent the Council from changing the District's substantive law, even if those changes do 'affect the jurisdiction of the courts in a sense.'").

The Anti-SLAPP Act is substantive legislation, and its effect on the court's rules is indirect at best. The Council made clear that it was providing individuals

"substantive rights to expeditiously and economically dispense of litigation to prevent their engaging in constitutionally protected actions on matters of public interest." Report on Bill 18-893, at 4. This Court has likewise repeatedly recognized the Act's substantive nature. In *Mann*, the court stated that the "Act's purpose [was] to create a substantive right not to stand trial and to avoid the burdens and costs of pre-trial procedures." 150 A.3d at 1231. More recently, in *Fridman*, the Court explained: "To mitigate 'the amount of money, time, and legal resources' that defendants named in such lawsuits must expend, the Anti-SLAPP Act created substantive rights which accelerate the often lengthy processes of civil litigation." 229 A.3d at 502 (quoting Report on Bill 18-893, at 1). "These rights"—again, referring to substantive rights—"include a special motion to dismiss which provides for the expeditious dismissal of a complaint, and the ability to stay discovery until that motion has been ruled upon." *Id.* (citing D.C. Code § 16-5502(a), (c)). The Act also includes the "substantive remedy" of attorneys' fees for prevailing movants. *Khan v. Orbis Bus. Intel. Ltd.*, 292 A.3d 244, 260 (D.C. 2023).

Equally important, the Act does not alter generally applicable rules of procedure and, in almost every civil case, has no application whatsoever. Put simply, it does not make a single amendment to Rule 56. Rather, in a small subset of cases, the Act adjusts the rights of two specific classes of people—those who engage in public advocacy and those who believe that this advocacy defames or otherwise injures them.

The carefully calibrated adjustment of those rights and provision of new remedies in a small category of cases is a quintessential legislative function that state legislatures across the country have undertaken through their own anti-SLAPP statutes. Indeed, each of the 33 Anti-SLAPP laws in other states have been enacted statutorily—"*none* are achieved through civil-procedure rules." Nat'l Conf. on Unif. State L., Uniform Public Expression Protection Act, Prefatory Note 1-2 (2020), https://bit.ly/3JcRmdn.[4] A narrow and flexible interpretation of Section 1-206.02(a)(4) would allow the Council to perform that same core legislative function as well.

The Council's authority here necessarily follows from *Bergman*, where this Court interpreted the Home Rule Act flexibly to allow the Council and the Court concurrent authority over lawyers' professional conduct. In that case, the Court rejected a Home Rule Act challenge to the White Collar Insurance Fraud Prosecution Enhancement Amendment Act, which prohibited certain types of intrusive solicitation of car accident victims by lawyers. 986 A.2d at 1211-12. The challenger claimed that the act contravened another Title 11 provision, Section 11-2501(a), which gives this Court authority "to make such rules as it deems proper" to regulate the conduct of lawyers. *Id*. at 1225-26. Bergman argued that the White Collar Act conflicted with this Court's Rule of Professional Conduct 7.1, which governed intrusive solicitation.

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[4] The prefatory note does not include New Jersey, which enacted an anti-SLAPP statute in 2023.

Id. at 1229. The Court, however, held that its own "inherent and statutory authority to regulate the practice of law in the District of Columbia *is not exclusive* in the sense that it would preclude the Council from enacting legislation pursuant to its police powers that might also affect the conduct of lawyers in some respect." *Id*. (internal quotation marks omitted) (emphasis added). In the exact same way, the courts' statutory authority to adopt its own rules would not bar the Council from enacting legislation tailored to protect the public from the specific threat of SLAPPs, even if this might affect those rules "in some respect." *Id*.

Bergman well represents the principle, recognized by other states, that courts and legislatures can act concurrently to establish workable rules. "[W]hen the legislature enacts laws with procedural means to achieve substantive policy objectives beyond the orderly dispatch of judicial business, [the court] strive[s] to work in a 'spirit of cooperation between the otherwise independent branches of our government.'" *Mellowitz v. Ball State Univ.*, 221 N.E.3d 1214, 1222-23 (Ind. 2023) (highlighting the state's anti-SLAPP statute as an example of legislation that was "not trying to micromanage the courts" but was "addressing a substantive concern: a chill on citizens' free speech rights"). As the Colorado Supreme Court stated in reviewing such legislation, the three branches of government, though separate, "are nevertheless branches of one government, and they cannot operate in mutually exclusive, watertight compartments." *People v. McKenna*, 585 P.2d 275, 279 (Colo. 1978). "If

government is to serve the people, each branch must seek to cooperate fully with the other two." *Id.* Indeed, even in those relatively few states—unlike the District—where procedural rulemaking power is exclusive to the courts and where court rules trump statutes, courts have upheld statutes of a procedural nature by seeking to accommodate legislative policy.[5]

2. If the Court even needs to reach the issue, the Anti-SLAPP Act comfortably co-exists with Civil Rule 56.

Rather than focusing on whether the Anti-SLAPP Act runs directly contrary to Title 11, plaintiffs instead primarily argue that it conflicts with Federal Rule of Civil Procedure 56. Plaintiffs argue that "Federal Rule 56, incorporated into the D.C. Superior Court rules as Superior Court Rule 56, establishes a clear standard for summary judgment that cannot co-exist with the special motion's provisions." Br. 24.

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[5] *See Hanson v. Carmona*, 525 P.3d 940 (Wash. 2023) (en banc) ("If a statute appears to conflict with a court rule, this court will first attempt to harmonize them and give effect to both . . . .") (statute imposing pre-suit procedural requirement); *Seisinger v. Siebel*, 203 P.3d 483, 486 (Ariz. 2009) ("Although we have occasionally said that procedural rulemaking power is vested 'exclusively' in this Court, . . . we recognize 'reasonable and workable' statutory enactments that supplement rather than conflict with rules we have promulgated." (citations omitted)) (statutory qualifications for medical malpractice expert testimony); *McDougall v. Schanz*, 597 N.W.2d 148, 156 (Mich. 1999) (holding that "a statutory rule of evidence" violates the exclusive constitutional authority of the courts to promulgate rules of practice and procedure "only when no clear legislative policy reflecting considerations other than judicial dispatch of litigation can be identified." (internal quotation marks omitted)); *McKenna*, 585 P.2d at 278 ("Although certain aspects of the [rape shield] statute necessarily touch upon judicial matters, we recognize that legislative policy and judicial rulemaking powers may overlap to some extent so long as there is no substantial conflict between statute and rule.").

They cite two aspects of the special motion—its "burden-reversal and discovery provisions"—that allegedly "conflict" with Rule 56. Br. 24.

This argument is flawed on multiple levels. First, as explained above, the proper test for the Home Rule Act question is not whether the Anti-SLAPP Act runs "directly contrary" to the terms of Rule 56, but rather "to the terms of Title 11." *Woodroof*, 147 A.3d at 784. There is *no* provision in Title 11 addressing burdens of proof or discovery. *Cf. McIntosh v. Washington*, 395 A.2d 744, 751 (D.C. 1978) (rejecting the notion that the phrase "with respect to any provision of any law codified in Title 22" in D.C. Code § 1-206.02(a)(9) "means with respect to the *subject matter* of any provision of Title 22").

Even if this Court were to hold that the Council could not enact substantive legislation that affects court rules like Rule 56, the Anti-SLAPP Act is a permissible exercise of the Council's authority because it does not displace Rule 56 or amend its terms. The summary judgment process, and the rule's generally applicable procedures, remain unchanged. Rather, the Act applies only in a narrow and substantively defined category of claims. And for this small subset, the Act is "not redundant relative to the rules of civil procedure.'" *Mann*, 150 A.3d at 1238. This is because Rule 56 "simply do[es] not address the problem of 'expensive and time consuming discovery that is often used in a SLAPP case as a means to prevent and punish.'" *Id.* at 1230 (quoting Report on Bill 18-893, at 4).

Importantly, the Act's discovery-limiting provisions *do not apply* to actual summary judgment motions, but only to the Act's special motion. As this Court has noted, "even if the Anti-SLAPP special motion to dismiss is unsuccessful, the defendant preserves the ability to move for summary judgment under Rule 56 later in the litigation." *Id.* at 1238. The Act's special-motion-to-dismiss provision, at most, *supplements* Rules 12 and 56 by allowing a small class of defendants "to up the ante early in the litigation" by "requir[ing] the plaintiff to put his evidentiary cards on the table." *Id.* The Anti-SLAPP Act and Rule 56 can thus harmoniously co-exist. *Cf. Khan*, 292 A.3d at 261-62 (explaining that Civil Rule 11 should be read to "complement[]" and not be "'inconsistent' with" the Anti-SLAPP Act and other fee-shifting statutes).

Plaintiffs' argument that there is a conflict falls short in other ways. Consider what plaintiffs call the special motion's "burden reversal"—i.e., the requirement that if the defendant makes a prima facie showing that the claim arises from his protected activity, the plaintiff has the burden to show a legally sufficient evidentiary basis for the claim. Br. 23 (citing D.C. Code § 16-5502(b)); *see Mann*, 150 A.3d at 1261-62. Plaintiffs also describe this as the Act's "burden-of-proof standard." Br. 27. They fail to appreciate, however, that "the burden of proof [is] a '*substantive*' aspect of a claim." *Raleigh v. Ill. Dep't of Revenue*, 530 U.S. 15, 20-21 (2000) (emphasis added) (applying the bankruptcy principle that "state law governs the substance of claims");

see Cent. Vt. Ry. Co. v. White, 238 U.S. 507, 512 (1915) (holding that a state law's placement of the burden on the plaintiff to disprove his own contributory negligence was "part of the very substance of his case"). Rule 56 does not—and cannot—assign the burden of proof on the elements of any claim or defense. That is clearly within the power of the Council in creating and modifying causes of action.[6]

If plaintiffs' objection is to "burden shifting"—rather than strictly the burden of persuasion—it further misses the mark. Once a defendant makes a prima facie case of protected activity, the Act requires what a plaintiff opposing summary judgment must do anyway under Rule 56: produce legally sufficient evidence to support his claim. *Mann*, 150 A.3d at 1261-62. Rule 56 does not impose any evidentiary burden on the defendant in that situation. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986) (rejecting any burden on the "party moving for summary judgment to produce evidence showing the absence of a genuine issue of material fact . . . with respect to an issue on which the nonmoving party bears the burden of proof"). Through a summary judgment motion (and a special motion to dismiss), a defendant can simply "point[]

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[6] Plaintiffs also rely on *United Securities Corp. v. Bruton*, 213 A.2d 892 (D.C. 1965), a case concerning retroactivity. The Court stated that "a statute relating solely to procedural law, such as burden of proof and rules of evidence, applies to all proceedings after its effective date." *Id.* at 893-94. But this characterization should not be removed from its particular context, a retroactivity case, to overcome decades of Supreme Court jurisprudence treating burdens of proof in state law as substantive. *Bruton* does not address whether Council legislation violates the Home Rule Act, and in any event, not all procedural legislation does so. *See supra* pp. 18-27.

out to the [trial court] that there is an absence of evidence to support the nonmoving party's case." *Id.* In that instance, the plaintiff must "put his evidentiary cards on the table." *Mann*, 150 A.3d at 1238; *see Tucci v. District of Columbia*, 956 A.2d 684, 690 n.2 (D.C. 2008) (explaining that, to oppose summary judgment, plaintiffs "could not rely on the allegations in their pleadings" but "were required to proffer evidence to support each element of their claims").

Indeed, if plaintiffs were correct, it would lead to extreme consequences. Many statutes employ burden-shifting frameworks for claims or defenses, without any doubt as to their validity. For example, the Whistleblower Protection Act "provides a specific, burden-shifting structure for the litigation of whistleblower claims, which is likewise the standard by which a summary judgment disposition must be reviewed." *Freeman v. District of Columbia*, 60 A.3d 1131, 1140 (D.C. 2012) (brackets omitted); *see* D.C. Code § 1-615.54(b). The same is true for other District statutes, including the Human Rights Act. *See Cain v. Reinoso*, 43 A.3d 302, 306 (D.C. 2012) (interpreting that act to require the same burden-shifting framework on summary judgment as under Title VII); *Gomez v. Indep. Mgmt. of Del., Inc*., 967 A.2d 1276, 1288 (D.C. 2009) (explaining that if the defendant in a possession action under the Rental Housing Act produces evidence of its protected activity, the burden shifts to the plaintiff to rebut the presumption of retaliatory motive by clear and convincing evidence). Plaintiffs cannot plausibly suggest that all such statutes' burden-shifting

frameworks are void under the Home Rule Act, but that is the necessary implication of their argument. This Court should reject it.

Nor can a conflict be created by reading Rule 56 to prohibit any limitation at all on discovery, as plaintiffs suggest. *See* Br. 20. Plaintiffs complain that the Act stays discovery proceedings while the special motion to dismiss is pending. D.C. Code § 16-5502(c)(1). The Act further provides that "[w]hen it appears likely that targeted discovery will enable the plaintiff to defeat the motion and that the discovery will not be unduly burdensome, the court may order that specified discovery be conducted." *Id.* § 16-5502(c)(2). Again, these provisions do *not* apply to summary judgment motions, and plaintiffs cannot contend that Rule 56 addresses any matter beyond the summary judgment process. There is simply no conflict with Rule 56.

Even setting that fundamental flaw in plaintiffs' argument aside, the terms of Rule 56 create no free-standing entitlement to any particular form or degree of discovery prior to summary judgment. Rule 56(d)'s text provides merely that if a party opposing summary judgment shows by declaration "that, for specified reasons, it cannot present facts essential to justify its opposition, the court may: (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery; or (3) issue any other appropriate order." Under that rule, trial courts properly limit discovery all the time. *See, e.g.*, *Nawaz v. Bloom Residential, LLC*, 308 A.3d 1215, 1229-30 (D.C. 2024) (holding that a party opposing summary

judgment was not entitled to discovery under Rule 56(d)); *Sibley v. St. Albans Sch*., 134 A.3d 789, 798 (D.C. 2016) (upholding summary judgment and finding no abuse of discretion in limiting discovery). More to the point, the Anti-SLAPP Act permits targeted discovery if needed to defeat a special motion to dismiss, so it does not bar all discovery even in SLAPP cases. D.C. Code § 16-5502(c)(2). The Act's discovery provisions, which are limited to its special motion to dismiss, can easily operate without any conflict with Rule 56.

Once again, plaintiffs' attempt to curtail the Council's legislative authority is unprecedented in the long history of the Home Rule Act. Over many decades, and without any apparent Home Rule Act concerns, the Council has enacted numerous statutes that limit or affect discovery. Like the Anti-SLAPP Act, several of these statutes stay discovery, including the False Claims Act, D.C. Code § 2-381.03, the Medical Malpractice Amendment Act of 2006, *id.* § 16-2821, and various Uniform Business Organization Code chapters, *id*. §§ 29-709.06 (limited partnerships), 29-808.05 (limited liability companies), 29-1013.06 (limited cooperative associations), 29-1206.14 (statutory trusts). Other statutes control the scope of discovery in certain types of proceedings, *see id.* § 22-4135(e)(4) (motion to vacate conviction on grounds of actual innocence), prescribe procedures for depositions and subpoenas, *see id*. § 13-441 to -449 (Uniform Interstate Depositions and Discovery Act), or limit discovery of certain types of information, *id*. § 44-805 (peer review reports, records,

or statements). This Court should squarely reject the invitation to interpret the Home Rule Act to void—or at least cast grave suspicion on—all such statutes.

B. Plaintiffs' interpretation of the Home Rule Act ignores its legislative purposes, with which the Anti-SLAPP Act is wholly consistent.

Plaintiffs' arguments are so immersed in fine procedural distinctions that they lose sight of the legislative purposes of the Home Rule Act. This Court has recognized that Section 1-206.02(a)(4) in particular was "primarily concerned with preserving the organization and structure of the newly created court system (established in Title 11) and the independence of the judiciary." *Woodroof*, 147 A.3d at 784. Any interpretation of Section 1-206.02(a)(4) "must . . . keep[] in mind the[se] purposes." *Id.* at 783. Importantly, the Anti-SLAPP Act does not in any way contravene these purposes, as it plainly does not alter the organization or structure of the courts or threaten the judiciary's independence.

The legislative history amply demonstrates that these were the purposes behind Section 1-206.04(a)(4). *See Woodroof*, 147 A.3d at 782-83. Judges of the District's courts objected to an earlier draft of the Home Rule Act, which would have permitted the Council, after 18 months, to "pass acts affecting *all aspects* of [the District of Columbia] courts." Home Rule Comm. Print at 942 (emphasis added). As this Court's Chief Judge Gerard Reilly explained, "such drastic changes . . . seem highly premature" when the Court Reorganization Act had just fundamentally reorganized and restructured the local court system less than three years before. *Id*. at 1416. This

"new judicial system should be allowed to mature and gain experience before subjecting it to further major modifications." *Id.* at 1417. Superior Court Chief Judge Harold Greene was similarly concerned about allowing the Council "to completely alter and thus to obliterate the structure, organization and jurisdiction of the District of Columbia courts." *Id.* at 1421. Meanwhile, "[o]ther provisions of the [original] draft, principally those dealing with the appointment and reappointment of judges, raised concerns about the independence of the judiciary." *Woodroof*, 147 A.3d at 783; *see* Home Rule Comm. Print at 1418 (supporting amendments on judicial appointments to "preserve the independence of the judiciary"), 1419 (expressing concern that such initial provisions would "jeopardize seriously the independence and hence the effectiveness and fairness of the courts").[7]

Section 1-206.02(a)(4) was the response to those concerns. In the full committee markup, Congressman Adams explained that its purpose "was the very strong argument made by the court . . . that the Reorganization Act had just gone into effect. Therefore, the *structure* of the courts should have an opportunity for that Reorganization Act to be completely carried out." Home Rule Comm. Print at 1081

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[7] The only apparent reference to court rules in the legislative history is a brief mention in Chief Judge Greene's statement that "it is unclear whether and the extent to which under [the earlier draft bill] provisions relating to such matters as the assignment of judges, their disqualification, authority to adopt court rules, and the like would survive enactment of this bill." Home Rule Comm. Print at 1422.

(emphasis added). A full committee staff memorandum addressed amendments that Chief Judge Greene had proposed, explaining that three of them were covered, at least to some extent, by Section 1-206.04(a)(2). Those three: (1) "suggested that the [Commission on Judicial Disabilities and Tenure] shall comply with Title 11 of the D.C. Code"; (2) "provided for jurisdiction and organization of its courts not to be changeable by the Council"; and (3) "reserve[d] control over nonjudicial employees of the court to the courts." Home Rule Comm. Print at 1425; *see id*. at 1422-24. As to the second of the three proposed amendments, regarding the jurisdiction and organization of the courts, the memorandum noted: "Specific language not adopted but concept included in [Section 1-206.02](a)(4). Only Congress has authority to modify jurisdiction of courts." Home Rule Comm. Print at 1425. The House Committee Report similarly states that this section prohibits the Council's "enactment of any act, resolution or rule which *concerns the organization and jurisdiction of the District of Columbia courts*." *Id.* at 1476-77 (emphasis added).[8]

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[8] By revealing so clearly the motivating purpose of protecting the basic organization and jurisdiction of the District's courts, the legislative history helps explain the parenthetical in the text of Section 1-206.02(a)(4). The Section's prohibition on the Council altering "Title 11 (relating to organization and jurisdiction of the District of Columbia courts)" is not merely descriptive, as plaintiffs contend (Br. 21 & n.5), but reflective of this legislative purpose. *See Voss v. Comm'r*, 796 F.3d 1051, 1059-60 (9th Cir. 2015) (explaining that statutes should not be interpreted so that "parentheticals would be superfluous").

On many occasions, this Court has upheld a challenged statute as consistent with the purposes of this section. This Court has refused to invalidate Council legislation that, for example, "does not unduly burden the Court of Appeals in the exercise of its core functions," *Bergman*, 986 A.2d at 1216 (legislation regulating the conduct of lawyers); "does not threaten the independence of the judiciary or undermine the purposes of the Home Rule Act," *Woodroof*, 147 A.3d at 782, 786-787 (act permitting appeal from an order compelling arbitration); and "does not affect the 'structure of the courts' or the jurisdictional arrangement Congress had decided upon in the Reorganization Act." *Hessey v. Burden*, 584 A.2d 1, 8 (D.C. 1990) (statute enlarging the class of persons who may bring tax assessment appeals to this Court); *see also District of Columbia v. Sullivan*, 436 A.2d 364, 366 (D.C. 1981) (relying on the legislative purpose of Section 1-206.02(a)(4) to uphold an act that decriminalized minor traffic offenses and substituted an administrative adjudication).

Quite clearly, the Anti-SLAPP Act does not violate these purposes. It does not unduly burden the courts' core functions, threaten the judiciary's independence, or affect the structure and organization of the court system. The Act also does not—to use the Court's own examples of prohibited legislative acts—"change the method by which judges are appointed and removed," "change the number of judges on either court," or "create an intermediate court of appeals." *Woodroof*, 147 A.3d at 784. The one instance in which the Court has struck down legislation under Section

1-206.02(a)(4) was when the Council attempted to directly expand this Court's jurisdiction to encompass noncontested cases. *See Capitol Hill Restoration Soc., Inc. v. Moore*, 410 A.2d 184, 187-88 (D.C. 1979); *cf. Jones & Artis Constr. Co. v. D.C. Cont. Appeals Bd.*, 549 A.2d 315, 318 (D.C. 1988). The Anti-SLAPP Act of course does no such thing. In fact, the Act has far less effect than other legislation, which this Court has upheld, that did affect the jurisdiction of the courts in some sense. *See, e.g.*, *Woodroof*, 147 A.3d at 787; *District of Columbia v. Greater Wash. Cent. Lab. Council*, 442 A.2d 110, 117-18 (D.C. 1982) (upholding Workers' Compensation Act, which vested the Superior Court with the right to enforce compensation awards and this Court with the authority to review final compensation orders).

Moreover, the Anti-SLAPP Act is a prime example of what Home Rule intended to achieve. Representing the interests of their constituents, Councilmembers used their broad legislative authority to craft new rights and remedies for those in the District who might be harmed by others for speaking on matters of public interest. It was "self-government" in action, "reliev[ing] Congress of the burden of legislating upon essentially local District matters." D.C. Code § 1-201.02(a). The purposes of the Home Rule Act thus further support upholding the Anti-SLAPP Act.

C. Plaintiffs' reading of the Home Rule Act would lead to drastic and absurd results.

Statutes should not be interpreted "to command an absurd result." *Citizens Ass'n of Georgetown v. Zoning Comm'n of D.C.*, 392 A.2d 1027, 1033 (D.C. 1978).

Yet plaintiffs' interpretation of the Home Rule Act does so in at least three ways, some with far-reaching consequences.

First, their interpretation threatens whole swaths of the D.C. Code developed over the past five decades. In plaintiffs' view, a statute that "is procedural, at least in part," would be void because the Council cannot "create procedures governing the Superior Court." Br. 21, 23 (emphasis omitted). But many types of statutory provisions, too numerous to list, could be described as procedural. These include Council-enacted provisions on the contents of a complaint, *see, e.g.*, D.C. Code § 16-1501(d) (action for possession); stays of proceedings, *see, e.g.*, *id.* § 28-3905(k)(7)(A) (Consumer Protection Procedures Act); joinder, *see, e.g.*, *id*. § 16-2933(a)(3) (real property partitions); consolidation, *see, e.g.*, *id.* § 16-1063(a)(2) (anti-stalking statute); enforcement of subpoenas, *see, e.g.*, *id*. § 13-449 (Human Rights Sanctuary Amendment Act of 2022); and the conduct of mediation, *see, e.g.*, *id*. § 16-4201 *et seq.* (Uniform Mediation Act). Plaintiffs' argument is not limited to those "procedural" provisions that conflict with an existing court rule, but even if so, any one of these provisions could be framed as creating such a conflict under plaintiffs' broad approach.

Indeed, plaintiffs' theory could disrupt entire statutory schemes. Like any legislature, the Council regularly affects procedure when it enacts a comprehensive regime of rights and remedies in a particular area. It is not just the Anti-SLAPP Act.

Take, for example, the Nuisance Abatement Act, D.C. Code § 42-3101 *et seq*. It provides for the inclusion of particular information in the complaint, *id*. § 42-3103(b), the attachment of an affidavit to the complaint under certain circumstances, *id*. § 42-3103(c), the time when the first hearing may be conducted, *id*. § 42-3103(d), the deadline for a hearing on a preliminary injunction motion, *id*. § 42-3104(a), protective orders that may be issued for witnesses, *id*. § 42-3105, and security bond requirements for preliminary injunctive relief, *id*. § 42-3107. Many other chapters of the D.C. Code are replete with matters of "procedure," such as those found in Titles 13 ("Procedure Generally"), 14 ("Proof"), 15 ("Judgments and Executions; Fees and Costs"), 16 ("Particular Actions, Proceedings, and Matters"), 20 ("Probate and Administration of Decedents' Estates"), and 21 ("Fiduciary Relations and Persons with Mental Illness"). All have been amended by the Council over the decades and will need amendment in the future, yet all such amendments would be vulnerable to never-ending legal challenges under plaintiffs' interpretation of the Home Rule Act.

Second, if the Council cannot act in these situations, it raises a serious question whether the courts could do so either. This Court has long held that "Congress in enacting § 11-946 did not intend to grant a power to the Superior Court which it withheld from the Supreme Court." *C.A.P.*, 356 A.2d at 343. Thus, the Superior Court may adopt only "general rules of practice and procedure," which further may not "abridge, enlarge or modify any substantive right." 28 U.S.C. § 2072(a)-(b). The

Anti-SLAPP protections here do not create "general rules" of procedure, *id.*, but seek to afford substantive rights to individuals facing a specific type of claim. Whether a court by rule may pursue such substantive ends, which is traditionally the legislature's role, is a question that could invite legal challenges. This Court has repeatedly struck down Superior Court rules when they alter substantive rights. *See Fitzgerald v. Fitzgerald*, 566 A.2d 719, 728 (D.C. 1989) (invalidating a Superior Court child support guideline when its "impact on existing substantive law . . . goes beyond the governance of mere procedure"); *Haynes v. District of Columbia*, 503 A.2d 1219, 1223 (D.C. 1986) (holding former Super. Ct. Civ. R. 101(a)(1) a "nullity" because it abridged a "substantive right"); *cf. In re Estate of Grealis*, 902 A.2d 821, 826 (D.C. 2006) (holding that a probate rule cannot be construed to "abridge the right" of competent parties "to enter into otherwise-lawful economic transactions").

Plaintiffs' interpretation could thus open a gap in Home Rule in which neither the Council nor the courts would have authority to act in matters where substance and procedure intermingle. This cannot be. There is *no* suggestion—and correctly so—that the Home Rule Act reserved such matters for the federal government. Thus, it must be taken as "a given that the District [has] power in [this] field." *In re Crawley*, 978 A.2d 608, 619 (D.C. 2019). And to ensure that this power can be exercised, the Council must have a legislative role. It would defy reason to deny the Council such a role when all of the 33 other states with anti-SLAPP protections have done so through

legislation, not court rule, *see supra* pp. 25, and when, more generally, the legislature is "in a far better position than a court to make policy decisions on behalf of the citizenry," *Bereston v. UHS of Del., Inc.*, 180 A.3d 95, 111 (D.C. 2018).

Third, plaintiffs' interpretation creates an irrational disparity in the Council's ability to alter civil rules as opposed to criminal rules. Recall that Section 11-946 requires the Superior Court, as a default, to follow "the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure (*except as otherwise provided in Title 23*)." D.C. Code § 11-946 (emphasis added). Title 23 contains the Code provisions on criminal procedure, and the Home Rule Act clearly permits the Council to change those provisions. *Id*. § 1-206.02(a)(9) (precluding the Council from enacting an act "with respect to any provision of Title 23 (relating to criminal procedure)" for only the first four years of Home Rule). Yet if the Home Rule Act authorizes the Council to directly enact rules of *criminal* procedure, it would make no sense to preclude it from passing laws that have even an indirect effect on the civil rules. Congress could not have intended such an absurd result.[9]

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[9] The illogic is even more apparent where, since the Court Reorganization Act, D.C. Code § 16-3901 has provided: "All provisions of law relating to the Superior Court . . . and the rules of the court apply to the Small Claims and Conciliation Branch of the court as far as they may be applicable *and are not in conflict with this chapter* or Chapter 13 of Title 11. In case of conflict, this chapter and chapter 13 of Title 11 control." (Emphasis added.) It is thus clear that the Council can directly alter the rules for the Small Claims Branch by amending Title 16 chapter 39 (at least without

D. Whether the District's Anti-SLAPP Act would apply in federal diversity actions has no bearing here.

Plaintiffs assume that the Home Rule Act question turns on whether the Anti-SLAPP Act would apply in a federal diversity suit. This is simply incorrect. The question here, whether the Anti-SLAPP Act is within the Council's legislative authority, is fundamentally different from whether that Act, or instead federal law, should apply in a federal court action based on District law. The former question depends on the proper interpretation of the Home Rule Act. The latter has nothing to do with the Home Rule Act but involves an entirely different set of considerations. Not only are the questions different, but the consequences are radically so. If a District statute does not apply in a federal diversity action, it is still valid District law. However, if it exceeds the Council's authority under the Home Rule Act, it ceases to operate altogether. Such a serious infringement on the powers of self-government should not be based on a federal-court test that has no regard for the compelling Home Rule interests of District residents.

The test for whether state law applies in federal court is broadly preemptive, so as to ensure "a uniform and consistent system of rules governing federal practice and procedure" from state to state. *Burlington N. R.R. Co. v. Woods*, 480 U.S. 1, 5 (1987). Under this test, "[a] federal court exercising diversity jurisdiction should not apply a

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altering Title 11). *See, e.g.*, Small Claims Service of Process Act of 1994, D.C. Law 10-230, 42 D.C. Reg. 11 (amending D.C. Code § 16-3902).

state law or rule if (1) a Federal Rule of Civil Procedure 'answers the same question' as the state law or rule and (2) the Federal Rule does not violate the Rules Enabling Act." *Abbas v. Foreign Pol'y Grp., LLC*, 783 F.3d 1328, 1333 (D.C. Cir. 2015) (brackets omitted) (quoting *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 398-99 (2010)). "The initial step is to determine whether, when fairly construed, the scope of [the federal rule] is '*sufficiently broad*' to cause a 'direct collision' with the state law or, *implicitly*, to 'control the issue' before the court . . . ." *Burlington N. R.R. Co.*, 480 U.S. at 4-5 (emphasis added) (quoting *Walker* v. *Armco Steel Corp*., 446 U.S. 740, 749-50 & n. 9 (1980)). This means, for example, that a federal rule of civil procedure providing a "one-size-fits-all formula" displaces a more specific state rule. *Shady Grove*, 559 U.S. at 399 (majority opinion). Thus, the federal-court test treats the federal rules as broadly occupying their field, preempting state laws in the interest of uniformity.

Here, by contrast, this Court's established test construes Section 1-206.02(a)(4) "narrowly." *Bergman*, 986 A.2d at 1226. It is not concerned with federal court practice, but with respecting the "paramount purpose" of the Home Rule Act to grant District residents self-governance. *Woodroof*, 147 A.3d at 784. By also applying this section's limitation on the Council's authority "in a flexible, practical manner," *id.* at 784, this Court has historically attempted to reconcile court rulemaking with Council legislation so that both can have effect—unlike the federal-court test, which does not

seek such harmonization, *compare Bergman*, 986 A.2d at 1224-30 (upholding statute regulating lawyers' intrusive solicitation, though also addressed by a court rule on professional responsibility), *with Pledger v. Lynch*, 5 F.4th 511, 520 (4th Cir. 2021) (treating as immaterial whether one can "comply with both" the federal rules and state law). The Home Rule Act test also defers to the Council "while legislating on matters of public interest" to "make reasonable determinations" about, for example, what orders should be appealable. *Woodroof*, 147 A.3d at 785, 787 ("categorizing orders as 'final' or 'interlocutory' can be a fluid concept"). And, of course, the test should interpret Council-enacted statutes to avoid their invalidation whenever possible. *See Umana v. Swidler & Berlin, Chartered*, 669 A.2d 717, 723-24 (D.C. 1995). The two tests are thus distinct and—in critical ways—diametrically opposed.

This Court has long applied and construed the Anti-SLAPP Act without regard to its application in federal court. *See Mann*, 150 A.3d at 1238 n.32 (stating that the statute's applicability in federal court "is not for this [C]ourt to determine"). And for good reason, beyond the simple fact that it is the wrong test. First, federal courts of appeals are split on applying state anti-SLAPP statutes in diversity cases. For example, while the D.C. Circuit has held all aspects of the Anti-SLAPP Act inapplicable (including its fee-shifting provision), *see Tah v. Glob. Witness Publ'g, Inc.*, 991 F.3d 231, 238-39 (D.C. Cir. 2021), the First Circuit has applied Maine's anti-SLAPP statute, *see Godin v. Schencks*, 629 F.3d 79, 81 (1st Cir. 2010). Importantly,

this Court's own precedent has reached a result contrary to what plaintiffs contend cases like *Tah* demand. *See Khan*, 292 A.3d at 261-62 (upholding the Anti-SLAPP Act's fee-shifting provision against Home Rule Act challenge). What is more, and emphasizing the preemptive breadth of the federal-court test, some federal courts have concluded that it is *irrelevant* whether the state law at issue is substantive or procedural. *See Pledger*, 5 F.4th at 521 (explaining that whether the state law is "technically one of substance or procedure" under *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938), is "beside the point" if a valid federal rule answers the same question); *Gallivan v. United States*, 943 F.3d 291, 294-295 (6th Cir. 2019) (stating that whether the state law "is substantive under *Erie* makes no difference"). Even at its extremes, plaintiffs' argument does not appear to go so far. *But cf.* Br. 27 n.8.

Applying the proper test, which is well established in this Court's precedent and firmly grounded in legislative text and purpose, the Anti-SLAPP Act comports with the Home Rule Act.[10]

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[10] Plaintiffs further argue, without elaboration, that the Act "should be struck down in its entirety" because "[t]he Act's procedures are central, not incidental, to its functioning." Br. 31. While plaintiffs' Home Rule Act challenge, if accepted, would severely damage the Anti-SLAPP Act, any invalidated portions can and should be severed. *See Hooks v. United States*, 191 A.3d 1141, 1145 (D.C. 2018) ("Even without a severability provision, there is always a presumption of severability whenever the remaining provisions, standing alone, are fully operative as a law." (internal quotation marks and citation omitted)). For example, the Act's fee-shifting provision would still apply if a special motion to dismiss were granted on grounds

II. The Anti-SLAPP Act Does Not Violate The First Amendment Right To Petition.

Plaintiffs argue that the Anti-SLAPP Act's special motion to dismiss "significant[ly] impair[s]" the ability to pursue litigation and thereby violates the First Amendment right to "meaningful access to the courts." Br. 32. The Act's constitutional infirmity, they submit, is that it "does not require a showing that a suit intends to punish or prevent expression—or, even, that it has that effect." Br. 31. Thus, in their view, the Act is facially overbroad, given its "application to well-founded suits to redress real harm." Br. 33. Plaintiffs' arguments, however, are misplaced. Because the Act does not preclude the filing of a suit or consideration of its merits, the Act easily survives a First Amendment challenge.

The right to access the courts is an "aspect of the First Amendment right to petition the government for redress of grievances." *Patchak v. Jewell*, 828 F.3d 995, 1004 (D.C. Cir. 2016). But it "is not absolute." *Id.* The right does not extend to "vexatious and meritless litigation." *In re Sibley*, 990 A.2d 483, 491 (D.C. 2010) (quotation marks omitted); *see In re Yelverton*, 105 A.3d 413, 421 n.8 (D.C. 2014)

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sufficient also to dismiss under Rule 12(b)(6), or if there was no claimed need for discovery. *See Berry v. Am. Univ.*, No. 22-CV-25, 2024 WL 1181889 (D.C. Feb. 13, 2024). Plaintiffs also do not challenge the Act's motion-to-quash provision. D.C. Code § 16-5503. Accordingly, the Act's other provisions, standing alone, would remain not only fully operative but also entirely consistent with the legislative purpose. *See McClough v. United States*, 520 A.2d 285, 289 (D.C. 1987) (The "cardinal principle of statutory construction is to save and not to destroy.").

("[B]aseless litigation is not immunized by the First Amendment Right to Petition."). Moreover, plaintiffs offer no authority that this right extends beyond the ability to file a suit and put their claims before a court, which they have clearly done here. *See Estate of Smith v. Marasco*, 318 F.3d 497, 511 (3d Cir. 2003) ("[O]nly prefiling conduct that either prevents a plaintiff from filing suit or renders the plaintiff's access to the court ineffective or meaningless constitutes a constitutional violation.").

Even assuming the right of access requires something more, courts have consistently upheld statutes like the District's Anti-SLAPP Act—which expeditiously dispose of legally insufficient claims—against a constitutional challenge based on the right to access the courts. In *Equilon Enterprises v. Consumer Cause, Inc.*, 52 P.3d 685 (Cal. 2002), for example, the California Supreme Court considered whether, to protect a plaintiff's right to petition, a defendant should be required to show a plaintiff's bad faith before a court dismissed an action under California's anti-SLAPP act. *Id.* at 691. The court held that such a showing was not "constitutionally compelled" because the act already allowed plaintiffs to demonstrate that their claims were likely to succeed. *Id.* It concluded that the act did "not bar a plaintiff from litigating an action that arises out of the defendant's free speech or petitioning," but that, instead, it "subject[ed] to potential dismissal only those causes of action as to which the plaintiff is unable to show a probability of prevailing on the merits." *Id.* Courts in other states have reached similar conclusions. *Cf. Sandholm v. Kuecker*, 962

N.E.2d 418, 429 (Ill. 2012) (construing state's anti-SLAPP act to require proof of a plaintiff's bad faith to effectively screen out meritless claims because the act did not otherwise allow plaintiffs to show a likelihood of success); *Duracraft Corp. v. Holmes Prods. Corp.*, 691 N.E.2d 935, 943 (Mass. 1998) (same).

Likewise, the District's Act does not violate the right of access to the courts because it does "not prevent [plaintiffs] from bringing a meritorious claim." *Bernardo v. Planned Parenthood Fed'n of Am.*, 9 Cal. Rptr. 3d 197, 228 (Cal. Ct. App. 2004). Even if a defendant shows that the claim arises from his protected activity, the Act allows the plaintiff to defeat a special motion to dismiss by showing that the claim is "likely to succeed on the merits." D.C. Code § 16-5502(b); *see Mann*, 150 A.3d at 1261-62 (interpreting this phrase to mean that a plaintiff must supply sufficient evidence for a reasonable jury to find in his favor). The Act merely serves to "weed[] out meritless litigation by ensuring early judicial review of the legal sufficiency of the evidence." *Mann*, 150 A.3d at 1233. In other words, the special motion to dismiss "shields only those defendants who face unsupported claims that do not meet established legal standards." *Id.* at 1239.

Plaintiffs proffer the same argument that *Equilon* rejected—that an anti-SLAPP statute must also require a defendant to show that a plaintiff has filed suit with an improper motive. Br. 31-36. But plaintiffs misunderstand the law. The Constitution requires—at most—only that anti-SLAPP legislation have a legitimate mechanism to

sort out unjustified claims. That *may* take the form of showing that plaintiffs had an improper motive. *See Duracraft*, 691 N.E.2d at 942-43. But statutes may instead allow plaintiffs an opportunity to demonstrate their claims' merits. *See Equilon*, 52 P.3d at 691. The right to access the courts does not require both. Indeed, this Court had no difficulty interpreting the District's Anti-SLAPP Act to reject an improper motive requirement. *Doe v. Burke*, 133 A.3d 569, 574-76 (D.C. 2016).[11]

CONCLUSION

This Court should reject plaintiffs' challenges to the validity of the District's Anti-SLAPP Act.

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[11] Plaintiffs also raise two as-applied challenges. The first simply restates their facial challenge by contending that their own suit was not brought for an improper motive. Br. 37. It thus fails for the same reasons already discussed. The second faults the trial court for "severely limiting discovery (and ordering Plaintiffs to pay discovery costs) in a case where evidence in Defendants' possession was critical to address issues of actual malice." Br. 37. This does not state a First Amendment claim. "There is no general constitutional right to discovery [even] in a criminal case." *Guest v. United States*, 867 A.2d 208, 212 (D.C. 2005) (quoting *Weatherford v. Bursey*, 429 U.S. 545, 559 (1997)). As this second challenge seems to really concern the correctness of the trial court's ruling on plaintiffs' request for targeted discovery under D.C. Code § 16-5502(c)(2), the District takes no position on that ruling. It has intervened in this case solely to defend the validity of the Anti-SLAPP Act.

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April 2024

CERTIFICATE OF SERVICE

I certify that on April 8, 2024, this brief was served through this Court's electronic filing system to:

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District of Columbia
Court of Appeals

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Pursuant to Administrative Order No. M-274-21 (filed June 17, 2021), this certificate must be filed in conjunction with all briefs submitted in all cases designated with a "CV" docketing number to include Civil I, Collections, Contracts, General Civil, Landlord and Tenant, Liens, Malpractice, Merit Personnel, Other Civil, Property, Real Property, Torts and Vehicle Cases.

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20-CV-318
Case Number

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