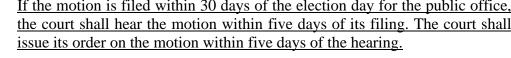
GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2021**

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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		D EXPEDITIOUSLY ADDRESS ACCUSATIONS OF FALSE CLA	
3	BY POLI	ITICAL CAMPAIGNS AND TO APPROPRIATE FUNDS FOR THAT	Γ PURPOSE.
4	The General	Assembly of North Carolina enacts:	
5	S	ECTION 1.(a) Article 17 of Chapter 1 of the General Statutes is amend	led by adding
6	a new section	n to read:	
7		<u>Special motion to strike; purpose; availability; burden; appeal.</u>	
8	<u>(a)</u> <u>P</u>	urpose The General Assembly finds that the public has an interes	t in knowing
9	whether cam	paign claims are false or defamatory prior to casting votes in an election	1. This public
10	interest should	ld be balanced against political candidates' right to freedom of speech.	Therefore, it
11	is the purpose	e of this section to expedite resolution of certain lawsuits against politic	al candidates
12	and campaig	<u>ns.</u>	
13	<u>(b)</u> <u>M</u>	<u>Iotion. – A claim for relief against a person arising from any act of the p</u>	person which
14	could reason	ably be construed as an act in furtherance of the person's seeking e	lected public
15	office shall b	be subject to a motion to dismiss or strike unless the court determine	es that (i) the
16	<u>nonmoving p</u>	party's claim has a substantial basis in law or a substantial argument f	or modifying
17	the law and	(ii) the nonmoving party has established that there is a probability	of that party
18	prevailing on	n the claim.	
19	<u>(c)</u> <u>D</u>	etermination. – In making the determination under subsection (b) of this	s section, the
20		onsider the pleadings and supporting and opposing affidavits stating the	
21	which the lia	ability or defense is based. If the court determines that the nonmoving	g party under
22	subsection (b	b) of this section has established a substantial basis or argument for the	e claim and a
23		hat the nonmoving party would prevail on the claim, neither that deter	
24	the fact of th	e determination shall be admissible in evidence at any later stage of t	he case or in
25	any subseque	ent action, and no burden of proof or degree of proof otherwise applic	able shall be
26		he determination in any later stage of the case or in any subsequent pro	
27	<u>(d)</u> <u>St</u>	tay. – All discovery and any pending hearings or motions in the action sl	hall be stayed
28	upon the filir	ng of a motion to dismiss or a motion to strike made under this section	<u>ı until a final</u>
29	decision on t	he motion, except that the court, on noticed motion and for good cause	<u>shown, may</u>
30	order that sp	ecified discovery or other hearings or motions be conducted notwith	standing this
31	subsection.		
32	<u>(e)</u> <u>P</u>	riority of Calendaring The hearing of the motion shall be advan-	ced and take
33	precedence o	over all other causes upon the court calendar, as follows:	
34	<u>(1</u>	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	ne court shall





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<u>(2)</u>	If the motion is filed between 31 and 60 days before the election day for the		
	public office, the court shall hear the motion within 10 days of its filing. The		
	court shall issue its order on the motion as soon as practicable, but in no ca		
	shall that period exceed 10 days.		
<u>(3)</u>	If the motion is filed between 61 and 90 days before the election day for the		
	public office, the court shall hear the motion within 15 days of its filing. The		
	court shall issue its order on the motion as soon as practicable, but in no ca		
	shall that period exceed 15 days.		
<u>(4)</u>	If the motion is filed more than 91 days before the election day for the publ		
	office, the court shall hear the motion within 21 days of its filing. The cou		
	shall issue its order on the motion as soon as practicable.		
	and Costs The court shall award attorneys' fees and costs of litigation, in a		
amount to be determined by the court based on the facts and circumstances of the case, as follows:			
<u>(1)</u>	To a prevailing moving party on a motion to strike under this section.		
<u>(2)</u>	To a prevailing nonmoving party if the court finds that a motion under the		
	section is frivolous or solely intended to cause unnecessary delay.		
Attorneys' fees and costs under this section may be requested by motion at any time during			
the course of the action but must be requested not later than 45 days after the final disposition,			
including, but not limited to, dismissal by the plaintiff of the action.			
(g) Appeals. – Notwithstanding G.S. 1A-1, Rule 54; 1-277; or 7A-27, an order granting			
or denying a motion to dismiss or a motion to strike under this section is subject to an immediate			
appeal because such order deprives the appellant of a substantial right unless there is a review			
before final judgment.			
(h) Miscellaneous. – Nothing in this section precludes the right of any party to any			
recovery otherwise authorized by law."			
SECTION 1.(b) This section becomes effective October 1, 2021, and applies to civil			
	actions commenced on or after that date.		
SECTION 2.(a) Effective July 1, 2021, there is appropriated from the General Fund			
to the Administrative Office of the Courts the sum of one hundred thousand dollars (\$100,000)			
in nonrecurring funds for the 2021-2022 fiscal year to implement the provisions of this act.			
SECTION 2.(b) Effective July 1, 2021, there is appropriated from the General Fund			
to the State Board of Elections the sum of ten thousand dollars (\$10,000) in nonrecurring funds			
for the 2021-2022 fiscal year for the Board's activities relating to this act.			
SECTION 3. Except as otherwise provided, this act is effective when it becomes			
law.			