Second Circuit Holds California's Anti-SLAPP Statute Inapplicable in Federal Court Proceedings

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On July 15, 2020, in *La Liberte* v. *Reid,* the United States Court of Appeals for the Second Circuit vacated a district court's ruling striking a defamation suit under California's "anti-SLAPP" statute. 2020 WL 3980223 (2d Cir. July 15, 2020). The Second Circuit held, for the first time, that California's anti-SLAPP statute was inapplicable in federal court proceedings because it increased plaintiff's burden to overcome pretrial dismissal and therefore conflicted with Federal Rules of Civil Procedure 12 and 56. The Ninth Circuit Court of Appeals (which has jurisdiction over federal cases from California) previously had held that California's anti-SLAPP statute poses no such conflict. *United States ex rel. Newsham* v. *Lockheed Missiles & Space Co.,* 190 F.3d 963 (9th Cir. 1999). The decision in *La Liberte* creates a circuit split over the applicability of the California anti-SLAPP statute in federal courts, which ultimately may be resolved by the Supreme Court. The decision is also relevant because the New York State legislature has recently passed an anti-SLAPP bill bearing similarities to the California statute.

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