

Response from California Independent Petroleum Association

5 December 2022

Business & Human Rights Resource Centre invited California Independent Petroleum Association to respond to allegations that the association has used strategic lawsuits against public participation (SLAPPs) and/or other judicial harassment tactics in attempts to silence or punish critics in the United States.

- [“The Fossil Fuel Industry’s Use of SLAPPs and Judicial Harassment in the United States”](https://earthrights.org/publication/the-fossil-fuel-industrys-use-of-slapps-and-judicial-harassment-in-the-united-states/). EarthRights International, September 2022.
<https://earthrights.org/publication/the-fossil-fuel-industrys-use-of-slapps-and-judicial-harassment-in-the-united-states/>

California Independent Petroleum Association (CIPA) sent the following response:

- “NGOs sued the City claiming it had a “pattern and practice” of approving oil-extraction operations with inadequate environmental review.
- CIPA was concerned the City would settle at industry’s disadvantage, so CIPA intervened.
- CIPA was granted intervenor status and the court directed the City and the NGOs to discuss any settlement with all parties, including CIPA.
- The City/NGOs ignored that court directive and entered into a secret settlement, part of which was an entirely new permitting process including changes to CEQA, for oil and gas producers.
- The NGOs dismissed their suit against the City.
- The City denied there was a secret settlement, and denied that the settlement was in any way related to the new permitting process for oil and gas producers. The City said it was just serendipity that they went into closed session, emerged with a new permitting process for producers, and the NGOs dropped their case the next day. It was later revealed this was not the truth.
- CIPA filed a cross-complaint against the City/NGOs for ignoring the court order and violating our due process rights through the improper imposition of new oil and gas permitting procedures through a secret settlement.
- City/NGOs filed an anti-SLAPP motion. The premise of their motions was that the new oil and gas permitting procedures were entirely unrelated to the settlement between the City and NGOs.
- CIPA offered to let the NGOs out of the lawsuit, if the City agreed they were not “indispensable parties.” The City refused.
- We pursued discovery to establish the new oil and gas permitting procedures were part of the City/NGO settlement. To avoid discovery, the City/NGOs stipulated that the new oil and gas permitting procedures were in fact “part of and pursuant to” the settlement and in fact “formed the basis for the settlement agreement,” contradicting their earlier denials.
- Los Angeles Superior Court Judge Terry Green denied the anti-SLAPP motions. He found “the settlement was clearly not what it purported to be . . . Its real agenda was implementation of rules and procedures that CIPA contends, and the uncontradicted evidence here shows, was detrimental to third parties.” Judge Green was also

concerned by the City's use of "invisible ink inside a settlement" to regulate businesses within its jurisdiction.

- Court of appeal reversed the lower court, ignoring the fact that the City/NGOs had stipulated that their settlement resulted in the new oil and gas regulations, contrary to the entire premise of their anti-SLAPP motions.
- Our issue was not with the NGOs, it was with the government of the City of Los Angeles, the second largest city in the nation with a multi-billion annual budget. Governments at all levels are increasingly trying to use anti-SLAPP motions to deny individuals and businesses their day in court to protect their constitutional rights, as happened in CIPA's case. This should concern every individual and industry in the state. Rather than allow a case to proceed on the merits, governments want to deem all lawsuits against them as "retaliatory" so they do not have to defend their actions in court."