

CHAPTER 155

AN ACT concerning certain actions and supplementing Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.2A:53A-49 Short title.

1. This act shall be known and may be cited as the “Uniform Public Expression Protection Act.”

C.2A:53A-50 Definitions; scope.

2. Scope.

a. In this section:

(1) “Goods or services” does not include the creation, dissemination, exhibition, or advertisement or similar promotion of a dramatic, literary, musical, political, journalistic, or artistic work.

(2) “Governmental unit” means a public corporation or government or governmental subdivision, agency, or instrumentality.

(3) “Person” means an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity.

b. Except as otherwise provided in subsection c., this act applies to a cause of action asserted in a civil action against a person based on the person’s:

(1) communication in a legislative, executive, judicial, administrative, or other governmental proceeding;

(2) communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or

(3) exercise of the right of freedom of speech or of the press, the right to assembly or petition, or the right of association, guaranteed by the United States Constitution or the New Jersey Constitution, on a matter of public concern.

c. This act does not apply to a cause of action asserted:

(1) against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity;

(2) by a governmental unit or an employee or agent of a governmental unit acting in an official capacity to enforce a law to protect against an imminent threat to public health or safety; or

(3) against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person’s sale or lease of the goods or services.

C.2A:53A-51 Order, show cause.

3. Order to Show Cause.

Not later than 60 days after a party is served with a petition or complaint, crossclaim, counterclaim, third-party claim, or other pleading that asserts a cause of action to which this act applies or at a later time on a showing of good cause, the party may file an application for an order to show cause with the court to dismiss the cause of action or part of the cause of action.

C.2A:53A-52 Court, order, stay.

4. Stay.

a. Except as otherwise provided in subsections d. through g., upon the filing of an application for an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51) the court may order:

(1) all other proceedings between the moving party and responding party, including discovery and a pending hearing or motion, to be stayed;

(2) on motion by the moving party, the court may stay an action or proceeding involving another party, or discovery by another party, if the hearing or ruling in that proceeding would adjudicate, or the discovery would relate to, an issue material to an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51); and

(3) In determining whether to stay any proceedings, there shall be a presumption that such a stay shall be granted.

b. A stay under subsection a. remains in effect until lifted by the court.

c. Except as otherwise provided in subsections e., f. and g., if a party appeals from an order ruling on an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51), all proceedings between all parties in the action may be stayed by the court until the conclusion of the appeal.

d. During a stay under subsection a., the court may allow limited discovery if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden under subsection a. of section 7 of P.L.2023, c.155 (C.2A:53A-55) and the information is not reasonably available unless discovery is allowed.

e. A motion under section 10 of P.L.2023, c.155 (C.2A:53A-58) for costs, attorney's fees, and expenses is not subject to a stay under this section.

f. A stay under this section does not affect a party's ability voluntarily to dismiss a cause of action or party of a cause of action or move to sever a cause of action.

g. If the court issues a stay under this section, the court for good cause may hear and rule on:

(1) a motion unrelated to an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51); and

(2) a motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety.

C.2A:53A-53 Hearing.

5. Hearing.

a. The court shall hear an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51) as expeditiously as possible.

b. If the Court allows for discovery under subsection d. of section 4 of P.L.2023, c.155 (C.2A:53A-52), the court shall hear the order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51) as soon as practicable after the conclusion of time set forth in its order permitting limited discovery pursuant to subsection d. of section 4 of P.L.2023, c.155 (C.2A:53A-52).

C.2A:53A-54 Proof.

6. Proof.

In ruling on an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51), the court may consider the pleadings, the order to show cause application and supporting certifications, briefs, any reply or response to the order to show cause, and any evidence that could be considered in ruling on a motion for summary judgment.

C.2A:53A-55 Cause of action, dismissal, whole, part.

7. Dismissal of cause of action in whole or part.

a. In ruling on an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51), the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:

(1) the moving party established under subsection b. of section 2 of P.L.2023, c.155 (C.2A:53A-50) that this act applies;

(2) the responding party fails to establish under subsection c. of section 2 of P.L.2023, c.155 (C.2A:53A-50) that this act does not apply; and

(3) either:

(a) the responding party fails to establish a prima facie case as to each essential element of any cause of action in the complaint; or

(b) the moving party establishes that:

(i) the responding party failed to state a cause of action upon which relief can be granted; or

(ii) there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the cause of action or part of the cause of action.

b. A voluntary dismissal without prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51) does not affect a moving party's right to obtain a ruling on the order to show cause and seek costs, attorney's fees, and expenses under section 10 of P.L.2023, c.155 (C.2A:53A-58).

c. A voluntary dismissal with prejudice of a responding's party cause of action, or part of a cause of action, that is the subject of an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51) establishes for the purpose of section 10 of P.L.2023, c.155 (C.2A:53A-58) that the moving party prevailed on the motion.

C.2A:53A-56 Ruling.

8. Ruling.

The court shall rule on an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51) as soon as practicable after a hearing under section 5 of P.L.2023, c.155 (C.2A:53A-53).

C.2A:53A-57 Appeal.

9. Appeal.

A moving party may appeal as a matter of right from an order denying, in whole or in part, an order to show cause under section 3 of P.L.2023, c.155 (C.2A:53A-51). The appeal must be filed not later than 20 days after entry of the order.

C.2A:53A-58 Costs, attorney's fees, expenses.

10. Costs, Attorney's Fees, and Expenses.

On a motion under section 3 of P.L.2023, c.155 (C.2A:53A-51), the court shall award court costs, reasonable attorney's fees, and reasonable litigation expenses related to the order to show cause:

(1) to the moving party if the moving party prevails on the order to show cause; or

(2) to the responding party if the responding party prevails on the order to show cause and the court finds that the order to show cause was frivolous or filed solely with intent to delay the proceeding.

C.2A:53A-59 Construction.

11. Construction.

This act shall be broadly construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assembly and petition, and the right of association, guaranteed by the United States Constitution or the New Jersey Constitution.

C.2A:53A-60 Application, construction uniformity.

12. Uniformity of Application and Construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

C.2A:53A-61 Severability.

13. Severability.

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect with the invalid provision or application, and to this end the provisions of this act are severable.

14. This act shall take effect on the 30th day after enactment and shall apply to a civil action filed or cause of action asserted in a civil action on or after the effective date.

Approved September 7, 2023.