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Improving AB-701/SB-666

The Wisconsin version of the Uniform Public Expression Protection Act (UPEPA) should be improved by amending the bill to improve clarity over the types of claims that the bill is NOT intended to cover and to preserve proper discretion for judges regarding the imposition of costs and fees.

Proposed Section 802.065(1)(c) Should Include More Exceptions. The law always benefits from clarity. Other states' experiences with similar laws have shown that creative counsel have attempted to use the provisions of this law allowing for quick examination and disposition of a claim to slow and halt meritorious cases that were never intended to be covered by this law. This bill should be amended to include additional exceptions like those found in Texas Civil Practices and Remedies Code, [Sec. 27.010](#).

WAJ proposes that exceptions should explicitly be made for claims involving bodily injury or wrongful death (including medical malpractice, products liability and others); those arising out of an insurance contract; and those arising out of common law claims including fraud. Other states provide examples that are worthy of replicating in our law.

Judges Should Retain Discretion to Impose Fees and Costs. Judicial discretion over the imposition of costs and fees is crucial to maintaining the normal and proper functioning of the American legal system. A key feature of the American legal system is that each side pays its own costs. In situations where the legal system is being abused, judges should retain the ability to impose costs, fees and sanctions as envisioned by this bill. However, there will always be cases that are extremely close calls and where abuse is not evident, even while dismissal is merited. In those situations, judges should maintain the ability to shape burden shifting via costs, fees and sanctions as appropriate.