

CASE NO. 25-CV-0063

**DISTRICT OF COLUMBIA
COURT OF APPEALS**

DAVID KURIAKOSE,

Appellant,

V.

METROPOLITAN AFRICAN METHODIST EPISCOPAL CHURCH

Appellee.

**APPELLANT DAVID KURIAKOSE'S
MOTION REQUESTING ORAL ARGUMENT**

Appellant David Kuriakose, in response to the Court's February 27, 2026 Calendar Notice (in which the Court placed this appeal on the Summary Calendar) and in accordance with District of Columbia Court of Appeals I.O.P. VI, through counsel, moves for oral argument in this appeal. In support of his motion, Mr. Kuriakose states as follows.

SUMMARY: Oral argument will significantly aid the decisional process because this appeal involves two important issues of first impression under the

District of Columbia's Anti-SLAPP Act, D.C. Code §§ 16-5501-5505, and also involves a complex application of statutes of limitation in the context of the Anti-SLAPP Act.

BACKGROUND. Plaintiff / Appellee filed its initial complaint in the Superior Court against defendants Proud Boys International, LLC ("PBI") and other defendants (but not Appellant Mr. Kuriakose) on January 4, 2021 and a First Amended Complaint adding additional claims and additional defendants (but not Mr. Kuriakose) on January 10, 2022. All claims in both complaints arose from alleged events at a Pro-Trump "Stop the Steal" rally on December 12, 2020, in which, according to the complaints, the named defendants trespassed on plaintiff's church property and destroyed plaintiff's Black Lives Matter sign.

On March 22, 2024, over three years and three months after the rally on which plaintiff's claims are based, plaintiff filed a Second Amended Complaint ("SAC"), adding Mr. Kuriakose as a defendant. Like the prior complaints, the SAC is based on alleged events at the December 20, 2020 Pro-Trump rally. Few of the allegations in the SAC were directed specifically to Mr. Kuriakose.

The SAC alleged eight claims. Pared to their essence, plaintiff's allegations against Mr. Kuriakose had the following logical structure: (1) PBI is a racist and white supremacist organization (even though plaintiff's own Exhibit 1 contradicted this and Mr. Kuriakose himself is of East Indian ancestry); (2)

some members of PBI (but not Mr. Kuriakose) at the December 20, 2020 Pro-Trump rally march trespassed on and caused damage to plaintiff's property; (3) Mr. Kuriakose was a member of PBI and was at the rally march; (4) therefore, Mr. Kuriakose is liable for the wrongful acts of the others.

On September 3, 2024, Mr. Kuriakose filed a motion to dismiss under the District's Anti-SLAPP statute and under Rule 12(b)(6) contending that (1) plaintiff's claims are time-barred as a matter of law, (2) plaintiff failed to allege plausible claims against Mr. Kuriakose in accordance with applicable pleading and First Amendment standards, and (3) plaintiff's civil conspiracy claims -- Counts II, III, IV, and V -- fail as a matter of law.

On December 27, 2024, after briefing and oral argument, the Superior Court denied Mr. Kuriakose's motions.

REASONS ORAL ARGUMENT SHOULD BE GRANTED:

I. THIS CASE RAISES TWO IMPORTANT IMPORTANT ISSUES OF FIRST IMPRESSION UNDER THE D.C. ANTI-SLAPP ACT.

Mr. Kuriakose contended his attendance at the Pro-Trump Stop the Steal rally march, his critical opinion of BLM, and his mere presence many yards away from the other defendants who attacked the Church's BLM sign are all protected by the First Amendment and the Anti-SLAPP Act; the plaintiff contended these same basic facts show he was engaged in a conspiracy to commit violence and

therefore his invocation of the First Amendment and the Anti-SLAPP Act is invalid. This is thus not a case in which Mr. Kuriakose's protected activities merely preceded, followed, or were at the periphery of the activities plaintiff alleges as the basis of its claim against Mr. Kuriakose. To the contrary, in this case the same basic factual matrix or alleged factual matrix is at issue, but it is characterized in very different ways by the plaintiff and by Mr. Kuriakose.

No District of Columbia court has addressed application of the D.C. Anti-SLAPP Act to this precise factual scenario. California courts, however, interpreting California's Anti-SLAPP statute that is similar to the District's statute (California decisions are frequently cited as persuasive authority in District of Columbia cases), have worked out a doctrinal solution that is consistent with the purpose of the Anti-SLAPP statute and the rights of the opposing parties, namely: a plaintiff can defeat the first step of a defendant's Anti-SLAPP motion by demonstrating that the defendant's actions were illegal or his invocation of Constitutional protection was invalid, but only upon a showing that "either the defendant concedes, or the evidence conclusively establishes, that the assertedly protected speech or petition activity was illegal as a matter of law." *See, e.g., Flatley v. Mauro*, 39 Cal. 4th 299, 320 (Cal. 2006). This appeal raises the important question, never previously addressed by a District of Columbia court, of whether the D.C. Anti-SLAPP Act will be similarly

interpreted. The trial court's opposite interpretation in this case, i.e., that the plaintiff's mere allegations that the defendant's conduct was unlawful are sufficient to defeat the defendant's invocation of the Anti-SLAPP statute, would gut the reach of this important act.

A separate question of first impression presented by the appeal is whether a court, in its initial consideration of an Anti-SLAPP motion, may consider affidavits. Mr. Kuriakose offered an affidavit in support of his motion declaring that he had no prior knowledge of or any role whatever in the trespass and vandalism on the plaintiff's property, but the Superior Court declined to accept it. On the one hand, such affidavits / declarations are commonly considered in cases under California's Anti-SLAPP statute. *See, e.g., Flatley*, 39 Cal.4th at 325. This Court in *Competitive Enterprise Institute v. Mann*, 150 A.2d 1213 1255 n. 57 (2018), seemed to indicate that, contrary to the trial court's decision in this case, they should be considered. This issue is greatly in need of clarification. Oral argument in this case will insure the issue is fully and properly brought to the Court's attention.

II. THIS CASE RAISES COMPLEX ISSUES INVOLVING INTERACTION BETWEEN THE DISTRICT'S ANTI-SLAPP ACT AND APPLICABLE STATUTES OF LIMITATION.

The limitations period for six of Appellee's claims in this case was three years; for two others, it was one year. Appellee did not add Mr. Kuriakose as a defendant until over three years and three months after the events on which it bases its claims, raising an obvious limitations defense. This Court has affirmed that an Anti-SLAPP motion to dismiss can be granted based on the defendant's statute of limitations defense. *See, e.g., American Studies Ass'n v. Bronner*, 259 A.2d 728, 741 and 741 n. 42 (D.D. 2021). Mr. Kuriakose, accordingly, raised his limitations defense in his Anti-SLAPP motion, noting, *inter alia*, that Appellee's argument that it lacked knowledge of Mr. Kuriakose within the limitations periods was undercut by its own allegations in its complaints and by dozens of newspaper articles, many with Mr. Kuriakose's photograph, of which the court could take judicial notice. The trial court nonetheless denied Mr. Kuriakose's motion.

The interplay between these statute of limitations issues and the policy of the Anti-SLAPP statute to expedite disposition of Anti-SLAPP motions is important and somewhat complicated. Oral argument will assure that these important issues are fully and clearly presented to this Court.

III. THIS COURT IN *COMPETITIVE ENTERPRISES V. MANN* UNDERSCORED THE PUBLIC IMPORTANCE OF APPELLATE REVIEW OF DENIALS OF MOTIONS UNDER THE DISTRICT’S ANTI-SLAPP ACT.

This Court in its *Mann* decision, in holding that denials of Anti-SLAPP motions are immediately appealable under the collateral order doctrine, repeatedly affirmed the “substantial public importance” of such motions. *See, e.g.*, 150 A.3d at 1230-31. Given this public importance, the benefits of oral argument in clarifying issues, highlighting key points, and avoiding misunderstanding are especially critical.

WHEREFORE, Appellant Mr. Kuriakose requests oral argument in this appeal.

Respectfully submitted,

/ s /

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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2026, true and accurate copies of the foregoing were served via ECF procedures of this Court to all counsel of record.

/s/

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