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DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Summary Judgment Procedure Act

Summary

Summary judgment is a useful method for terminating litigation where there is no material issue of fact. Under the current federal or similar state rule, however, even when it is determined that there is no factual disagreement, the judge may refuse to dispose of the case. Requiring that judges make explicit findings of fact will help focus issues for trial even when summary judgment is not granted.

These provisions may be implemented as a statute or as a change in state rules of civil procedure. If rules changes are pursued and the state rules are patterned after the Federal Rules of Civil Procedure (FRCP), reference should be made to FRCP 56 in order to place these provisions in context.

Model Legislation

Section 1. {Title.} The following Act shall be known as and may be cited as the Summary Judgment Procedure Act.

Section 2. {For Claimant.} A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with supporting affidavits for a summary judgment in the party's favor upon all or any part thereof.

Section 3. {For defending party.} A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.

Section 4. {Motion and proceedings thereon.} The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. A motion for summary judgment must be rendered forthwith if the pleading, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving issue as to any material fact, and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. The district court's finding regarding whether a genuine issue of material fact exists shall not be set aside unless clearly erroneous. Whenever a motion for summary judgment is rendered or denied, the court must set forth specific findings that support its ruling.

Section 5. {Case not fully adjudicated on motion.} If, on a motion for summary, judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleading and evidence before it and by interrogating counsel, shall ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

Section 6. {Form of affidavits; further testimony; defense required.} Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this section, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is genuine issue for trial. If the adverse party does not respond, summary judgment, if appropriate, shall be entered against the adverse party.

Section 7. {When affidavits are unavailable.} Should it appear from the affidavit of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.
Section

8. {Affidavits made in bad faith.} Should it appear to the satisfaction of the court at any time that any of the affidavits presented are made in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorneys' fees, and any offending party or attorney may be adjudged guilty of contempt.

Section 9. {Severability clause.}

Section 10. {Repealer clause.}

Were your laws repealed?

Section 11. {Effective date.}

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWatch.org, www.SourceWatch.org, and now www.ALECExposed.org. For more information contact: editor@prwatch.org or 608-260-9713.

Center for Media and Democracy's quick summary

This bill would help corporate defendants facing lawsuits by requiring judges narrow the scope of issues in the trial. In many cases, the defendant will ask the judge to dismiss the case before the actual trial begins (a motion for summary judgment), alleging that the plaintiff has raised "no genuine issues of material fact."

This bill provides that, if the judge refuses the motion and allows the trial to proceed, the case must be narrowed to the issues still in controversy. This bill could allow defendants to use summary judgment as a vehicle for eliminating certain issues in a lawsuit before there is a chance for a full hearing.

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board

--in recent past or present

- AT&T Services, Inc.
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- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.