

Anti-SLAPP and First Amendment Rights Practice (Strategic Lawsuits Against Public Participation)

Haynes Boone has extensive experience in defending against Strategic Lawsuits Against Public Participation (SLAPPs) in state and federal court. We have been instrumental in the passage and defense of the Texas Anti-SLAPP statute, have worked with several other states in passing and amending existing statutes, and have been involved in efforts to get federal legislation passed. We have served as Advisor to the Uniform Law Commission in drafting and implementing its Model Anti-SLAPP law and are the only U.S. law firm that has worked internationally on efforts to get an EU Anti-SLAPP Directive and a UK Anti-SLAPP law passed. Our experience gives us the ability to defend against SLAPP suits in state and in federal court throughout the nation and advise on international matters.

The Anti-SLAPP and First Amendment Rights Practice Group includes several seasoned First Amendment, intellectual property, and social media lawyers who

understand the unique aspects of SLAPP litigation. SLAPP matters arise out of content, which is what our group has experience in protecting. SLAPP cases can arise in a large array of disputes involving the right to free speech and press, the right to petition, and the right of association. Because SLAPP suits may involve a myriad of claims including defamation, tortious interference, abuse of process, breach of contract, invasion of privacy claims, and more, it is important to have the experience of those who have a deep understanding of Anti-SLAPP statutes to assist in defending against SLAPP suits.

FIGHTING AGAINST DISCOVERY IN SLAPP CASES

An important part of filing an Anti-SLAPP motion is being prepared for a request for discovery to respond to the motion. The laws limit whether and what kind of discovery can be obtained after an Anti-SLAPP motion has been filed - only specified and limited discovery is allowed on a showing of "good cause" - and our team has been very successful at fighting discovery requests. We have both succeeded in getting courts to refuse to grant discovery and in demonstrably limiting any discovery allowed by the court.

ATTORNEY'S FEES AND SANCTIONS

One of the core purposes of Anti-SLAPP laws is the award of attorney's fees and sanctions to the party who has been forced to defend against a SLAPP suit. We have succeeded in obtaining not only dismissals of cases, but also attorney's fees and sanctions awards for our clients. Attorney's fees awarded to our clients have ranged from \$11,000 to as high as \$250,000, depending on the complexity of the case.



INTERLOCUTORY APPEAL OF ANTI-SLAPP RULINGS

Anti-SLAPP statutes often provide the right to immediately appeal rulings on Anti-SLAPP motions. Because of the breadth of our experience defending against SLAPP suits at the trial and appellate level, we are uniquely qualified to argue for the preservation of a trial court's Anti-SLAPP dismissal or overturning of the denial of an Anti-SLAPP motion.

SELECT RECENT REPRESENTATIONS

- *Charassri v. Fox Corp. et al.*, Cause No. CV338-24DC (66th Judicial Dist. Ct., Hill County, Tex.). We represented Fox defendants who were sued by a plaintiff for intentional and negligent infliction of emotional distress in response to an online article published about his criminal conduct by another media company. The plaintiff erroneously brought the case against our clients, even though they played no role in the article at issue. We filed an Anti-SLAPP motion on behalf of the Fox defendants, which the trial court granted and dismissed all claims against our clients.
- *Escobedo v. Graham Media, et al.*, Cause No. 2024CI04436, in the 22th Judicial District Court, Bexar County, Texas. We represented KSAT, the local television station in Bexar County and subsidiary of Graham Media, in a lawsuit filed against it over its reporting on the plaintiff's involvement in a self-reported domestic dispute that resulted in her boyfriend's death and her arrest for tampering with physical evidence with intent to impair. After the plaintiff filed a time-barred lawsuit for defamation, and then added a claim for intentional infliction of emotional distress (IIED), we responded and filed an anti-SLAPP motion on behalf of KSAT. In our Motion, we asserted various defenses, including limitations and privilege as to the defamation claim and that the plaintiff had not adequately pled a claim for IIED. KSAT's anti-SLAPP motion was granted and KSAT was awarded attorney's fees.
- *Darrigan v. American Prospect, et al.*, Cause No. 23-7737-431, in the 431st Judicial District Court, Denton County, Texas. We represented American Prospect, a political and public policy magazine, in a lawsuit filed against it by a doctor alleging defamation and related torts against our client, its publisher, and the reporter. The suit stemmed from a brief mention of the plaintiff in a lengthy article published by the media outlet, which discussed the downfall of one of the largest employers of emergency room doctors. We filed an anti-SLAPP motion to dismiss asserting substantial truth, privilege, the third-party allegation rule, lack of damages, and the absence of actual malice. After a hearing, the trial court granted our anti-SLAPP motion and awarded our client its attorneys' fees.
- *Namdar v. DallasNews Corp., et al.*, Cause No. DC-23-02053 (95th Judicial Dist. Ct., Dallas County, Tex.). Plaintiff, a former Congressional candidate, sued our clients, the Dallas Morning News and its reporter, for defamation over a series reporting on allegations that Plaintiff, while running a campaign that touted his work fighting human trafficking, had used the services of a professional escort a few months before the election, that he had previously been accused of inappropriately touching a student when he was a teacher and coach at a local high school, and that he had had disagreements with the school district leading to litigation and unpaid legal fees. The trial court granted the Anti-SLAPP motion and issued a full award of attorney's fees.
- *Broder, et al. v. Nexstar Media Inc., et al.*, 2021 WL 2273470 (Tex. App. – Austin 2021, no pet.). Plaintiffs, a doctor and his medical practice, filed a retaliatory lawsuit against Haynes Boone client, Nexstar Broadcasting Group, Inc., and its reporter, alleging defamation after Nexstar's television station, KXAN, published online and broadcast reports about inherent delays and problems with the Texas Medical Board's complaint and investigation procedures. The trial court granted the Anti-SLAPP motion and awarded fees. The Austin Court of Appeals affirmed and, in the process, upheld the constitutionality of the Anti-SLAPP statute.
- *Moore v. Dallas Morning News, Inc., et al.*, Cause No. DC-21-06923 (44th Judicial Dist. Ct., Dallas County, Tex.). Arguing that the discovery rule was inapplicable for statements made in mass media, Haynes Boone obtained Anti-SLAPP and Rule 91a dismissal of time-barred defamation claims brought against the Dallas Morning News and its reporter for their reporting on Plaintiff's arrest and related criminal proceedings for being a felon in possession of a firearm.
- *Burns v. CBS Stations Group of Texas, LLC*, 2021 WL 4398031 (Tex. App. – Dallas 2021, no pet.). Plaintiff filed suit against Haynes Boone client, CBS Stations Group of Texas, LLC, for defamation based on a year-old news broadcast concerning criminal proceedings surrounding a bank robbery. The trial court denied the Anti-SLAPP motion, which was overturned on appeal. The Dallas Court of Appeals found that CBS was not negligent where it reasonably relied on (incorrect) information received from law enforcement.
- *Lowry v. Fox Television Stations, LLC, et al.*, 2022 WL 2720509 (Tex. App. – Houston [1st Dist.] 2022, no pet.). Plaintiff sued Haynes Boone client FTS and its television station for defamation and negligence over reports discussing Plaintiff's then recent arrest for possessing lewd visual images of a child. The trial court granted the Anti-SLAPP motion, which was upheld by the Court of Appeals. The appellate court held, despite some minor inaccuracies in the reports, Plaintiff could not demonstrate substantial falsity.

- *Frazier v. ProPublica, Inc.*, No. 01-22-00281- CV (Tex. App. Apr. 25, 2024); 2020 WL 370563 (Tex. App. – Houston [1st Dist.] 2020, pet. denied). Plaintiff filed a lawsuit against Haynes Boone’s client, the non-profit news organization ProPublica, Inc., alleging defamation and intentional infliction of emotional distress after ProPublica and the Houston Chronicle published a joint article reporting on Plaintiff’s career as a heart surgeon and questions that had been raised about some of his practices and procedures and his failure to follow protocols in clinical trials. The Houston Court of Appeals (1st COA) overturned the trial court’s denial of the Anti- SLAPP motion remanding the case to the trial court for consideration of Defendants’ substantial truth evidence and privilege arguments. After the trial court (with a different judge) again denied our Anti- SLAPP motion, we appealed again arguing that the trial court again failed to consider our evidence and arguments of substantial truth, where the defendant has shown that the “gist” of the alleged defamatory statement is true, along with other defenses, as the Court of Appeals had ordered it to do. The First Court of Appeals issued its opinion, agreeing with our arguments and reversing the denial of the anti- SLAPP motion. All claims against our clients were dismissed and the matter was remanded for a determination of attorney’s fees to be awarded.
- *Forsterling v. A&E Television Networks, LLC*, No. H-16-2941, 2017 WL 980347 (S.D. Tex. Mar. 9, 2017). In a case surrounding the production of a reality TV show, obtained a dismissal and take-nothing judgment under the Anti- SLAPP statute and for failure to state a claim. This is the first case in which the Texas Anti-SLAPP statute was applied to an entertainment program.
- *KHOU-TV, Inc. v. Status Lounge, Inc.*, 639 S.W.3d 752 (Tex. App. –Houston [14th Dist.] 2021, no pet.). After police held a press conference to discuss a shooting relating to a Houston area bar, Haynes Boone client, a television station, published a short report on the shooting and the information provided by police. Plaintiff sued the television station over the report. We filed a motion to abate because the Plaintiff had failed to comply with the Defamation Mitigation Act. We later filed an Anti- SLAPP motion to dismiss, which the trial court denied as untimely. On appeal, in a case of first impression, the appellate court reversed the trial court and found the Anti- SLAPP motion was timely and remanded the matter for consideration of the merits of the underlying motion. After a second incorrect denial of our Anti-SLAPP motion and appeal, the court of appeals again reversed the trial court and dismissed all claims against our client.
- *Entravision Communications Corporation, et al v. Jesus Everardo Villarreal Salinas*, 487 S.W.3d 276 (Tex. App.— Corpus Christi, 2016, pet. denied). Obtained reversal of trial court’s denial by operation of law of Anti-SLAPP motion for an allegedly defamatory Facebook post discussing rumors of a plaintiff’s detention at the border.
- *Mohamed v. The Blaze, Inc.; Glenn Beck; Center for Security Policy; NW Communications of Texas Inc.; Ben Ferguson; Ben Shapiro; Beth Van Duyne*, Cause No. DC-16-12579 (162nd Dist. Ct., Dallas County, Tex., Dec. 16, 2016). Obtained Anti-SLAPP dismissal of Plaintiff’s defamation claims based on client’s reporting and commentary discussing the 2015 incident in which 14-year-old Ahmed Mohamed was arrested for bringing a device that he said was a homemade clock to school, and the subsequent demand letters his family sent to the City of Irving and the Irving ISD demanding a total of \$15 million. Full attorney’s fees were awarded, and our clients were dismissed within three months of being served.
- *Expedition LLC and Drippin Wet Concrete, LP v. Greg Thompson aka “BAMA BROWN,” and Capstar TX LLC*; Cause No. 15-0370 (428th Dist. Ct., Hays County, Tex., Feb. 02, 2015). Obtained an Anti-SLAPP dismissal, without discovery, after the Plaintiffs sued an Austin radio station and its morning disc jockey for the DJ’s on-air reporting about Expedition’s plans to build a concrete batch plant in a quiet neighborhood.
- *Oxysure Systems, Inc., v. WFAA T.V. Channel 8, Tegna Media Inc., Symone Redwine, et al.*; Cause No. 416-04556-2015 (416th Dist. Ct., Collin County, Tex., Nov. 4, 2015). Obtained Anti-SLAPP and summary judgment dismissal of claims based on clients’ reporting on the products liability lawsuit filed by Meaghan Levy’s family after her death and the public safety questions raised about the Plaintiff’s device. In granting our motions, the Court issued a full award of attorney’s fees.
- *Delgado v. Alvarado*, Cause No. 2014-10592 (234th Dist. Ct., Harris County, Tex. 2014). Obtained an Anti-SLAPP dismissal on behalf of Texas State Representative Carol Alvarado whose former political opponent sued her for \$1.5 million for a variety of claims related to her political campaign’s website and social media communication. The court awarded our client the full amount of her attorney’s fees and expenses related to disposing of the lawsuit.
- *Landmark Technology, LLC v. eBay, Inc., et al.*; Civil Action 2:14-cv-00605 (E.D. Tex., Marshall Division, September 15, 2014). Plaintiff sued our client, eBay, for comments our client made to the U.S. Patent and Trademark Office when it filed a re- examination petition seeking to invalidate one of Plaintiff’s patents. Prior to service of the lawsuit, Haynes Boone filed an Anti- SLAPP motion arguing that eBay was exercising its right to free speech and petition, which resulted in Plaintiff voluntarily dismissing the lawsuit.

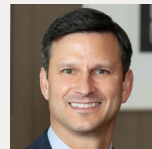
- *Williams v. Cordillera Communications, Inc.*, 2014 WL 2611746 (S.D. Tex. June 11, 2014). Obtained the first ruling in the state in which a federal court declared the Texas Anti-SLAPP statute a substantive right to be applied in federal court. The case involved a local television station’s investigative series about a high school teacher and coach who had been accused of improper behavior with students and other improper acts for more than a decade and was permitted to move from school district to school district without having his teacher certification revoked.
- *Kristina Head a.k.a. Kristina Robinson v. Chicory Media, LLC d/b/a/ Starcasm.net; American Media, Inc., d/b/a/ Star Magazine; Perez Hilton Management, Inc. d/b/a perezitos.com; 415 S.W.3d 559 (Tex. App.—Texarkana 2013, no pet.)*. Obtained Anti-SLAPP dismissal of defamation claims brought by a reality television show star and awarded full attorney’s fees.

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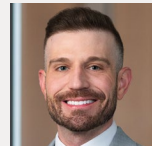
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