

## Media, Entertainment and First Amendment Newsletter, March 2017

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March 9, 2017 Natasha Breaux, Laura Prather, Thomas Williams

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PRACTICES Appellate, Media and Entertainment Litigation

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### Texas Supreme Court Roundup: A Mixed Bag for Media and Open-Government Advocates

The first weeks of 2017 saw legal issues affecting the media taking center stage, both nationally and in Texas. Already this year, the Texas Supreme Court issued two notable decisions that may have a significant impact on Texas media organizations defending libel suits and those seeking information under the Texas Public Information Act (TPIA), and the results are mixed.

In *Brady v. Klentzman*, Case No. 15-0056 (Tex. Jan. 27, 2017), the Texas Supreme Court handed media defamation defendants a victory in emphasizing that libel plaintiffs bear the burden to prove the elements of their claims and rejecting jury instructions requiring defendants to prove the truth of allegedly defamatory statements. The Court's damages analysis in *Klentzman*, however, was less encouraging for defendants, ruling that a scant evidentiary record was sufficient to establish loss-of-reputation damages.

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One week later, in *Paxton v. City of Dallas*, Case No. 15-0073 (Tex. Feb 3, 2017), the Supreme Court held that despite missing the TPIA's deadlines to request an Attorney General's ruling asserting an exemption from disclosure, a governmental entity may nevertheless withhold information requested under the TPIA under the attorney-client privilege exception. This decision raises questions as to the consequences to a governmental body of failing to meet the TPIA's deadlines for processing information requests.

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### Federal Court Preliminarily Enjoins California Law that Prohibits Reporting Actors' Ages

*IMDb.com, Inc. v. Becerra*, No. 3:16-cv-6535-VC (N.D. Cal.)

California Assembly Bill 1687 (AB 1687), which went into effect on January 1, 2017, requires certain entertainment websites to remove a paid subscriber's date of birth or age information upon request. This law applies to IMDb, the world's largest online database of information about the entertainment industry. IMDb filed suit against the California Attorney General in the United States District Court for the Northern District of California, contending, among other things, that the law violates the First Amendment's free speech clause. On February 22, the court granted IMDb's motion for preliminary injunction, thereby enjoining enforcement of the law while the lawsuit is pending.

The California Legislature passed AB 1687 at the behest of the Screen Actors Guild – American Federation of Television and Radio Artists, which claimed the law will help combat age discrimination by employers against actors and other professionals in the entertainment industry.

Allegedly, employers in the entertainment industry find out actors' and others professionals' ages from IMDb and then use that information to discriminate when hiring.

[Read more.](#)

For more information, please contact one of the lawyers listed below.