

# Federal Court Applies Texas Anti-SLAPP Statute for the First Time, Confirming it Creates a Substantive First Amendment Right

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June 19, 2014 Laura Prather, Catherine Robb, Thomas Williams

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**PRACTICES** Media and Entertainment Litigation

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**CORPUS CHRISTI** – In a major boost to the Texas anti-strategic lawsuit against public participation (anti-SLAPP) statute, a federal court judge granted a South Texas television’s anti-SLAPP Motion to Dismiss, applying the state statute in federal court for the first time since its adoption in 2011.

U.S. District Court Judge Nelva Gonzales Ramos of the Southern District of Texas dismissed the challenge to the anti-SLAPP statute and the argument that it was a procedural rule that conflicted with federal rules. Instead, Judge Ramos held the anti-SLAPP statute creates a significant substantive First Amendment right and should be applied in federal court. It is designed to prevent malicious or frivolous lawsuits that chill free speech.

KVOA Communications, Inc. d/b/a KRIS Communications (“KRIS”), represented by Haynes Boone, was sued for running a series of reports about a school district’s investigation into a high school teacher-coach for inappropriate behavior with a student. The station’s investigation uncovered more than a decade of criminal allegations against the teacher, who had been permitted to move from school district to school district, keeping his license to teach and being allowed to voluntarily resign.

“We are gratified that this case continues the validation of our state’s anti-SLAPP statute,” said Haynes Boone Partner **Laura Lee Prather**, the law’s lead author and defense team leader in the lawsuit. “The free flow of information in matters of vital public interest should not be silenced through misuse of our court system. We are proud of the work done by our client, KRIS Communications, and encouraged by the company’s vindication through the legal system.”

Other members of the Haynes Boone team included Fort Worth Partner **Tom Williams**, Austin Counsel **Catherine L. Robb** and Austin Associate **Alicia Calzada**.

What began as KRIS’ reporting on a school district investigation and public meeting to discuss the fate of the school teacher-coach who had been accused of inappropriate behavior with a student, quickly led to the discovery of information that the same teacher-coach had previously been arrested for telephone harassment, stalking and indecent exposure.

The teacher sued the television station, and in the course of discovery, further acts of inappropriate behavior with students and young women were discovered. The station did a follow up investigative series concerning the plaintiff’s ability to move from school district to school district -- despite repeated allegations of inappropriate behavior -- with permission to resign and maintain his TEA teaching certificate.

The station focused on the breakdown in the educational and criminal justice system in permitting an individual with this record to continue to have access to high school athletes and students. The

plaintiff filed an amended complaint after the 2014 investigative series aired and requested more than \$4 million in damages.

On behalf of the station, Haynes Boone filed two dispositive motions (including an anti-SLAPP motion), both of which were granted. The court has now asked the parties to set a hearing on the recovery of costs and fees as provided under the anti-SLAPP statute.

Prather was the lead author and negotiator for the three most significant pieces of First Amendment legislation in recent history in Texas - the reporters' privilege, the anti-SLAPP statute, and the Defamation Mitigation Act. Through her efforts, Laura both formed and led the coalitions in support of all three of these measures, making Texas the 37th state to pass a reporters' privilege, the 28th state to adopt an anti-SLAPP statute, and the 32nd state to enact a retraction statute. All three laws are designed to promote and protect free speech rights in Texas.

At Haynes Boone, Prather, Williams, Robb and Calzada are members of the firm's Media & Entertainment Practice Group. The practice group advises content providers on an extensive array of First Amendment and intellectual property issues.

The case is *Christopher Williams v. Cordillera Communications, Inc., KVOA Communications, Inc. d/b/a KRIS Communications*, 2:2013cv00124, in the U.S. District Court, Southern District of Texas, Corpus Christi Division.