

Laura Prather Co-Authors Law Review Article on TCPA's Changing Landscape

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PRACTICES Anti-SLAPP and First Amendment Rights, Media and Entertainment Litigation

Haynes Boone Partner [Laura Prather](#) and Texas Tech University School of Law Professor Rob Sherwin wrote a timely law review article analyzing the changing landscape of the Texas Citizens Participation Act (TCPA).

Here is an excerpt:

Courts, scholars, and free speech advocates have dubbed meritless lawsuits targeting the legitimate exercise of the rights to engage in truthful speech, lawful petitioning, and legal association as “Strategic Lawsuits Against Public Participation” (SLAPP suits). A SLAPP suit is the offensive use of a legal proceeding to prevent, or retaliate against, persons lawfully exercising First Amendment rights.

SLAPP suits seek to prevent the named defendant from exercising a lawful right, such as testifying at a city council meeting, complaining to a medical board about a doctor, investigating fraud in our education system, or participating in a political campaign. They chill First Amendment activities by subjecting citizens who exercise constitutional rights to the intimidation and expense of defending a lawsuit that lacks merit. While meritorious lawsuits are intended to right a legal wrong, the primary motivation behind a SLAPP suit is to stop lawful speech in a strategy to win a political or social battle. In response to a rise in retaliatory litigation, at least thirty-three states, the District of Columbia, and the United States territory of Guam have passed some form of Anti-SLAPP legislation. The Texas Legislature, like those in other states, noted this trend and, in 2011, it enacted the Texas Citizens Participation Act (TCPA or “Texas Anti-SLAPP Statute”).

After eight years of jurisprudence, powerful lobby groups sought changes to curtail its application in business settings. All agreed the language needed to be tightened so that it could no longer be used improperly as a litigation tactic to thwart its purpose. Including companion bills, five bills were introduced covering varying approaches to reform. Ultimately, House Bill 2730 (H.B. 2730) was the measure that passed. On Sunday, June 2, 2019, Governor Greg Abbott signed H.B. 2730 into law. It goes into effect on September 1, 2019 and applies to actions filed on or after that date. The changes to the law narrow the scope of applicability by narrowing its definitions, expanding its exemptions, and providing more direction for the courts and litigants about burdens and measures of proof.

Excerpted from *Texas Tech Law Review*. To read the full article, click [here](#).