Prather in The Texas Lawbook: The Truth About the TCPA

By Laura Lee Prather | February 18, 2025

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Proposed legislative changes to the Texas Citizens Participation Act (TCPA) would weaken its protections for free speech and open the door to lawsuit abuse. Laura Prather, head of the Haynes Boone Media Practice Group, and Texas Tech Law Professor Robert Sherwin explain how TCPA safeguards against frivolous lawsuits that silence speech and why criticisms of the law are based on misconceptions in an article in *The Texas Lawbook*.

Read an excerpt below:

At a recent Texas House hearing to consider changes to the Texas Citizens Participation Act, a select group of witnesses offered up some common misperceptions about the law. The speakers claimed that TCPA cases account for fully 40 percent of the docket in the Dallas court of appeals and that tort reform groups never supported the law, when, in fact, both of those assertions are demonstrably false.

The speakers also riled up lawmakers with tales of TCPA abuse, recounting one specific offender who has filed frivolous TCPA motions, without so much as mentioning that some claims were filed outside the reach of the TCPA in federal court and that the plaintiff failed to pursue the sanctions mechanisms already available under current state court rules.

Witnesses who could have countered these claims — free speech advocates, conservative talk show hosts, domestic violence victims, right-to-life champions, consumer reviewers and others who support the law — were not invited to testify and were told to submit written testimony that was not posted on the public portal.

The House's selective discussion reflects the one-sided conversation that's currently being had over the TCPA. While the law is by far the most significant safeguard of free speech rights for Texas citizens — with protections that must be jealously guarded — that fact often gets lost (or blocked) from the public discourse as powerful interests call for "reforms" that would gut the TCPA.

Read the full article here.

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