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THRESHOLD DISPOSITIVE MOTIONS

RULE 91A MOTIONS TO DISMISS . . .
Even if you're not getting SLAPPed

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ORIGINS OF RULE 91A



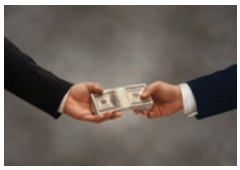
- House Bill 274, 2011:

The Texas Supreme Court shall adopt . . .

- **"rules to promote the prompt, efficient and cost-effective resolution of civil actions"**
- **"rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence"**

TEX. GOV'T CODE § 22.004(g)-(h)

TEX. CIV. PRAC. & REM. CODE § 30.021



- Along with these Government Code amendments, the 2011 Legislature also added CPRC Section 30.021
- **"In a civil proceeding, on a trial court's granting or denial, in whole or in part, of a motion to dismiss . . . The court shall award costs and reasonable and necessary attorneys' fees to the prevailing party."**
- But: exceptions for government entity suits

Tex. R. Civ. P. 91a Basics . . .



- **Effective March 1, 2013**
- **Entitled:**

  "Dismissal of Baseless Causes of Action"

- **At least 47 substantive opinions from Texas Courts of Appeals**
- **Family cases and inmate litigation excluded**

Tex. R. Civ. P. 91a Basics . . . continued

- Movant "submits to . . . jurisdiction only in proceedings on the motion"
- No waiver of personal jurisdiction
- "[D]oes not supersede or affect other procedures that authorize dismissal"
- Special exceptions and summary judgment motions unaffected – even on the same grounds

It's not just a "little" version of Rule 12(b)(6)

"The Supreme Court Advisory Committee and its subcommittee went out of their way to make clear that the dismissal rule is not merely a little Rule 12(b)(6)."



- Hon. Randy Wilson, *From My Side of the Bench: Motions to Dismiss,* The Advocate, Winter 2013.

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42nd Annual Page Keeton Civil Litigation Conference session
"Early Dismissal Trends: 91a Dismissals and Anti-SLAPP"