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The Nuts and Bolts of the Texas Anti-SLAPP Law with 2019 Amendments

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"Strategic Lawsuit Against Public Participation"

The Texas Citizens Participation Act (TCPA)

- TCPRC Chapter 27
- First enacted 2011, 2019 amendments significant.
- Expedited, dispositive motion based on pleadings and evidence.

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TCPA – Motion to Dismiss

- Two-part, burden-shifting analysis at the outset of a case in which a defendant (MOVANT) could obtain dismissal and mandatory fees and sanctions if met a modest burden.
- The respondent (plaintiff) avoids dismissal, fees and sanctions if meets a different burden to produce evidence on every element of claim.

Lawyers MUST Know the TCPA

- Every case that involves a "communication" must be examined for application of the TCPA.
- Civil trial and appellate lawyers must have some knowledge of the TCPA.
- Your standard of care now includes the duty to advise clients in all civil litigation about the TCPA.

Conclusion:
Solution in Search of a Problem

- Of over 250 reported state appellate, and 60 federal court cases so far, only one or two can fairly be called SLAPP cases.
- In most cases now, the party with greater resources is the one that files the motion to dismiss.
- Strategic Motions Against Citizen Suits - SMACS

First Step

MOVANT shows by a preponderance of the evidence that a "legal action" was based on, related to, or in response to the movant's exercise of rights of speech, petition, or association.

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