ANTI-SLAPP FOR EVERYONE!

TEXAS' ANTI-SLAPP LAW

- Texas Citizens Participation Act ("TCPA") enacted in 2011
- To "encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government…"
- TCPA "to be construed liberally to effectuate its purpose and intent fully."
- Has been applied to a wide variety of claims.

TCPA PROCEDURE

- A two-step procedure to expedite the dismissal of claims.
- **First**, Movant must demonstrate by preponderance of the evidence each claim "is based on, relates to, or is in response to a communication" involving Movant's exercise of:
  - Right of free speech.
  - Right to petition.
  - Right of association.

TCPA PROCEDURE – Cont'd.

- **Second**, if Movant makes showing, burden shifts to nonmovant to "establish[ ] by clear and specific evidence[,] a *prima facie* case for each essential element of the claim in question."

TCPA PROCEDURE – Cont'd.

- **Finally**, if nonmovant satisfies second step, court must dismiss lawsuit if Movant "establishes by a preponderance of the evidence" each essential element of a valid defense.

TCPA COMMUNICATION

- "Communication" includes making or submitting a statement or document in any form or medium, including oral, visual, written, audiovisual, or electronic.
- Public forum not required, communications regarding a "private employment matter" may qualify.
- "Free speech" requires communication in connection with a "matter of public concern," no such requirement exists for "right of association."

UT LAW CLE THE UNIVERSITY OF TEXAS TEXASLAW

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the UT Law CLE eLibrary (utcle.org/elibrary)

Title search: Anti-SLAPP for Everyone!

Also available as part of the eCourse
Answer Bar: Going to Trial on an Employment Law Case

First appeared as part of the conference materials for the
26th Annual Labor and Employment Law Conference session
"Anti-SLAPP for Everyone!"