

## Surprise SLAPP!

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### What We All Know

**SLAPP:**

Strategic Lawsuits  
Against Public  
Participation

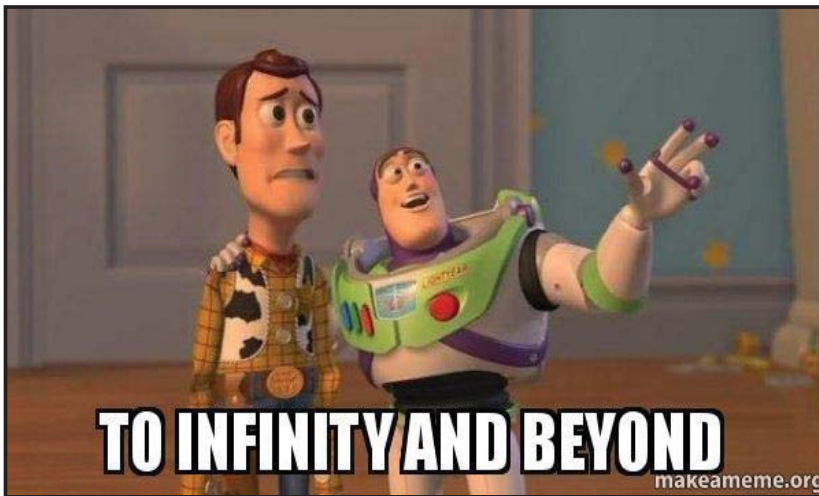
**TCPA:**

Texas Citizens'  
Participation Act

**CPRC:**

Civil Practice &  
Remedies Code,  
Ch. 27

# What We All Know



1. Liberally interpreted;
2. Public and private communications;
3. Attorney's fees are mandatory.

# What's New

## Topics for Today:

- Recent interpretations and applications
- Open questions and issues pending before SCOTX
- Consequences for practitioners and our courts



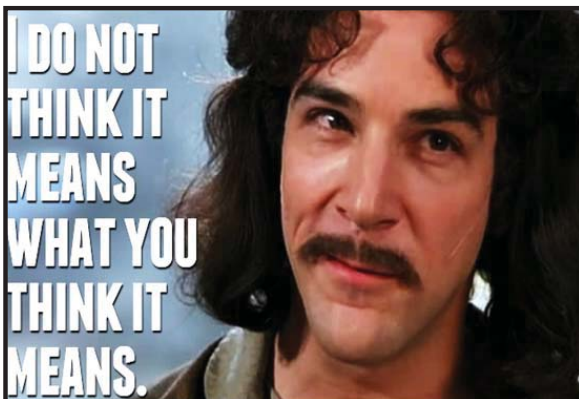
# The Starting Place

## Plain Text, as Enacted:

- **Title:** Actions Involving the Exercise of Certain Constitutional Rights
- **Purpose:** Encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government



# Unexpected Scope



## Seven Years Later:

- Just because “the TCPA professes to safeguard the exercise of certain First Amendment rights” does not mean “it should only apply to constitutionally guaranteed activities.”

-- *Youngkin v. Hines* (Tex. 2018)

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[2018 eConference on State and Federal Appeals](#)

First appeared as part of the conference materials for the  
28<sup>th</sup> Annual Conference on State and Federal Appeals session  
"Surprise SLAPP: Applications and Consequences of the TCPA"