

#### THRESHOLD DISPOSITIVE MOTIONS

RULE 91A MOTIONS TO DISMISS . . . Even if you're <u>not</u> 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)

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# 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

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# 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

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### 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

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## 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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