

# ANTI-SLAPP FOR EVERYONE!

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## 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.

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## 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.

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## 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.”

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## 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.”

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