

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

MARK C. WALKER | DICKINSON WRIGHT PLLC

University of Texas School of Law - 43rd Annual Page
Keeton Civil Litigation Conference
November 22, 2019 | Austin, TX

1

1

“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.

2

2

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.



3

3

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.



4

4

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



5

5

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.



6

6

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 \(utcle.org/elibrary\)](https://utcle.org/elibrary)

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

Also available as part of the eCourse

[2019 Page Keeton Civil Litigation eConference](#)

First appeared as part of the conference materials for the
43rd Annual Page Keeton Civil Litigation Conference session
"The Texas Anti-SLAPP Law"