



March 28, 2023

Via Electronic Mail

Chairman Jeff Leach
House Judiciary Committee
Room GN.11
P.O. Box 2910
Austin, TX 78768

Chairman Leach:

The News Media Alliance (the “Alliance”) is a nonprofit organization representing news and media publishers, including nearly 2,000 diverse news and magazine publishers across the United States, including Texas, —from the largest news publishers and international outlets to hyperlocal news sources, from digital-only and digital-first to print news. Alliance members account for nearly 90% of the daily newspaper’s circulation in the United States. Since 2022, the Alliance is also the industry association for magazine media. It represents the interests of close to 100 magazine media companies with more than 500 individual magazine brands, on topics that include news, culture, sports, lifestyle and virtually every other interest, avocation or pastime enjoyed by Americans. The Alliance diligently advocates for news organizations and magazine publishers on issues that affect them today.

Today, the Alliance writes to express our concerns over House Bill 2781. As currently written, HB 2781 would weaken the vital free speech protections encompassed in Texas’s anti-SLAPP statute, the Texas Citizens Participation Act (“TCPA”). The news and magazine media industries in Texas rely on the protections of the TCPA to ensure that they can provide communities in Texas with valuable, timely, and quality journalism.

HB 2781 would eliminate the automatic stay of proceedings when a motion to dismiss under the TCPA is found to be frivolous, untimely, or subject to a statutory exemption. Currently, the party whose motion to dismiss is denied on such grounds has a right to request interlocutory appellate review of the trial court’s decision. It is important that trial court proceedings are stayed while the appeal is ongoing to avoid potentially unnecessary and wasteful litigation. If the trial court’s proceedings are not stayed and the appellate court reverses the denial of the motion to dismiss, then the activities by the trial court in the interim will be completely futile and a waste of precious court resources.



It is not just a hypothetical scenario that an appellate court could overturn a trial court's decision to grant a motion to dismiss, particularly if decided on the grounds of untimeliness or a statutory exemption which are matters of law that are not always straightforward. In the cases of *Kinder Morgan SACROC, LP v. Scurry Cnty.*¹ and in *Montelongo v. Abrea*², the Texas Supreme Court reversed trial courts that incorrectly ruled on the timeliness of a motion. Similarly, the Texas Supreme Court and Texas courts of appeals have overturned trial court rulings that improperly denied motions to dismiss based on incorrect applications of the statutory exceptions. *See Castleman v. Internet Money Ltd.*;³ *MacFarland v. Le-Vel Brands LLC*.⁴ Texas appellate courts are dealing with legal issues to do with timeliness issues and statutory exemptions, some of which have been newly added to the TCPA in 2019. As such, a stay of proceedings is necessary to allow the appellate courts to properly determine these issues of law and avoid unnecessary expense and litigation.

HB 2781 would force parties to litigate the *same* anti-SLAPP case and motion in two courts, *simultaneously*, which is an affront to judicial economy. As drafted, HB 2781 would weaken the protections of the TCPA which provide pivotal protections for news publishers in Texas. Journalists should be free to report on news and matters of public interest without fear that their work will be threatened by meritless court cases and wasteful and unnecessary litigation.

The Alliance respectfully urges you to consider these concerns and amend HB 2781 to address them accordingly.

Thank you for your consideration.

Sincerely,



Danielle Coffey
Executive Vice President & General Counsel
News/Media Alliance

¹ 622 S.W.3d 835 (Tex. 2021).

² 622 S.W.3d 290 (Tex. 2021).

³ 546 S.W.3d 684 (Tex. 2018).

⁴ No. 05-17-00968-CV, 2018 WL 2213913 (Tex. App.—Dallas May 15, 2018, no pet.).