

ROSS WILLIAMS AUTHORS TEXAS LAWBOOK ARTICLE EXAMINING IMPORTANCE OF FORUM FOR TCPA MATTERS

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Partner [Ross A. Williams](#) authored *The Texas Lawbook* article titled, “Fishing in the Right Pond: Careful Forum Selection May Keep Trade Secret Defendants on the Hook.” The piece considers how state courts in Texas versus the U.S. District Court for the Fifth Circuit view the Texas Citizens Participation Act—also known as the Texas anti-SLAPP statute or TCPA, as it applies to private commercial speech.

Williams details an August decision in *Block v. Tanenhaus* by the Fifth Circuit where that court found that “applicability of state anti-SLAPP statutes in federal court is an important and unresolved issue in this circuit.” He notes that, with those words, the Fifth Circuit created a potential forum-shopping incentive for trade secret misappropriation plaintiffs.” This direction on the federal level contrasts with a May ruling by the Austin Court of Appeals in *Elite Auto Body LLC v. Autocraft Bodywerks Inc.* where that court held that a district court should have dismissed a claim for misappropriation of trade secrets because the former employees’ discussions about the so-called trade secrets were “free speech” and their work for the competitor was “free association” covered by the TCPA.

The upshot of the *Block* decision, according to Williams, is that a “trade secret misappropriation plaintiff who wishes to avoid the TCPA might consider filing in federal court because [one] can now argue not only that *Autocraft* is wrong—which [one] could do before based on the statutory text—but that the TCPA doesn’t even apply in federal actions. Also, because *Autocraft* has not been cited or followed by other Texas appellate courts, filing in state courts outside the Third District and arguing that *Autocraft* is wrong remains an option.”

The full article is available by clicking [here](#) and can also be accessed on the publication’s [website](#).

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