

How to Use this Book

This book is designed to be a toolkit for anti-SLAPP litigation. Hundreds of published appellate decisions involving the anti-SLAPP statute decided by California’s appellate courts and the Ninth Circuit Court of Appeals are analyzed and organized by key provisions of Code Civ. Proc. § 425.16.

Chapter One provides an overview of Code Civ. Proc. § 425.16 and the many features of the statute.

Chapter Two outlines the various procedural rules with anti-SLAPP motions, including timing issues, the automatic stay of discovery and respective burdens, as well as appellate court procedures for anti-SLAPP motions and how anti-SLAPP motions are handled in federal court.

Chapter Three summarizes the prima facie showing a defendant must make to trigger application of the anti-SLAPP statute in what is often referred to as “prong one” of the statute. This chapter reviews the extensive body of published case law that has developed concerning what actions are subject to the anti-SLAPP statute, including discussion of the four statutory categories of activity and conduct that is expressly protected by the statute, as well as other prong-one considerations. Chapter Four should be consulted with this chapter.

Chapter Four features citations to hundreds of published appellate anti-SLAPP decisions in which the anti-SLAPP statute was triggered (or not), and is organized by individual causes of action, in alphabetical order. Case citations appear in chronological order to illustrate how the anti-SLAPP statute has developed over time and to help practitioners to quickly locate relevant case citations. Use this chapter to locate the appellate court decisions associated with over 40 different causes of action where anti-SLAPP statute protection may be available in chronological order. The heading “compare” identifies those decisions where the anti-SLAPP statute did not apply to the facts of a particular case.

Chapter Five summarizes the “merits” showing that a plaintiff must make in “prong two” to defeat an anti-SLAPP motion. This chapter reviews the plaintiff’s pleading and ev-

identitary burdens in prong two and includes summaries of published appellate anti-SLAPP decisions that have been decided on the merits, and is organized by individual causes of action. The heading “compare” identifies those decisions where the plaintiff was able to defeat an anti-SLAPP motion.

Chapter Six outlines the statutory (Code of Civ. Proc. §§ 425.17 et seq.) and judicially created exemptions to Code Civ. Proc. § 425.16 in which the anti-SLAPP statute is unavailable.

Chapter Seven includes several anti-SLAPP forms.

Chapter Eight includes the text of California’s anti-SLAPP statute--Code of Civ. Proc. § 425.16 et. seq.--and anti-SLAPP statutes in 30 other states, the District of Columbia, and Guam, many of which are modeled on and/or influenced by California’s anti-SLAPP statute.

Methodology: The contents of this book are based on the author’s comprehensive review of all anti-SLAPP decisions published by the California Supreme Court, California Courts of Appeal, and the Ninth Circuit Court of Appeals since Code Civ. Proc. § 425.16 was enacted in 1992. Although literally thousands of trial court and unpublished appellate court decisions interpreting the anti-SLAPP statute have been issued by California courts over the past two decades, this book summarizes only those opinions that courts have designated as having precedential value. The author maintains a database of published anti-SLAPP appellate decisions and is committed to annually updating this book so as to chronicle the burgeoning body of anti-SLAPP appellate decisions issued by state and federal courts in California. Future editions of this book will also address case law in other states with anti-SLAPP statutes.

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