

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

\_\_\_\_\_  
No. 19-40053  
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United States Court of Appeals  
Fifth Circuit

**FILED**

October 15, 2019

Lyle W. Cayce  
Clerk

STAR SYSTEMS INTERNATIONAL LIMITED,

Plaintiff - Appellee

v.

NEOLOGY, INCORPORATED,

Defendant - Appellant

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:18-CV-574  
\_\_\_\_\_

Before HIGGINBOTHAM, DENNIS, and HO, Circuit Judges.

PER CURIAM:\*

The district court denied Neology, Inc.'s motion to dismiss after concluding that the Texas Citizens Participation Act (TCPA)—Texas' anti-SLAPP statute—did not apply in a federal diversity proceeding. Neology appealed pursuant to the collateral order doctrine.

At the time Neology filed its appeal, we had not yet ruled on whether, and to what extent, the TCPA applied in federal courts. Since then, this court

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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confronted the question head-on in *Klocke v. Watson*, where we concluded that the TCPA's burden-shifting framework conflicted with FED. R. CIV. P. 12(b)(6) and FED. R. CIV. P. 56. 936 F.3d 240, 247 (5th Cir. 2019). The TCPA therefore constituted a state procedural statute and was not applicable in a federal diversity proceeding. *Id.*

For the reasons stated in *Klocke*, we affirm the district court's order.