

# Opposing An Anti-SLAPP Motion: The Plaintiff's Burden

BY: ADRIANOS FACCHETTI

Fear strikes through the heart of many lawyers at the prospect of having to oppose an anti-SLAPP motion. For one thing, it can lead to the dismissal to your case; not to mention the specter of mandatory attorney's fees.

But let's get one thing straight.

The standard that plaintiff has to meet is not all that high. If defendant sustains its initial burden to demonstrate that plaintiff's causes of action arise under section 425.16, plaintiff must show that it has a "**probability of prevailing**" on the merits of each of its causes of action. What does that mean? It sounds like plaintiff must essentially prove that they can win at trial, right? Not so.

A cause of action may only be stricken if it lacks even **minimal merit**. This threshold is quite low.

Further, one court has said that “[a] plaintiff is not required ‘to prove the specified claim to the trial court’; rather, so as not to deprive the plaintiff of a jury trial, the appropriate inquiry is whether the plaintiff has stated and substantiated a legally sufficient claim.”

As you can see, the standard is not as high as one might think initially.

If you liked this post [please subscribe to the California Defamation Newsletter](#) to receive a free copy of the "Ultimate Beginner's Guide To Defamation Law."