



Case Summaries November 22, 2024

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DECIDED CASES

JURISDICTION

Standing

Tex. Right to Life v. Van Stean, ___ S.W.3d ___, 2024 WL ___ (Tex. Nov. 22, 2024) (per curiam) [[23-0468](#)]

This case concerns a motion to dismiss under the Texas Citizens Participation Act in a suit challenging the constitutionality of the Texas Heartbeat Act.

The plaintiffs allege that the defendants organized efforts to sue those who may be or may be perceived to be violating the Texas Heartbeat Act. The defendants filed a motion to dismiss under the TCPA, which the trial court denied. After the defendants filed an interlocutory appeal, the court of appeals held that the TCPA does not apply to the plaintiffs' claims. It therefore affirmed the trial court's order. The defendants petitioned for review.

The Supreme Court held that the court of appeals erred by determining the TCPA's applicability before addressing the disputed jurisdictional question of the plaintiffs' standing. The Court explained that the standing inquiry is not influenced by the TCPA's multi-step framework, the second step of which requires a plaintiff to show clear and specific evidence of each element of every claim. That heightened standard is relevant only if the TCPA applies. But *whether* it applies (or, if it does, whether a plaintiff can satisfy the clear-and-specific-evidence requirement), are merits questions that a court may not resolve without first assuring itself that it has subject-matter jurisdiction.

The Court further held that under its precedents, a pending TCPA motion cannot create jurisdiction when a court lacks jurisdiction to entertain the underlying case. A claim for fees and sanctions under the TCPA can prevent an appeal from becoming moot, but only if a court with subject-matter jurisdiction had already determined that the TCPA movant prevails. If the plaintiffs here lack standing, then no court ever had jurisdiction to declare the defendants to be prevailing parties. Accordingly, the Court reversed the court of appeals' judgment and remanded the case to that court for further proceedings.

PROCEDURE—PRETRIAL

Discovery

In re Off. of Att’y Gen., ___ S.W.3d ___, 2024 WL ___ (Tex. Nov. 22, 2024) (per curiam) [[24-0073](#)]

The issue in this mandamus proceeding is whether the trial court abused its discretion by compelling depositions of fact witnesses in a case where the defendant amended its answer and no longer contests liability.

Four former employees sued the Office of the Attorney General under the Whistleblower Act. They sought to depose the Attorney General and three senior OAG employees. OAG amended its answer, stating that it no longer disputes the lawsuit as to any issue and consents to the entry of judgment against it. The trial court issued an order compelling the depositions. OAG sought mandamus relief.

In a per curiam opinion, the Supreme Court conditionally granted relief. It concluded that OAG’s unambiguous statements in its amended answer unquestionably alter the analysis to determine whether the deposition requests show a reasonable expectation of obtaining information that would aid in the dispute’s resolution and whether the burden or expense of the depositions outweigh their likely benefit. The Court held that the trial court abused its discretion by failing to consider how the narrowing of the disputed fact issues to include only damages affect the need, likely benefit, and burden or expense of the requested depositions. The Court rejected the plaintiffs’ additional arguments that the depositions are needed to advance the purposes of the Whistleblower Act and to obtain effective relief through legislative approval of the judgment. The Court concluded that neither argument justifies altering the rules’ limits on discovery obligations in a lawsuit.