

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

**Armando Lorenzo v. Sandoval & James, PLLC; Esteban Sandoval;
Yudovich Yarrito; Afif Antonio Hid Velasco a/k/a Afif Hid; and
Hideal Group, LLC**

Lorenzo v. Sandoval & James · No. 03-24-00071-CV · Decided January 28, 2026

SUMMARY

The Texas Court of Appeals, Third District, affirmed the denial of Armando Lorenzo’s motion to dismiss under the Texas Citizens Participation Act. Applying the Texas Supreme Court’s decision in *Ferchichi v. Whataburger Restaurants*, the court held that a filing seeking sanctions, regardless of whether titled a motion, claim, or counterclaim, is not a TCPA “legal action” because it does not assert a substantive legal claim for relief. The court therefore affirmed the trial court’s order.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Maggie Ellis; Chief Justice Byrne; Justice Theofanis; Justice Ellis
JURISDICTION	Texas Court of Appeals, Third District at Austin
DECIDED	January 28, 2026
DOCKET	03-24-00071-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from the denial of a motion to dismiss under the Texas Citizens Participation Act.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Armando Lorenzo v. Sandoval & James, PLLC, Esteban Sandoval, Yudovich Yarrito, Afif Antonio Hid Velasco a/k/a Afif Hid, Hideal Group, LLC

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QUESTIONS PRESENTED

1. Whether Velasco's request for sanctions and fees, despite being styled in part as a counterclaim, constituted a TCPA 'legal action' subject to dismissal.
2. Whether the trial court properly denied Lorenzo's TCPA motion to dismiss.

HOLDINGS

1. A motion or request for sanctions that is ancillary to the substantive claims in an existing suit and cannot stand on its own is not a 'legal action' subject to dismissal under the TCPA.
2. Lorenzo was not entitled to TCPA dismissal because Velasco's sanctions request was not a legal action within the TCPA.

KEY QUOTATIONS

“Thus, the authoritative holding of Ferchichi is that a motion for sanctions is not a “legal action” under the TCPA.” (at 3)

“Because Velasco’s request for sanctions “does not present a substantive underlying claim for relief,” but is instead based on ancillary conduct, it is not a “legal action” subject to dismissal under the TCPA.” (at 4)

FACTUAL BACKGROUND

Lorenzo brought a barratry action against a law firm and individuals allegedly involved in referring his case to the firm. Velasco denied being employed by the firm or being paid for the referral and sought sanctions and fees on the ground that Lorenzo's claim was groundless and that his counsel knew the relevant facts. Lorenzo characterized the sanctions request as a legal action based on his right to petition and sought dismissal under the TCPA.

PROCEDURAL HISTORY

Lorenzo sued the appellees for barratry. Velasco filed a pleading styled as an answer and counterclaims that substantively sought sanctions and fees against Lorenzo and his counsel. Lorenzo moved to dismiss that request under the TCPA, asserting that it was based on or responsive to his exercise of the right to petition. The trial court denied the TCPA motion, and Lorenzo brought an interlocutory appeal.

DISPOSITION

affirmed

CASES CITED

- Ferchichi v. Whataburger Rests. LLC, 713 S.W.3d 330, 337-341 (Tex. 2025)
- Pate v. Haven at Thorpe Lane, LLC, 681 S.W.3d 476, 488-489 (Tex. App.—Austin 2023)
- Thuesen v. Scott, 667 S.W.3d 467, 474-475 (Tex. App.—Beaumont 2023, no pet.)
- Misko v. Johns, 575 S.W.3d 872, 874 (Tex. App.—Dallas 2019, pet. denied)

- *Surgitek, Bristol-Myers Corp. v. Abel*, 997 S.W.2d 598, 601 (Tex. 1999)

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-24-00071-CV Armando Lorenzo, Appellant v. Sandoval & James, PLLC; Esteban Sandoval; Yudovich Yarrito; Afif Antonio Hid Velasco a/k/a Afif Hid; and Hideal Group, LLC, Appellees FROM THE 250TH DISTRICT COURT OF TRAVIS COUNTY NO. D-1-GN-23-001667, THE HONORABLE WILLIAM C. KIRKENDALL, JUDGE PRESIDING MEMORANDUM OPINION Armando Lorenzo sued a law firm, Sandoval & James, PLLC, and the firm’s alleged case runner, Antonio Velasco, 1 for barratry.

See Tex. Gov’t Code § 82.0651 (Civil Liability for Prohibited Barratry). Velasco responded by filing an “Original Answer and Counterclaims,” which did not actually assert any substantive claim for relief but included a “Motion and Claims for Sanctions and Fees.” In the motion, Velasco sought to recover sanctions (in the form of fees and costs) from Lorenzo and his counsel for having filed a groundless claim against him.

Velasco denied that he had been employed by Sandoval & James at the time he contacted Lorenzo and referred him to the firm, and he denied that he had been paid for the referral. Velasco further 1 In this opinion, Velasco refers to both the individual, Afif Antonio Hid Velasco a/k/a Afif Hid, and his company, Hideal Group, LLC. alleged that Lorenzo’s counsel had been aware of these facts when he filed the barratry suit.

Velasco therefore argued that the suit was groundless without any basis in fact and sought sanctions against Lorenzo and his counsel under Chapter 9 or 10 of the Civil Practice and Remedies Code. See Tex. Civ. Prac. & Rem. Code §§ 9.011–0.014, 10.001–.005. Lorenzo then filed a motion to dismiss under the Texas Citizens Participation Act, see *id.* §§ 27.001–.011 (TCPA), arguing that Velasco’s motion for sanctions was based on or in response to Lorenzo’s exercise of the right to petition, *id.* § 27.003(a) (party may file TCPA motion to dismiss “legal action” that is “based on or is in response to” party’s exercise of protected right).

Velasco responded by arguing that the TCPA did not apply because a motion for sanctions does not qualify as a “legal action” subject to dismissal under the act. See *Ferchichi v. Whataburger Rests. LLC*, 713 S.W.3d 330, 337 (Tex. 2025) (for TCPA to apply, challenged filing must qualify as “legal action” as defined by TCPA); see also Tex. Civ. Prac. & Rem. Code § 27.001(6) (defining “legal action”).

The trial court denied Lorenzo’s TCPA motion, and Lorenzo appealed. See Tex. Civ. Prac. & Rem. Code § 51.014(a)(12) (authorizing appeal from interlocutory order denying TCPA motion). When Lorenzo filed his appeal, the authorities were split over whether a motion for sanctions qualifies as

a “legal action” under the TCPA. Compare, e.g., *Pate v. Haven at Thorpe Lane, LLC*, 681 S.W.3d 476, 488–89 (Tex.

App.—Austin 2023) (it does), rev’d sub nom. *Ferchichi v. Whataburger Rests. LLC*, 713 S.W.3d 330 (Tex. 2025), with *Thuesen v. Scott*, 667 S.W.3d 467, 474–75 (Tex. App.—Beaumont 2023, no pet.) (it does not). But during the pendency of the appeal, the Texas Supreme Court resolved the split, holding in *Ferchichi v. Whataburger Restaurants* that a motion for sanctions is not a “legal action” subject to dismissal under the TCPA.

713 S.W.3d at 341. 2 In *Ferchichi*, the Supreme Court began with the relevant text of the statute. *Id.* at 337. The TCPA defines a “legal action” as “a lawsuit, cause of action, petition, complaint, cross-claim, or counterclaim or any other judicial pleading or filing that requests legal, declaratory, or equitable relief.” Tex. Civ. Prac. & Rem. Code § 27.001(6).

Thus, the definition first enumerates six filings that qualify as a “legal action”: “a lawsuit, cause of action, petition, complaint, cross-claim, [and] counterclaim.” *Id.* And then it ends with a broad catch-all provision: “any other judicial pleading or filing that requests legal, declaratory, or equitable relief.” *Id.* Next, the Supreme Court applied the doctrine of *ejusdem generis* to limit the scope of the catch-all provision to filings that are “like” the enumerated filings, which “include the overarching lawsuit and the pleadings encompassing the substantive claims for relief that are the basis of the suit.” *Id.* at 338.

This focus “on the addition or amendment of a ‘claim’ for relief,” the Court explained, is confirmed by the 2019 amendment to the TCPA, *id.*, which expressly excludes from the term “legal action” any “procedural action taken or motion made in an action that does not amend or add a claim for legal, equitable, or declaratory relief,” Act of May 17, 2019, 86th Leg., R.S., ch. 378, § 1, 2019 Tex. Gen.

Laws 684, 684 (codified at Tex. Civ. Prac. & Rem. Code § 27.001(6)(A)). “The enumerated filings in the definition, buttressed by the exception,” the Court further explained, “are connected by their function of commencing (or materially amending) a proceeding on a substantive legal claim—e.g., negligence, fraud, or deceptive trade practices— against another party.” *Ferchichi*, 713 S.W.3d at 338.

But a motion for sanctions does not commence or amend a proceeding on a substantive legal claim. See *id.* Instead, it is “‘based on conduct ancillary to the substantive claims in the case’ and cannot stand on [its] own.” *Id.* 3 (quoting *Misko v. Johns*, 575 S.W.3d 872, 874 (Tex. App.—Dallas 2019, pet. denied)).

Because a motion for sanctions “does not present a substantive underlying claim for relief,” the Court held that it is not a “legal action” subject to dismissal under the TCPA. *Ferchichi*, 713 S.W.3d at 341. Thus, the authoritative holding of *Ferchichi* is that a motion for sanctions is not a

“legal action” under the TCPA. Lorenzo argues that Ferchichi is inapposite because Ferchichi’s holding is limited to a motion for sanctions, and Velasco didn’t file a motion for sanctions but rather a counterclaim.

We disagree. To determine the nature of Velasco’s filing, we look not to its form or title, but to its substance. See *Surgitek, Bristol-Myers Corp. v. Abel*, 997 S.W.2d 598, 601 (Tex. 1999). And substantively, Velasco’s filing is an “ancillary request for relief made within an underlying suit.” See *Ferchichi*, 713 S.W.3d at 340. Velasco’s filing does not commence or amend a proceeding on a substantive legal claim or counterclaim (unlike, say, Lorenzo’s petition, which commences a suit on his claim for barratry).

In the filing, Velasco requests that the trial court sanction Lorenzo and his counsel, and Velasco variously refers to this request as a “motion,” “claim,” and “counterclaim.” Regardless of the title, the filing is based on conduct ancillary to the substantive claims in the case and could not have been brought on its own. Had Lorenzo not sued Velasco, there would be no basis for Velasco to seek sanctions against Lorenzo and his counsel.

Because Velasco’s request for sanctions “does not present a substantive underlying claim for relief,” but is instead based on ancillary conduct, it is not a “legal action” subject to dismissal under the TCPA. *Id.* (reversing opinion of this Court holding that motion for monetary sanctions qualifies as “legal action” under TCPA).

Accordingly, we affirm the trial court’s order denying Lorenzo’s TCPA motion. 4 _____ Maggie Ellis, Justice Before Chief Justice Byrne, Justices Theofanis and Ellis Affirmed Filed: January 28, 2026 5