

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

Francisco R. Canseco v. Aunt Bertha, a Public Benefit Corporation

d/b/a Findhelp

No. 04-25-00310-CV (Tex. App.—San Antonio Nov. 26, 2025) · No. 04-25-00310-CV · Decided November 26, 2025

SUMMARY

The Fourth Court of Appeals of San Antonio considered whether a Rule 202 pre-suit discovery petition was properly granted and whether the Texas Citizens Participation Act applied. The court held that the trial court was required to demonstrate personal jurisdiction over a potential defendant and that Canseco was not a potential defendant because Findhelp repeatedly disclaimed any intent to sue him. The court reversed the trial court’s orders, rendered judgment dismissing the Rule 202 petition and granting Canseco’s TCPA motion to dismiss, and remanded for further proceedings.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	Lori Massey Brissette, Justice; Lori I. Valenzuela, Justice; Adrian A. Spears II, Justice
JURISDICTION	Texas Court of Appeals, Fourth District, San Antonio
DECIDED	November 26, 2025
DOCKET	04-25-00310-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Canseco appealed orders granting Findhelp's Texas Rule of Civil Procedure 202 petition for pre-suit discovery and denying his motion to dismiss under the Texas Citizens Participation Act and motion to quash.
STANDARD OF REVIEW	Abuse of discretion for the Rule 202 ruling; de novo for construction of the TCPA and whether a Rule 202 petition is a legal action under the statute.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is reported as published in the supplied metadata.
PARTIES	Francisco R. Canseco v. Aunt Bertha, a Public Benefit Corporation d/b/a Findhelp

TOPICS

discovery dispute personal jurisdiction motions to dismiss free speech appellate jurisdiction

PRACTICE AREAS

Texas civil procedure appellate procedure constitutional free speech anti-SLAPP litigation
pre-suit discovery

QUESTIONS PRESENTED

1. Whether the court of appeals had jurisdiction to review the order granting Findhelp's Rule 202 petition.
2. Whether a Rule 202 petitioner must demonstrate that the trial court has personal jurisdiction over a potential defendant.
3. Whether Canseco waived the Rule 202 proper-court and personal-jurisdiction argument.
4. Whether Findhelp could rely on personal jurisdiction over Canseco when it repeatedly disclaimed any intention to sue him.
5. Whether a Texas Rule 202 petition is a legal action subject to the Texas Citizens Participation Act.
6. Whether Canseco's article concerned the exercise of free speech on a matter of public concern and whether Findhelp established a prima facie case sufficient to defeat the TCPA motion.

HOLDINGS

1. A Rule 202 order is final and appealable when the petition seeks to investigate a potential claim by deposing a third party against whom suit is not contemplated; it is interlocutory when suit against the deponent is anticipated.
2. A Rule 202 petitioner must demonstrate that the trial court would have personal jurisdiction over a potential defendant.
3. Canseco did not waive the Rule 202 proper-court and personal-jurisdiction argument by failing to file a special appearance or object in the trial court.
4. Findhelp could not satisfy Rule 202's personal-jurisdiction requirement by relying on personal jurisdiction over Canseco after repeatedly representing that it did not anticipate suing him.
5. A Rule 202 petition is a legal action under the TCPA because it is a petition or judicial filing requesting equitable relief in the form of pre-suit discovery.
6. Canseco's article involved the exercise of free speech on a matter of public concern, and Findhelp failed to establish a prima facie case under Rule 202 sufficient to defeat the TCPA motion.

KEY QUOTATIONS

“Instead, we must follow the Texas Supreme Court’s lead and refuse to “interpret Rule 202 to make Texas the world’s inspector general.”” (at 8)

“Because we believe the plain language of the statute mandates that we recognize the TCPA’s application to a Rule 202 petition, particularly in light of the absurd result that would result if we did not do so, we turn to whether the trial court erred in denying Canseco’s motion to dismiss.” (at 14)

FACTUAL BACKGROUND

Findhelp provides healthcare-management software, including a platform used by K-12 schools that stores children's medical records. Canseco published a letter and an article alleging that Findhelp failed to report a data breach affecting its subsidiary SchoolCare and that the breach endangered children's data. Findhelp sought Rule 202 discovery from Canseco to identify persons or entities allegedly behind similar articles, while repeatedly stating that it did not accuse Canseco of wrongdoing and did not intend to sue him.

PROCEDURAL HISTORY

Findhelp filed a verified Rule 202 petition in the 407th Judicial District Court of Bexar County seeking Canseco's deposition and documents to investigate potential claims concerning allegedly false and defamatory articles. Canseco moved to quash, sought a protective order, and moved to dismiss under the TCPA. The trial court granted the Rule 202 petition and denied Canseco's motions. The court of appeals reversed those orders, rendered judgment dismissing the Rule 202 petition and granting the TCPA motion, and remanded for further proceedings concerning attorney's fees, costs, and sanctions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must conduct further proceedings consistent with the opinion, including proceedings concerning Canseco's request for attorney's fees, costs, and sanctions under the TCPA.

CASES CITED

- In re Jorden, 249 S.W.3d 416, 419 & n.7 (Tex. 2008) (orig. proceeding)
- In re Doe 1 (Trooper), 444 S.W.3d 603, 604-11 (Tex. 2014) (orig. proceeding)
- In re DePinho, 505 S.W.3d 621, 622 (Tex. 2016) (per curiam) (orig. proceeding)
- In re City of Dallas, 501 S.W.3d 71, 74 (Tex. 2016)
- In re City of Tatum, 567 S.W.3d 800, 807 (Tex. App.—Tyler 2018, no pet.)
- In re Wolfe, 341 S.W.3d 932, 933 (Tex. 2011)
- In re Elliott, 504 S.W.3d 455, 464 (Tex. App.—Austin 2016, orig. proceeding)
- In re Krause Landscape Contractors, Inc., 595 S.W.3d 831, 836, 838 (Tex. App.—Amarillo 2020, orig. proceeding)
- Florez v. Olibas, 657 S.W.3d 31, 39, 42 (Tex. App.—El Paso 2022, pet. denied)
- Doe v. Cruz, 683 S.W.3d 475, 490 (Tex. App.—San Antonio 2023, no pet.)
- Houston Tennis Assoc. v. Thibodeaux, 602 S.W.3d 712 (Tex. App.—Houston [14th Dist.] 2020, no pet.)

- *Caress v. Fortier*, 576 S.W.3d 778 (Tex. App.—Houston [1st Dist.] 2019, pet. denied)
- *Montoya Frazier v. Maxwell*, No. 02-23-00103-CV, 2025 WL 494699, at *14, *20 (Tex. App.—Fort Worth Feb. 13, 2025, pet. denied) (en banc)
- *Greiner v. Womack*, No. 04-19-00525-CV, 2019 WL 5405904, at *1 (Tex. App.—San Antonio Oct. 23, 2019, no pet.)
- *In re Bed Bath & Beyond, Inc.*, No. 02-07-316-CV, 2007 WL 4292304, at *1-*2 (Tex. App.—Fort Worth Dec. 7, 2007, orig. proceeding) (mem. op.)
- *In re Southwest Securities, Inc.*, No. 05-99-01836-CV, 2000 WL 770117, at *1 (Tex. App.—Dallas June 14, 2000) (orig. proceeding)
- *International Association of Drilling Contractors v. Orion Drilling Co.*, 512 S.W.3d 483, 487 (Tex. App.—Houston [1st Dist.] 2016, pet. denied)
- *Webb v. HEB LP*, No. 04-20-00091-CV, 2020 WL 2045279, at *1 (Tex. App.—San Antonio Apr. 29, 2020, no pet.)
- *Kaplan v. Tiffany Development Corp.*, 69 S.W.3d 212, 217 (Tex. App.—Corpus Christi–Edinburg 2001, no pet.)
- *ShopStyle, Inc. v. rewardStyle, Inc.*, No. 05-19-00736-CV, 2020 WL 4187937, at *22 (Tex. App.—Dallas July 21, 2020, no pet.)
- *Patton Boggs LLP v. Moseley*, 394 S.W.3d 565, 568-69 (Tex. App.—Dallas 2011, orig. proceeding)
- *Turner v. Turner*, No. 04-23-00142-CV, 2024 WL 2034723, at *2 (Tex. App.—San Antonio May 8, 2024, no pet.)
- *City of San Antonio v. Cervantes*, 521 S.W.3d 390, 392-93 (Tex. App.—San Antonio 2017, no pet.)
- *First American Title Ins. Co. v. Adams*, 829 S.W.2d 356, 364 (Tex. App.—Corpus Christi 1992, writ denied)
- *Oryx Energy Co. v. Union Nat. Bank of Texas*, 895 S.W.2d 409, 417 (Tex. App.—San Antonio 1995, writ denied)
- *City of San Francisco v. Exxon Mobil Corp.*, No. 02-18-00106-CV, 2020 WL 3969558, at *19 (Tex. App.—Fort Worth June 18, 2020, pet. denied)
- *Kawcak v. Antero Resources Corp.*, 582 S.W.3d 566, 571 (Tex. App.—Fort Worth 2019, pet. denied)
- *ExxonMobil Pipeline Co. v. Coleman*, 512 S.W.3d 895, 899 (Tex. 2017)
- *Silguero v. CSL Plasma, Inc.*, 579 S.W.3d 53, 59 (Tex. 2019)
- *Breakaway Practice LLC v. Lowther*, No. 05-18-00229-CV, 2018 WL 6695544, at *2-*3 (Tex. App.—Dallas Dec. 20, 2018, pet. denied)