

Dismissed and Opinion Filed October 3 , 2016.



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-16-00039-CV

ADRIAN BOOKER, Appellant

V.

**UNAUTHORIZED PRACTICE OF LAW COMMITTEE FOR THE SUPREME COURT
OF TEXAS, Appellee**

**On Appeal from the 366th Judicial District Court
Collin County, Texas
Trial Court Cause No. 366-02101-2015**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Lang-Miers, and Justice Stoddart
Opinion by Justice Stoddart

Adrian Booker appeals from the trial court’s order denying his motion to dismiss the suit brought against him by the Unauthorized Practice of Law Committee for the Supreme Court of Texas (UPLC). In his notice of appeal, Booker asserts the motion to dismiss was filed pursuant to the Texas Citizenship Protection Act (TCPA), which provides for a speedy dismissal of lawsuits “designed only to chill First Amendment rights.” *See* TEX. CIV. PRAC. & REM. CODE ANN. ch. 27 (West 2015); *In re Lipsky*, 460 S.W.3d 579, 589 (Tex. 2015). Although an order denying a motion to dismiss brought under the TCPA is immediately appealable despite the lack of a final judgment, the UPLC has moved to dismiss this appeal noting the motion does not reflect it was brought under the TCPA. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(12)

(West Supp. 2016); *Lehman v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001) (generally, only appeals from final judgments may be taken).

The UPLC is correct. The copy of the motion included in the clerk's record purports to be fourteen pages in length, but the district clerk noted at the time of filing that pages two through four were missing. The remaining pages do not state a basis for dismissal. We have reviewed the rest of the record and note the order reflects a hearing was held on the motion, but no record of the hearing was made and the order does not state the basis for Booker's motion.

Booker has filed a response to the UPLC's motion and has attached to the response a copy of his motion. Page two of this copy states the motion is brought pursuant to section 27.003. However, we may not consider documents not formally included in the appellate record. *See Green v. Kaposta*, 152 S.W.3d 839, 841 (Tex. App.—Dallas 2005, no pet). Because the record before us does not reflect the basis Booker moved to dismiss the UPLC's suit, and no final judgment exists, we grant the UPLC's motion and dismiss the appeal. *See TEX. R. APP. P. 42.3(a)*; *see also Bally Total Fitness Corp. v. Jackson*, 53 S.W.3d 352, 355 (Tex. 2001) (noting legislative intent that section 51.014 be strictly construed as narrow exception to general rule that only final judgments and orders may be appealed).

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/Craig Stoddart/
CRAIG STODDART
JUSTICE



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

ADRIAN BOOKER, Appellant

No. 05-16-00039-CV V.

UNAUTHORIZED PRACTICE OF LAW
COMMITTEE FOR THE SUPREME
COURT OF TEXAS, Appellee

On Appeal from the 366th Judicial District
Court, Collin County, Texas
Trial Court Cause No. 366-02101-2015.
Opinion delivered by Justice Stoddart. Chief
Justice Wright and Justice Lang-Miers
participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

We **ORDER** appellee Unauthorized Practice of Law Committee for the Supreme Court of Texas recover its costs, if any, of this appeal from appellant Adrian Booker.

Judgment entered this 3rd day of October , 2016.