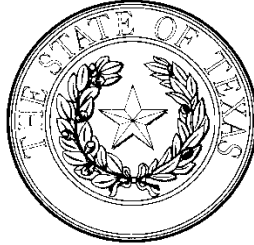


Opinion issued July 7, 2022



In The
Court of Appeals
For The
First District of Texas

NO. 01-19-00555-CV

**STEADFAST FUNDING LLC, CARL MARC SHERRIN, INITRAM, INC.,
LIBERTY TRUST COMPANY, LTD, ETERNAL INVESTMENTS, LLC,
BRUCE L. ROBINSON, DALE PILGERAM, TRUSTEE OF THE
PILGERAM FAMILY TRUST, JOSEPH C. HIBBARD, RJL REALTY,
LLC, KORNELIA PEASLEY-BROWN, SALVADOR BALLESTEROS,
MARGARET M. SERRANO-FOSTER, TRUSTEE OF THE MARGARET
M. SERRANO-FOSTER TRUST DATED 12/2/2005, RICHARD R.
METLER, TRUSTEE OF THE RICHARD R. METLER REVOCABLE
LIVING TRUST, JAMES T. SMITH, TRUSTEE OF THE JAMES T.
SMITH TRUST, LIBERTY TRUST COMPANY LTD, CUSTODIAN FBO
VINCENT PAUL MAZZEO, JR. IRA, JOE SAENZ, PATRICK GROSSE,
TRUSTEE OF THE GROSSE FAMILY TRUST DATED 12/31/2004, ERIC
VERHAEGHE, STEPHEN K. ZUPANC, CUSTODIAN FBO ADAM K.
HRUBY IRA #TC005383, VINCENT INVESTMENTS, ELM 401K PSP,
LAUREL MEAD AND EDWIN A. MEAD, TRUSTEES, EQUITY TRUST
COMPANY, CUSTODIAN FBO STEVEN KRIEGER IRA, JULIO M.
SCHNARS, JOSEPH M. SCHNARS, JOSEPH DERSHAM, JOYCE
DERSHAM, WALTER KAFFENBERGER, CHRISTEL KAFFENBERGER,
MIKE BERRIS, JASON SUN, EQUITY TRUST COMPANY, CUSTODIAN**

**FBO ERICA ROSS-KRIEGER IRA, BRANDORIA, LTD, AND ELB
INVESTMENTS, LLC, Appellants**

V.

**JETALL COMPANIES, INC., ALI CHOUDHRI, BRAD PARKER, TERRY
FISHER, 829 YALE ST. LLC, DAVID ALVAREZ, D&A ALVAREZ
GROUP, LLC, 2017 YALE DEVELOPMENT, LLC AND ASSURANCE
HOME WARRANTY GROUP, LLC, Appellees**

**On Appeal from the 125th District Court
Harris County, Texas
Trial Court Case No. 2019-23950**

MEMORANDUM OPINION

Appellants, Steadfast Funding LLC, et al, bring this appeal, challenging the trial court’s final judgment granting a dismissal pursuant to the Texas Citizen’s Protection Act (“TCPA”). In three issues, Steadfast argues that (1) the trial court erred in entering sanctions and dismissing the case; (2) the TCPA did not apply to appellants’ claims; and (3) the trial court erred in awarding attorney’s fees.

We vacate and dismiss.

Background

On April 3, 2019, Steadfast filed suit against appellees, Jetall Companies, Inc., Ali Choudhri, Brad Parker, Terry Fisher, 829 Yale St., LLC, David Alvarez, D&A Alvarez Group, LLC, 2017 Yale Development, LLC, and Assurance Home Warranty Group, LLC, for various causes of action. Appellees filed motions to

dismiss pursuant to the TCPA¹ and Rule 91(a).² On June 25, 2019, after Steadfast did not respond to the TCPA motions to dismiss, the trial court rendered final judgment, granting the TCPA motions to dismiss and dismissing the suit. Steadfast timely appealed.

After the trial court's final judgment, Steadfast moved to recuse and disqualify the trial court.³ On February 7, 2020, the administrative judge of the Eleventh Judicial Region granted the joint motion.

Appellees challenged the order granting recusal and disqualification in various original proceedings in this Court. *See In re 829 Yale, LLC*, Nos. 01-20-00133-CV, 01-20-00134-CV, 01-20-00135-CV, 2020 WL 894408, at *1 (Tex. App.—Houston [1st Dist.] Feb. 25, 2020, orig. proceeding) (per curiam) (mem. op.); *In re 2017 Yale Dev.*, Nos. 01-20-00480-CV, 01-20-00481-CV, 01-20-00482-CV, 2020 WL 5269422, at *1 (Tex. App.—Houston [1st Dist.] Sept. 3, 2020, orig. proceeding) (per curiam) (mem. op.); TEX. R. CIV. P. 18a(j)(1)(B), (2) (providing that order granting recusal cannot be reviewed by appeal or mandamus and order

¹ *See* TEX. CIV. PRAC. & REM. CODE § 27.005.

² *See* TEX. R. CIV. P. 91(a).

³ Disqualification cannot be waived and may be raised at any time. *McElwee v. McElwee*, 911 S.W.2d 182, 186 (Tex. App.—Houston [1st Dist.] 1995, orig. proceeding).

granting disqualification may be reviewed by mandamus and appealed in accordance with other law). All mandamus petitions were denied.

Appellees also filed three appeals challenging the order granting recusal and disqualification. We dismissed those appeals for lack of jurisdiction. *See 2017 Yale Dev. Inc. v. Steadfast Funding, LLC*, No. 01-20-00188-CV, ___WL___(Tex. App.—Houston [1st Dist.] July 7, 2022, no pet. h.) (per curiam) (mem. op.); *KVAC Holding Co. v. Steadfast Funding, LLC*, No. 01-20-000189-CV, ___WL___ (Tex. App.—Houston [1st Dist.] July 7, 2022, no pet. h.) (per curiam) (mem. op.); *Terry Fisher v. Steadfast Funding, LLC*, No. 01-20-00190-CV, ___WL___ (Tex. App.—Houston [1st Dist.] July 7, 2022, no pet. h.) (per curiam) (mem. op.).

Here, because this Court denied mandamus relief multiple times on appellees’ original proceedings to reverse the administrative judge’s order granting recusal and disqualification, the recusal and disqualification order remains in effect. Thus, the portion of the order granting disqualification voids any previous orders, including the trial court’s June 25, 2019 final judgment, granting appellees’ TCPA motion to dismiss and awarding sanctions and attorney’s fees. *See In re Union Pac. Res. Co.*, 969 S.W.2d 427, 428 (Tex. 1998) (orig. proceeding) (“[A]ny orders or judgments rendered by a judge who is constitutionally disqualified are void and without effect.”); *see also. Tesco Am., Inc. v. Strong Indus., Inc.*, 221 S.W.3d 550, 555 (Tex. 2006) (“It has always been the rule in Texas that any orders or judgments rendered

by a trial judge who is constitutionally disqualified are void and without effect.”). Because the trial court’s final judgment granting the TCPA motions to dismiss is void, this Court has no jurisdiction to review it. *See Freedom Commc’ns Inc. v. Coronado*, 372 S.W.3d 621, 623 (Tex. 2012) (stating that appellate courts do not have jurisdiction to address merits of appeals from void orders or judgments).

Conclusion

Because the administrative judge’s order granting recusal and disqualification remains in effect, the trial court’s final judgment on the underlying suit is void. We vacate the trial court’s final judgment entered by Judge Carter. The case remains pending in the trial court. In so doing, we assume that Administrative Judge Susan Brown shall request the assignment of a judge to try this matter.⁴ We dismiss the appeal. We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Goodman and Hightower.

⁴ It appears from the record in this appeal and in other appeals before this Court, that the underlying cause has already been presented to the 190th District Court.