

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

JUDGMENT RENDERED MAY 5, 2017

NO. 03-15-00064-CV

**Elite Auto Body LLC, d/b/a Precision Auto Body; Rey R. Hernandez;
Yesica Diaz; and David Damian, Appellants**

v.

**Autocraft Bodywerks, Inc., now known as Wasson Road Ventures, Inc.
d/b/a Autocraft Bodywerks, Appellee**

**APPEAL FROM THE 345TH DISTRICT COURT OF TRAVIS COUNTY
BEFORE CHIEF JUSTICE ROSE, JUSTICES PEMBERTON AND FIELD
AFFIRMED IN PART; REVERSED AND RENDERED IN PART; REVERSED AND
REMANDED IN PART - OPINION BY JUSTICE PEMBERTON**

This is an appeal from the interlocutory order signed by the district court on January 23, 2015. Having reviewed the record and the parties' arguments, the Court holds that there was reversible error in the district court's order denying appellants' motion to dismiss appellees' claims to the extent such claims are founded on appellants' "communications" as defined by the Texas Citizens Participation Act (TCPA). The Court therefore reverses the district court's order in part and renders judgment dismissing the foregoing claims. However, the Court holds that the district court did not err by denying appellants' motion to dismiss appellees' claims to the extent such claims are predicated factually on conduct by appellants that does not constitute "communications" as defined by the TCPA. The Court therefore affirms the district court's

order in this respect. The Court remands the cause to the district court for further proceedings consistent with the Court's opinion, including consideration of whether attorney's fee should be awarded on the claims we have dismissed. Each party shall pay the costs of appeal incurred by that party, both in this Court and in the court below.