

No. _____

**IN THE COURT OF APPEALS
FOR THE NINTH DISTRICT OF TEXAS
BEAUMONT, TEXAS**

JOHN S. MORGAN

APPELLANT

VS.

SHERYL JOHNSON-TODD

APPELLEE

**On Appeal from the County Court at Law No. 1
of Jefferson County, Texas
Trial Court Cause No. 126,841**

**APPELLANT'S UNOPPOSED EMERGENCY MOTION TO ENFORCE AUTOMATIC
STAY IN THE TRIAL COURT, AND CERTIFICATE OF CONFERENCE**

JOHN S. MORGAN, Pro Se
TBA#14447475
Morgan Law Firm
2175 North Street, Ste. 101
Beaumont, Texas 77701
(409) 239-5984
(409) 895-2839 facsimile

TO THE HONORABLE COURT:

Appellant John S. Morgan files this Unopposed Emergency Motion to Enforce Automatic Stay in the Trial Court, and Certificate of Conference. Appellant will be referred to as “Morgan.” Appellee will be referred to as “Todd.”

BACKGROUND

1. The above-referenced appeal stems from the trial court’s denial of Appellant’s Motion to Dismiss under the Texas Citizen’s Participation Act, Tex. Civ. Prac. & Rem. Code § 27001 *et seq.* (TCPA). Appellant filed a Motion to Dismiss Todd’s New “Legal Action” Pursuant to the TCPA in the trial court. Sheryl Johnson-Todd also filed a Motion to Dismiss under the TCPA two of Appellant’s Motions in the trial court that Todd considered to be new legal actions. The trial court, on Friday, April 21, 2017, granted Todd’s New Motion to Dismiss under the TCPA on the record, but denied Appellant’s Motion to Dismiss under the TCPA on the record.

2. Appellant filed a Notice of Appeal and invoked the automatic stay provision under Tex. Civ. Prac. & Rem. Code § 51.014(a)(12) & (b) (“An

interlocutory appeal under Subsection (a)... (12) also stays all other proceedings in the trial court pending resolution of that appeal”). This Notice of Appeal is attached as Exhibit “1.” Counsel for Todd acknowledged in writing to the Court on two (2) occasions that the automatic stay prevented the next scheduled hearing in the Court for Friday, April 28, 2017. See Exhibit “2,” emails from Mr. Jeffrey Dorrell.

3. Notwithstanding notice of the automatic stay, Honorable Judge Chambers provided an email to all counsel through court coordinator Ms. Effie Keffer, attached as Exhibit “3,” in which Judge Chambers stated that the hearing on April 28, 2017 would proceed regardless of the automatic stay. Further, Appellant called the court coordinator today and informed her an automatic stay is in effect. At the time of filing this Emergency Motion, Appellant understands the trial court intends to proceed with another hearing this Friday, April 28, 2017, at 1:30 p.m.

RELIEF SOUGHT

4. Respectfully, Judge Chambers is nullifying Texas law, by refusing to respect the clear provisions in the Texas Civil Practice & Remedies Code which requires an automatic stay of all proceedings in the trial court pending this

Honorable Court's resolution of Appellant's TCPA Motion to Dismiss. The trial court's intention of proceeding with the next hearing interferes with this Court's jurisdiction over this appeal and nullifies statutory law. Accordingly, Appellant requests that this Court issue an Order on an emergency basis requiring the Honorable Judge Tommy Chambers to honor the automatic stay in the Texas Civil Practice & Remedies Code, and cancel the hearing scheduled for April 28, 2017.

WHEREFORE, PREMISES CONSIDERED, Appellant prays that this Court grant his Unopposed Emergency Motion for Automatic Stay, and Certificate of Conference from the Trial Court and issue an Order on an emergency basis requiring the Honorable Judge Tommy Chambers to honor the automatic stay mandated by the Texas Civil Practice & Remedies Code, and grant Appellant such other and further relief, at law or in equity, to which Appellant may be justly entitled.

Respectfully submitted,

/s/ John S. Morgan

JOHN S. MORGAN, Pro Se

TBA#14447475

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CERTIFICATE OF CONFERENCE

Undersigned Counsel certifies that he has contacted Mr. Jeffrey Dorrell, attorney for Appellee Sheryl Johnson-Todd and Mr. Dorrell is unopposed to the filing of this Emergency Motion.

/s/ John S. Morgan

JOHN S. MORGAN

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of April, 2017, a true and correct copy of the foregoing was sent via the Court's e-filing system to the following counsel of record:

Jeffrey L. Dorrell
Hanszen Laporte
11767 Katy Freeway, Suite 850
Houston, Texas 77079
Attorney for Appellant

Via e-filing

/s/ John S. Morgan

JOHN S. MORGAN

EXHIBIT "1"

No. 126,841

JOHN S. MORGAN	§	IN THE COUNTY COURT
	§	
V.	§	AT LAW NO. 1
	§	
SHERYL JOHNSON-TODD	§	JEFFERSON COUNTY, TEXAS

PLAINTIFF/COUNTER-DEFENDANT, JOHN S. MORGAN'S
NOTICE OF INTERLOCUTORY APPEAL AND NOTICE OF AUTOMATIC STAY

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff/Counter-Defendant, John S. Morgan files this Notice of Interlocutory Appeal and Notice of Automatic Stay of the trial court's ruling on the record on Friday, April 21, 2017 DENYING Morgan's Motion to Dismiss Todd's New "Legal Action" Pursuant to the Texas Citizen's Participation Act (TCPA). This appeal is to the Ninth Court of Appeals. The Party filing this Notice is John S. Morgan. An interlocutory appeal of the court's ruling is expressly authorized by Texas Civil Practice & Remedies Code §51.014(12).

Further, this interlocutory appeal AUTOMATICALLY STAYS all other proceedings in the trial court pending resolution of this appeal. § 51.014(13)(b).

Respectfully submitted,

/s/ John S. Morgan
JOHN S. MORGAN, Pro Se
TBA#14447475
Morgan Law Firm
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Beaumont, Texas 77701
(409) 239-5984
(409) 895-2839 facsimile
jmorgan@jismorganlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all counsel of record via the Court's electronic filing system on this 24th day of April, 2017.

/s/ John S. Morgan
JOHN S. MORGAN

EXHIBIT "2"

From: Jeffrey Dorrell [mailto:JDorrell@hanszenlaporte.com]
Sent: Tuesday, April 25, 2017 12:07 PM
To: Effie Keffer
Cc: John Morgan; Matthew Hansel; Julie Devlin
Subject: Requested Order Denying Morgan's TCPA Motion to Dismiss

Ms. Keffer:

As you requested, we have attached for the Court's convenience Johnson-Todd's proposed order denying Mr. Morgan's TCPA motion to dismiss. We have not modified the order from the version filed on April 17, 2017. However, there is a procedural issue you may wish to bring to Judge Chambers' attention.

Although I had hoped Judge Chambers would sign written orders memorializing the oral rulings on April 21, 2017, Morgan's filing of a notice of interlocutory appeal at **1:58 PM** on **April 24, 2017**, (see attached) automatically stayed "all other proceedings in the trial court pending resolution of that appeal." Tex. Civ. Prac. & Rem. Code § 51.014(b). Thus, unfortunately, if Judge Chambers signs written orders now, these will be "a legal nullity." See *In re Marriage of JB*, 326 S.W.3d 654, 662 (Tex. App.—Dallas 2010, pet. dism'd) ("An order signed during a stay [under CPRC § 51.014(b)] is a 'legal nullity.'").

I hope this observation is useful to the Court, and not viewed as presumptuous of me.

Respectfully,

Jeff

HANSZEN + LAPORTE
ATTORNEYS AT LAW

Jeffrey L. Dorrell

Board Certified—Civil Trial Law
Texas Board of Legal Specialization

Please provide the court with an order denying Morgan's Motion to Dismiss Todd's New "Legal Action" Pursuant to the Texas Citizen's Participation Act. It is my understanding that Judge denied this motion. I'm sure you've efiled one previously, but I cannot locate it. Thank you.

Effie Keffer
Court Coordinator
County Court at Law No. 1
Jefferson County, Texas
(409)835-8470
Fax: 409-784-5813

From: Jeffrey Dorrell [<mailto:JDorrell@hanszenlaporte.com>]
Sent: Monday, April 24, 2017 3:27 PM
To: Effie Keffer
Cc: John Morgan; Matthew Hansel; Julie Devlin
Subject: Morgan v. Johnson-Todd—Case is Stayed and April 28, 2017, Hearing Cannot Proceed

Ms. Keffer:

Mr. Morgan has this day filed the attached notice of interlocutory appeal of Judge Chambers' April 21, 2017, denial of Morgan's motion to dismiss pursuant to Tex. Civ. Prac. & Rem. Code § 27.003. Mr. Morgan's filing—no matter how legally baseless—stays all proceedings in the trial court until the court of appeals has resolved the appeal. **Tex. Civ. Prac. & Rem. Code § 51.014(b)** (incorrectly cited in Morgan's notice of appeal as "51.014(13)(b)," which does not exist). Accordingly, the scheduled **April 28, 2017**, hearing to conclude testimony on Johnson-Todd's request for mandatory TCPA attorney's fees and mandatory sanctions cannot proceed.

The purpose of this message is simply to call this development to the Court's attention as a courtesy so other plans may be made. No response is requested.

Warm regards,

Jeff

<image002.gif>

Jeffrey L. Dorrell
Board Certified—Civil Trial Law
Texas Board of Legal Specialization

EXHIBIT "3"

From: Effie Keffer [<mailto:ekeffer@co.jefferson.tx.us>]

Sent: Wednesday, April 26, 2017 8:03 AM

To: John Morgan; 'Jeffrey Dorrell'

Subject: No. 126,841; Morgan v. Johnson-Todd

FROM JUDGE CHAMBERS:

Please advise the attorneys in this case that the matters set for a hearing and/or entry of orders to occur Friday, April 28, 2017 at 1:30 p.m. in the County Court at Law No. 1 of Jefferson County, Texas will take place, as scheduled, on Friday, April 28, 2017 at 1:30 p.m. in the County Court at Law No. 1 of Jefferson County, Texas.

Effie Keffer
Court Coordinator
County Court at Law No. 1
Jefferson County, Texas
(409)835-8470
Fax: 409-784-5813