

CAUSE NO. 141-307474-19VICTOR MIGNOGNA,
Plaintiff,

§

IN THE DISTRICT COURT

§

§

v.

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§

141st JUDICIAL DISTRICTFUNIMATION PRODUCTIONS, LLC,
JAMIE MARCHI, MONICA RIAL,
AND RONALD TOYE,
Defendants

§

§

§

TARRANT COUNTY, TEXAS

**PLAINTIFF'S MOTION TO CONTINUE HEARING
ON TCPA MOTIONS TO DISMISS**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Victor Mignogna respectfully requests that the Court continue the August 8, 2019 hearing on Defendants' motions to dismiss under the Texas Citizens Participation Act ("TCPA") to August 29, 2019.

I. FACTS

Defendant Funimation Productions, LLC, filed its motion to dismiss under the TCPA (with nearly 150 pages of attachments) on July 1, 2019 and set it for hearing on August 8, 2019; Funimation filed a supplemental brief with an additional 54 pages of attachments on July 29, 2019. Defendants Rial and Toye filed their motion to dismiss (with 500 pages of attachments) on July 19, 2019 and, likewise, set it for hearing on August 8, 2019. Defendant Marchi filed her motion to dismiss (with 88 pages of attachments) on July 19, 2019 and, likewise, set it for hearing on August 8, 2019. In total, Defendants have filed over 750 pages of attachments. Defendants did not confer with Plaintiff prior to scheduling the hearing on their motions. Plaintiff asked Defendants to continue the hearing for three weeks (to August 29) to permit time to review the attachments, but Defendants refused.

II. ARGUMENT & AUTHORITIES

A motion to dismiss under the TCPA must be heard within 60 days after it has been served, unless delayed by the trial court's docket requirements, on a showing of good cause, or by the parties' agreement (but, in any event, within 90 days after service of the motion). TEX. CIV. PRAC. & REM. CODE §27.004. Thus, Funimation is required to have its motion heard no later than August 30, 2019—Rial, Toye and Marchi no later than September 17, 2019. Plaintiff seeks to reschedule the hearing on Defendants' motions to a date that is within the 60-day timeframe required by the TCPA, because Plaintiff needs additional time to review nearly 750 pages of material attached to Defendants' motions (over 600 pages of which were filed within the past 6 business days) and prepare a response to Defendants' motions. Plaintiff's motion is sought so that justice may be served and not for delay.

III. PRAYER

WHEREFORE, premises considered, Plaintiff requests that the Court reschedule the hearing on Defendants' motions to dismiss from August 8, 2019 to August 29, 2019 and grant him such other and further relief to which he is entitled at law or in equity.

Respectfully submitted,
BEARD HARRIS BULLOCK HUGHES

By: /s/ Ty Beard

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Certificate of Conference

A conference was held via written correspondence with counsel for Defendants between July 25-29, 2019 on the merits of this motion. A reasonable effort has been made to resolve the dispute without the necessity of court intervention, and the effort failed. Therefore, it is presented to the Court for determination.

/s/ Ty Beard
Date: July 29, 2019

Certificate of Service

The undersigned certifies that the foregoing motion was electronically filed today and served via electronic filing manager on counsel of record.

/s/ Ty Beard
Date: July 29, 2019