TEXAS BUSINESS COURT, FIRST DIVISION

Preston Hollow Capital, LLC; and PHCC LLC v. Truist Bank, formerly known as Branch Bank & Trust

2026 Tex. Bus. 5 · No. 25-BC01B-0030 · Decided February 2, 2026

SUMMARY

The Texas Business Court addresses the definition of a responsible third party under Texas Civil Practice and Remedies Code Chapter 33 and interprets the phrase "the harm for which recovery of damages is sought." The court concludes that a responsible third party need only have contributed to at least one alleged harm, even through violation of a different legal standard, and upholds Truist Bank’s designation of Senior Care and Bouldin subject to repleading.

CASE DETAILS

COURT	Texas Business Court, First Division
WRITING FOR THE COURT	Bill Whitehill
JURISDICTION	Texas Business Court, First Division
DECIDED	February 2, 2026
DOCKET	25-BC01B-0030
DISPOSITION	other
PROCEDURAL POSTURE	Truist moved for leave to designate Senior Care Living VI, LLC and Bouldin as responsible third parties under Texas Civil Practice and Remedies Code Chapter 33. The court previously granted leave subject to Truist filing an amended pleading satisfying Texas notice-pleading requirements. This opinion explains the statutory meaning of responsible third party and harm and addresses the challenged designation.

STANDARD OF REVIEW	Under Texas Civil Practice and Remedies Code section 33.004(f), leave to designate a responsible third party must be granted unless a timely objection is made. Under section 33.004(g), the court must grant leave over an objection unless the objecting party establishes that the defendant failed to plead sufficient facts concerning the person's alleged responsibility under the Texas Rules of Civil Procedure, even after an opportunity to replead. The court applies Texas notice-pleading standards and assumes the truth of the factual allegations for purposes of the designation motion.
PRECEDENTIAL VALUE	published
PARTIES	Preston Hollow Capital, LLC, PHCC LLC v. Truist Bank, formerly known as Branch Bank & Trust

TOPICS

third party practice · civil procedure · statutory interpretation · trust administration · damages

PRACTICE AREAS

civil procedure · commercial litigation · trusts · damages

QUESTIONS PRESENTED

1. What does harm mean in the definition of responsible third party under Texas Civil Practice and Remedies Code section 33.011(6)?
2. Must a designated responsible third party have breached the same legal duty as the named defendant?
3. May a person who contributed to one of multiple harms alleged in a lawsuit be designated as a responsible third party?
4. Did Truist plead sufficient facts connecting Senior Care's and Bouldin's alleged conduct to harms for which Preston Hollow seeks damages?

HOLDINGS

1. The term harm in section 33.011(6) refers more closely to injury, loss, or damage—the result or effect of unlawful conduct—than to the defendant's breach itself.
2. A responsible third party need not have breached the same legal duty or standard as the named defendant. Different breaches may contribute to a shared harm.
3. A person may be designated as a responsible third party if the person plausibly contributed to at least one pleaded harm associated with a cause of action; the person need not have contributed to every harm alleged in the lawsuit.
4. Truist pleaded sufficient facts to plausibly allege that Senior Care and Bouldin caused or contributed to harms for which Preston Hollow seeks damages, including deterioration of the trust estate and harms

connected to the alleged failure to monitor and improper fund transfers.

KEY QUOTATIONS

> *"Because the court concludes that "harm" as used in § 33.011(6) has a meaning more akin to the legal concept of "injury" than the concept of "breach," and because a responsible third party need only contribute to any single harm among multiple alleged harms plead by the claimant, the court granted the motion conditioned upon Truist satisfying the notice pleading standard in its new pleadings."* (¶ 30)

> *"Accordingly, there is no rule that a non-fiduciary cannot contribute to the harm caused by the breach of a fiduciary's duties as Preston Hollow essentially argues—the defendant and third party's breaches of their legal standards may be different if there is a shared harm."* (¶ 43)

> *"Accordingly, taking Truist's allegations as true, Senior Care and Bouldin plausibly "caused or contributed to causing in any way the harm for which recovery of damages is sought" from Truist."* (¶ 59)

FACTUAL BACKGROUND

Senior Care Living VI, LLC developed and operated a senior living center financed through bonds secured by bond documents and account-control agreements. Truist, formerly BB&T, served as trustee and allegedly permitted Senior Care to deviate from requirements to deposit gross revenues into designated accounts. Preston Hollow alleged that Truist's failure to monitor or act contributed to deterioration of the trust estate, while Truist alleged that Senior Care and Bouldin independently contributed through nonpayment, failure to pay taxes, failure to deposit revenues, and diversion of funds.

PROCEDURAL HISTORY

Preston Hollow sued Truist alleging breaches of fiduciary duty, trust, and contract arising from Truist's service as trustee under bond-financing documents. Truist sought to designate Senior Care and Bouldin as responsible third parties based on alleged defaults and other conduct that allegedly contributed to deterioration of the trust estate and other claimed injuries. The court's January 7, 2026 order granted the motion conditionally, and this opinion states the reasoning supporting that ruling.

DISPOSITION

other

CASES CITED

- In re Lipsky, 460 S.W.3d 579, 590 (Tex. 2015)
- Sunstate Equipment Co. v. Hegar, 601 S.W.3d 685, 689-90 (Tex. 2020)
- Greater Houston Partnership v. Paxton, 468 S.W.3d 51, 58 (Tex. 2015)
- Fort Worth Transportation Authority v. Rodriguez, 547 S.W.3d 830, 838 (Tex. 2018)
- Janvey v. Gold Channel, Inc., 487 S.W.3d 560, 572 (Tex. 2016)
- Crosstex Energy Services, L.P. v. Pro Plus, Inc., 430 S.W.3d 384, 390 (Tex. 2014)

- Cameron v. Terrell & Garrett, Inc., 618 S.W.2d 535, 540 (Tex. 1981)
- IHS Cedars Treatment Center of DeSoto, Texas, Inc. v. Mason, 143 S.W.3d 794, 798 (Tex. 2004)
- City National Bank of Sulphur Springs v. Smith, 2016 WL 2586607, at *6-*9 (Tex. App.—6th Dist. May 4, 2016, pet. denied)
- Jones v. Blume, 196 S.W.3d 440, 447 (Tex. App.—5th Dist. 2006, pet. denied)
- In re Modern Senior Living, LLC, 2022 WL 2187396, at *4 (Tex. App.—5th Dist. June 17, 2022, orig. proceeding)
- In re Smith, 366 S.W.3d 282, 286 (Tex. App.—5th Dist. 2012, orig. proceeding)
- DLA Piper LLP (US) v. Linegar, 539 S.W.3d 512, 515-17 (Tex. App.—11th Dist. 2017, pet. denied)
- Stabilis Fund II, LLC v. Compass Bank, 2018 WL 4772411, at *3-*4 (N.D. Tex. Oct. 3, 2018)
- Eisenstadt v. Telephone Electronics Corp., 2008 WL 4452999, at *3 (N.D. Tex. Sept. 30, 2008)
- Jaster v. Comet II Construction, Inc., 438 S.W.3d 556, 564 (Tex. 2014)
- First American Title Insurance Co. v. Combs, 258 S.W.3d 627, 631 (Tex. 2008)
