

COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS,
CORPUS CHRISTI–EDINBURG

Frost Bank v. Michelle Glenn, Individually, Perry Hillier,
Individually and as Duly Appointed Administrator of the Estate of Jo
Ann Turrentine, Mark McDonald, Individually, and Patrick
McDonald, Individually

No. 13-23-00595-CV (Tex. App.—Corpus Christi–Edinburg Dec. 11, 2025) · No. 13-23-00595-CV · Decided
December 11, 2025

SUMMARY

The Texas Thirteenth Court of Appeals reviewed Frost Bank’s interlocutory appeal from the denial of its motion to dismiss under the Texas Citizens Participation Act. The court held that the TCPA applied to the beneficiaries’ claims concerning allegedly unnecessary attorney and trustee fees, but not to claims involving advice about benefits or alleged obstruction of claims against a predecessor trustee. It further held that the beneficiaries failed to present clear and specific evidence supporting their claim concerning trustee fees, while concluding that their attorney-fee claim was not defeated as a matter of law on the record presented.

CASE DETAILS

COURT	Court of Appeals for the Thirteenth District of Texas, Corpus Christi–Edinburg
WRITING FOR THE COURT	Justice Jenny Cron; Chief Justice Tijerina; Justice Cron; Justice Fonseca
JURISDICTION	Court of Appeals for the Thirteenth District of Texas, Corpus Christi–Edinburg
DECIDED	December 11, 2025
DOCKET	13-23-00595-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal from the denial of Frost Bank's motion to dismiss breach-of-fiduciary-duty claims under the Texas Citizens Participation Act.
STANDARD OF REVIEW	The TCPA's applicability, the prima facie-evidence inquiry, and entitlement to judgment as a matter of law are reviewed de novo.

	Evidentiary rulings are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Frost Bank v. Michelle Glenn, Perry Hillier, Mark McDonald, Patrick McDonald

TOPICS

breach of trust trustee duties trust administration beneficiary litigation appellate procedure

PRACTICE AREAS

trusts and estates civil procedure appellate procedure fiduciary litigation evidence

QUESTIONS PRESENTED

1. Whether the beneficiaries' breach-of-fiduciary-duty claims were based on or in response to Frost Bank's exercise of its right to petition under the TCPA.
2. Whether the beneficiaries presented clear and specific evidence establishing a prima facie case for their claims that Frost Bank caused unnecessary trustee and attorney fees.
3. Whether Frost Bank established entitlement to judgment as a matter of law based on the trust's provisions authorizing professional fees and litigation expenses.
4. Whether Kenton McDonald's affidavit was inadmissible as improper expert testimony or conclusory evidence.
5. Whether the court should consider Tranbarger's affidavit and evidence from a prior summary-judgment record.

HOLDINGS

1. The TCPA applies to the beneficiaries' claims that Frost Bank caused the trust to incur unnecessary attorney and trustee fees by filing counterclaims related to judicial modification and appointment of a successor trustee, because those claims were based on or in response to Frost Bank's exercise of the right to petition.
2. The TCPA does not apply to the beneficiaries' claims that Frost Bank failed to advise Glenn about Medicare and Social Security benefits or failed to supervise or review Raymond James's conduct.
3. The beneficiaries failed to establish by clear and specific evidence a prima facie case that Frost Bank caused the trust to incur unnecessary trustee fees.
4. The beneficiaries failed to establish a prima facie case that Frost Bank caused unnecessary attorney fees by filing counterclaims seeking judicial modification, resignation, discharge, and appointment of an individual successor trustee.
5. The beneficiaries established a prima facie claim that Frost Bank breached its fiduciary duty by causing the trust to incur attorney fees for a self-serving declaratory judgment that Frost Bank had not breached

its fiduciary duties, and Frost Bank did not establish entitlement to judgment as a matter of law.

6. The trial court did not abuse its discretion by refusing to exclude Kenton McDonald's affidavit as improper expert testimony or conclusory evidence.
7. The court did not reach Frost Bank's objections to Tranbarger's affidavit or evidence from the prior summary-judgment record because the evidence was immaterial to the disposition.

KEY QUOTATIONS

“Each step of the inquiry is a question of law we review de novo.” (at 7)

“However, these provisions did not absolve Frost Bank of its duty to exercise its discretionary powers in good faith and in the interest of the Beneficiaries.” (at 16)

“We hold that the Beneficiaries have satisfied their prima facie burden with respect to this particular “waste” claim and that Frost Bank failed to otherwise prove its entitlement to judgment as a matter of law.” (at 20)

FACTUAL BACKGROUND

Jo Ann Turrentine created a revocable living trust that named her daughter and grandchildren as beneficiaries and designated Turrentine and a corporate trustee as co-trustees. After Turrentine died, Frost Bank succeeded Raymond James as corporate trustee; when Glenn did not serve as individual co-trustee, Frost Bank became sole trustee. Frost Bank later gave notice of resignation and filed counterclaims seeking judicial modification to permit appointment of an individual successor trustee, along with declaratory relief concerning its fiduciary duties and predecessor-trustee liability. The beneficiaries subsequently alleged that Frost Bank breached fiduciary duties by wasting trust assets through attorney and trustee fees, failing to advise Glenn about benefits, and obstructing claims against Raymond James.

PROCEDURAL HISTORY

The beneficiaries sued former and successor trustees concerning trust administration and later amended their petition to assert breach-of-fiduciary-duty claims against Frost Bank. Frost Bank filed counterclaims seeking judicial modification of the trust, appointment of a successor trustee, declaratory relief, discharge, and attorney fees, and later moved to dismiss the beneficiaries' claims under the TCPA. The trial court granted Frost Bank partial summary judgment concerning notice of resignation, later removed Frost Bank and appointed Kenton McDonald as successor trustee, and denied Frost Bank's TCPA motion to dismiss. The court of appeals affirmed in part, reversed in part, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Affirm the denial of the TCPA motion as to the failure-to-advise, obstruction, and declaratory-judgment-related waste claims; reverse as to the claims alleging unnecessary trustee fees and attorney fees for counterclaims

concerning judicial appointment of an individual successor trustee; remand for entry of an amended order and any other necessary proceedings. For the legal actions being dismissed, award Frost Bank court costs and reasonable attorney fees under Texas Civil Practice and Remedies Code section 27.009(a)(1).

CASES CITED

- Segal v. Emmes Capital, L.L.C., 155 S.W.3d 267 (Tex. App.—Houston [1st Dist.] 2004, pet. dismissed)
- Borusan Mannesmann Pipe US, Inc. v. Hunting Energy Servs., LLC, 716 S.W.3d 572 (Tex. 2025)
- In re E.I. DuPont de Nemours & Co., 136 S.W.3d 218 (Tex. 2004) (orig. proceeding) (per curiam)
- In re Lipsky, 460 S.W.3d 579 (Tex. 2015)
- Serafine v. Blunt, 466 S.W.3d 352 (Tex. App.—Austin 2015, no pet.)
- USA Lending Grp., Inc. v. Winstead PC, 669 S.W.3d 195 (Tex. 2023)
- First United Pentecostal Church of Beaumont v. Parker, 514 S.W.3d 214 (Tex. 2017)
- Ditta v. Conte, 298 S.W.3d 187 (Tex. 2009)
- Herschbach v. City of Corpus Christi, 883 S.W.2d 720 (Tex. App.—Corpus Christi—Edinburg 1994, writ denied)
- Howard v. Matterhorn Energy, LLC, 628 S.W.3d 319 (Tex. App.—Texarkana 2021, no pet.)
- Hersh v. Tatum, 526 S.W.3d 462 (Tex. 2017)
- Stockyards Nat'l Bank v. Maples, 95 S.W.2d 1300 (Tex. 1936)
- Creative Oil & Gas, LLC v. Lona Hills Ranch, LLC, 591 S.W.3d 127 (Tex. 2019)
- Youngkin v. Hines, 546 S.W.3d 675 (Tex. 2018)
- Republic Tavern & Music Hall, LLC v. Lorenzo's Midtown Mgmt., LLC, 618 S.W.3d 118 (Tex. App.—Houston [14th Dist.] 2020, no pet.)
- Hart v. Manriquez Holdings, LLC, 661 S.W.3d 432 (Tex. App.—Houston [14th Dist.] 2023, no pet.)
- Valenzuela v. State & Cnty. Mut. Fire Ins. Co., 317 S.W.3d 550 (Tex. App.—Houston [14th Dist.] 2010, no pet.)
- SouthTex 66 Pipeline Co. v. Spoor, 238 S.W.3d 538 (Tex. App.—Houston [14th Dist.] 2007, pet. denied)
- Mack Trucks, Inc. v. Tamez, 206 S.W.3d 572 (Tex. 2006)
- Reid Rd. Mun. Util. Dist. No. 2 v. Speedy Stop Food Stores, Ltd., 337 S.W.3d 846 (Tex. 2011)
- Padilla v. Metro. Transit Auth. of Harris Cnty., 497 S.W.3d 78 (Tex. App.—Houston [14th Dist.] 2016, no pet.)
- Nguyen v. Citibank, N.A., 403 S.W.3d 927 (Tex. App.—Houston [14th Dist.] 2013, pet. denied)
- Buzbee v. Clear Channel Outdoor, LLC, 616 S.W.3d 14 (Tex. App.—Houston [14th Dist.] 2020, no pet.)
- Mendell v. Scott, No. 01-20-00578-CV, 2023 WL 4712050 (Tex. App.—Houston [1st Dist.] July 25, 2023, pet. denied) (mem. op.)
- Stone v. King, No. 13-98-022-CV, 2000 WL 35729200 (Tex. App.—Corpus Christi—Edinburg Nov. 30, 2000, pet. denied) (not designated for publication)

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