Supreme Court of Texas

No. 26-0164

In re Edgardo Matos and Maria Rita Puentes,

Relators

On Petition for Writ of Mandamus

PER CURIAM

Edgardo Matos and Maria Puentes (collectively "Matos") sold an investment property in San Antonio to Patricia Batley in December 2020. Allegedly without Batley's knowledge, Matos had hired Unlimited Contractor Property Services, LLC to repair the foundation prior to Batley's purchase. After the foundation "began to substantially deteriorate," Batley sued Matos (among others) in January 2022, alleging common-law fraud, negligence, and violations of the Business and Commerce Code, including the Deceptive Trade Practices–Consumer Protection Act. Less than two months later, Matos brought Unlimited into the lawsuit as a third-party defendant, alleging breach of contract and breach of warranty.

The case appears to have progressed smoothly until mid-2024. On July 17, 2024, Matos filed a "Second Motion for Leave to Designate Responsible Third Party" under Section 33.004 of the Civil Practice and

Remedies Code. By then, Batley had settled with all defendants except Matos; Unlimited was still a third-party defendant; and trial was scheduled for 61 days later on September 16, 2024. At Batley's request, trial was ultimately continued to July 2025.

Matos and Unlimited reached a settlement by October 2024, when Matos voluntarily dismissed Unlimited from the lawsuit. The following month, the statute of limitations expired as to any direct claims Batley might have asserted against Unlimited.

Matos did not notice a hearing on the responsible-third-party-designation motion until April 2025. One day before the hearing, Batley filed her objections to Unlimited's designation as a responsible third party and moved to strike the motion. The trial court held a hearing on Matos's motion, then denied and struck it in May. The court of appeals denied mandamus relief without a substantive opinion. 2026 WL 377875, at *1 (Tex. App.—San Antonio Feb. 11, 2026).

Matos argues that a trial court must grant leave to designate a responsible third party if no objection is filed within 15 days of service. Batley did not object within that period; her objection came 281 days after the motion to designate Unlimited. Matos asserts that the designation was thus automatic and ministerial and that the trial court's contrary actions were therefore a clear abuse of discretion. We agree.

The Code plainly provides that a defendant may file a motion for leave to designate a person as a responsible third party on or before the 60th day before the trial date, and the trial court must grant the requested leave "unless another party files an objection to the motion for

leave on or before the 15th day after the date the motion is served." TEX. CIV. PRAC. & REM. CODE § 33.004(a), (f); *see also In re Coppola*, 535 S.W.3d 506, 507-08 (Tex. 2017) (noting that trial courts have no discretion to deny a timely filed motion to designate a responsible third party absent an objection that meets the statutory requirements). Matos sought leave to designate Unlimited as a responsible third party 61 days before trial, and Batley did not object within 15 days. The trial court was therefore obligated to grant the motion for leave to designate, overrule Batley's untimely objection, and deny her motion to strike. And contrary to Batley's argument, subsection (g) is inapplicable here because her objection was untimely.

While Matos did not immediately set the motion for a hearing, that is of no consequence to the question facing the trial court. The statute's requirements do not turn on delay between filing the motion to designate and setting a hearing. Indeed, Section 33.004 does not mention a hearing at all. It would be easy enough for the Legislature to tether the statute's timing requirements to the date a motion to designate is heard or granted rather than to when it is served. A court may not modify the statutory requirements when a party does not seek a ruling on a motion to designate sooner, even if as an abstract matter it may have been more prudent for Matos to have done so.

Batley argues that the trial court was justified in denying and striking Matos's motion because the delay in setting the motion for a hearing created irreversible prejudice and materially changed the circumstances of the litigation. According to Batley, (1) Matos's delay foreclosed her ability to join Unlimited before limitations expired, and

(2) Matos's dismissal of Unlimited eliminated Batley's ability to conduct discovery. We disagree.

First, Batley had plenty of time to assess whether she should join Unlimited as a defendant (and whether she thought she could recover directly from it) before limitations expired. To be sure, a defendant forfeits the right to designate a responsible third party after limitations has expired if the defendant failed to timely disclose the party. TEX. CIV. PRAC. & REM. CODE § 33.004(d). The motion for leave to designate Unlimited as a responsible third party was filed in July 2024. At that point, Batley was on notice of Unlimited's existence and that Matos believed Unlimited caused all or part of Batley's alleged injury. Limitations did not run against Unlimited until November 2024. From Matos's disclosure of Unlimited, Batley had more than four months to join it as a defendant and, for whatever reason, did not. Any prejudice that Batley suffered by failing to join Unlimited was self-inflicted. Even indulging the doubtful assumption that the statute would permit overriding its requirements in different circumstances, nothing here would justify such a result.

Second, Batley had ample time and ability to conduct discovery with respect to Unlimited, which was a party to the suit for well over two years. The timing of the motion and the hearing did not impair Batley's ability to conduct such discovery. If Batley was prejudiced by not engaging in discovery, that prejudice was again self-inflicted.

We do not make light of Batley's quandary, and we recognize that Matos could have been more diligent in seeking a ruling on the motion. But it does not follow that the motion could be denied on that basis. This

holding does not foreclose other relief if warranted; nothing in our decision today forecloses (or embraces) any motion by Batley to later move to strike Unlimited's designation on evidentiary grounds, for example. *See id.* § 33.004(l) (providing that "a party may move to strike the designation of a responsible third party" for lack of evidence regarding responsibility). But barring the designation altogether constitutes a clear abuse of the trial court's discretion for which Matos lacks an adequate remedy by appeal because "a relator need only establish a trial court's abuse of discretion to demonstrate entitlement to mandamus relief with regard to a trial court's denial of a timely-filed section 33.004(a) motion." *Coppola*, 535 S.W.3d at 510. The trial court should have granted Matos's motion and denied Batley's, and the court of appeals should have corrected that error by mandamus.

Without hearing oral argument, we therefore conditionally grant Matos's petition for writ of mandamus and direct the trial court to grant the motion for leave to designate Unlimited as a responsible third party. TEX. R. APP. P. 52.8(c). We are confident the court will comply, and the writ will issue only if it does not.

OPINION DELIVERED: November 20, 2026