

In Re:	§ § § § §	In the Probate Court No. 1
TEL Offshore Trust		of
		Travis County, Texas

**MOTION FOR SEVERANCE OF
FINAL JUDGMENT AS TO CORPORATE TRUSTEE**

The Bank of New York Mellon Trust Company, N.A., as the Corporate Trustee of the TEL Offshore Trust (“BNYM” or “Corporate Trustee”) through its respective attorneys of record, hereby moves for severance of the Final Judgment as to the Corporate Trustee. Plaintiffs¹ do not oppose this motion.

The parties have reached a final settlement fully and finally disposing of all claims brought by and against BNYM. As part of the settlement, BNYM has moved for entry of a final judgment that fully and finally disposes of all claims against BNYM. BNYM moves to sever the judgment so that it may become final and appealable, which is a condition to the settlement.

Texas Rule of Civil Procedure 41 authorizes the trial court on motion of either party or on its own initiative to grant a severance. *See* Tex. R. Civ. P. 41. Texas Rule of Civil Procedure 41 provides that “[a]ny claim against a party may be severed and proceeded with separately.” *Id.* The rule gives trial courts broad discretion regarding severance and consolidation of claims. *Guar. Fed. Savings Bank v. Horseshow Operating Co.*, 793 S.W.2d 652, 658 (Tex. 1990).

The standard for severance is met in this case. The Texas Supreme Court expressly held in *Pierce v. Reynolds*, 329 S.W.2d 76, 78 (Tex. 1959) that a court has the power to sever one entire cause of action into two or more parts and render separate final judgments disposing of both parts. The result of the order of severance is to make the judgment as to the severed portion

¹ Plaintiffs are Glenn M. Karisch (“Ad Litem”), attorney ad litem for the unit holders of TEL Offshore who were served by publication and did not answer or appear, RNR Production Land & Cattle Company Inc. (“RNR”), Albert Speisman and Joyce E. Speisman (the “Speismans”) (collectively “Plaintiffs”).

of the cause of action final. *See Hamilton v. Hamilton*, 280 S.W.2d 588 (Tex. 1955); *Hanover Insurance Co. v. Hoch*, 469 S.W.2d 717 (Tex. Civ. App. Corpus Christi 1971, wri ref'd n.r.e.). The Court may properly exercise its discretion to sever the claims related to the Corporate Trustee and enter a final judgment in the severed action.

BNYM therefore moves for severance of the Final Judgment as to Corporate Trustee into a separate action so that the judgment becomes final and appealable.

Respectfully submitted,

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/s/ Craig A. Haynes

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*ATTORNEYS FOR THE BANK OF NEW YORK
MELLON TRUST COMPANY, N.A., as
CORPORATE TRUSTEE OF THE TEL
OFFSHORE TRUST*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served or will be served in accordance with the Court's orders regarding service dated September 28, 2015 and January 21, 2016.

/s/ Craig A. Haynes

Craig A. Haynes