

2026 Tex. Bus. 72



THE BUSINESS COURT OF TEXAS
EIGHTH DIVISION

MICHAEL D. CRAIN,

Plaintiff,

v.

WILLIAM “WILL” NORTHERN.

Defendant.

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Cause No. 25-BC08A-0014

MEMORANDUM OPINION

¶ 1 Before the Court is Defendant William Northern (“Northern”)’s Combined Motion for Traditional and No-Evidence Summary Judgment (“Combined Summary Judgment Motion”), filed May 29, 2026. Plaintiff Michael D. Crain (“Crain”) untimely filed his Response to Defendant Will Northern’s Combined Motion for Summary Judgment (“Response”) on June 27, 2026. Northern did not consent to the late-filed Response, Crain did not seek leave of court prior to late-filing the Response, nor did Crain otherwise demonstrate good cause to permit the late-filed Response.¹ Northern filed his Objection and

¹ If a party moves for no-evidence summary judgment, the nonmovant must file a response sufficient to raise a genuine issue of material fact. *See* TEX. R. CIV. P. 166a(h)(3); *Ford Motor Co. v. Ridgway*, 135 S.W.3d 598, 600 (Tex. 2004). The nonmovant must file its response within 21 days after the no-evidence summary judgment motion is filed, and may not file a response after the deadline “[e]xcept on leave of court or

Motion to Strike Crain’s Response to Northern’s Combined Motion for Summary Judgment (“Objection and Motion to Strike”) on June 29, 2026.

¶ 2 On July 15, 2026, the Court held a hearing on Northern’s Objection and Motion to Strike and Northern’s Summary Judgment Motion. At the hearing, the Court sustained Northern’s Objection, granted Northern’s Motion to Strike, ruled it would not consider Crain’s Response in ruling on Northern’s Combined Motion for Summary Judgment, and granted Northern’s Combined Motion for Summary Judgment. On July 17, 2026, the Court memorialized its rulings and issued its Interlocutory Order on Defendant William Northern’s Combined Motion for Traditional and No-Evidence Summary Judgment and Order for Briefing for Legal Matter to be Decided by the Court under Texas Rule of Civil Procedure 166(g) (“Interlocutory Order”). The Interlocutory Order also advised that, following entry of a final judgment,² the Court would issue a written opinion further detailing its findings and conclusions with respect to Northern’s Combined Summary Judgment Motion. This is the Court’s Opinion.

I. BACKGROUND

¶ 3 Crain and Northern created Northern Crain Realty, LLC and its subsidiaries, Northern Crain, LLC and Northern Crain Property Management, LLC (collectively with Northern Crain Realty, LLC, the “NC Entities”) in 2020. Plaintiff’s Second Amended

agreement of the parties[.]” Tex. R. Civ. P. 166a(d)(1). To obtain leave of Court, the nonmovant must demonstrate good cause for its failure to timely respond; the nonmovant must show its delay (1) was not intentional or the result of conscious indifference, but the result of accident or mistake, and (2) allowing the late response will not cause undue delay or otherwise injure the party seeking summary judgment. *See Carpenter v. Cimarron Hydrocarbons Corp.*, 98 S.W.3d 682, 688 (Tex. 2002).

² The Court entered its Final Judgment on August 6, 2026. To correct a scrivener’s error, the Court subsequently signed a Judgment Nunc Pro Tunc on September 4, 2026.

Petition (“Sec. Am. Pet.”) at 4. Crain and Northern’s business and personal relationship ultimately crumbled after a dispute concerning a “lucrative real estate opportunity involving the acquisition of Woodhaven Country Club” (hereinafter, the “Woodhaven Project”). In 2025, Crain brought individual and derivative claims on the NC Entities’ behalf against Northern.³ Northern subsequently filed a series of dispositive motions:

- Northern’s Motion for Summary Judgment for Specific Performance of Buy-Sell Purchase, filed October 23, 2025;
- Northern’s Motion to Dismiss Plaintiff/Counter-Defendant Michael Crain’s Derivative Claims for Lack of Standing—Plea to the Jurisdiction (“Plea to the Jurisdiction”), filed February 3, 2026; and
- Northern’s Motion for Summary Judgment on Counterclaim for Declaratory Judgment on Corporate Opportunity, filed March 19, 2026.

¶ 4 The Court ruled on each above-listed motion. In his latest summary judgment motion—Northern’s Combined Summary Judgment Motion—Northern asks the Court to dispose of all Crain’s remaining claims against him: breach of contract, quantum meruit, conspiracy, misappropriation of confidential information, fraud/intentional misrepresentation, negligent misrepresentation, common law fraud, and fraud by non-disclosure. Combined Summary Judgment Motion (“Combined SJ Mot”) at 2. Northern argues each claim ought to be dismissed because (1) the claim lacks one or more essential

³ Crain also brought various individual and derivative claims against Tyler Goldthwaite (“Goldthwaite”) arising out of an alleged attorney-client relationship between Goldthwaite, Crain, and the NC Entities. The Court found it lacked jurisdiction to hear Crain’s legal malpractice/professional negligence claims and found Crain’s remaining claims against Goldthwaite were impermissibly fractured malpractice-based claims. *See* Order on Defendant Tyler Goldthwaite’s Amended 91a Motion to Dismiss. No claims against Goldthwaite remain.

element, and/or (2) Northern has affirmatively shown no genuine issue of fact exists, and/or (3) Northern has negated at least one element of each claim. *Id.* at 3.

II. LEGAL STANDARDS

A. No-Evidence Summary Judgment

¶ 5 A no-evidence summary judgment is akin to a pretrial directed verdict. *Mathis v. Restoration Builders, Inc.*, 231 S.W.3d 47, 50 (Tex. App.—Houston [14th Dist.] 2007, no pet). Here, the movant represents there is no evidence of one or more essential elements of the claims for which the nonmovant bears the burden of proof at trial. TEX. R. CIV. P. 166a(a)(2), (b)(2)(D); *Lowe's Home Ctrs., Inc. v. GSW Mktg., Inc.*, 293 S.W.3d 283, 287 (Tex. App.—Houston [14th Dist.] 2009, pet. denied). The Court sustains a no-evidence summary judgment when:

- There is a complete absence of evidence of a vital fact;
- The court is barred by rules of law or of evidence from giving weight to the only evidence offered to prove a vital fact;
- The evidence offered to prove a vital fact is no more than a mere scintilla; or
- The evidence conclusively establishes the opposite of the vital fact.

Lowe's, 293 S.W.3d at 287-88 (citing *Merrell Dow Pharms., Inc. v. Havner*, 953 S.W.2d 706, 711 (Tex. 1997)); *see also* TEX. R. CIV. P. 166a(h)(3). “Evidence does not exceed a scintilla if it is so weak as to do no more than create a mere surmise or suspicion” that the challenged fact exists. *Akin, Gump, Strauss, Hauer & Feld, L.L.P. v. Nat'l Dev. & Research Corp.*, 299 S.W.3d 106, 115 (Tex. 2009) (internal quotations omitted). When determining if more than a scintilla of evidence has been produced in response to a no-evidence motion

for summary judgment, the evidence must be viewed in the light most favorable to the nonmovant. *See Johnson v. Brewer & Pritchard, P.C.*, 73 S.W.3d 193, 208 (Tex. 2002).

B. Traditional Summary Judgment

¶ 6 In a traditional motion for summary judgment, the movant bears the burden to show no genuine issue of material fact exists and entitlement to judgment as a matter of law. TEX. R. CIV. P. 166a(a)(1); *Am. Tobacco Co. v. Grinnell*, 951 S.W.2d 420, 425 (Tex. 1997). To prevail on a traditional summary judgment motion, a defendant must either conclusively negate at least one essential element of each of the plaintiff's causes of action or conclusively establish each element of an affirmative defense. *Id.* Evidence is conclusive only if reasonable people could not differ in their conclusions. *City of Keller v. Wilson*, 168 S.W.3d 802, 816 (Tex. 2005). Once the movant establishes a right to summary judgment as a matter of law, the burden shifts to the nonmovant to present evidence raising a genuine issue of material fact. *Wal-Mart Stores, Inc. v. Xerox State & Loc. Sols., Inc.*, 663 S.W.3d 569, 584-85 (Tex. 2023). If a nonmovant files a late response without obtaining leave of court, the court will not consider the late-filed response. *See Benchmark v. Crowder*, 919 S.W.2d 657, 663 (Tex. 1996).

III. DISCUSSION

¶ 7 The Court previously dismissed Crain's derivative claims for lack of standing. *See* Memorandum Opinion and Order on Northern's Plea to the Jurisdiction, dated March 11, 2026. Per the Interlocutory Order, the Court granted Northern's Combined Summary Judgment as to Crain's remaining claims. More specifically, the Court concluded that Northern was entitled to summary judgment on both no-evidence and traditional grounds.

The Court first addresses Northern’s no-evidence arguments and, when applicable, Northern’s traditional arguments.⁴

A. Northern’s Arguments

a. Breach of Contract

¶ 8 Crain’s breach of contract claim is missing vital fact evidence and must be granted on no-evidence grounds. To prevail on a breach of contract claim, the plaintiff must prove: (1) the existence of a valid contract, (2) the plaintiff performed its obligations under the contract, (3) the defendant breached the contract, and (4) the plaintiff sustained damages resulting from the breach. *Pathfinder Oil & Gas, Inc. v. Great W. Drilling, Ltd.*, 574 S.W.3d 882, 890 (Tex. 2019).

¶ 9 Crain’s remaining breach of contract claim is against Northern, individually. Northern avers the only contracts at issue are the NC Entities’ corresponding Company Agreements to which Northern is not an individual party. Combined SJ Mot. at 5. He relies on Crain’s deposition testimony in which Crain confirms no contracts exist between he and Northern individually.⁵ *See id.* The Court agrees—the only contracts of record are the NC Entities’ Company Agreements.

¶ 10 Although Crain contends otherwise, he has not asserted a breach of contract claim emanating from Northern’s contractual duties owed to him. Instead, Crain’s breach

⁴ When a party moves for both no-evidence and traditional summary judgments, the court will review the propriety of the summary judgment under the no-evidence standard first. *See First United Pentecostal Church of Beaumont v. Parker*, 514 S.W.3d 214, 219 (Tex. 2017). But this rule is not absolute, especially if both motions do not address the same grounds. *See, e.g., Dunn v. Clairmont Tyler, LP*, 271 S.W.3d 867, 870 (Tex. App.—Tyler 2008, no pet).

⁵ No third-party beneficiary arguments are before the Court.

of contract claim is based on contractual duties Northern owed to the *NC Entities*. Any remedies for Northern's alleged breaches would accrue to the NC Entities, not Crain. Absent the existence of a valid contract between Crain and Northern or an alleged breach of contractual duties owed directly to Crain, Crain's breach of contract claim fails. Northern's Combined Summary Judgment Motion is granted on this no-evidence ground.

¶ 11 Crain's breach of contract claim against Northern also fails as a matter of law. As discussed above, Northern has conclusively negated an essential element of Crain's cause of action: there exists no valid, enforceable contract between Crain and Northern and there is no alleged breach of contractual duties owed directly to Crain. *See, e.g., Sci. Spectrum, Inc. v. Martinez*, 941 S.W.2d 910, 911 (Tex. 1997) ("[S]ummary judgment for a defendant is proper only when the defendant negates at least one element of *each* of the plaintiff's theories of recovery."). Accordingly, Northern's Combined Summary Judgment Motion on Crain's breach of contract claim must also be dismissed on traditional grounds.

b. Quantum Meruit

¶ 12 Crain's evidence offered to prove his quantum meruit claim does no more than create a mere surmise or suspicion of its existence and should be dismissed on no-evidence grounds. *See Kindred v. Con/Chem, Inc.*, 650 S.W.2d 61, 63 (Tex. 1983). A quantum meruit claim requires (1) plaintiff provide valuable services or materials to defendant, (2) defendant accepted the services or materials, (3) under such circumstances as would reasonably notify defendant of plaintiff's payment expectation. *See Speck v. First Evangelical Lutheran Church of Hou.*, 235 S.W.3d 811, 815 (Tex. App.—Houston [1st Dist.] 2007, no pet). Quantum meruit is an equitable remedy independent of a contract. *Colbert*

v. Dal. Joint Stock Land Bank, 129 Tex. 235, 102 S.W.2d 1031, 1034 (1937). Generally, a party may recover under quantum meruit only when there is no express contract covering the services or materials furnished. *Truly v. Austin*, 744 S.W.2d 934, 936 (Tex. 1988). This remedy “is based upon the promise implied by law to pay for beneficial services rendered and knowingly accepted.” *Id.*; see *Campbell v. Nw. Nat’l Life Ins. Co.*, 573 S.W.2d 496, 498 (Tex.1978).

¶ 13 In his Combined Summary Judgment Motion, Northern argues that Crain’s deposition testimony “show[s] no evidence of any valuable services that [Crain] performed for or provided to Northern individually to serve as the basis for a [quantum meruit] claim.” Combined SJ Mot. at 7. Northern relies on Crain’s deposition testimony wherein Crain confirmed his understanding of individual member compensation under the NC Entities’ Company Agreements. *Id.* at 8. Crain acknowledged, “no member is to receive compensation [] for services to the company except if agreed and in writing by unanimous consent of all the members.” *Id.*

¶ 14 Crain has not produced more than a scintilla of evidence to support his quantum meruit claim. In his Second Amended Petition, Crain pleads he “provided and rendered a variety of valuable services” to Northern, that Northern, “on many occasions recognized [Crain’s] services and their value,” and that Northern “had notice that [Crain] expected to be paid for the services.” Sec. Am. Pet. at 48. These allegations are bare-boned and unsupported. At his deposition, Crain stated he provided the *NC Entities* valuable services of “time, [] expertise, [and] connections.” *Id.* at 8. These services were arguably services expected of the NC Entities’ members under the Company Agreements—Crain’s

services were directed at the NC Entities and were neither directed at Northern nor intended to benefit Northern. Further, there is no written, unanimous consent of the NC Entities' members agreeing to receive compensation for any services rendered. The evidence supporting Crain's claim amounts to no more than a mere scintilla and Northern's Combined Summary Judgment must be granted on no-evidence grounds.

c. Civil Conspiracy

¶ 15 Crain's claim for civil conspiracy lacks all essential elements. A civil conspiracy claim requires: (1) two or more persons, (2) an object to be accomplished, (3) a meeting of minds on the object or course of action, (4) one or more unlawful, overt acts, and (5) resulting proximate damages. *Agar Corp., Inc. v. Electro Circuits Int'l, LLC*, 580 S.W.3d 136, 141 (Tex. 2019) (quoting *Massey v. Armco Steel Co.*, 652 S.W.2d 932, 934 (Tex. 1983)); *Tri v. J.T.T.*, 162 S.W.3d 552, 556 (Tex. 2005); *see also Tilton v. Marshall*, 925 S.W.2d 672, 681 (Tex. 1996) (likening a civil conspiracy claim to a "derivative tort"). Northern argues he is entitled to no-evidence summary judgment and reasons, "[o]nce again, Crain fails to provide evidence of the requisite elements," including failure to "identify the accused co-conspirator," and "fail[ure] to set out what the alleged overt act was or that the alleged co-conspirators committed any overt act that was criminal or tortious." Combined SJ Mot. at 11.

¶ 16 Northern's reasoning is sound—the civil conspiracy allegation in Crain's Second Amended Petition is no more than a recitation of the above elements. *See* Sec. Am. Pet. at 49. Notably absent is Northern's alleged co-conspirator. *See id.* Even assuming, *arguendo*, Crain assigned Goldthwaite the co-conspirator role, Goldthwaite is no longer a

case party. *See supra*, n.2. Further, the allegation leaves the Court pondering what Crain deems the requisite overt act and whether such overt act may be characterized as criminal or tortious. The Court is left with unreasonable inferences from other facts and circumstances which, alone, do not raise more than a mere suspicion of conspiracy. *See Sw. Bank & Tr. Co. v. Bankers Com. Life Ins. Co.*, 563 S.W.2d 329, 331 (Tex. App.—Dallas 1978, writ ref’d). There is no evidence supporting the elements of Crain’s civil conspiracy claim and Northern’s Combined Summary Judgment must be granted on this no-evidence basis.

¶ 17 Crain’s civil conspiracy claim also fails as a matter of law. In Crain’s pleading, there exists no identifiable co-conspirator, no proof of an agreement or understanding between conspirators regarding the conspiracy’s object, and no overt act taken to further the conspiracy. Northern has sustained his burden in showing no genuine issue of fact exists concerning this claim and his Combined Summary Judgment Motion is also granted on traditional grounds.

d. Misappropriation of Confidential Information

¶ 18 Crain has not introduced more than a scintilla of evidence supporting his claim Northern misappropriated Crain’s confidential information. Misappropriation requires: (1) existence of a trade secret, (2) breach of a confidential relationship or improper discovery of a trade secret, (3) use of the trade secret, and (4) damages. *IBP, Inc. v. Klumpe*, 101 S.W.3d 461, 476 (Tex. App.—Amarillo 2001, pet. denied); *see Hyde Corp. v. Huffines*, 158 Tex. 566, 314 S.W.2d 763, 777 (1958) (defining “trade secret”); *Atl. Richfield Co. v. Misty Prods., Inc.*, 820 S.W.2d 414, 421 (Tex. App.—Houston [14th Dist.]

1991, writ denied) (trade secret “use” means commercial use where a person seeks to profit from using the secret).

¶ 19 Crain alleges Northern “obtained non-public information of [the NC Entities], used [the non-public information] without authorization, for [his] personal benefit and to facilitate the Woodhaven Acquisition.” Sec. Am. Pet. at 49. Northern again maintains Crain has neither alleged nor provided any evidence that personal trade secret information exists, that Northern wrongfully acquired it, that Northern used it without authorization, or that this damaged Crain. Combined SJ Mot. at 14.

¶ 20 As a threshold matter, Crain’s allegations are indeed impermissibly derivative. The Second Amended Petition does not allege Northern misappropriated *Crain’s* confidential information—as pleaded, Crain alleges Northern obtained the *NC Entities’* confidential information. Sec. Am. Pet. at 49. Crain no longer has derivative claims on behalf of the NC Entities against Northern. *See* Memorandum Opinion and Order on Northern’s Plea to the Jurisdiction, filed March 11, 2026. Further, Crain has not provided the Court evidence delineating the alleged trade secret, the confidential information, the resulting breach or the causal damage. *Simplified Telesys, Inc. v. Live Oak Telecom, L.L.C.*, 68 S.W.3d 688, 693 (Tex. App.—Austin, 2000) (plaintiff has burden to prove existence of trade secret in establishing misappropriation of both trade secret and confidential information). Crain’s misappropriation of confidential information claim is conclusory and does not rise to the level that would enable reasonable and fair-minded people to differ in their conclusions. Accordingly, Northern’s Combined Summary Judgment Motion must be granted on no-evidence grounds.

¶ 21 Crain's misappropriation of confidential information claim also fails as a matter of law. Again, the crux of Crain's claim is Northern's alleged misappropriation of the *NC Entities'* trade secrets, not *Crain's* trade secrets. Because Crain's claim is derivative on behalf of the NC Entities and because the Court previously dismissed Crain's derivative claims, no genuine issue of material fact exists concerning Northern's alleged misappropriation. Therefore, Northern's Combined Summary Judgment Motion must also be granted on traditional grounds.

e. Fraud/Intentional Misrepresentation and Common Law Fraud

¶ 22 Crain's fraud/intentional misrepresentation claim is missing evidence of vital facts and accordingly fails. A plaintiff prevails on a fraud/intentional misrepresentation claim upon showing: (1) the defendant made a material representation that was false, (2) the defendant knew the representation was false or made it recklessly as a positive assertion without any knowledge of its truth, (3) the defendant intended to induce the plaintiff to act upon the representation, and (4) the plaintiff actually and justifiably relied upon the representation and suffered injury as a result. *JPMorgan Chase Bank, N.A. v. Orca Assets G.P., L.L.C.*, 546 S.W.3d 648, 653 (Tex. 2018) (internal quotations omitted).

¶ 23 Crain argues Northern falsely represented the NC Entities' business and business prospects, knowing the representations were both material and false and with the intent Crain rely on his false representations. Sec. Am. Pet. at 45. It is undisputed Northern did not inform Crain of all his actions and/or intentions concerning the Woodhaven Project. But Crain has not shown the information Northern relayed to Crain regarding the Woodhaven Project and/or the alleged competing entities was material to *Crain*. He also

has not shown Northern's representations concerning the competing companies or the Woodhaven Project were false. Nor has Crain shown Northern represented allegedly false information to Crain in an effort to induce Crain to act. Rather, Crain argues Northern sought to keep information concerning competing entities and the Woodhaven Project *away* from Crain. Lastly, any injuries suffered would be borne by the NC Entities, not Crain individually. Crain's claim accordingly fails and Northern's Combined Summary Judgment Motion must be granted on this no-evidence basis.

f. Negligent Misrepresentation

¶ 24 Crain's negligent misrepresentation claim similarly fails for want of vital facts. A plaintiff prevails on a negligent misrepresentation claim by establishing: (1) the defendant made a representation in the course of his business, or in a transaction in which he had a pecuniary interest, (2) the defendant supplied false information for the guidance of others in their business, (3) the defendant did not exercise reasonable care or competence in obtaining or communicating the information, and (4) the plaintiff suffered pecuniary loss by justifiably relying on the representation. *Henry Schein, Inc. v. Stromboe*, 102 S.W.3d 675, 686 n. 24 (Tex. 2002) (internal quotations omitted). Negligent misrepresentation requires a showing of both actual and justifiable reliance. *Hendrick, LP v. Musgrave Enter., Inc.*, 380 S.W.3d 221, 238 (Tex. App.—Dallas 2012, no pet); *Schlumberger Tech. Corp. v. Swanson*, 959 S.W.2d 171, 181 (Tex. 1997) (holding fraud by nondisclosure is a subcategory of fraud and because reliance is an element of fraud, it is likewise an element of fraud by nondisclosure).

¶ 25 Crain alleges Northern negligently misrepresented the NC Entities’ “business and business prospects,” knowing the representations were false and with the intention that Crain act on the false representations. Sec. Am. Pet. at 45. Crain insists he reasonably relied on the representations because he and Northern shared a fiduciary relationship. *Id.* Without specifics, Crain avers, “[b]y virtue of the misrepresentations, and the transactions described [], Defendant[] fraudulently obtained secret profits, which were unknown to Plaintiff.” *Id.* at 45-46. For his part, Northern again argues Crain has not shown Northern falsely represented any material fact or that Crain relied on a false representation to his detriment. Combined SJ Mot. at 16.

¶ 26 There is (1) no evidence Northern made any actionable and false representation to Crain concerning the Woodhaven Project and/or the alleged competing entities, (2) no evidence Northern failed to exercise reasonable care of competence in communicating the allegedly false information to Crain, and (3) no evidence Northern’s allegedly false representations proximately caused Crain injury. Crain’s allegation is therefore unsupported and conclusory. *Gonzales v. Shing Wai Brass & Metal Wares Factory, Ltd.*, 190 S.W.3d 742, 746 (Tex. App.—San Antonio 2005, no pet) (“A conclusory statement is one that does not provide the underlying facts to support the conclusion, and is insufficient to create a question of fact to defeat summary judgment.”). Accordingly, Northern’s Combined Summary Judgment Motion must be granted on no-evidence basis.

g. Fraud by Nondisclosure

¶ 27 The record lacks evidence Northern had a duty to disclose, and failed to disclose, a material fact to Crain concerning the Woodhaven Project and that Crain was damaged by the nondisclosure. Fraud by nondisclosure is a sub-category of fraud. *Schlumberger Tech. Corp. v. Swanson*, 959 S.W.2d 171, 181 (Tex. 1997). To establish fraud by nondisclosure, plaintiff must prove: (1) the defendant failed to disclose facts to the plaintiff, (2) the defendant had a duty to disclose those facts, (3) the facts were material, (4) the defendant knew the plaintiff was ignorant of the facts and the plaintiff did not have an equal opportunity to discover the facts, (5) the defendant was deliberately silent when it had a duty to speak, (6) by failing to disclose the facts, the defendant intended to induce the plaintiff to take some action or refrain from acting, (7) the plaintiff relied on the defendant's nondisclosure, and (8) the plaintiff was injured as a result of acting without that knowledge. *Horizon Shipbuilding, Inc. v. Blyn II Holding, LLC*, 324 S.W.3d 840, 850 (Tex. App.—Houston [14th Dist.] 2010, no pet).

¶ 28 Crain merely recites the above elements in his Second Amended Petition. *See* Sec. Am. Pet. at 48. However, in his deposition, Crain testified Northern's nondisclosure diminished the NC Entities' income and damaged his personal ownership in the NC Entities. Combined SJ Mot. at 22-23. Northern avers, "Crain admitted that he and Northern had no personal fiduciary relationship and therefore Northern had no fiduciary duty to disclose" any Woodhaven Project information. *Id.* at 22. As for Crain's alleged damage, Northern argues Crain's testimony "demonstrates no personal damages." *Id.* at 23.

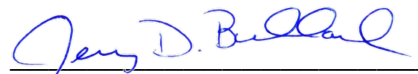
¶ 29 The absence of vital facts derails Crain's claim. First, the Court has already established Crain and Northern did not enjoy a formal fiduciary relationship. *See* Court's Order on Formal Fiduciary Duty Claim, filed August 6, 2026 (dismissing Crain's remaining claims that he and Northern had a formal fiduciary relationship). Crain's pleading does not support Northern owed Crain a duty to disclose information concerning the Woodhaven Project. *Ins. of N. Am. v. Morris*, 981 S.W.2d 667, 674 (Tex. 1998) (no disclosure duty absent evidence of confidential or fiduciary relationship). If any disclosure duty existed, Northern owed disclosure to the NC Entities, not Crain individually. And, while Northern did not disclose the Woodhaven Project to Crain, nothing before the Court supports the nondisclosure was material in nature to Crain. *MGR, Inc. v. Geico Cas. Co.*, No. 04-18-00452-CV, 2019 WL 573968, at *4 (Tex. App. Feb. 13, 2019) (to state a claim for fraud by nondisclosure, movant must have evidence nonmovant failed to disclose material facts to movant). Further, as Crain presents, any resulting damage would affect the NC Entities, not Crain individually. Crain has not established Northern had a duty to disclose the Woodhaven Project to Crain and has not established the nondisclosure was material to Crain. Therefore, Northern's Combined Summary Judgment Motion on his fraud by nondisclosure claim must be granted on a no-evidence basis.

¶ 30 Crain's fraud by nondisclosure claim also fails as a matter of law. As stated above, Northern's only disclosure duty, if any, is to the NC Entities. *Simpson v. Simpson & Hardball Express, LLC*, No. 25-BC08A-0012, 2026 WL 2199530, at *12 (Tex. Bus. Ct. July 29, 2026) (there is no duty to disclose without evidence of a confidential or fiduciary relationship). Thus, any damages resulting from the nondisclosure, belong to the NC

Entities, not Crain individually. Northern has sustained his burden in proving no genuine issue of material fact exists concerning Crain's fraud by nondisclosure claim. Northern's Combined Summary Judgment Motion must also be granted on traditional grounds.

IV. CONCLUSION

¶ 31 Based on the foregoing, the Court concludes Northern is entitled to summary judgment on both no-evidence and traditional grounds. For these reasons, Northern's Combined Summary Judgment Motion is **GRANTED** and all of Crain's claims against Northern addressed in the motion are **DISMISSED WITH PREJUDICE**.



JERRY D. BULLARD,
Judge, Texas Business Court,
Eighth Division

SIGNED: October 7, 2026.

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