

ARTICLE

FIXING A SERIES OF SERIES LLC HOLES: HOUSTON COURT OF APPEALS DECIDES FIRST TEXAS SERIES LLC LAW CASE

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I. INTRODUCTION

A series limited liability company (LLC) is an “otherwise-normal LLC” “with a twist”: it has “[sub]divisions *within* it that

* In *In re Bramblett* (the case discussed herein), the author testified at trial, on behalf of Ed Bramblett, as an expert on series LLCs. For this testimony, the author was compensated for his time—but *not* for his opinions. All opinions expressed by the author at trial were his own, as are all views stated herein. The author also was not involved in the *Bramblett* appeal and had no financial stake in the outcome of the case.

function largely like individual LLCs.”¹ These internal subunits are called “series” of the LLC; the larger business entity itself is called a “series LLC.”²

On May 22, 2025, in *In re Estate of Bramblett*,³ the First Court of Appeals became the first Texas appellate court to decide a substantive issue⁴ of series LLC law.⁵ In *Bramblett*, the Houston court of appeals tackled several previously undecided issues regarding the formation and governance of Texas series LLCs.⁶

The series-law issues presented in *Bramblett* arose due to three arguable ambiguities in the Texas Business Organizations Code (“TBOC”) provisions that govern series LLCs.⁷ These potential ambiguities relate to the legal standard for designating assets to a series,⁸ the validity of property transfers to unformed series,⁹ and the default governing persons for series with no associated members.¹⁰ The *Bramblett* opinion did not address all three seeming ambiguities, nor did it fully decide all the questions it did

1. Joseph K. Leahy, *Series LLCs: Statutory Ambiguities, Potential Litigation, and Proposed Clarifications*, 27 U. PA. J. BUS. L. 443, 446 (2025).

2. *Id.* at 446–47.

3. *In re Estate of Bramblett*, No. 01-23-00359-CV, 2025 WL 1460703 (Tex. App.—Houston [1st Dist.] May 22, 2025). In *Bramblett*, the appellate court did not *explicitly* address the substance of the author’s expert testimony at trial. Rather, the court held, without describing his testimony, that its admission “in a bench trial” was “harmless error” because judges are “presume[d] when] . . . sitting as the fact finder” to “disregard[] any incompetent evidence.” *Id.* at *6. The reader of this case comment can decide for herself how the appellate court *implicitly* judged the substance of the author’s opinions.

4. Texas appellate courts have previously addressed LLC law generally and/or contract law in the context of series LLCs. Most notably, in the *Rieder* litigation, the Texas Supreme Court and the Second Court of Appeals applied contract law to analyze a forum-selection clause contained in an agreement that established a series of a Texas series LLC. *See Rieder v. Woods*, 603 S.W.3d 86, 98–102 (Tex. 2020), *reversing Rieder v. Meeker*, 587 S.W.3d 32 (Tex. App.—Fort Worth 2018), *on remand*, No. 02-17-00176-CV, 2021 WL 1570019 (Tex. App.—Fort Worth April 22, 2021, no pet.). The Fort Worth court of appeals has also addressed the question of the advancement of expenses under a series LLC’s company agreement. *See L Series, L.L.C. v. Holt*, 571 S.W.3d 864, 873–76 (Tex. App.—Fort Worth 2019, pet. denied).

5. *See Bramblett*, 2025 WL 1460703, at *4 (addressing series LLC law when assessing the validity of transfers of property to various purported series). For a discussion of the “nascent case law addressing series” LLCs, both in Texas and elsewhere, see ELIZABETH S. MILLER & ROBERT A. RAGAZZO, 19 TEXAS PRACTICE: BUSINESS ORGANIZATIONS § 19:35 n.13 (3d ed. 2025).

6. *See Bramblett*, 2025 WL 1460703, at *4 (addressing the sufficiency of designation of assets to series of the LLC and the governance of a series that has no associated members or managers).

7. *See Leahy, supra* note 1, at 477–88 (describing these apparent statutory ambiguities).

8. *See id.* at 477–84.

9. *See id.* at 484–86.

10. *See id.* at 486–88. Owners of an LLC are known as “members.” *See id.* at 447 n.7.

undertake to address—but it nonetheless provided some helpful guidance regarding how series LLC law will be interpreted.

II. BACKGROUND

The *Bramblett* appeal arose out of a dispute between the Bramblett siblings, Ed and Debra, over the estate of their deceased father, Richard.¹¹ For many years prior to his death, Richard invested in rental properties with Ed's assistance.¹² Richard purchased the properties; Ed, a real-estate professional, located and managed them.¹³ When Richard died, he owned seven rental properties,¹⁴ in which he had invested about \$815,000.¹⁵

At some point, Richard formed Tall Pines Holdings, LLC ("Tall Pines")—a Texas series LLC of which he was the sole member—and signed its company agreement.¹⁶ Eight days before his death, Richard executed seven warranty deeds; each deed purportedly transferred one of his rental properties to a separate series of Tall Pines, lettered A through G.¹⁷ Each series was designated in the applicable transfer deed as "Series [A, B, C, etc.], an individual series of" Tall Pines.¹⁸

The Tall Pines company agreement¹⁹ stated that the LLC "may at any time establish a series by designating Members, Managers, membership interests, or assets."²⁰ Further, the agreement explicitly "designat[ed]" three series—A, B, and C—and stated that each series "consist[ed] of the assets identified in" an exhibit

11. See *Bramblett*, 2025 WL 1460703, at *1.

12. *Id.*

13. *Id.*

14. *Id.* at *2.

15. See *id.* (citing Debra's testimony).

16. *Id.* at *1. The Tall Pines company agreement provided that any series that it established had the power to "own, exchange, sell, transfer, exchange [sic], assign, pledge, encumber, or lease for cash, property or credit, or to partition, publicly or privately"; to "sue and be sued"; to "make and perform all contracts;" "to hold title to the assets of [the series], including real property"; and "to grant liens and security interests in the assets of [the series]." *Id.*

17. *Id.* at *1–2. The only issue concerning the deeds' legality was whether each series of Tall Pines was properly formed. Debra did not dispute that the deeds were otherwise legally valid. See *id.* at *2.

18. *Id.* at *2.

19. In Texas, a "company agreement" is "any agreement, written, implied, or oral, of the members concerning the affairs or the conduct of the business of" an LLC. TEX. BUS. ORGS. CODE § 101.001(1) (2025). Under prior Texas law, such agreements were known as the LLC's "regulations." MILLER & RAGAZZO, *supra* note 5, § 19:25. In many other jurisdictions, the agreement that governs an LLC is referred to as the LLC's "operating agreement." *Id.* In Delaware, this agreement is called the "limited liability company agreement," DEL. CODE ANN. tit. 6, § 18-101(9) (2025)—or, for short, the "LLC agreement."

20. *Bramblett*, 2025 WL 1460703, at *1.

bearing the same letter as each such series.²¹ However, exhibits A, B and C listed no assets.²² Moreover, the company agreement made no mention of series D through G.²³

The Tall Pines company agreement contained an option for Ed to buy Tall Pines and its assets from Richard's estate within one year of his death for \$2,000.²⁴ Ed exercised this option on time by paying the required amount.²⁵

In her lawsuit, Debra challenged both Richard's transfers of his real estate to the purported series of Tall Pines and the validity of the company agreement's buyout provision.²⁶ The probate court ruled in Ed's favor on both issues.²⁷

On appeal, the *Bramblett* court affirmed on both issues.²⁸

III. *BRAMBLETT* ADDRESSED POTENTIAL STATUTORY AMBIGUITIES

Debra's attempt to invalidate Richard's transfer of his rental properties to the various series of Tall Pines turned principally on her contention that the series were never properly formed; as a result, she contended that the rental properties fell into the estate.²⁹ In rejecting this position, the Houston appellate court touched on, either explicitly or implicitly, three ambiguities about the formation and governance of Texas series LLCs.

A. *The Standard for Proper "Designation" of Items to a Series of an LLC*

On appeal, Debra contended that series A through G never came into existence because the company agreement did not set

21. Appellant's Brief at 5, *In re Bramblett*, No. 01-23-00359-CV, 2025 WL 1460703 (Tex. App.—Houston [1st Dist.] May 22, 2025) (explaining that the company agreement purported to "[d]esignat[e] each Series A, B and C by stating that that series 'consist[ed] of assets identified in Exhibit' named for the same letter: e.g., Series A's assets were to be set forth in Exhibit A).

22. See *Bramblett*, 2025 WL 1460703, at *1. ("Exhibits A, B and C . . . [were] all blank . . .").

23. See Appellant's Brief, *supra* note 21, at 21–22 (explaining that the Tall Pines agreement provided for "no designated terms" for Series D–G).

24. *Bramblett*, 2025 WL 1460703, at *1–2. This \$2,000 reflected Richard's initial capital contribution to Tall Pines. *Id.*

25. See *id.* at *2.

26. See Appellant's Brief, *supra* note 21, at 15.

27. See *Bramblett*, 2025 WL 1460703, at *1.

28. See *id.* at *1, *6.

29. See *id.* at *4–5 (addressing Debra's argument that formation of Series A–G were invalid); Appellant's Brief, *supra* note 21, at 20–23 (Debra's argument that formation of Series A–G were invalid). Debra also raised other arguments that are beyond the scope of this comment. See *Bramblett*, 2025 WL 1460703, at *6 (addressing Debra's arguments concerning mutual mistake and the trial court's admission of expert testimony).

forth *all* the rights and duties related to each such series.³⁰ Debra also argued that Richard’s rental properties were not properly transferred to the various series because the exhibits in the Tall Pines company agreement that were supposed to reflect the assets of Series A through C were not updated to reflect those transfers.³¹ Underlying both of these arguments was the premise that creation of a series of an LLC requires that all of the terms, conditions, rights and duties applicable to such series be reflected in the company agreement. To put it another way, Debra argued that series formation fails if the LLC’s company agreement leaves any uncertainty about the terms, conditions, rights, and duties of a series.

The TBOC contains no requirement that all rights and duties of a series be spelled out in the company agreement, however. Rather, the TBOC section that provides for formation of series of an LLC states that such series may be formed by “designat[ing]” people or things—“members, managers, membership interests, or assets”—to a particular series.³² Nowhere does this provision, or any other provision of the TBOC, contain any explicit standard or minimum legal requirements for a court to judge whether or not the members, managers, membership interests, or assets in question have been *properly* “designated” to a series.³³ And nowhere does the statute state that an otherwise proper designation of members, managers, membership interests, or assets to a series is negated by a failure to comply promptly and strictly with all aspects of—or set forth all the terms, conditions, rights and duties of the series in—the company agreement.³⁴ Indeed, the TBOC is replete with

30. See *Bramblett*, 2025 WL 1460703, at *4 (describing Debra’s contention “that the failure to include certain definite terms” in the Tall Pines company agreement related to the series “precluded their valid formation”); see also Appellant’s Brief, *supra* note 21, at 21–22 (arguing, based on Debra’s expert’s opinion, that the TBOC “mandate[s]” that each series have separate terms than the overarching LLC, and therefore, that “Series D–G were never . . . validly created because there are no designated terms for the rights, duties or obligations of such series and certainly none that are separate from those of the LLC”).

31. See Appellant’s Brief, *supra* note 21, at 21 (“The Company Agreement unambiguously states that SERIES A consists of assets identified in Exhibit A, SERIES B consists of assets identified in Exhibit B, and SERIES C consists of assets identified in Exhibit C. If all three Exhibits are blank, there are no assets accepted into Series A–C. Therefore, Series A–C have no assets.”) (citations omitted).

32. TEX. BUS. ORGS. CODE § 101.601(a) (stating that the company agreement “may establish or provide for the establishment of one or more designated series of members, managers, membership interests, or assets”). Elsewhere, the TBOC uses the word “associate” to describe the connection of people and things with a series of an LLC. See Leahy, *supra* note 1, at 477. The term “associate” appears to be the broader of the two terms, providing even greater flexibility than the term “designate,” see *id.* at 478, so this comment will focus solely on what constitutes proper “designation.”

33. See Leahy, *supra* note 1, at 477.

34. See TEX. BUS. ORGS. CODE § 101.601. This is not to say that series can be created without complying with the company agreement. If the company agreement provides for a

default rules for series, which presumably apply in the absence of any contrary language in the company agreement.³⁵

In the absence of any statutory minimum criteria for what constitutes the proper “designation” of members, managers, membership interests, or assets to a series, we are left with the dictionary definition of the term “designate.”³⁶ The word essentially means to “label.”³⁷ As a result, the standard for designation of people or things to a series could in theory be subjective or objective.³⁸

That said, the TBOC probably implies an objective standard of “reasonable identifiability” similar to the recordkeeping standard that the statute sets for determining whether the assets of one series (or of the greater series LLC) will be effectively walled off from the creditors of another series (or of the greater series LLC).³⁹ Legally valid deeds of transfer should satisfy such a standard.⁴⁰

The *Bramblett* court did not explicitly discuss the standard for designating assets to a series. However, the appellate court rejected Debra’s contention that the Tall Pines company agreement was inadequate to establish the series because it did not set forth all the terms, conditions, rights and duties applicable to each series.⁴¹ Further, the Houston court of appeals held that Richard’s property transfers resulted in the valid creation of each series because each deed specifically named a series of Tall Pines as grantee and included adequate legal descriptions.⁴²

This holding—which essentially recognizes that no specific language is required to establish a series—is consistent with *either*

specific process for creation of series—i.e., specific procedures that must be followed to properly “designate” members, managers, membership interests, or assets to a series—then failure to follow those procedures presumably would negate formation of the series. But in the absence of such procedures in the company agreement, the TBOC requires none.

35. Indeed, the great bulk of rules governing LLCs are default rules. *See* TEX. BUS. ORGS. CODE § 101.052(b), (c).

36. *See* Leahy, *supra* note 1, at 478.

37. *Id.* (synthesizing various dictionary definitions of “designate”).

38. *See id.* at 481–85.

39. *See id.* at 481–82 (citing TEX. BUS. ORGS. CODE § 101.603(b)).

40. *See id.* at 483.

41. *See Bramblett*, 2025 WL 1460703, at *4 (rejecting Debra’s contention as “not supported by the applicable statutory language, which is permissive and forward-looking.” (citing TEX. BUS. ORGS. CODE § 101.601(a)).

Unfortunately, in so deciding, the *Bramblett* court, in dicta, employed some loose language that could be taken out of context by a litigant seeking to argue that a company agreement must be amended *at some point* after formation of a series to provide specific details concerning governance of the series. *See id.* (expounding that “series do not have to be set in stone when the company agreement is first executed”). However, both the facts of *Bramblett* and the court’s other holdings, addressed below, would seem to preclude any such interpretation.

42. *Id.*

an objective “reasonable identifiability” standard *or* a subjective standard for establishing series. Hence, the *Bramblett* opinion appears to affirm the view that the TBOC’s standard for designating people or things to as series is a flexible one that turns on the ordinary meaning of the term “designate.”

B. Conveying Assets to an Improperly Formed Series

A second ambiguity concerning series LLCs that the *Bramblett* court touched on relates to the question of what happens when property is conveyed to a purported series that was not properly formed.⁴³ The structure of series LLCs—in which each series is merely a subunit of an otherwise valid legal entity, and not its own, fully separate legal entity⁴⁴—suggests that such transfers should not be void for want of a grantee. Rather, transfers to non-existent series should instead be construed as effective transfers to the greater series LLC.⁴⁵

The *Bramblett* court echoed this view as an alternative basis for upholding Richard’s attempt to transfer his rental properties to Tall Pines—stating that, even if the properties were not transferred to various series, they were all transferred to Tall Pines itself.⁴⁶ This is consistent with treating imperfectly formed series as naming conventions for internal compartments of the LLC, not as separate entities required to exist independently.⁴⁷

C. Governance of a Series Without Members

A third ambiguity in the TBOC regarding series LLCs concerns the default governing body for a series that has neither members nor managers designated to it.⁴⁸

The TBOC explicitly states that a series may be created by the designation of “members, managers, membership interests, *or* assets”⁴⁹ to the series; the use of the conjunction “or” here leaves little doubt that it is proper to create memberless or managerless

43. See Leahy, *supra* note 1, at 484–86 (describing this ambiguity).

44. See *id.* at 474.

45. See *id.* at 485–86 (analogizing the transfer of property to an improperly formed series to the transfer of property to a non-existent department within a larger firm or to an actual person with a fictitious name, rather than to a nonexistent person).

46. See *Bramblett*, 2025 WL 1460703, at *4 (reasoning that each deed effectively transferred a property to a “series of Tall Pines Holdings, LLC”—but that, “in any event, Tall Pines was the legal entity that ultimately received the property transfers.” (citing TEX. BUS. ORGS. CODE § 101.622)).

47. See Leahy, *supra* note 1, at 485–86 (so arguing).

48. *Id.* at 486–88.

49. TEX. BUS. ORGS. CODE § 101.601(a) (emphasis added).

series.⁵⁰ However, the TBOC, which explicitly defers to the company agreement about how series are to be governed, does not provide any explicit governance mechanism for series that have no associated members or managers.⁵¹

Happily, the structure of a series LLC—in which each series is merely a subunit of the overarching series LLC⁵²—again provides us with an easy solution: “If the company agreement is silent on the governing authority for a series with only assets designated to it, the series must necessarily be governed by the governing authority of the series LLC itself—either members or managers.”⁵³ It makes perfect sense that an LLC can exist without members or managers; in that case, series governance simply defaults to the overarching LLC’s governance structure.⁵⁴ “This is particularly true for a member-managed, single-member LLC,” like Tall Pines.⁵⁵

In *Bramblett*, Debra argued that the lack of an explicit governance mechanism for series without any associated members or managers necessarily negates the possibility of creation of such series.⁵⁶ The *Bramblett* court disagreed, reasoning that “no member need be designated to form a valid series.”⁵⁷ The court of appeals therefore correctly held that, “[b]ecause the statute permits formation of a series with only assets, the lack of a series member did not render any series invalid.”⁵⁸

50. Leahy, *supra* note 1, at 466–69. Allowing such series to exist “makes perfect sense in light of the series LLC’s key purpose: the segregation of assets within the structure of a single LLC to avoid the time and expense of creating multiple LLCs.” *Id.* at 468.

51. *See id.* at 487–88.

52. *Id.* at 446, 448, 452.

53. *Id.* at 488.

54. *See id.*

55. *Id.* at 469 (explaining that “it would be completely redundant to designate the sole member of the LLC as the sole member associated with each series” because “there is no potential member-managed governance structure for each series of [a] single-member LLC [other] than management by the sole member of the series LLC”).

56. *See Bramblett*, 2025 WL 1460703, at *4; *see also* Appellant’s Brief, *supra* note 21, at 22, 29 (arguing that the TBOC “requires a governing authority or series member be designated for each series” (citing TEX. BUS. ORGS. CODE § 101.608(b))).

57. *Bramblett*, 2025 WL 1460703, at *4.

58. *Id.* (“Under the applicable provision, no member need be designated to form a valid series; a series may be formed with ‘members, managers, membership interests, or assets.’ Because the statute permits formation of a series with only assets, the lack of a series member did not render any series invalid.”) (citation omitted) (citing TEX. BUS. ORGS. CODE § 101.601(a)).

Unfortunately, some of the reasoning that the *Bramblett* court employed to reach this conclusion was flawed. In addition to correctly reading TBOC section 101.601(a) to permit series with no designated members, the court also rejected Debra’s argument that TBOC section 101.608(b) requires that a series have designated members. *See id.* (“Debra next asserts that the failure to designate series members renders all the series invalid . . .

IV. CONCLUSION

As the first Texas court of appeals decision to address substantive issues of series LLC law, *Bramblett* is an important step towards clarifying some arguable ambiguities in the statute. Further, the opinion suggests that the Houston court of appeals *both* understands the structure of series LLCs (to the extent that this enigma-of-an-entity *can* be understood⁵⁹) and will interpret the TBOC with the structure of series LLCs in mind. This is a good start to Texas’s series LLC jurisprudence.

.”); *see also* Appellant’s Brief, *supra* note 21, at 29, 45–46 (citing TEX. BUS. ORGS. CODE § 101.608(b)). However, the *Bramblett* court rejected Debra’s argument on the theory that the TBOC provision that she cited, section 101.608(b), dealt with two categories of series—protected and registered series—that did not exist at the time of the Tall Pines company agreement and therefore were not the type of series formed in *Bramblett*. *See Bramblett*, 2025 WL 1460703, at *4 (“[T]he statutory provision [Debra] relies on applies only to ‘protected series’ or ‘registered series.’ . . . ‘Protected series’ and ‘registered series’ did not appear in the statute until it was amended in 2022 (after the effective date of the Company Agreement), the term ‘protected’ or ‘registered’ is not in the Company Agreement Thus, section 101.608(b) does not apply to the Company Agreement.”) (citing TEX. BUS. ORGS. CODE § 101.602(b)(3), (c), 101.604(3)(a) (enacted 2022)).

Here, the court of appeals was correct that the Tall Pines company agreement did not provide for protected or registered series, since those types of series did not yet exist under Texas law; rather, the company agreement contemplated what might be called a “regular” or “traditional” series. *See Leahy, supra* note 1, at 465 n.80. Further, the *Bramblett* court was correct that the current version of TBOC section 101.608(b) does not purport to govern regular series. Yet, none of this is sufficient to rebut Debra’s argument, because the prior version of TBOC section 101.608(b), which was applicable at the time of the Tall Pines company agreement, was substantially similar to the current version of that statute in all regards except that the prior version of the statute did not contain the words “protected” or “registered.” That is to say, the prior version of TBOC section 101.608(b) applied the *same* rule to traditional series that the current version of that statute applies to protected and registered series. *Compare* TEX. BUS. ORGS. CODE § 101.608(b) (2022) (current version of statute), *with* TEX. BUS. ORGS. CODE § 101.608(b) (2009) (version governing the Tall Pines company agreement). Thus, the *Bramblett* court failed to directly answer the question of whether the prior version of section 101.608(b), which governed the Tall Pines company agreement, mandated that every series have designated members.

Yet, the *Bramblett* court’s conclusion was nonetheless correct because *neither* version of section 101.608(b) mandates that every series have members designated to it. Rather, that provision simply addresses series governance in some but not all situations. *See Leahy, supra* note 1, at 487–88. Accordingly, as the *Bramblett* court ultimately recognized, the TBOC clearly permits that series be created without designating members to it. *See Bramblett*, 2025 WL 1460703, at *4 (explaining that “a series may be formed with ‘members, managers, membership interests, or assets.’” (quoting TEX. BUS. ORGS. CODE § 101.601(a))). In sum, the *Bramblett* court reached the correct conclusion despite that the path of its reasoning was faulty.

59. *See Leahy, supra* note 1, at 448 (explaining that the series LLC “remains shrouded with uncertainty nearly three decades after its creation” due to “myriad outstanding questions” regarding “whether, to what extent, and under what circumstances each internal subunit constitutes an entirely separate legal person”).

That said, for other Texas courts that may be less facile with series LLCs, the legislature should consider fixing the aforementioned series of holes in the TBOC's series LLC provisions.⁶⁰

60. See *id.* at 496–501 (advocating for tweaks to the series LLC statute to eliminate the seeming ambiguities discussed herein).