JURISDICTION AND VENUE FOR WILL AND TRUST DISPUTES

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JURISDICTION AND VENUE IN WILL AND TRUST DISPUTES are difficult areas of law, particularly due to the interplay between the Texas Probate Code ("TPC") and probate courts, on the one hand, and the Texas Trust Code ("TTC") and district courts, on the other hand. Complicating the situation even more is the reality that courts sitting in probate differ in jurisdictional scope. The purpose of this article is not to exhaustively cover all of the nooks and crannies of these areas of law. Instead, the focus will be on general concepts and how courts have construed them. As the analysis begins, it is important to remember that improper jurisdiction will always be fatal, but faulty venue is not.

All efforts have been made to incorporate into this article the changes made by the 2009 Legislature to the applicable portions of the TPC and the TTC. The jurisdiction and venue provisions in the TTC were not affected by the Legislature. Similarly, the venue provisions of the TPC were not altered by the Legislature.

Jurisdiction in the TPC was changed by SB 408 for matters filed on or after 9/1/09. New §§4A – 4H were added. Section 5(e) of the TPC was amended by SB 917 (effective 5/23/09) while, at the same time, all of §5 was repealed by SB 408. Section 5A of the TPC was also repealed by SB 408.
For actions pending on 8/31/09, prior sections 4, 5 and 5A will continue to control jurisdiction for probate matters. This article does not deal with pre-8/31/09 law because there are numerous other articles on that subject which are available (including one by this author[1]). Instead, this article will explain probate jurisdiction for cases filed on or after 9/1/09.

A. Venue (TPC 6, 8; TTC 115.002)

1. Probate disputes

In most types of litigation, deciding which court has proper jurisdiction for a suit is determined before ever thinking of proper venue. However, the approach in probate cases is exactly the opposite; venue must be decided first. Determining the county where the probate action will be filed will almost always help the attorney know which court has jurisdiction over the matter. However, the initial question to answer will be whether the Decedent was a resident of Texas or a nonresident.

a. Resident of Texas

If the Decedent "resided" in Texas at the time of death, §6(a) lists the first choice for venue as the county of "residence." Unfortunately, the terms "resided" and "residence" are not defined in the TPC. Further, the county where the Decedent physically lived at the time of death, perhaps for many years in a nursing facility, may not have been the county (or state) where his homestead was located. One court has stated that "domicile" and "fixed place of residence" are synonymous. *Maddox v. Surber,* 677 S.W.2d 226, 228-229 (Tex. App. – Houston [1st Dist.] 1984, no writ). The *Maddox* court also stated that the length of time during which the Decedent resided in the county is irrelevant; the important issue is the Decedent's intention to acquire a domicile in the county.

In another case, a court held that "domicile" was the place where the decedent lived before he was declared incapacitated and moved to a state hospital. *Thomas v. Price,* 534 S.W.2d 730 (Tex. Civ. App. – Waco 1976, no writ). A statement in a Decedent's Will as to his residence carries "great weight" and will be accepted absent contrary evidence. *Estate of McKinney v. Hair,* 434 S.W.2d 217, 218 (Tex. App. – Waco 1968, writ ref'd n.r.e.). Other documents can also provide competent evidence of a Decedent's principal residence, such as the death certificate, a driver's license or a voter registration card. Once the application to probate is filed, including proper allegations as to why the court has venue and jurisdiction, there should be no problem having the Will admitted to probate in that county unless someone files an objection prior to the hearing.

A Decedent can have only one residence. In the case of *In re Steed,* 152 S.W.3d 797 (Tex. App. – Texarkana 2004, pet. denied), the Decedent was an attorney who prepared his own Will. Actually, he prepared many Wills, and three of them were offered for probate at his death. The first filing was in Ochiltree County where the Decedent lived and had practiced law. One day later, another Will was filed in Morris County, and a Motion to Transfer Venue was filed in Ochiltree County. The district court in Ochiltree County granted the motion and transferred the case to Morris County. The Court of Appeals found that the Decedent had homes in both counties and that, even though he spent more time in Ochiltree County than in Morris County, there was "probative evidence" to support the district court's ruling that venue lay in Morris County

and the case had been properly transferred.

b. Nonresident

If the Decedent did not "reside" in Texas, §6(b-e) lists other possibilities for counties where a probate action could be filed. They are as follows:

> (a) If the deceased had no domicile or fixed place of residence in this State but died in this State, then either in the county where his principal property was at the time of his death, or in the county where he died.
> (b) If he had no domicile or fixed place of residence in this State, and died outside the limits of this State, then in any county in this State where his nearest of kin reside.
> (c) But if he had no kindred in this State, then in the county where his principal estate was situated at the time of his death.
> (d) In the county where the applicant resides, when administration is for the purpose only of receiving funds or money due to a deceased person or his estate from any governmental source or agency; provided, that unless the mother or father or spouse or adult child of the deceased is applicant, citation shall be served personally on the living parents and spouses and adult children, if any, of the deceased person, or upon those who are alive and whose addresses are known to the applicant.

The language found in §6(b-e), covering venue for nonresidents, is consistent with the statutes dealing with foreign Wills.

c. Concurrent venue

It is possible that venue could be supported in more than one county. In that event, §8 indicates that the county in which the probate is first filed will be the proper location for the proceeding. If a court discovers at some point (prior to a final decree) that venue was improper, the case can be transferred to a court with proper venue. Additionally, §8(c)(2) allows a case which is commenced in a court with proper venue to be transferred to another county for convenience. Any actions taken by a court prior to a transfer "shall be valid and shall be recognized in the second court, provided such orders were made and entered in conformance with the procedure prescribed" in the TPC. *See* §8(d).

While a probate court can transfer a matter to another county, it appears that the transfer must not be made until one of the parties requests the move. In *Robertson v. Gregory,* 663 S.W.2d 4 (Tex. App. – Houston [14th Dist.] 1983, no writ), the appellate court held that the trial court could not change the venue of a probate matter on its own motion where the suit did not involve the type of proceeding described in what is now §610 of the TPC. (Section 610 is the guardianship "twin" of §6.)

Where authorized by local rule, a District Court can transfer a case to a statutory probate court as long as the receiving court has jurisdiction over the subject matter of the suit. *Alpert v. Gerstner*, 232 S.W.3d 117 (Tex. App. – Houston [1st Dist.] 2006, pet. denied).

d. Other considerations

Texas has mandatory venue statutes, and some are found at TEX. CIV. PRAC. & REM. CODE §15.001 *et seq.* For example, an action to recover real property must be filed in the county where the land is located. TEX. CIV. PRAC. & REM. CODE §15.011. Though the probate venue statute does not claim to prescribe mandatory venue [*See* §6], at least one Texas case has flatly stated that the statute is in fact a mandatory statute. [In re Graham, 251 S.W.3d 844, 847 (Tex. App. - Austin 2008, no pet.] The Graham court made this statement with neither fanfare nor citation, and the statement appears to be the first such declaration by a Texas court. Assuming §6 is a "mandatory venue" provision, then if the decedent had been a Texas resident, the Applicant must probate the Will in the county where the decedent "resided." [*See* §6(a).] If the decedent was a nonresident of Texas, the applicant must "go down the line" of the statutory choices to determine the county in which the probate should be filed. [*See* §6(b)-(e).] Admitting a Will to probate in a county other than the one required by §6 will not affect the validity of orders issued by the initial court even if the case is later transferred to a different county. [*See* §8(d).]

The case of *Gonzalez v. Reliant Energy, Inc.,* 159 S.W.3d 615 (Tex. 2005), involved an attempted "snatch" under §5B (see discussion below), but was ultimately decided on venue grounds. When Mr. Gonzalez died, his probate was filed in the statutory probate court of Hidalgo County where venue was proper. His survivors filed a wrongful death and survivors action in the Hidalgo County probate court. They filed an identical suit in Harris County district court and then filed a motion under §5B to have the probate court transfer to itself the Harris County action. Reliant Energy objected to the transfer, claiming that the mandatory venue language of TEX.CIV. PRAC. & REM. CODE §15.007 controlled and the suit should remain in Harris County. The Supreme Court agreed; §15.007 trumped §5B when a proper objection was made. Interestingly, §5B was amended in 2003 (for cases

filed after 9/1/03) by the addition of a new subsection (b) which specifically states that the proper venue for a suit by or against a personal representative for personal injury, death or property damage is to be determined under §15.007. However, several appellate courts disagreed as to the interpretation of this statute for cases filed prior to 9/1/03, and the issue was not officially settled until the Supreme Court issued its decision in *Gonzalez*.

2. Trust disputes

Venue for trust disputes is determined by the character of the Trustee. If there is a single, non-corporate trustee, TTC §115.002(b) states that the action **shall be brought** in the county in which (1) the trustee resides or has resided at any time during the four-year period preceding the date the action is filed or (2) the situs of administration of the trust is maintained or has been maintained at any time during the four-year period preceding the date the action is filed.

If there are multiple trustees or a corporate trustee, TTC §115.002(c) requires that an action **shall be brought** in the county where the situs of administration is maintained or has been maintained during the four-year period preceding the filing of the suit. Alternatively, the action **may be brought** in the county where a corporate trustee maintains its principal office.

TTC §115.002 is a "mandatory venue" statute, so a suit under the TTC must be filed in a county of proper venue. If there is more than one county of "proper venue," the court can transfer the case to another "proper venue" county if the court determines that "for just and reasonable cause" the case should be transferred or if all parties agree.

B. Jurisdiction (TPC 4A – 4H, 5B; TTC 115.001)

Once the venue for the probate or trust action has been chosen, it is a fairly simple matter to choose the correct court. It is basically a process of elimination.

1. Probate disputes

a. Constitutional County Court

Texas has 254 counties, and each county was given a County Court under the Texas Constitution. TEX. CONST. ART. V, §15. Section 16 of Article V states that a County Court shall have "jurisdiction as provided by law." Section 29 of Article V states that a County Court "shall dispose of probate business." A unique feature of the Constitutional County Court (hereinafter referred to as "County Court") is that the judge can be a non-lawyer. *Ex parte Ross,* 522 S.W.2d 214, 220 (Tex. Cr. App. 1975), cert. denied, 423 U.S. 1018, 96 S.Ct. 454, 46 L.Ed.2d 390 (1975). The only qualification concerning legal knowledge or training is that a county judge be "well informed in the law of the State." *Id.*; TEX. CONST. ART. V, §15.

Section 4A(a) of the TPC states that all probate proceedings must by filed and heard in a court exercising "original probate jurisdiction." Further, the same section states that the court exercising original probate jurisdiction has jurisdiction of all matters "related to the probate proceeding" as defined by §4B of the TPC. Section 4C(a) of the TPC establishes the statutory role of a County Court and states that the County Court will have original probate jurisdiction if the county does not have either a County Court at Law or a Statutory Probate Court. Section 4B(a) lists the matters that can be heard by a County Court which has original probate jurisdiction.

If any portion of the probate is contested, §4D gives the county judge two options when there is no statutory probate court or statutory county court. First, the judge can request that the contested portion of the case be assigned to a statutory probate judge. Second, the contested matter can be transferred to a district court in the same county. In its discretion, the county judge may choose either option on his or her own initiative. However, if a party files a motion regarding one option or the other, the county judge must grant the requested relief. *In re Vorwerk,* 6 S.W.3d 781, 784 (Tex. App. – Austin 1999, orig. proceeding). Whether the contested matter is transferred to a District Court or assigned to a statutory probate judge, any additional contested matters filed later must also be sent to the same destination pursuant to §4D(h).

If any party wishes to file a "preemptive strike," §4D(c) allows the party to request that any contested matter be transferred to District Court or that it be assigned to a statutory probate judge even before a contest has been filed. Thereafter, if any disputes arise in the case at a later date, the contested portion must be sent as previously requested.

Section 4D(g) makes it clear that the County Court will continue to exercise jurisdiction over the uncontested portions of the case. The same subsection also adds a new concept. If the contested matter has been transferred to a District Court, any matter related to the probate proceeding may also be brought in the District Court. Thereafter, the District Court may on its own motion, or shall on the motion of a party, find that the new matter is not a contested matter and then transfer the new matter back to the County Court.

Even with the 2009 amendments to the TPC, there continues to be a conflict in the TPC regarding the handling of contested

matters by the County Court. As stated above, §4D appears to give a county judge only two options regarding a contested matter – transfer to District Court or have a statutory probate judge assigned. However, another option is found in §4E. If there is a Statutory County Court at Law in the county, the county judge can also transfer the contested portion of the case to that court. As with §4E, the transfer can be done on the judge's own motion or on the motion of a party. Note that the "preemptive strike" allowed by §4D(c) does not allow a party to request a transfer to a Statutory County Court at Law prior to the existence of a contest.

b. Statutory County Court at Law

As populations have increased over the years, the legislature has created county courts at law in some of the more populous counties. Unlike the Constitutional County Court, the judge of a Statutory County Court at Law must be a lawyer. *See* TEX. GOV'T CODE §25.0014. Every such court has been created by a specific act of the legislature, and its exact jurisdiction can be found in the Texas Government Code. According to §4C(b), probate matters can be filed in either the Constitutional County Court or in the Statutory County Court at Law in those counties which have both courts. Nevertheless, the attorney would be wise to check with both courts before filing a case; in some counties with a Statutory County Court at Law, the Constitutional County Court continues to be the proper place to file probate actions. The decision on which court hears probate matters is usually made by an agreement between the judges, and the "rule" can change with each election.

Statutory Probate Courts are currently found in the ten largest Texas counties: Bexar, Collin, Dallas, Denton, El Paso, Galveston, Harris, Hidalgo, Tarrant and Travis.

New §4B(b) shows that Statutory County Court at Law can hear all matters listed for the Constitutional County Court in §4B(a) *plus* cases dealing with the interpretation and administration of testamentary trusts (if the will which created the trust was admitted to probate by that court) and cases dealing with the interpretation and administration of an intervivos trust created by a decedent whose will was admitted to probate by that court. This represents a big change in the law. Prior to the passage of SB 408, Statutory County Courts at Law could not hear cases involving either testamentary or intervivos trusts, even if the will of the decedent/settlor had been admitted to probate in that court. New §4B(b) is effective for cases filed on or after 9/1/09. However, the statute does not define the word "cases." It could mean that as long as the trust construction matter is filed after 9/1/09 the County Court at Law can hear it. Alternatively, the new statute could be interpreted to deny jurisdiction to the County Court at Law over trust disputes unless the probate is filed on or after 9/1/09.

A county court at law has limited "dollar amount" jurisdiction in civil cases. However, the limitation imposed by statute does not apply to a county court at law sitting in probate. *Hailey v. Siglar,* 194 S.W.3d 74 (Tex. App. – Texarkana 2006, pet. denied).

c. Statutory Probate Court

In the most populous counties, the Texas Legislature has created courts which hear only probate matters. Statutory Probate Courts are currently found in the ten largest Texas counties: Bexar, Collin, Dallas, Denton, El Paso, Galveston, Harris, Hidalgo, Tarrant and Travis. If venue lies in one of these counties, the jurisdictional rule is very simple; the case must be filed in the Statutory Probate Court because it has original probate jurisdiction for that county. *See* §4C(c). According to new §4B(c), a Statutory Probate Court can hear all matters that can be heard by a County Court (§4B(a)) or a Statutory County Court at Law (§4B(b)) *plus* any cause of action in which a personal representative of an estate pending in that court is a party in that party's representative capacity.

In addition to the language in §4B(c), §4F states that a Statutory Probate Court has exclusive jurisdiction over all probate proceedings, whether contested or uncontested. Any cause of action related to the probate proceeding must be filed in the Statutory Probate Court unless a District Court has concurrent jurisdiction as defined in §4H.

Section 4G further expands the jurisdiction of the Statutory Probate Court by including any actions by or against a trustee or any action involving an inter vivos, testamentary or charitable trust. A Statutory Probate Court also has jurisdiction to hear matters related to a power of attorney and the agent named therein.

d. District Court

A District Court does not have original probate jurisdiction. In other words, a Decedent's Will may not be filed for probate in a District Court. Instead, a District Court can generally assist only in cases which are filed in counties which do not have either a Statutory Probate Court or a County Court at Law *and* where a contested matter has arisen in the County Court which has been transferred.

See §4D. Once the contested matter is resolved, the District Court must transfer the resolved portion of the case back to the County Court. *See* §4D(f). The new exception to involvement by a District Court allows a matter related to the probate proceeding to be filed in the District Court after a contested matter has been transferred there. *See* §4D(g).

e. Concurrent Jurisdiction

According to §4H, a Statutory Probate Court has concurrent jurisdiction with the District Court in:

(1) a personal injury, survival or wrongful death action by or against a person in the person's capacity as a personal representative;
(2) an action by or against a trustee;
(3) an action involving an inter vivos trust, a testamentary trust or a charitable trust;
(4) an action involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate;
(5) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and
(6) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

This means that any action described in the preceding sentence may be initiated in either court. When there is concurrent jurisdiction between two courts, the court in which suit is first filed acquires dominant jurisdiction to the exclusion of coordinate courts. *Bailey v. Cherokee County Appraisal District,* 862 S.W.2d 581 (Tex. 1993).

Some Texas courts have held that exclusive original jurisdiction to determine heirship lies with the court sitting in probate. *Palmer v. Coble Wall Trust Co., Inc.,* 851 S.W.2d 178 (Tex. 1992). Under the interpretation of *Palmer* and others, the District Court has no such original jurisdiction. However, if the original probate action was filed in a constitutional county court, and if a dispute later arose on the issue of heirship, the matter could be transferred to district court.

Other Texas courts have held that a District Court could make an heirship determination if the issue was ancillary to another matter pending in the court when no administration was pending in a probate court. In *Bell v. Hinkle*, 562 S.W.2d 35 (Tex. Civ. App. – Houston [14th Dist.]1978, no writ), the district court's jurisdiction was questioned when an ancillary issue involved a determination of the heirs of a decedent. The appellate court found that the primary cause of action was trespass to try title and was not the "settlement, partition or distribution of an estate." Based upon that finding, the appellate court held that the district court had proper jurisdiction. A dissenting opinion in *Jeter v. McGraw*, 218 S.W.3d 850 (Tex. App. – Beaumont 2007, pet. denied) gives a good discussion as to when Texas courts have found that a district court can determine heirship.

f. "A Matter Related to a Probate Proceeding"

Before the actions of the 2009 Legislature, §5A defined the types of matters that a court could consider when hearing a probate case as those which were "appertaining to an estate" or "incident to an estate." New §4B eliminates those phrases and instead defines jurisdiction as matters "related to a probate proceeding." As stated above, §4B is divided into three sections. Section 4B(a) defines the issues that can be considered by a County Court, §4B(b) defines what can be considered by a Statutory County Court at Law, and §4B(c) defines the issues which can be considered by a Statutory Probate Court.

The term "probate proceeding" is now synonymous with the term "probate matter" pursuant to §3(bb) of the TPC. That section defines both terms as a matter or proceeding related to the estate of a decedent, including the probate of a will (with or without administration), the issuance of letters testamentary or of administration, heirship determinations, small estate affidavits, community property administrations, homestead and family allowances, actions related to the probate of a will or an estate administration (including claims for money owed by the decedent), claims arising from an estate administration, the settling of a personal representative's account of an estate, and the partition or distribution of an estate.

g. Power to Snatch

Section 5B confers on statutory probate courts the unrivaled power to "snatch" a case from any other court (District Court; Constitutional County Court; Statutory County Court at Law) in Texas and bring it to the probate court if there is an estate pending in the "destination" court and if the "snatched" matter is related to a probate proceeding pending in the "destination" court. The "snatch" can also be made if the cause of action in the other court involves a personal representative who is also involved in the probate action. (Note that the power to "snatch" does not allow the probate court to transfer a trust case from another court, even if it is a testamentary trust.) Prior to the actions of the 2009 Legislature, §5B allowed transfers if the matter was "appertaining to" or "incident to"

a matter pending in the destination court. Because of that language, all cases previously interpreting §5B did so by using the old language. Even though the phrase has been changed, it is presumed that courts' interpretations of the new definition found in §3(bb) will not cause different results since the new definition is very similar to the interpretations of the prior language.

Previously, a cause of action was "appertaining to or incident to an estate" if the TPC "explicitly defines it as such or if the controlling issue in the suit is the settlement, partition, or distribution of an estate." *In re SWEPI, L.P.*, 85 S.W.3d 800 (Tex. 2002). In *SWEPI,*, the trial court used §5B to transfer a case to itself which involved payments on an overriding royalty interest to the decedent's estate. Though the Court of Appeals in Fort Worth refused to issue mandamus relief to undo the transfer, the Supreme Court disagreed, finding that the controlling issue in the transferred case was NOT the settlement, partition or distribution of the estate. For this latter proposition, the Supreme Court cited *In re Graham,* 971 S.W.2d 56, 58 (Tex. 1998).

The statutory probate court can make the transfer either *sua sponte* or on the motion of a party. In other words, it is not required to get the consent of the other court or to even give advance notification to the other court. The purpose of §5B is to allow a Statutory Probate Court to consolidate all causes of action which are incident to an estate so that the estate can be efficiently administered. *Henry v. LaGrone,* 842 S.W.2d 324, 327 (Tex. App. – Amarillo 1992, no writ). This "power to snatch" was, until recently, thought to give the Statutory Probate Court a nearly unbridled right to pull cases into its court if the case involved the personal representative of an estate. However, the Texas Supreme Court recently stated that the Statutory Probate Court in Hidalgo County could not transfer a wrongful death case from a Harris County District Court because venue of the case was not properly in Hidalgo County under TEX. CIV. PRAC. & REM. CODE §15.007. *Gonzalez v. Reliant Energy, Inc.,* 159 S.W.3d 615, 621 (Tex. 2005). The *Gonzalez* case is widely viewed as limiting the applicability of the *Henry* decision when one of the mandatory venue statutes applies to a case. Regarding actions by or against a personal representative of an estate which involve personal injury, death or property damages, §5B(b) clearly states that §15.007 will control as to proper venue for such action. Although *Gonzalez* is often cited as a "jurisdiction" decision, it was obviously decided on "venue" grounds and not on jurisdiction.

The case of *Schuchmann v. Schuchmann,* 193 S.W.3d 598 (Tex. App. – Fort Worth 2006, pet. denied) involved the attempted "snatch" under §5B of a divorce action. While a trust dispute was pending in the probate court of Denton County, a divorce action was pending in a district court. The probate court attempted to move the divorce case into the probate court, but the order was not enforced. Later, the probate court attempted to exercise jurisdiction over a post-divorce battle regarding attorney's fees. The Court of Appeals ruled that the probate court lacked jurisdiction and voided its summary judgment on the issue.

On the other hand, a Statutory Probate Court can transfer a divorce action from a district court to itself when the divorce involves a Ward in a pending guardianship. In the case of *In re Graham*, 971 S.W.2d 56 (Tex. 1998), the Supreme Court approved the transfer under §608 of the TPC. Section 608 is in the guardianship section of the TPC and is the twin of §5B.

2. Trust disputes

Jurisdiction for trust disputes lies in either a Statutory Probate Court, a County Court at Law or a District Court. TPC §4B states that only a Statutory Probate Court or a County Court at Law (and not a constitutional county court) has jurisdiction to interpret and administer testamentary trusts or to apply a constructive trust. Jurisdiction over trust matters is also given to district courts in TTC §115.001. In that section, the jurisdiction given to a district court is much more broad than what is listed in TPC §4B. In §115.001, the district court is given "original and exclusive jurisdiction over all proceedings concerning trusts, including proceedings to:

(1) construe a trust instrument;
(2) determine the law applicable to a trust instrument;
(3) appoint or remove a trustee;
(4) determine the powers, responsibilities, duties, and liability of a trustee;
(5) ascertain beneficiaries;
(6) make determinations of fact affecting the administration, distribution, or duration of a trust;
(7) determine a question arising in the administration or distribution of a trust;
(8) relieve a trustee from any or all of the duties, limitations, and restrictions otherwise existing under the terms of the trust instrument or of this subtitle;
(9) require an accounting by a trustee, review trustee fees, and settle interim or final accounts; and
(10) surcharge a trustee."

Section 115.001(d) states that the jurisdiction of a district

court over proceedings concerning trusts is exclusive except for jurisdiction conferred by law on a statutory probate court.

Under prior law, if a decedent's estate was properly probated in a statutory county court at law, a subsequent dispute to construe or modify a testamentary trust in the Decedent's Will must be filed in a district court. *In re Stark,* 126 S.W.2d 635 (Tex. App. – Beaumont 2004, orig. proceeding); *Schuele v. Schuele,* 119 S.W.2d 822 (Tex. App. – San Antonio 2003, no pet.). For cases filed on or after 9/1/09, actions concerning trusts can be filed and heard in by a County Court at Law based upon new §4B of the TPC if the trust dispute is a matter related to a probate proceeding in that court.

C. Conclusion

As understated so aptly by the court in *Palmer,* probate jurisdiction is "*somewhat* complex." (Emphasis added). To the contrary, this brief paper should make clear that probate and trust jurisdiction is extremely complex. If the correct venue is chosen, however, placing the case in the correct court should be relatively easy, especially if court staff are consulted before anything is filed.

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[1] *Jurisdiction and Venue in Will and Trust Disputes*, State Bar of Texas, 31st Annual Advanced Estate Planning & Probate Course (2007).