# Avoid Landing in the Wrong Court

Getting Your Case Safely to Its Correct Destination



## Demographic Make-Up of the Venue

## Federal vs. State Court Venues

## Western District of Texas Austin Division

Travis County District

- & Bastrop & Lee

& Travis

- & Blanco & Llano
- k Burleson k Mason
- & Burnet & McCulloch
- k Caldwell k San Saba
- & Gillespie & Travis

- k Hays k Washington
- k Kimble k Williamson
- & Lampasas

## Federal vs. State Court Venues

- & Socio-Economics
- & Politics
- & Age
- & Education
- & Rural/Urban
- & Ethnicity
- & Religion



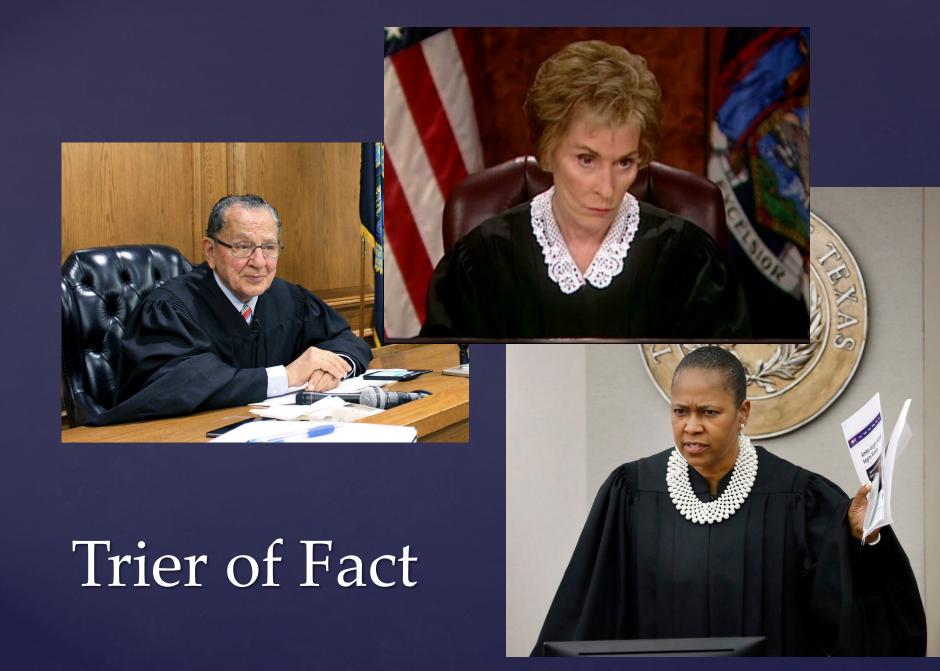
## Factors to Consider

g If so, how?

ø During your case?

## Demographic Trends

## Analyze Prior Jury Verdicts



& Appointed or Elected?

& Personal and Professional Background?

Background



- & Analyze prior verdicts/rulings

## On the Bench



Motions to Transfer

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Must be filed "concurrently with or before the filing of the answer." Tex. Civ. Prac. & Rem. Code 15.002(b)

#### & Appeals

- ø Post-Judgment: 30 days after the judgment is signed. Tex. R. App. P. 26.1.

## Timing of A Motion to Transfer & Appeal

- \[
   \times \text{Texas Civil Practice and Remedies Code Sec. 15.002(a)(1) \\
   \]
   requires a venue where all or a substantial part of the events or omissions giving rise to the claim occurred.
  - Totality of Events v. Essential Elements. S. Cty. Mut. Ins. Co. v. Ochoa, 19 S.W.3d 452, 458-60 (Tex. App.—Corpus Christi 2000, no pet.).
  - In re Berry GP, Inc., 530 S.W.3d 201 (Tex. App. − Beaumont 2016, no pet.)
  - Claim-specific does not include damages
- - Witnesses' location may not be used to maintain venue. Chiriboga v. State Farm Auto. Ins. Co., 96 S.W.3d 673 (Tex. App.—Austin 2003, no pet.)

#### k Texas Civil Practice & Remedies Code Sec. 15.002(a)(3) € Texas Civil Practice & Remedies Code Sec. 15.002(a)(3)

- Principal office is located where decision makers conduct daily affairs. Tex. Civ. Prac. & Rem. Code Sec. 15.001(a); *In re Missouri Pacific Railroad Co.*, 998 S.W.2d 212 (Tex. 1999).
- A principal office is not any place where a company official makes decisions about the company's business. *In re Mo. Pac.*, 998 S.W.2d 212 (Tex. 1999).
- A mail box location may not constitute a principal office. *Hertz Corp. v. Friend*, 559 U.S. 77, 130 S.Ct. 1181 (2010).

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- Tex. Civ. Prac. & Rem. Code Sec. 15.003(b) trumps Sec. 15.064, which broadly states, "[n]o interlocutory appeal shall lie from the determination [of venue questions]." Shamoun & Norman LLP v. Yarto Int'l Grp. LP, 398 S.W.3d 272, 285 (Tex. App.—Corpus Christi 2012, pet. dism'd).

#### & Texas Rule of Civil Procedure 89

ø If a motion to transfer is granted, Plaintiff must pay "the costs incurred prior to the time such suit is filed in the court to which said case is transferred."

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