

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
Court

⌘ Bastrop	⌘ Lee	⌘ Travis
⌘ Blanco	⌘ Llano	
⌘ Burleson	⌘ Mason	
⌘ Burnet	⌘ McCulloch	
⌘ Caldwell	⌘ San Saba	
⌘ Gillespie	⌘ Travis	
⌘ Hays	⌘ Washington	
⌘ Kimble	⌘ Williamson	
⌘ Lampasas		

Federal vs. State Court Venues

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



Factors to Consider

- ⌘ Have the demographics changed in your venue over the last 5 years?
 - ⌘ If so, how?
- ⌘ Is it likely to change?
 - ⌘ During your case?

Demographic Trends

Analyze Prior Jury Verdicts



Trier of Fact

& Appointed or Elected?

& Political Leaning?

& Personal and Professional Background?

Background



- ⌘ Does this judge favor judicial activism?
- ⌘ Does this judge typically try these types of cases?
- ⌘ Analyze prior verdicts/rulings

On the Bench



Motions to Transfer

⌘ Motions to Transfer

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

⌘ Appeals

- ⌘ Interlocutory: 20 days after the order is signed. Tex. R. App. P. 26.1(b).
- ⌘ Post-Judgment: 30 days after the judgment is signed. Tex. R. App. P. 26.1.

Timing of A Motion to Transfer & Appeal

⌘ 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

⌘ Texas Civil Practice and Remedies Code Sec. 15.002(b)

⌘ 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.)

Rules and Cases to Know

⌘ 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).

Rules and Cases to Know

⌘ Texas Civil Practice and Remedies Code Sec. 15.003(b)

- ⌘ In cases involving multiple plaintiffs, a limited right to interlocutory appeals to challenge a court's venue determination exists. *Flare Air v. Burton*, 2019 WL 166834 (Tex. App.—Texarkana Jan. 11, 2019, no pet).
- ⌘ 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. dismiss’d).

Rules and Cases to Know

⌘ Texas Rule of Civil Procedure 89

⌘ 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.”

Rules and Cases to Know

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