## PROPERTY CODE

### Original and exclusive jurisdiction

Sec.115.001 JURISDICTION. (a) Except as provided by Subsection (d) of this section, a district court has original and exclusive jurisdiction over all proceedings by or against a trustee and all proceedings concerning trusts

(c) The court may intervene in the administration of a trust to the extent that the court’s jurisdiction is invoked by an interested person or as otherwise provided by law. **A trust is not subject to continuing judicial supervision unless the court orders continuing judicial supervision.**

(d)The jurisdiction of the district court is exclusive except for jurisdiction conferred by law on:

(1)a statutory probate court;

## ESTATES CODE

Independent Administration §401.001 – 405.012

### Estates Code 402.001 No further action of any nature

Tex. Estates Code Sec. 402.001. GENERAL SCOPE AND EXERCISE OF POWERS. When an independent administration has been created, and the order appointing an independent executor has been entered by the probate court, and the inventory, appraisement, and list of claims has been filed by the independent executor and approved by the court or an affidavit in lieu of the inventory, appraisement, and list of claims has been filed by the independent executor, as long as the estate is represented by an independent executor, further action of any nature may not be had in the probate court except where this title specifically and explicitly provides for some action in the court. Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.53,eff. January 1, 2014.

### Estates Code 34.001 TRANSFER TO STATUTORY PROBATE COURT

* Sec. 34.001. TRANSFER TO STATUTORY PROBATE COURT OF PROCEEDING RELATED TO PROBATE PROCEEDING. (a) A judge of a statutory probate court, on the motion of a party to the action or on the motion of a person interested in an estate, may transfer to the judge's court from a district, county, or statutory court a cause of action related to a probate proceeding pending in the statutory probate court **or** a cause of action in which a personal representative of an estate pending in the statutory probate court is a party and may consolidate the transferred cause of action with the other proceedings in the statutory probate court relating to that estate.

(b) Notwithstanding any other provision of this subtitle, Title 1, Chapter 51, 52, 53, 54, 55, or 151, or Section 351.001, 351.002, 351.053, 351.352, 351.353, 351.354, or 351.355, the proper venue for an action by or against a personal representative for personal injury, death, or property damages is determined under Section 15.007, Civil Practice and Remedies Code. Added by Acts 1983, 68th Leg., p. 5228, ch. 958, Sec. 1, eff. Sept.1, 1983. Amended by Acts 1999, 76th Leg., ch. 1431, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 204, Sec. 3.06, eff. Sept.

## LOCAL RULES

* Local Rule 2.6.5 No living Trusts unless pending probate / Case is not in the probate court /

Local Rule 2. 7 New Filings. Those matters which are within the jurisdiction of the probate court but which are not part of a pending matter will be designated new files and assigned to a court and given a cause number as in Rule 2.2. Examples include, by description and not by way of limitation:

2.7.1 lnter vivos Trust Action (where settlor is still living);

2.7.3 Sale of a ward's interest in property;

Local Rule 11.3 Date of Setting. Contested cases shall be set for trial for a date certain. More than one case may be set for the same time or day and, if so, the cases will be heard in the order established by court, If a case is not assigned to trial within 10 days of its setting date, the court shall conduct another scheduling conference, set a new trial date, or sign a new docket control order.

### Nolle prosequi

* Local Rule: DISMISSAL DOCKETS

7.1 Want of Prosecution. All contested cases which are not set for trial and which have been on file for more than three (3) years are subject to dismissal. Upon request of the court, the court staff shall furnish notice to all parties and their counsel that any contested case will be dismissed for want of prosecution pursuant to the provisions of Rule 165a of the Texas Rules of Civil Procedure. The procedures for notice of dismissal and retention shall be in compliance with Rules l65a and 306a of the Texas Rules of Civil Procedure.

## GOVERNMENT CODE

* Government Code 1034(a) repealed
* Government Code 25.0021 is controlling

## CASE LAW

* Once the court is on notice that it lacks jurisdiction it has no discretion and must dismiss
* Full Faith and Credit / trust contains no estate assets
* -401 Case is not in the probate court /
* Abate

## INJUNCTION

* No new business without Court Approval
* Mendel claims the trust has incurred fees without prior court permission for “the trust” to incur any fees.

## GOVERNMENT CODE

TEX. GOV'T CODE ANN. § 25.1034(a) “Repealed by Acts 2001, 77th Leg., ch. 635, Sec. 3(2), eff. Sept. 1, 2001.” Tex. Gov't Code § 25.1034

Sec.25.0021. JURISDICTION. (a) If this section conflicts with a specific provision for a particular statutory probate court or county, the specific provision controls, except that this section controls over a specific provision for a particular court or county if the specific provision attempts to create jurisdiction in a statutory probate court other than jurisdiction over probate, guardianship, mental health, or eminent domain proceedings.

(b) A statutory probate court as that term is defined in Section 22.007(c), Estates Code, has:

(1) the general jurisdiction of a probate court as provided by the Estates Code; and

(2)the jurisdiction provided by law for a county court to hear and determine actions, cases, matters, or proceedings instituted under: (A) Section 166.046, 192.027, 193.007, 552.015, 552.019, 711.004, or 714.003, Health and Safety Code;

(B) Chapter 462, Health and Safety Code; or

(C) Subtitle C or D, Title 7, Health and Safety Code.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 4.01, eff. Sept. 1,1987. Amended by Acts 2001, 77th Leg., ch. 635, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.023, eff. September 1, 2017.

https://capitol.texas.gov/BillLookup/History.aspx?LegSess=77R&Bill=HB689