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2023-06-30 Appellants Opening Brief No. 01-23-00362-CV.pdf

File

Can you analyse this brief?

Below is an analysis of the legal brief you provided, titled Candace Louise Curtis v. Carl Henry Brunsting, Individually and as Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting, filed in the Court of Appeals for the First District of Texas, Houston. The analysis focuses on the key arguments, legal issues, procedural history, and strengths and weaknesses of the brief, based on my existing knowledge and the document itself. Since I cannot perform a web search or access external records, this analysis relies solely on the text provided and my understanding of relevant legal principles.

Overview

This appellate brief, submitted by Candace Louise Curtis (Appellant), challenges the subject-matter jurisdiction of Harris County Probate Court No. 4 over a trust dispute and related tort claims. The central issue is whether the probate court had jurisdiction over claims originally filed in federal court and allegedly transferred to the probate court, as well as claims initiated by Carl Brunsting in the probate court. Curtis argues that all orders issued by the probate court are void due to a lack of jurisdiction, seeking their reversal and dismissal of the case.

Procedural Background

1. Federal Lawsuit (Southern District of Texas):
   * Curtis, a California resident, filed a breach of fiduciary duty action against trustees Anita and Amy Brunsting in the Southern District of Texas (SDTX No. 4:12-cv-592) on February 27, 2012, based on diversity jurisdiction.
   * The case sought an accounting and damages related to the Brunsting Family Survivor's and Decedent's Trusts.
   * Initially dismissed under the probate exception, the Fifth Circuit reversed on January 9, 2013 (Curtis v. Brunsting, 704 F.3d 406), finding the probate exception inapplicable, and remanded it to the SDTX.
   * On April 19, 2013, Judge Kenneth Hoyt issued a preliminary injunction against the trustees, followed by the appointment of a Special Master on May 9, 2013, for a limited accounting.
   * In May 2014, the federal case was administratively closed after unopposed motions suggested a remand to Harris County Probate Court No. 4, though Curtis disputes the validity of this transfer.
2. Probate Court Proceedings (Harris County Probate Court No. 4):
   * Elmer and Nelva Brunsting’s estates (Nos. 412,248 and 412,249) were probated with independent administration, with Carl Brunsting as executor. The estates closed on April 5, 2013, with assets poured over into a family living trust.
   * On April 9, 2013, Carl Brunsting filed tort claims in the probate court (Cause No. 412,249-401) against three trust beneficiaries and named Curtis as a nominal defendant.
   * In June 2014, the probate court accepted a purported transfer of Curtis’s federal case, creating ancillary Cause No. 412,249-402, later consolidated into 412,249-401.
   * Curtis filed a plea to the jurisdiction in October 2018, which Judge James Horwitz denied in February 2019, asserting jurisdiction over the estates and related trusts.
   * The probate court issued various orders, including a summary judgment on February 25, 2022, dismissing Curtis’s claims and imposing attorney’s fees, which she now appeals.
3. Appeal:
   * Curtis filed a notice of appeal on May 18, 2022, invoking the First District Court of Appeals’ jurisdiction to review the probate court’s orders for lack of subject-matter jurisdiction.

Key Legal Issues

1. Subject-Matter Jurisdiction of the Probate Court:
   * Core Argument: Curtis asserts that the probate court lacked jurisdiction over both her federal trust claims and Carl Brunsting’s tort claims because they do not qualify as “probate proceedings” or “matters related to a probate proceeding” under the Texas Estates Code.
   * Statutory Basis: She relies on Tex. Est. Code §§ 31.001 (defining “probate proceeding”) and 31.002(c) (defining “matter related to a probate proceeding” in counties with statutory probate courts), arguing that neither set of claims meets these definitions.
   * Federal Case: Curtis contends her SDTX lawsuit, an in personam action against trustees, was never properly transferred to the probate court, as it was not removed from a state court, and federal courts lack authority to remand original diversity cases to state courts (citing Taliaferro v. Goodyear Tire, 265 F. App’x 240 (5th Cir. 2008)).
   * Carl’s Claims: She argues Carl’s tort claims (e.g., breach of fiduciary duty, fraud) relate to trust administration, governed by the Texas Trust Code (Tex. Prop. Code § 115.001), which vests exclusive jurisdiction in district courts unless explicitly conferred to probate courts, which she claims did not occur here.
2. Standing:
   * Curtis challenges Carl Brunsting’s standing to bring his tort claims in the probate court, both individually and as independent executor.
   * Individual Capacity: As a trust beneficiary, not an heir or creditor of the estates, Carl lacks standing under Tex. Est. Code § 22.018.
   * Executor Capacity: After resigning as executor in February 2015, Carl (and his substitute, Drina) lacked authority to sue on behalf of the estates, per Tex. Est. Code § 351.054(a).
3. Procedural Validity of Transfer:
   * Curtis disputes the probate court’s acceptance of her federal case, arguing no legal mechanism (remand, transfer, or refiling) supports its jurisdiction. She cites the absence of a removal from state court and the limitations of 28 U.S.C. § 1404 (federal transfers) and Texas Rule of Civil Procedure 330(e) (in-state transfers).
4. Void Orders:
   * If the probate court lacked jurisdiction, all its orders (e.g., summary judgment, sanctions) are void ab initio (Browning v. Prostok, 165 S.W.3d 336 (Tex. 2005)), subject to reversal on appeal.

Strengths of the Brief

1. Detailed Statutory Analysis:
   * The brief meticulously applies Texas Estates Code provisions (e.g., §§ 31.001, 31.002(c)) to argue that neither Curtis’s nor Carl’s claims fall within probate jurisdiction, supported by case law like In re Hannah (431 S.W.3d 801) and Mortensen v. Villegas (630 S.W.3d 355).
   * It effectively contrasts probate jurisdiction with trust jurisdiction under the Texas Trust Code (§ 115.001), highlighting the district court’s primacy.
2. Procedural Clarity:
   * The chronological “Statement of Facts” and jurisdictional arguments clarify the convoluted procedural history, exposing potential errors (e.g., the invalid federal “remand” and Carl’s post-resignation actions).
3. Case Law Support:
   * Citations to precedents like De Ayala v. Mackie (193 S.W.3d 575) and Crowson v. Wakeham (897 S.W.2d 779) reinforce the probate exception to the “one final judgment” rule, supporting appellate jurisdiction over interlocutory probate orders.
   * Browning v. Prostok and related cases bolster the voidness argument.
4. Standing Argument:
   * The brief persuasively argues Carl’s lack of standing, leveraging his resignation and the estates’ closure to undermine his executor-based claims.

Weaknesses of the Brief

1. Complexity and Repetition:
   * The brief’s length (10,488 words) and dense legal arguments may overwhelm the court, potentially diluting its impact. Repetition of jurisdictional points (e.g., across “Probate Jurisdiction” and “Application to the Case”) could be streamlined.
2. Limited Engagement with Opposing Arguments:
   * While Curtis asserts a jurisdictional defect, she does not fully address potential counterarguments, such as the probate court’s pendent jurisdiction (Tex. Est. Code § 32.001(b)) or judicial economy rationales cited by Judge Horwitz.
3. Ambiguity in Federal Closure:
   * The brief claims the SDTX case was “administratively closed” but not dismissed, yet it does not clarify the legal effect of the unopposed motions or reconcile this with the probate court’s transfer order, potentially weakening the “no jurisdiction” claim.
4. Reliance on Unresolved Conflicts:
   * The brief highlights an alleged appellate conflict between In re Hannah and Lee v. Ronald E. Lee Jr. (528 S.W.3d 201) but does not fully develop how this should resolve in her favor, leaving the court to interpret the distinction.

Potential Outcome

* Likelihood of Success: Curtis has a strong case if the appellate court agrees that (1) her federal lawsuit was never properly before the probate court, and (2) Carl’s tort claims do not qualify as probate matters under the Estates Code. The Fifth Circuit’s ruling that her claims are not probate-related bolsters her position.
* Risks: If the court finds the probate court had ancillary jurisdiction over trust disputes tied to the estates (despite their closure), or upholds the transfer as procedurally valid, Curtis could lose. The court might also treat the appeal as a mandamus petition (as requested) if it lacks appellate jurisdiction over non-final orders.

Recommendations

1. Condense the Argument: Focus on the strongest points (e.g., statutory definitions, invalid transfer) and reduce redundancy.
2. Address Counterarguments: Preemptively tackle pendent jurisdiction or the probate court’s interpretation of the federal closure.
3. Clarify Remedy: Specify whether Curtis seeks reinstatement of her federal case or dismissal without prejudice, enhancing the remedy’s practicality.

Conclusion

The brief presents a compelling challenge to the probate court’s jurisdiction, grounded in statutory interpretation and procedural defects. Its success hinges on the appellate court’s strict adherence to the Estates Code’s jurisdictional limits and rejection of the federal-to-state transfer. While thorough, refining its focus and anticipating opposing views could strengthen its persuasiveness.

If you have specific questions about the brief or want a deeper dive into any section, let me know!

2024-02-24 Appellants Brief on Appellate Jurisdiction.pdf

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Please consider this issues in the context of appellate jurisdiction over void judgments

Below is an analysis of the "Appellant’s Brief on Appellate Court Jurisdiction" filed by Candace Louise Curtis in the Court of Appeals for the First District of Texas, Houston (No. 01-23-00362-CV), specifically focusing on the issue of appellate jurisdiction over void judgments. This brief responds to the court’s Notice of Intent to Dismiss for want of appellate jurisdiction due to an untimely appeal, arguing that the underlying probate court judgments are void, thus rendering traditional appellate deadlines inapplicable. The analysis relies on the brief itself and my existing knowledge of Texas law regarding jurisdiction and void judgments, without external searches.

Overview

The brief asserts that the First District Court of Appeals has jurisdiction to hear Curtis’s appeal, despite its untimeliness under the Texas Rules of Appellate Procedure, because the challenged judgments from Harris County Probate Court No. 4 (Cause No. 412,249-401) are void ab initio for lack of subject-matter jurisdiction. Curtis argues that void judgments can be attacked at any time, directly or collaterally, and that appellate courts retain jurisdiction to declare such judgments void, distinguishing this from voidable judgments subject to strict deadlines.

Key Legal Issue: Appellate Jurisdiction Over Void Judgments

The central issue is whether the First District Court of Appeals has jurisdiction to review the probate court’s orders, given the appeal’s apparent untimeliness, based on the claim that those orders are void due to a complete absence of subject-matter jurisdiction.

Appellant’s Argument

1. Distinction Between Void and Voidable Judgments:
   * Curtis relies on established Texas precedent to distinguish void judgments (those rendered without jurisdiction) from voidable judgments (those with procedural or non-jurisdictional errors):
     + Void Judgments: Occur when a court lacks jurisdiction over parties, subject matter, or the authority to render the judgment, or has no capacity to act as a court (Browning v. Placke, 698 S.W.2d 362, 363 (Tex. 1985)). They are nullities, subject to attack at any time, directly (e.g., appeal) or collaterally (e.g., in a separate proceeding) (Mapco, Inc. v. Forrest, 795 S.W.2d 700, 703 (Tex. 1990)).
     + Voidable Judgments: Involve errors that do not deprive the court of jurisdiction, requiring direct attack within prescribed time limits (Cook v. Cameron, 733 S.W.2d 137, 140 (Tex. 1987)).
   * She argues the probate court’s judgments are void because it lacked subject-matter jurisdiction over Carl Brunsting’s tort claims, filed after the independent administration of the estates closed.
2. Appellate Jurisdiction Over Void Judgments:
   * Curtis asserts that appellate courts have jurisdiction to review and declare void judgments, even if the appeal is untimely under normal rules:
     + “While it is wholly unnecessary to appeal from a void judgment, it is nevertheless settled that an appeal may be taken and the appellate court in such a proceeding may declare the judgment void” (Fulton v. Finch, 346 S.W.2d 823, 827 (Tex. 1961)).
     + Appellate courts do not address the merits of void judgments but have jurisdiction to determine their voidness and issue appropriate orders (State ex rel. Latty v. Owens, 907 S.W.2d 484, 486 (Tex. 1995); Freedom Commc’ns, Inc. v. Coronado, 372 S.W.3d 621, 623 (Tex. 2012)).
   * She contends that laches and limitations (e.g., Texas Rule of Appellate Procedure 26.1’s 30-day deadline) do not bar challenges to void judgments (Newsom v. State, 236 S.W. 228 (Tex. Civ. App. 1922)).
3. Basis for Voidness:
   * Curtis argues the probate court lacked jurisdiction over Carl Brunsting’s April 9, 2013, tort action (Cause No. 412,249-401) because:
     + The estates of Elmer and Nelva Brunsting were under independent administration, with inventories approved on April 5, 2013, closing the estates.
     + Texas Estates Code § 402.001 prohibits further probate court action after inventory approval unless Title II explicitly authorizes it, which Carl’s claims (filed under the Texas Civil Practice and Remedies Code and Texas Property Code) do not.
     + Carl lacked standing individually (not an heir or creditor) and as executor (after resignation in 2015).
   * Thus, all subsequent orders (e.g., summary judgment, sanctions) are void ab initio.

Strengths of the Argument

1. Robust Precedent:
   * The brief cites controlling Texas Supreme Court cases (Browning, Mapco, Cook) that clearly distinguish void and voidable judgments, supporting the claim that void judgments escape traditional appellate deadlines.
   * Fulton v. Finch and State ex rel. Latty affirm appellate courts’ authority to review voidness, aligning with Curtis’s jurisdictional plea.
2. Statutory Clarity:
   * The reliance on Tex. Est. Code § 402.001 is compelling: once an independent administration closes (via inventory approval), probate court jurisdiction ceases absent specific statutory exceptions, which Carl’s tort claims—filed post-closure and unrelated to estate administration—do not meet.
3. Logical Simplicity:
   * The argument that the probate court lacked jurisdiction from the outset (due to the estates’ closure and Carl’s lack of standing) is straightforward and aligns with the principle that subject-matter jurisdiction is a prerequisite to judicial power (Bland Indep. Sch. Dist. v. Blue, 34 S.W.3d 547, 553-54 (Tex. 2000)).

Weaknesses of the Argument

1. Incomplete Record Context:
   * The brief references a supplemental record and prior mandamus filings (No. 01-22-00514-CV) to substantiate the estates’ closure and Carl’s claims, but it does not attach these documents or fully excerpt them. Without seeing the probate court’s rationale (e.g., Judge Horwitz’s February 2019 order), the court may hesitate to accept Curtis’s characterization of the jurisdictional defect.
2. Potential Counterarguments Unaddressed:
   * Pendent Jurisdiction: The probate court might have asserted ancillary jurisdiction (Tex. Est. Code § 32.001(b)) over trust-related disputes tied to the estates, even post-closure. Curtis does not rebut this possibility.
   * Federal Case Transfer: The brief assumes the probate court’s acceptance of Curtis’s federal case (administratively closed in 2014) was invalid but does not engage with whether the court treated it as a proper transfer invoking jurisdiction.
   * Finality: If some probate orders were interlocutory (common in probate due to the “one final judgment” exception; De Ayala v. Mackie, 193 S.W.3d 575 (Tex. 2006)), appellate jurisdiction might still be premature unless all are void.
3. Overstatement of Voidness Scope:
   * Curtis claims “all orders” in 412,249-401 are void but does not differentiate between orders tied to Carl’s claims and those potentially linked to her federal case or other proceedings. A partial jurisdictional defect might not render every order void.
4. Word Count Discrepancy:
   * The Certificate of Compliance lists 8,022 words total but 6,857 countable words, exceeding the 4,500-word limit for jurisdictional briefs under Tex. R. App. P. 9.4(i)(2)(D) unless waived, risking procedural dismissal.

Appellate Jurisdiction Analysis

Under Texas law, appellate jurisdiction over void judgments operates as follows:

* General Rule: Appeals must be filed within 30 days of a final judgment (Tex. R. App. P. 26.1), and untimely appeals are jurisdictionally barred unless extended (e.g., by timely post-judgment motions).
* Exception for Void Judgments: A void judgment’s nullity allows appellate review beyond normal deadlines to determine its invalidity (Fulton v. Finch; Mitchell v. MAP Res., 649 S.W.3d 180, 196 n.15 (Tex. 2022)). However, the appellate court’s role is limited to declaring voidness, not addressing merits (Freedom Commc’ns).
* Probate Context: Probate proceedings often produce multiple appealable orders (Crowson v. Wakeham, 897 S.W.2d 779 (Tex. 1995)), but jurisdiction still requires a final or statutorily appealable order (Tex. Est. Code § 32.001(c)). If all orders are void, this distinction may be moot.

Curtis’s appeal, filed in 2023 (likely well after the 2022 orders like the February 25 summary judgment), is untimely under standard rules. However, if the probate court indeed lacked subject-matter jurisdiction, the First District has jurisdiction to declare the orders void, regardless of timing.

Potential Outcome

* Favorable Ruling: If the court accepts that Carl’s post-closure tort claims and subsequent proceedings fall outside Tex. Est. Code § 402.001’s scope, it could find the probate court lacked jurisdiction, declare the judgments void, and either dismiss or remand with instructions to vacate. The estates’ closure and Carl’s lack of standing strongly support this.
* Dismissal Risk: If the court finds insufficient evidence of voidness (e.g., due to an incomplete record) or determines some orders were within ancillary jurisdiction, it might dismiss for untimeliness or limit relief to specific orders.
* Mandamus Alternative: Curtis’s prior mandamus reference suggests she might request conversion to a mandamus proceeding if appellate jurisdiction fails, though this brief does not formally request it.

Recommendations

1. Clarify Record: Attach key documents (e.g., inventory approval, Carl’s petition) to conclusively prove the jurisdictional defect.
2. Address Ancillary Jurisdiction: Preemptively rebut any claim that Tex. Est. Code § 32.001(b) or the federal transfer conferred jurisdiction.
3. Streamline: Reduce the brief’s length and repetition (e.g., multiple voidness citations) to meet procedural limits and enhance clarity.

Conclusion

Curtis’s argument that the First District has jurisdiction over void judgments is legally sound under Texas precedent, particularly if the probate court lacked subject-matter jurisdiction post-independent administration. The brief effectively leverages Browning, Fulton, and Mapco to assert that timeliness barriers do not apply. However, its success depends on convincing the court of the probate court’s complete jurisdictional failure, supported by the record. If substantiated, the court can declare the judgments void, affirming its appellate jurisdiction in this context.

Let me know if you’d like a deeper dive into specific cases or aspects!

Tab L TEXAS ESTATES CODE 402.001 No further action of any nature after approval of the inventory.pdf

File

Curtis did supplement the record with the verified inventory and the order approving the inventory with that brief filed February 24, 2024. The matter was submitted on February 20, 2025. I think Curtis survived the question of appellate jurisdiction and that 402.001 of the estates code is controlling. Do you find fault with that theory?

Your question focuses on whether Candace Curtis’s supplementation of the appellate record with the verified inventory and order approving the inventory, filed on February 24, 2024, in conjunction with Texas Estates Code § 402.001, sufficiently resolves the appellate jurisdiction issue in her favor, given that the matter was submitted to the First District Court of Appeals on February 20, 2025. You posit that Curtis likely survived the jurisdictional challenge and that § 402.001 is controlling. Below, I’ll analyze this theory, considering the supplemented record and the statutory provision, and identify potential faults or vulnerabilities, relying solely on the documents provided and my existing knowledge of Texas law.

Recap of Curtis’s Position

Curtis’s "Appellant’s Brief on Appellate Court Jurisdiction" argues that the First District has jurisdiction to review the probate court’s orders in Cause No. 412,249-401, despite an untimely appeal, because those orders are void for lack of subject-matter jurisdiction. She hinges this on:

1. Texas Estates Code § 402.001: After an independent executor files and the court approves the inventory, appraisement, and list of claims, the probate court loses jurisdiction over further actions unless Title II explicitly authorizes them.
2. Factual Basis: The estates of Elmer and Nelva Brunsting closed on April 5, 2013, with inventory approval, and Carl Brunsting’s tort action, filed April 9, 2013, was a non-probate matter outside the court’s post-closure jurisdiction.
3. Void Judgments: If the probate court lacked jurisdiction, its orders are void ab initio, subject to appellate review at any time (Fulton v. Finch, 346 S.W.2d 823 (Tex. 1961)).

The supplementation of the record with the verified inventory and approval order on February 24, 2024, aims to substantiate this timeline and jurisdictional defect.

Analysis of the Theory

Strengths Supporting Curtis’s Survival of the Jurisdictional Challenge

1. Texas Estates Code § 402.001 is Controlling:
   * The statute is clear and unambiguous: “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… 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.”
   * This provision reflects the purpose of independent administration under Texas law: to minimize court oversight after initial probate steps are complete, transferring estate management to the executor (Bailey v. Cherokee Cnty. Appraisal Dist., 862 S.W.2d 581, 583 (Tex. 1993)). Once the inventory is approved (here, April 5, 2013), the probate court’s jurisdiction terminates absent a Title II exception.
   * Carl’s tort claims (e.g., breach of fiduciary duty, fraud), filed under the Texas Civil Practice and Remedies Code and Texas Property Code, do not fall within the enumerated exceptions (e.g., Tex. Est. Code §§ 405.001-405.012 for closing procedures or § 351.054 for estate recovery suits). Curtis’s brief correctly notes Carl’s failure to cite any Title II provision authorizing his action.
2. Supplemented Record Bolsters the Argument:
   * The verified inventory and order approving it, filed February 24, 2024, provide concrete evidence that the estates closed on April 5, 2013, before Carl’s filing on April 9, 2013. This timeline aligns with § 402.001’s jurisdictional cutoff, strengthening Curtis’s claim that the probate court lacked authority.
   * By supplementing the record, Curtis addresses a prior weakness (incomplete record context), fulfilling her burden to demonstrate the jurisdictional defect (Tex. Ass’n of Bus. v. Tex. Air Control Bd., 852 S.W.2d 440, 446 (Tex. 1993)).
3. Voidness and Appellate Jurisdiction:
   * Texas law supports Curtis’s theory that void judgments can be challenged at any time, and appellate courts have jurisdiction to declare them void (Mapco, Inc. v. Forrest, 795 S.W.2d 700, 703 (Tex. 1990); Freedom Commc’ns, Inc. v. Coronado, 372 S.W.3d 621, 623 (Tex. 2012)). The untimeliness of her appeal (filed in 2023, likely beyond the 30-day limit under Tex. R. App. P. 26.1) becomes irrelevant if the orders are void.
   * The submission date of February 20, 2025, suggests the court accepted the supplemented record (filed nearly a year earlier) and proceeded to consider the merits of jurisdiction, implying Curtis overcame the initial dismissal threat.

Potential Faults or Vulnerabilities

While your theory—that Curtis survived the jurisdictional challenge with § 402.001 as controlling—appears strong, there are potential faults or counterarguments that could undermine it:

1. Timing of Supplementation vs. Submission:
   * Issue: The record was supplemented on February 24, 2024, but the matter was submitted on February 20, 2025—almost a year later. This raises a procedural question: Did the court formally accept the supplementation before submission, or did it rely solely on the original record?
   * Fault: If the First District deemed the supplementation untimely under appellate rules (e.g., Tex. R. App. P. 34.5(c), requiring prompt supplementation), it might have disregarded it, weakening Curtis’s factual basis. However, the year-long gap suggests the court allowed it, as submission typically follows briefing and record completion.
2. Scope of § 402.001’s Limitation:
   * Issue: Section 402.001 restricts “further action” in the probate court, but courts have interpreted independent administration flexibly. For example, probate courts retain residual authority to resolve disputes involving executors or estate assets if explicitly authorized elsewhere in Title II (In re Estate of Bean, 120 S.W.3d 914, 918 (Tex. App.—Texarkana 2003, pet. denied)).
   * Fault: The probate court might have claimed jurisdiction under Tex. Est. Code § 32.001(b) (“A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy”), arguing Carl’s tort claims or Curtis’s federal case (accepted as a transfer in 2014) were sufficiently related to the estates. Curtis’s brief dismisses this but doesn’t fully rebut it with case law distinguishing trust disputes from estate matters.
3. Carl’s Standing and Resignation:
   * Issue: Curtis argues Carl lacked standing individually (not an heir/creditor) and as executor (post-2015 resignation), but the probate court’s orders span 2013–2022, including pre-resignation actions.
   * Fault: Under Tex. Est. Code § 401.008, a resigned executor can still be appointed an administrator subject to court supervision, potentially reviving jurisdiction if the court later appointed a successor (e.g., Curtis herself in 2015). The record doesn’t clarify this, and if Carl’s initial filing was valid as executor, the court might have retained jurisdiction over subsequent proceedings.
4. Federal Case Transfer Complication:
   * Issue: Curtis’s federal lawsuit (SDTX No. 4:12-cv-592), administratively closed in 2014 and purportedly transferred to the probate court, muddies the jurisdictional waters. The probate court’s 2019 order (per her earlier brief) claimed jurisdiction over this case.
   * Fault: If the First District finds the transfer valid (e.g., via agreement or judicial economy), it might conclude the probate court had jurisdiction over Curtis’s trust claims, separate from Carl’s tort action. Section 402.001 wouldn’t directly apply to a non-probate trust dispute, potentially preserving some orders’ validity.
5. Partial Voidness:
   * Issue: Curtis asserts all orders in 412,249-401 are void, but not all may stem from Carl’s post-closure filing. For example, orders tied to her federal case or later counterclaims might stand independently.
   * Fault: The court could find only Carl’s initial action void, leaving later orders (e.g., the 2022 summary judgment) voidable and thus subject to timeliness bars, limiting Curtis’s relief.

Assessment of the Theory

Your belief that Curtis survived the jurisdictional challenge and that § 402.001 is controlling is plausible and well-supported, but not airtight. Here’s why:

* Likely Success: The supplemented record, showing inventory approval on April 5, 2013, paired with § 402.001’s clear language, strongly suggests the probate court lacked jurisdiction over Carl’s April 9, 2013, filing. Texas courts strictly enforce independent administration limits (Estate of Lee, 629 S.W.3d 184 (Tex. 2021)), and the absence of a Title II exception dooms Carl’s action. The First District’s submission of the matter in 2025 implies it accepted Curtis’s voidness argument over the dismissal threat.
* Faults Exist: The theory falters if the court interprets § 402.001 narrowly (e.g., allowing ancillary jurisdiction) or finds the federal case transfer independently conferred jurisdiction. Curtis’s failure to fully address these in her jurisdictional brief leaves room for doubt. Additionally, procedural hiccups (e.g., supplementation timing) could theoretically derail her, though this seems unlikely given the submission date.

Conclusion

I don’t find significant fault with your theory that Curtis survived the appellate jurisdiction question with § 402.001 as controlling, assuming the supplemented record was accepted and no contrary evidence (e.g., a Title II exception or valid transfer) emerged. The statute’s plain text and Texas precedent on void judgments strongly favor her position, especially with the inventory approval predating Carl’s filing. However, vulnerabilities—like unaddressed ancillary jurisdiction or the federal case’s impact—could complicate the outcome. If the First District agrees § 402.001 stripped the probate court of authority post-April 5, 2013, Curtis’s appeal should proceed, and the orders could be declared void. Without seeing the appellees’ response or the court’s ruling, your optimism seems justified but not certain.

Would you like me to explore any specific counterargument or procedural detail further?

2023-10-02 Appellees' Brief (Final-v2).pdf

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2024-06-28 Appellee Reply re No Jrsdctn (Final).pdf

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2023-11-01 Appellants Reply to Appellee Answer 01-23-00362-cv.pdf

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Do Appellee's competently rebut Appellants position under 402.001?

Did Grok get stuck?