

NO. 530005

IN THE ESTATE OF

KANELLOS D. CHARALAMPOUS

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IN PROBATE COURT NO. 3

OF

HARRIS COUNTY, TEXAS

MOTION TO STAY PROBATE PROCEEDINGS

Respondents Constantine Charalampous and Phillip Charalampous (together, “Sons”) move the Court to stay these probate proceedings pending the outcome of a will contest that is currently pending in McClain County, Oklahoma (McClain County Case No. PB-2024-00019) (the “Oklahoma Probate”). The Oklahoma Probate involves the same wills¹, the same estate, and the same parties as this current pending proceeding. The Oklahoma Probate was filed in February 2024—more than eight months before this matter was opened—and the Oklahoma Probate Court has already determined that it has jurisdiction because the decedent, Dr. Kanellos D. Charalampous (“Decedent” or “Dr. Charalampous”), died as a resident of Oklahoma.

In this matter, Baylor College of Medicine and Texas Christian University (collectively “Colleges”) seek to probate a will that they contend Decedent executed in 2022 (the “2022 Will”). Colleges can only provide this Court with a copy of the 2022 Will, however, because on April 4, 2024 Colleges submitted the original of the 2022 Will for probate in the Oklahoma Probate. Thus, the Oklahoma Probate court has the original 2022 Will—because Colleges submitted it to that court.

In the Oklahoma Probate, Sons (Decedent’s two sons) have contested the 2022 Will on the grounds that it was obtained (if it was ever actually executed by Dr. Charalampous) through undue

¹ To the extent, the Court declines to enter a stay, Sons will proffer a copy of the Decedent’s March 25, 2016 Last Will and Testament (with one Codicil dated April 28, 2018), and present the same for probate.

influence and fraud, more than a year and a half after Dr. Charalampous had been found by a Board Certified Neurologist to have Alzheimer's and dementia and to be "no longer competent" to manage his affairs. Accordingly, Sons have submitted for probate in the Oklahoma Probate an original will that Dr. Charalampous undisputedly executed in 2016, when he was competent ("2016 Will"). Thus, the Oklahoma Probate Court has possession of the two original wills alleged to have been signed by Dr. Charalampous.

Colleges, after submitting the 2022 Will for probate in the Oklahoma Probate, moved to dismiss the action on supposed jurisdictional grounds, arguing that Dr. Charalampous was a resident of Texas when he died²—despite Dr. Charalampous having lived in Oklahoma for a year and half before he died and despite the author of the 2022 Will having previously averred in Federal Court pleadings that Dr. Charalampous had become an Oklahoma citizen before he died. That jurisdictional motion was fully briefed and heard by the Oklahoma Probate Court on November 13, 2024. Colleges' Motion to Dismiss was denied because Dr. Charalampous was a resident of Oklahoma at the time of his death, and the Court specifically held that probate jurisdiction over Dr. Charalampous' estate was proper in McClain County, Oklahoma.

In sum, there is a live will contest in McClain County, Oklahoma, involving the same 2022 Will that Colleges would have this Court probate here. The original 2022 Will is present in McClain County, Oklahoma—because Colleges submitted it there. The Oklahoma Probate court has already held that it has jurisdiction to, and intends to, hear the will contest. Discovery has

² Even though Sons contend (and the Oklahoma Probate court found that) Dr. Charalampous was an Oklahoma resident at the time of his death, Oklahoma also statutorily recognizes that the proper venue and jurisdiction for probate matters include the county of residency if the decedent was a resident, and, if the decedent died not a resident, for the county in which the decedent's estate may be found or in which the decedent died. *See* 58 Okla. Stat. § 5 (providing for venue of probate actions); *Id.* at § 7 (providing district court of proper venue in which application is first made for letters testamentary to have jurisdiction coextensive with the State of Oklahoma).

already begun in the Oklahoma Probate action. The will contest is proceeding with Colleges as parties and fully represented.

On these facts, there is no reason for this Court to entertain a competing probate and will contest, involving the same two wills (but with copies instead of originals). To the contrary, the Court doing so would create manifest practical problems and absurdities . For example, Colleges have asked this Court to appoint an administrator over Dr. Charalampous' estate. But Dr. Charalampous' son, Constantine, was appointed by the Oklahoma Probate Court to serve as special administrator of his father's estate, for the specific purpose of, *inter alia*, prosecuting certain claims before the limitations period expires on those claims (which are the claims, filed by the administrator, that Colleges are now moving to have transferred to this Court). If this Court were to appoint a different administrator, the two competing administrators would both be charged by two different courts with taking possession of Dr. Charalampous' estate—and with directing the litigation.

The Court should afford the Oklahoma Probate Court's jurisdictional determination—that Dr. Charalampous died a resident of Oklahoma—full faith and credit. *Maxfield v. Terry*, 885 S.W.2d 216 (Tex. Ct. App.–Dallas, 1994) (Holding that where a Florida probate court had previously determined that it had jurisdiction over the estate of decedent based on the decedent being a resident of Florida, the full faith and credit clause of the United State Constitution barred the Texas probate court from reaching a different conclusion, explaining “[w]hen...the parties fully and fairly litigated the jurisdictional issue [in a different state's courts], full faith and credit prevents further inquiry”). As a result, this Court should stay these proceedings pending resolution of the will contest in the Oklahoma Probate.

For these reasons, and as set forth more fully herein, Sons respectfully submit that the appropriate action for this Court would be to deny the request to transfer the civil litigation to probate and then stay these proceedings pending the outcome of the will contest in the Oklahoma Probate. Colleges will get their day in court. But, as a result of the Oklahoma Probate Court's November 13, 2024 decision denying Colleges' Motion to Dismiss and holding that that Court has jurisdiction to hear the will contest, that day in court will occur in McClain County, Oklahoma.

Statement of Procedural Facts

1. In November 2022, guardianship proceedings for Dr. Charalampous were initiated in McClain County, Oklahoma. Ex. 1, Petition for Special Guardianship of Kanellos D. Charalampous. On November 10, 2022, Dr. Charalampous appeared in Court and testified that he wanted his sons to take care of him. On that same day, the Court appointed Dr. Charalampous' son, Constantine, guardian over his estate. See Ex. 2, Order Appointing Guardian Without Bond. Dr. Charalampous resided in Oklahoma for the remainder of his life. Ex. 3, Death Certificate.

2. On December 1, 2022, Constantine filed a Plan for Management of the Estate of Kanellos D. Charalampous, in which Constantine sought, among other things, the "authority to determine the Ward's residence." See Ex. 4, Plan for Management of the Estate, ¶ 4(e). The guardianship court granted Constantine's request and approved the Plan for Management of the Ward's Estate on December 2, 2022. See Ex. 5, Order Approving Guardian's Plan for Management of the Ward's Estate.

3. In May 2023, Constantine Charalampous, in his capacity as guardian, initiated a lawsuit against, *inter alia*, the author of the 2022 Will, Houston attorney Stephen Mendel. Ex. 6,

May 12, 2023 McClain County, Oklahoma Petition.³ Mr. Mendel removed the suit to federal court on diversity grounds. In his notice of removal, Mr. Mendel specifically alleged that Dr. Charalampous was an Oklahoma citizen. Ex. 7, Notice of Removal, at ¶ 5. This allegation was not contested, and the United States District Court for the Western District of Oklahoma specifically relied upon the contention before issuing its ruling. *See Charalampous through Charalampous v. Lee*, No. CIV-23-499-R, 2024 WL 457170, at *10 (W.D. Okla. Feb. 6, 2024) (noting “Dr. Charalampous is now an Oklahoma resident”).

4. Dr. Charalampous died in a memory care facility in Cleveland County, Oklahoma (neighboring McClain) on January 15, 2024. Ex. 3, Death Certificate of Dr. Charalampous.

5. On February 9, 2023, the Oklahoma Probate was initiated in McClain County, Oklahoma. Ex. 8, Petition for Admission of Will to Probate; For Appointment of Personal Representative; For Issuance of Letters Testamentary; And For a Judicial Determination of the Death and Heirs, Legatees and Devisees of Kanellos D. Charalampous (“Oklahoma Probate Petition”). The Sons deposited Dr. Charalampous’ original 2016 Will with the Court as an exhibit to the Petition to Probate. *Id.* At the time, Sons (despite repeated requests) had not been permitted to see any documents that Dr. Charalampous was alleged to have signed in Texas in 2022, but Sons had been made aware that he was alleged to have signed some. Thus, in the interests of candor

³ To be clear, Mr. Mendel was not only the drafter of the 2022 Will proffered by Colleges to this Court. The 2022 Will is a pour over will, and Mr. Mendel drafted a 2022 Trust at the same time. Mendel set himself up as the executor of the 2022 Will and also the trustee of the 2022 Trust, in perpetuity—despite Mendel having only met Dr. Charalampous once or twice at the time the 2022 Estate Plan was purportedly executed. Glaringly, the 2022 Trust gives Mendel almost complete discretion over how to use the assets in the 2022 Trust, with his only obligation being to annually distribute \$130,000 to Colleges. So long as Mendel makes those *de minimis* annual distributions, there is no one to check his use of the assets in the 2022 Trust or to hold him accountable for how those funds are used. Thus, Sons respectfully submit that the entire 2022 Estate Plan is designed to give Mendel control over Dr. Charalampous’ extensive estate with virtually no oversight.

with the Court, the Sons' initial probate filing laid out the existence and details of facts surrounding the controversy, and the Sons gave notice to attorney Stephen Mendel (who claims to have drafted the 2022 Will and other estate planning documents). Ex. 8, Oklahoma Probate Petition, ¶ 8.

6. On April 24, 2024, Colleges deposited the original 2022 Will—the same will they seek to probate in this Court—with the McClain County Oklahoma Court, in the Oklahoma Probate. Ex. 9, Oklahoma Probate Deposit of 2022 Will. The same day, Colleges filed what they styled as a “Conditional Petition for Probate of Will,” asserting (a) that Colleges did not believe the McClain County Probate Court had jurisdiction over Dr. Charalampous' estate but also (b) that, in the event the Oklahoma Court determined it did have jurisdiction, Colleges submit that the 2022 Will should be probated. Ex. 10, Conditional Petition for Probate of Will.

7. Colleges later moved to dismiss the Oklahoma Probate on alleged jurisdictional grounds. *See* Ex. 11, Motion for Declaratory Judgment and to Dismiss Action, and Brief in Support. The Sons responded and objected to Colleges' motion, contending that Dr. Charalampous was a resident of Oklahoma at the time of his death, and, even if he were not, jurisdiction was proper in Oklahoma. Ex. 12, Sons' Response Brief.

8. The jurisdictional issue was fully briefed and presented to the Oklahoma Probate Court at a hearing on November 13, 2024. The Oklahoma Probate Court entered a Summary Order on November 13, 2024, in which it denied Colleges' Motion for Declaratory Judgment and to Dismiss Action and specifically noted that 58 Okla. Stat. §§ 5, 6, and 7 “make jurisdiction in this Court proper.” *See* Ex. 13, November 13, 2024 Summary Order.⁴

⁴ Under Oklahoma law, “[a] judgment, decree or appealable order, whether interlocutory or final, shall not be enforceable in whole or in part unless or until it is signed by the court and filed.” The Oklahoma Probate Court's Summary Order was signed and filed on November 13, 2024 and is therefore effective and enforceable as of November 13, 2024. *See id.*

9. On November 15, 2024, the Oklahoma Probate Court entered a second order setting the Oklahoma Probate Petition for hearing on February 9, 2024. *See* Ex. 14, Second Order for Hearing Petition for Admission of Will to Probate.

10. On October 18, 2024—while their Motion for Declaratory Judgment and to Dismiss Action on the basis that Decedent was domiciled in Texas at the time of his death—Colleges filed their Application to Probate Will and For Appointment of Independent Administrator in this Court. In their application before this Court, Colleges contended that jurisdiction and venue were proper here “because the Decedent was domiciled and had a fixed place of residence in Houston, Harris County, Texas.” *See* Colleges’ Application to Probate Will, ¶ 3; *see also id.* at ¶¶ 6–7 (asserting same).

11. Decedent’s estate consists solely of a bank account in Oklahoma and the civil claims asserted in Cause No. 2024-63748 in the 127th District Court of Harris County, State of Texas (the “127th District Action”). *See* Ex. 8, Oklahoma Probate Petition, ¶ 3; Colleges’ Application to Probate Will, ¶¶ 12–13.

12. Decedent died unmarried, and had two adult sons (the Sons) who are both residents of Oklahoma. *See* Colleges’ Application to Probate Will, ¶ 10.

Arguments and Authorities

I. The will contest as to Dr. Charalampous’ estate should occur in the Court that has possession of both original wills and that has already determined it has jurisdiction to hear the will contest.

A. The First-Filed Oklahoma Probate Has Possession of Every Will Alleged to be the Effective Will Executed by Dr. Charalampous

There are two competing wills that were allegedly signed by Dr. Charalampous during his life. The Oklahoma Probate Court has the original of both wills. The Oklahoma Probate Court has the originals because (a) the Oklahoma Probate was filed first (eight months before Colleges

opened this probate action) and (b) the parties present here (Sons, for the 2016 Will, and Colleges, for the 2022 Will) submitted the two wills for probate there.

The reason that the Oklahoma Probate Court has the original will that Baylor College of Medicine and Texas Christian University (collectively “Colleges”) seek to probate in this Court is because Colleges submitted it to that Court for probate. In fact, Colleges filed in the Oklahoma Probate a “Conditional Petition for Probate of Will,” which per Colleges was “filed conditionally on the basis that the [Oklahoma Probate] Court may determine, and only if the [Oklahoma Probate] Court does determine, that Decedent was domiciled in Oklahoma at the time of his death.” *See* Ex. 9, Conditional Petition for Probate of Will, ¶ 3. This Court should not permit Colleges to engage in gamesmanship now that the Oklahoma Probate Court has actually determined that Decedent was domiciled in Oklahoma at the time of his death and accepted that jurisdiction is proper in McClain County, Oklahoma. Thus, rather than allow Colleges to continue pursuit of this second probate proceeding *contemporaneously* with the Oklahoma Probate, the Court should stay these proceedings until the Oklahoma Probate has decided the will contest and admitted either the 2022 Will or the 2016 Will to probate.

B. This Court should afford full faith and credit to the Oklahoma Probate Court’s jurisdictional determination that Dr. Charalampous died a resident of Oklahoma.

The central contention levied by Colleges in their motion to dismiss the Oklahoma Probate action was that despite Mendel’s affirmative allegation in pleadings that Dr. Charalampous became an Oklahoma citizen before he died (and a Federal court’s reliance on the same allegation), despite the fact that Dr. Charalampous filed Oklahoma income tax returns, and despite the fact that Dr. Charalampous actually lived in Oklahoma for a year-and-a-half before he died, Dr. Charalampous *actually* died a resident of Texas. *See generally* Ex. 11, Motion for Declaratory Judgment. Following briefing on the issue of decedent's residence by the same parties present in this action

(Sons on the one hand, and Colleges on the other) and a hearing in McClain County, Oklahoma, the Oklahoma Probate Court determined that jurisdiction was proper in Oklahoma on the basis of Decedent's domicile in Oklahoma at the time of his death.

Despite the fact that the jurisdictional issue of Decedent's domicile was fully and fairly litigated, Colleges now seek to probate the 2022 Will—in addition to their pending action in the will contest in the Oklahoma Probate—before this Court on the mistaken position that “Decedent was domiciled and had a fixed place of residence in Houston, Harris County, Texas.” Colleges' Application to Probate, at ¶ 3. This Court should not permit Colleges to seek an end-run around the Oklahoma Probate Court's jurisdictional findings. Rather, as a matter of law, this Court should afford the Oklahoma Probate Court's November 13, 2024 Summary Order full faith and credit.

The Court of Appeals of Texas decision in *Maxfield v. Terry*, 885 S.W.2d 216 (Tex. Ct. App.—Dallas, 1994), *writ denied* (April 7, 1995), is directly on point. The decedent in *Maxfield* had died in a Florida nursing home but had lived for most of her life prior to that in Dallas, Texas. *See id.* at 217. A probate of the decedent's will was initially filed in Florida, and another probate was later filed in Dallas County Probate Court. *Id.* at 218. Before the Dallas County Probate Court proceeded to hear the proceedings, one of the beneficiaries of the estate, J.R., sought and obtained a stay of the proceedings, pending the outcome of the Florida probate action. *Id.* In the Florida court, “J.R. contended that Florida was not [the decedent's] domicile,” but he thereafter “non-suited his Florida contest.” *Id.* The Florida court ultimately determined that the decedent died a resident of Florida and that it had jurisdiction over the probate. *Id.*

When J.R. later contended in the Dallas County Probate Court that Texas was the decedent's domicile, the Dallas County Probate Court held that the Florida court's jurisdictional determination was entitled to full faith and credit and therefore declined to entertain J.R.'s

contention that, notwithstanding what the Florida court had determined, the decedent *really* died a resident of Texas. *Id.* On appeal, the Court of Appeals affirmed the probate court's ruling, explaining:

The United States Constitution provides that every state must give the public acts, records, and proceedings of other states full faith and credit. U.S. Const. art. IV, § 1. The United States Supreme Court interprets this provision to mean that a state must give another state's judgment at least the *res judicata* effect it would receive in the state rendering the judgment.

Id. at 218 (citing *Durfee v. Duke*, 375 U.S. 106, 110 (1963)). Particularly applicable to the present matter is the *Maxfield* Court's acknowledgment of the Supreme Court's command in *Durfee*:

In *Durfee*, the Supreme Court held a state must give another state's judgment full faith and credit—even to questions of jurisdiction—when its inquiry shows the parties fully and fairly litigated the issue in the other state. A second court has the power and, upon proper pleadings, the duty to inquire into the rendering court's jurisdiction. **When that inquiry shows the parties fully and fairly litigated the jurisdictional issue, full faith and credit prevents further inquiry.** After a party has his day in court, with the opportunity to present his evidence and his view of the law, a collateral attack upon the decision based on whether the first court had jurisdiction merely retries the issue previously determined.

Id. at 218–19 (citations omitted and emphasis added). As a result, the *Maxfield* Court acknowledged that Texas residents “cannot relitigate the issue of a testator's domicile after the parties have fully and fairly litigated the issue in another state.” *Id.* at 219 (citing *Mayhew v. Caprito*, 794 S.W.2d 1 (Tex. 1990) (per curiam)).

In applying this understanding of the full faith and credit clause to the facts in *Maxfield*, the Court first acknowledged that, under Texas law, probate orders are regarded as judgments “when the order finally disposes of a particular issue between the parties.” *Id.* And, the Florida order admitting the decedent's will to probate was “final on the issue of the Florida court's jurisdiction.” *Id.* Finally, “[b]ecause the order is final to interested parties [including J.R.] and the functional equivalent of a judgment, full faith and credit applies to the order.” *Id.* at 220. As a result, J.R. was barred by *res judicata* to contest the Florida court's determination of the decedent's

domicile since “the Florida court finally determined the issue of [decedent’s] domicile [and] afforded J.R. the opportunity to fully and fairly litigate the issue.” *Id.* at 221.

The same principles that required the *Maxfield* Court to afford full faith and credit to the Florida court’s jurisdictional determination counsel that this Court should not permit Colleges to pursue this end-run around the consequences of the Oklahoma Probate Court’s jurisdictional rulings. Colleges have “had [their] day in court, with the opportunity to present [their] evidence and [their] view of the law,” such that this Court should prohibit Colleges from seeking jurisdictional rulings as to decedent’s domicile that differ from the result reached in the Oklahoma Probate. *See id.* at 219. Because the Oklahoma Probate Court’s November 13, 2024 Summary Order is final as to Colleges and Sons, the Court should afford full faith and credit to the Summary Order. As a result, Colleges are barred by *res judicata* to contest the Oklahoma Probate Court’s determination of decedent’s domicile where Colleges have had “the opportunity to fully and fairly litigate the issue.” *Id.* at 221. Thus, Colleges cannot dispute that Decedent’s domicile at the time of his death was Oklahoma.

To be as clear as possible, the contention that Dr. Charalampous was a resident of Texas when he died was the basis for Colleges’ Motion to Dismiss in the Oklahoma Probate. The issue was extensively briefed, with Colleges arguing that Dr. Charalampous’ legal residence was forever locked in as his pre-guardianship residence of Texas, and Sons arguing that Dr. Charalampous’ change of residence to Oklahoma was evidenced by, *inter alia*, the guardianship court’s approval of the change of residence to Oklahoma and the facts that (a) Dr. Charalampous testified to the Oklahoma guardianship court that he wanted to be placed under his son’s guardianship in Oklahoma; (b) Dr. Charalampous actually moved to Oklahoma and lived there for the last year and a half of his life; (c) Dr. Charalampous filed Oklahoma resident income tax returns (paying,

in 2023, \$84,000 in income tax that would not have been necessary had he been a resident of Texas, *see* Ex. 12, Sons' Response to Motion for Declaratory Judgment, 5–6); and (d) Stephen Mendel, the Houston lawyer who drafted the 2022 Will that Colleges seek to probate, filed a federal court pleading (Ex. 7, Notice of Removal) in which he directly alleged that Dr. Charalampous had become an Oklahoma citizen and relied on the fact of Dr. Charalampous' Oklahoma citizenship as the basis for Federal Court jurisdiction.⁵

The Oklahoma Probate court, after hearing all the evidence and considering briefing and argument, determined that jurisdiction was proper in McClain County Oklahoma and specifically noted that the guardianship court's order allowing Dr. Charalampous' change of residence to Oklahoma was "not subject to collateral attack." There is no question that this issue was fully litigated by Colleges and Sons, with the Oklahoma Probate court determining it had jurisdiction based on Dr. Charalampous' Oklahoma residence/citizenship.

While Sons submit that, if the issue of jurisdiction and residence were fully briefed here, this Court would come to the same conclusion that the Oklahoma Probate court did, this Court need not (and, in fact, under *Maxfield* should not) inquire as to the merits of the parties' arguments as to residence and jurisdiction. Rather, under *Maxfield*, as a matter of law, it is enough that the issue was fully briefed in Oklahoma, that Colleges had a full and fair opportunity to litigate it, and

⁵ Beyond the fact of Mendel (the author of the 2022 Will) affirmatively alleging Dr. Charalampous had become an Oklahoma resident before he died, his assertion in this regard should additionally be enough to estop Colleges from taking a contrary position. Colleges are not direct beneficiaries of the 2022 Will. Their claim is that they are contingent remainder beneficiaries of a trust, also drafted by Mendel, and of which Mendel is named as trustee. That is, Colleges claim to probate standing is that they stand in the shoes of a trust whose named trustee has already affirmatively alleged (and relied upon) the fact that Dr. Charalampous became an Oklahoma citizen before he died. They should be barred, as a matter of law, from taking a contrary position now.

the Oklahoma Probate court issued its Order finding that jurisdiction was proper in McClain County, Oklahoma.

C. Venue is improper before this Court because Decedent's nearest kin reside in Oklahoma and Decedent's principal estate is in Oklahoma.

Because (as the Oklahoma Probate court has already determined) Dr. Charalampous died in Oklahoma as a resident of Oklahoma, venue will only lie in this Court if it is the county (i) "in which the decedent's nearest of kin reside" or (ii) it is the county "in which the decedent's principal estate was located at the time of decedent's death." Tex. Est. Code. Ann. § 33.001(a)(2)(B).⁶ Thus, this probate action cannot lie before this Court *unless* either (i) Decedent's nearest kin reside in Harris County, or (ii) Decedent's principal estate is in Harris County.

Colleges allege neither of these necessary jurisdictional facts in their Application to Probate Will. *See* Colleges' Application to Probate Will. In fact, Colleges admit that the Decedent's nearest kin—the Sons—are residents of Oklahoma. *See id.* at ¶ 10. Thus, venue can only properly lie in this Court if the Decedent's principal estate is in Harris County. Colleges make no allegations regarding the Decedent's principal estate, nor of any assets of the Decedent's Estate, other than reference to the claims filed by the Oklahoma Probate's special administrator in the 127th District Action. *See* Colleges' Application to Probate Will, ¶¶ 12–13. Sons are aware of only one other asset of the Estate—a bank account in Oklahoma. Ex. 8, Oklahoma Probate Petition, ¶ 3. Because the claims in the 127th District Action are regarded as property situated in McClain County, Oklahoma, there are no assets of Decedent's estate in this county, let alone there being sufficient assets for it to be determined that Decedent's principal estate is in Harris County.

⁶ As used in the venue statute, "next of kin" is defined as "the decedent's surviving spouse, or if there is no surviving spouse, other relatives of the decedent within the third degree of consanguinity." *Id.* at § 33.001(b)(1). Finally, the "decedent's nearest of kin is determined in accordance of descent." *Id.* at § 33.001(b)(2).

At least one Texas court has found that an estate's judgment or litigation claims in a county cannot serve as the sole basis for venue in a probate action in said county. *See Angier v. Jones*, 67 S.W. 449, 450 (Tex. Ct. App. 1902). The *Angier* Court went so far as to hold that the situs of litigation claims or a judgment "follows the residence of the owner, and cannot, in law, be regarded as being situate[d] elsewhere." *Id.* Accordingly, the *Angier* Court found that venue was improper in the county in which the decedent's estate had a judgment, because said judgment could only be regarded as being property in the county of decedent's residence. *Id.*

These same principles apply to the case at hand. Decedent's only property at the time of his death consisted of an Oklahoma bank account and claims that were filed in Harris County after his death. Because Decedent died a resident of Oklahoma (as detailed above), the claims are properly regarded as taking the situs of Decedent—McClain County, Oklahoma. Thus, "it cannot be said that [Decedent] owned any property in [Harris] county at the time of his death." *Id.* at 450–451. Ultimately, venue is improper in this Court because Colleges cannot satisfy any of the statutory requirements for venue. *See* Tex. Est. Code. Ann. § 33.001(a)(2)(B). Decedent: (i) died in Oklahoma, (ii) as a resident of Oklahoma, (iii) with his nearest of kin residing in Oklahoma, and (iv) leaving no part of his estate in Harris County, let alone his principal estate there.

D. Judicial economy, and avoidance of conflicting rulings, demand that this Court stay these proceedings.

Of final note, if this Court proceeds with Colleges' probate request, the result would be duplication of efforts and practical absurdities, and would risk inconsistent rulings. Sons will be forced to contest the 2022 Will and submit a copy of the 2016 Will to this Court. The parties will then be required to engage in a will contest, including extensive discovery and motion practice. All this is already happening in Oklahoma and (as a result of the Oklahoma Probate court's

November 13, 2024 ruling) will continue to happen in Oklahoma regardless of what this Court does.

Engaging in the same discovery and motion practice in two different courts, so that the two courts can consider the same issue, would be a waste of judicial resources, as well as those of the parties. Worse, it would create a real risk of inconsistent verdicts as to the ultimate question of which will is valid and enforceable, and the party who prevails in the first court to enter judgment would almost certainly seek to use the judgment to preclusive effect in the remaining proceeding. And, in the immediate term, it could potentially create the absurd result of having two validly appointed administrators over Dr. Charalampous' estate, each charged with the conflicting duties of marshalling all of Dr. Charalampous' assets and each with the authority to direct the course of the civil litigation that Constantine (as the administrator appointed by the Oklahoma Probate court) initiated on behalf of the estate.

As a result of all this, separate and apart from the full faith and credit issue, it would be appropriate for this court to stay, and allow the parties to proceed in Oklahoma with the will contest already pending there, simply to avoid the duplication of efforts, waste of judicial resources, risk of inconsistent verdicts, and practical absurdities that would inevitably follow if this Court were to allow Colleges to proceed in this Court with an issue Colleges are already litigating in a different Court.

Conclusion

For these reasons, the Court deem it necessary to await resolution of the will contest in the Oklahoma Probate and enter a stay of these proceedings pending the same.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following party(ies) to this lawsuit via electronic filing on this 2nd day of December 2024:

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Filing Code Description: Application of Miscellaneous kind

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