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# Texas Appellate Court Rejects LLC Plaintiff's Bid for Statewide Venue in Defamation Case

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A Texas court of appeals recently clarified the state's venue statute governing libel and slander claims, rejecting an interpretation that would have given limited liability companies, partnerships, and other business entities the ability to file suit almost anywhere in the state. [In re USA Today a/k/a Gannett Co., Inc.](#), No. 09-23-00140-CV, 2023 WL 6885016 (Tex. App.—Beaumont Oct. 19, 2023, orig. proceeding) (mem. op.).

## Ryan, LLC's Claims

In June 2022, Ryan, LLC ("Ryan") filed suit against various Gannett entities, asserting claims for defamation and breach of contract. The defamation claims are based primarily on a five-part series in *USA Today* and *The Arizona Republic*, which investigated former Arizona Governor Doug Ducey and his administration's relationship with Ryan, a Dallas-based tax consulting company. The series reported Ryan's attempts over several years to seek a refund of millions of dollars of taxes that its clients paid on a type of diesel fuel. Ryan ultimately failed to secure the refund, unsuccessfully lobbying state revenue officials and eventually losing a case it filed in tax court.

A subsequent article in *USA Today* reported on complaints by North Dakota regulators about Ryan's voluminous requests and the regulators' opinions that Ryan's tax positions frequently lacked support. Ryan contends reporting by *USA Today* implied it had violated an Arizona lobbying statute and engaged in unethical business practices, while the newspaper denies the articles conveyed that meaning. Ryan's contract claims are based on tax-recovery services that Ryan alleges to have performed for Gannett in Kentucky and Indiana.

## The Venue Issue

Ryan filed suit in Montgomery County, approximately an hour north of Houston. Montgomery County falls within the jurisdiction of the Ninth Court of Appeals, which is based in Beaumont. Neither Ryan nor Gannett has any corporate presence in Montgomery County. Moreover, neither the reporting at issue nor the contractual dispute between the parties had anything to do with Montgomery County. Ryan did not even argue that venue was proper under Texas's general venue statute, which focuses on the residence of the parties and the county's connection to the claims.

Instead, Ryan relied on the mandatory venue statute that governs libel, slander, and privacy claims, which provides that such suit "shall be brought and can only be maintained *in the county in which the plaintiff resided* at the time of the accrual of the cause of action, or in the county in which the defendant resided at the time of filing suit, or in the county of the residence of defendants, or any of them, or the domicile of any corporate defendant, at the election of the plaintiff." Tex. Civ. Prac. & Rem. Code § 15.017 (emphasis added).

Because none of the Gannett defendants were residents of Montgomery County, venue under section 15.017 depended on Ryan's residence. Ryan maintains its global headquarters in Dallas County, and it has offices in several metropolitan areas in Texas, but it has no office in Montgomery County. Rather, Ryan argued that, as an LLC, it is deemed to "reside" in every county in which any of its members maintain their personal residences. Ryan identified three employees "with membership interests" who commuted to the company's Houston offices from their homes in Montgomery County. None of them had anything to do with their employer's defamation or contract claims.

In support of its argument that the residence of an LLC is determined by the residence of the LLC’s members, Ryan cited federal case law determining an LLC’s citizenship for purposes of subject matter jurisdiction under 28 U.S.C. § 1332(a) and older Texas precedent holding that a partnership resides in the counties where its partners reside. It also relied on canons of statutory interpretation to argue that, for purposes of section 15.017, a corporate plaintiff’s residence could not be the same as its “domicile” (which, for Ryan, is Dallas County).

## Court of Appeals’ Decision

Gannett moved to transfer venue, arguing that Ryan could not be resident of a county in which it had no office or other corporate presence. The trial court noted that the issue was one of first impression under Texas law, but it disagreed with Gannett’s arguments and denied transfer to Dallas County.

Gannett then filed a petition for writ of mandamus in the court of appeals. After requesting full briefing on the petition, the court of appeals granted the writ. Citing a 2008 Texas Supreme Court decision interpreting a mandatory venue statute that governs certain proceedings under the Property Code, the court of appeals held that a corporate plaintiff’s “principal office” was its place of residence for purposes of section 15.017. *In re USA Today*, 2023 WL 6885016, at \*2-3(citing *In re Transcontinental Realty Investors, Inc.*, 271 S.W.3d 270, 272 (Tex. 2008) (orig. proceeding)).

Ryan sought review by the Texas Supreme Court, but its petition was denied. *In re Ryan, LLC*, No. 23-0983 (Jan. 26, 2024). Appellate proceedings involving the court of appeals’ separate decision dismissing Ryan’s contract claims for lack of personal jurisdiction and the trial court’s denial of Gannett’s anti-SLAPP motion to dismiss remain pending. As a result of the venue decision, any part of the case that survives these pending appeals will be transferred to Dallas County on remand.

## Significance and Outlook

The court of appeals’ venue decision will significantly limit the ability of defamation plaintiffs that are business organizations—LLC’s, partnerships, unincorporated associations, and even corporations—to maintain suit in a county other than where their principal office is located. Ryan’s attempt to equate LLC residence with the residence of an LLC’s members would have allowed large organizations to sue virtually anywhere in the state. Firms like Ryan likely have hundreds, if not thousands, of “members” (or partners, or shareholders). Each large metropolitan area in Texas contains multiple counties from which workers commute, and remote work has allowed even greater geographic distribution. Plus, defamation plaintiffs (including in a recent case brought by Ryan’s counsel) have argued successfully that natural persons can “reside” in a county where they keep a second home, such as a ranch or lake house. And, because section 15.017 is a *mandatory* venue statute, a transfer for the convenience of the parties and witnesses would be unavailable. The court of appeals’ decision effectively protects defendants from the prejudicial forum shopping that such a regime would have facilitated.

*Paul Watler, Marc Fuller, and Bethany Pickett Shah of Jackson Walker LLP represent the Gannett defendants. Ryan is represented by Edward McNally, Constantine Pamphillis, and Steven Owens of Kasowitz Benson Torres LLP.*

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