

Laying that aside, Plaintiff has since amended its petition and include several new Defendants and several pieces of real estate that are unquestionably located in Harris County.² Additionally, a substantial part of the events or omissions giving rise to the claim occurred in Harris County – stolen money from Mexico flowed into multiple banks in Houston, Texas (and much of it still remains here), and then flowed directly into Harris County real estate.

For all of these reasons, venue is proper and should be maintained in Harris County pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002(a)(3).

I. LEGAL STANDARD

Few aspects of Texas Law are as solidified as is the issue of proper venue. Texas law unequivocally states—and Texas courts unflinchingly hold—that lawsuits may be brought “in the county of the defendant's principal office in this state, if the defendant is not a natural person.” TEX. CIV. PRAC. & REM. CODE § 15.002(a)(3). In the event a defendant is a natural person (as is the case with Defendant Jose Ruiz and Monica B. Canal) the suit can be brought in “the county of the defendant’s residence at the time the cause of action accrued.” TEX. CIV. PRAC. & REM. CODE § 15.002(a)(2). Venue is further permissible “the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.” TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1).

Texas law further states that “Plaintiffs are given the right to choose venue first.” *Unauthorized Practice of Law v. Nationwide Mut. Ins. Co.*, 155 S.W.3d 590 (Tex. App.—San Antonio 2005). “As long as the plaintiff files suit in a county of proper venue (*i.e.*, the county is at least a permissive venue and no mandatory provision applies), the plaintiff's venue choice *will not be disturbed.*” *Id.* (emphasis added). Where a plaintiff has established proper venue against

² See First Amended Petition.

one defendant, “the court also has venue of all the defendants in all claims or actions arising out of the same transaction, occurrence, or series of transactions or occurrences.” TEX. CIV. PRAC. & REM. CODE § 15.005.

Moreover, if there is *any probative evidence* that supports venue in the county of suit, the trial court *must deny* the motion to transfer—even if the evidence preponderates to the contrary.” *Kishor v. TXU Energy Retail Co.*, No. 05-10-01496-CV, 2011 BL 297408 (Tex. App.—Dallas Nov. 17, 2011) (emphasis added).

Once a defendant specifically challenges the plaintiff's choice of venue, the plaintiff has the burden to present prima facie proof that venue is proper in the county of suit. *Ford Motor Co.*, 473 S.W.3d at 928. Plaintiffs satisfy this burden “when the venue facts are properly pleaded in an affidavit, and any duly proved attachments to the affidavit, are filed fully and specifically setting forth the facts supporting such pleading.” *Id.* (citing TEX. R. CIV. P. 87(3)(a)). Once “the plaintiff meets the burden, the trial court must maintain the lawsuit in the county where it was filed.” *In re Red Dot Bldg. Sys., Inc.*, No. 13-15-00608-CV, 2015 BL 430035 (Tex. App.—Corpus Christi Dec. 29, 2015). Plaintiff's prima facie proof is not subject to rebuttal, cross-examination, impeachment, or disproof. *Ford Motor Co.*, 473 S.W.3d at 928 (citing *Ruiz v. Conoco, Inc.*, 868 S.W.2d 752, 757 (Tex. 1993)).

Finally, a plaintiff may file an amended petition that adds or drops claims from its original petition to establish proper venue. The plaintiff must file an amended petition at least seven days prior to the hearing. TRCP 63. If the plaintiff timely amends his petition, the court must consider the amended petition at the hearing. *Watson v. City of Odessa*, 893 S.W.2d 197, 199-200 (Tex.App.-El Paso 1995, writ denied).

II. ARGUMENTS AND AUTHORITIES

- 1. Harris County is a proper venue because it is the County in which many of the crimes were committed by Defendants, and it is the count of residence for at least two natural Defendants.**

Texas law allows Plaintiffs to choose where to file suit. Venue is permissible:

- (1) in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred;
- (2) in the county of defendant's residence at the time the cause of action accrued if defendant is a natural person;
- (3) in the county of the defendant's principal office³ in this state, if the defendant is not a natural person; *or*
- (4) if Subdivisions (1), (2), and (3) do not apply, in the county in which the plaintiff resided at the time of the accrual of the cause of action.

TEX. CIV. P. & REM. CODE § 15.002.

Mr. Duarte and his co-conspirators orchestrated a global conspiracy that was centered to a large degree in Houston. These co-conspirators acted in concert with one another and were in the service of a single global conspiracy. Stolen money from Mexico flowed into Houston, Texas banks and real estate for nearly a decade while Mr. Duarte was the governor of Veracruz. The laundering of this money continues today from Houston. As such, venue is proper in Harris County.

Moreover, Defendants Jose Ruiz and Monica B. Canal are natural persons who reside at 38 Shallowford Place, Tomball, Texas 77375.⁴ Defendants are residents of and own property in

³ "Principal office" defined as the location "in which the decision makers for the organization ... conduct the daily affairs of the organization." TEX. CIV. P. & REM. CODE § 15.001.

⁴ See Harris County Appraisal District Real Property Records (attached as Exhibit A).

Harris County.⁵ Because Defendants are properly named natural defendants who reside in Harris County, venue in Harris County is proper and should be maintained in this county.

2. Harris County is a mandatory venue because much of the real estate is located in Harris County.

Moreover, Plaintiff has sued several Harris County properties *in rem* and Harris County residents to recover its interest in these properties. These properties include the following:

- 25219 Kuykendahl Road, #G150, Tomball, Texas⁶;
- 25219 Kuykendahl Road, #G140 is a property in Tomball, Texas⁷;
- 25219 Kuykendahl Road, #240 is a property in Tomball, Texas⁸;
- 25219 Kuykendahl Road, #250 is a property in Tomball, Texas⁹;
- 25219 Kuykendahl Road, #260 is a property in Tomball, Texas¹⁰;
- 25219 Kuykendahl Road, #270 is a property in Tomball, Texas¹¹;
- 8976 Chatsworth Drive, Houston, Texas 77024 is a property in Houston, Texas¹²;
- 25219 Kuykendahl Road, #280 is a property in Tomball, Texas¹³;
- 25219 Kuykendahl Road, #290 is a property in Tomball, Texas¹⁴.

Each of these properties is in Harris County. Pursuant to Civil Practice & Remedies Code § 15.011, actions for recovery of real property or an estate or interest in real property, for partition of real property, to remove encumbrances from the title to real property, for recovery of damages

⁵ *Id.*

⁶ See Harris County Appraisal District Real Property Records (attached as [Exhibit A](#)).

⁷ See Harris County Appraisal District Real Property Records (attached as [Exhibit A](#)).

⁸ See Harris County Appraisal District Real Property Records (attached as [Exhibit A](#)).

⁹ See Harris County Appraisal District Real Property Records (attached as [Exhibit A](#)).

¹⁰ See Harris County Appraisal District Real Property Records (attached as [Exhibit A](#)).

¹¹ See Harris County Appraisal District Real Property Records (attached as [Exhibit A](#)).

¹² See Harris County Appraisal District Real Property Records (attached as [Exhibit A](#)).

¹³ See Harris County Appraisal District Real Property Records (attached as [Exhibit A](#)).

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to real property, or to quiet title to real property shall be brought in the county in which all or a part of the property is located. To demonstrate venue is mandatory in Harris County under section 15.011, Plaintiff must show that all or a part of the realty at issue is located in Harris County, and that the suit is one of the actions described in section 15.011. *See Airvantage, L.L.C. v. TBAN Props. # 1, L.T.D.*, 269 S.W.3d 254, 258 (Tex.App.-Dallas 2008, no pet.); *In re City Nat'l Bank*, 257 S.W.3d 452, 454 (Tex.App.-Tyler 2008, orig. proceeding); *In re Stroud Oil Props., Inc.*, 110 S.W.3d 18, 24 (Tex.App.-Waco 2002, orig. proceeding). Venue may be proper in multiple counties under mandatory venue rules, and the plaintiff is generally afforded the right to choose venue when suit is filed. *Wilson v. Tex. Parks & Wildlife Dep't*, 886 S.W.2d 259, 260 (Tex.1994).

In the instant case, much of this property is in Harris County. And Plaintiff is suing to recover its real property located in this county. As such, venue is mandatory in Harris County.

III. CONCLUSION

Plaintiff chose to file this case in Harris County, and because Plaintiff satisfied its burden by presenting prima facie proof that venue is proper, its choice should not be disturbed. *Unauthorized Practice of Law v. Nationwide Mut. Ins. Co.*, 155 S.W.3d 590 (Tex. App.—San Antonio 2005). For all of these reasons, Defendants' Motion to Transfer Venue fails and should therefore be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been duly served on all known counsel of record and pro se parties in accordance with the Texas Rules of Civil Procedure on June 8, 2018 as set forth below:

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