

Title

Whether juries should be finders-of-fact in trust-modification proceedings: The saga of the Troy S. Poe Trust continues

Text

There are doctrinal and practical reasons why a jury should not be tasked with fact-finding in a trust-modification equity proceeding.

Doctrinal. The U.S. Constitution's 7th Amendment, enacted in 1791, provides as follows: "In Suits at common law [in the federal court system], where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law." The trust relationship, however, is a creature of the equity courts. The trustee owes fiduciary duties to the beneficiary, the fiduciary principle also being an invention of equity. The beneficiary owns equitable property rights incident to the trust relationship. A trustee assumes equitable duties. The internal affairs of a trust, such as a dispute between or among the parties to the relationship, are the domain of equity. Equitable remedies are meted out by the courts in such situations. The 7th Amendment is interpreted in the context of the background law as it prevailed back in 1791. Then, suits in equity were not tried to a jury, unless the chancellor in his discretion sent an issue to a jury for an advisory verdict. Today, in either a federal court or a state court, there is generally no federal right to have facts found by a jury in litigation involving the internal affairs of a trust. In a state court, if such a right exists at all it is generally thanks to a provision of the state's constitution and/or an enactment of its legislature.

The logic underpinning the tradition that juries should not be finders-of-fact in proceedings involving the internal affairs of trusts is compelling: In a trust dispute, the equity court, apart from functioning judicially, is administratively tasked with determining and defending settlor intent, an affirmative stewardship that is derived not from the pleadings but from general principles of equity. Such a sacred judicial function ought not be delegated to a lay jury. Cf. my April 20, 2022 JDSUPRA posting <https://www.jdsupra.com/legalnews/when-adjudicating-trust-disputes-the-eq-49523/>. This is certainly the case when it comes to ascertaining settlor intent in the context of a trust-modification proceeding.

Practical. The practical problem with extending to litigants in trust-modification disputes the right to a jury trial is that the typical equity issue is incurably law-infected. Take, for example, a UTC §412 trust-modification proceeding: Were the circumstances now prevailing unanticipated by the settlor and would modification further the purposes of the trust? Courts in the exercise of their equitable powers should put such law-infected questions in the law pigeonhole and proceed accordingly. Lay juries are not equipped to render well-considered responses to such questions. I know this from personal experience. Each question calls for a parsing of the terms of the trust instrument in its jurisprudential context. Such tasks are what judges are paid to perform.

The Troy S. Poe Trust Litigation. The Troy S. Poe Trust is the subject of a hotly contested trust-modification proceeding in the Texas courts that is being sidetracked in litigation over whether the parties have a right to have a jury as the finder-of-fact. The trial court said no. The Texas Appellate Court said yes. The Texas Supreme Court held that there is no right to a jury trial under Texas' version of the UTC, but remanded the case to the Appellate Court, tasking it with

determining the “novel” issue of whether the Texas Constitution, specifically Article V § 10, guarantees the parties a jury-trial in such a proceeding. Section 10 reads in part: “In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury...” This July, the Appellate Court rendered its decision, the gist of which was that a trust-modification proceeding was not sufficiently adversarial to constitute a “cause.” See *In the Matter of Troy S. Poe Trust*, 673 S.W.3d 395 (Tex. App. 2023). Not sure that a trust-modification action, which could well result in a re-ordering of equitable property rights, qualifies as a “special proceeding” rather than a “cause.” Things might have been cleaner had the Texas Supreme Court simply laid down a general equitable principle that trust-modification issues are issues of law rather than issues of fact. Accordingly, empaneling a jury would be unwarranted in such cases.