

MORALS FROM THE COURTHOUSE

A study of recent Texas cases impacting the wills, probate and trust practice

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Interpretation and Construction – Personal Effects

Matter of Estate of Ethridge – Page 1
Eastland Court of Appeals

Background

- Testatrix prepared own will
- Left “personal effects” to nephew-in-law
- No residuary clause
- Nephew-in-law asserted “personal effects” included cash, receivables, and oil and gas interests and royalties

Matter of Estate of Ethridge – Page 1
Eastland Court of Appeals

Decision

- “Personal effects” is narrow subset of personal property
- “Articles bearing intimate relation or association to the person of the testator”
- Clothing, jewelry, eyeglasses, luggage, and similar items
- Rest of estate passed by intestacy

Moral: Wills should contain residuary clauses to prevent intestacy and should of course be prepared by an attorney

Interpretation and Construction – Personal Property

In re Estate of Hunt – Page 1

Houston [1st Dist.] Court of Appeals

Background

- Will made gift of all “remaining household and *personal property*”
- Dispute over who was entitled to intangible personal property (bank accounts and stocks)
- Trial court granted summary judgment that specific bequest included intangible personal property

In re Estate of Hunt – Page 1

Houston [1st Dist.] Court of Appeals

Decision

- Affirmed
- “Personal property” is not ambiguous
- All property, tangible or intangible, that does not qualify as real property

Moral: Term “personal property” unambiguously encompasses both tangible and intangible personal property

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