

Case Of The Month: The Case of the Treacherous Trustees State of Texas v. Stewart, et al

Judge Mark Davidson



Memorial Herman Hospital in the Texas Medical Center (Photo courtesy of memorialhermann.org/)

The Texas Medical Center brings hundreds of thousands of people to its hospitals every year where world class health care is provided and many lives are saved. We all know of people that owe their lives to the dedicated women and men who work there. What very few people realize is that all of those people owe their lives to the tireless work of lawyers in a 1918 case called State of Texas v. Stewart, without which the Texas Medical Center would probably not exist in anything like its current form.

When George Hermann died in 1914, he left most of his estate to a trust with the direction that the proceeds of his estate was to be used to create a charity hospital for the people of Houston. He directed that the hospital was to be located across the street from a 385 acre plot of land he had donated to the city of Houston for the creation of a park. He named three friends, John S. Stewart, Julius J. Settegast, Jr., and T. J. Ewing, Jr. to act as initial trustees, with the express provision that they were to name four additional citizens to join them, and together they would liquidate his estate and use the proceeds to found Hermann hospital.

Case Of The Month, CONT.



Portrait of James Elkins (Photo courtesy of uhsystems.edu)

By 1917, three years after his death, nothing had been done. Some of Hermann's real estate holdings had been sold at great discounts to relatives and girlfriends of the three trustees. The three had not even designated four additional trustees. No hospital had been built, or even started to be built. In short, the estate was being depleted without any efforts at building Hermann's dream of a charity hospital.

Enter the District Attorney of Harris County, John Crooker, Sr. He had been elected District Attorney when he was only 30 years old, and immediately he became known as someone who would and could bring justice to anyone. Learning about the looting of the Hermann estate, he brought an action to remove the trustees on the ground of fraud. Bringing this action took courage, since the three were leaders in the community and were quite powerful individuals. Crooker was getting ready for trial when he was summoned to join the United States Army to fight in "The Great War", today known as World War I. On his way out of town, he persuaded his friend James Elkins to act as District Attorney for purposes of trying the case.

The trustees that thought that the last minute substitution of counsel would work to their advantage did not know Elkins. He apparently dived into the minutiae of the case, and showed up for trial with three weeks' notice. Legend states that he showed the three defendants the evidence he was getting ready to offer against them. On a piece of legal paper that still exists in the file, the three trustees wrote in pencil their resignations as trustees of the Hermann Estate. Judge Henry J. Dannenbaum of the 61st District Court accepted their resignations and dismissed the case as moot.

The successor trustees appointed by Judge Dannenbaum went to work setting aside the fraudulent deeds and building a hospital. The result – less than two years later, Hermann Hospital was founded. The presence today of the original building at the corner of Fannin and Cambridge Streets, across from Hermann Park, is the cornerstone of the Medical Center. It serves as a reminder of the lasting effect of Hermann's generosity and the dedicated legal talents of John Crooker and James Elkins.