STACEY MARCEL	*	NO. 2000-CA-1882
VERSUS	*	COURT OF APPEAL
GLORIA R. HAND	*	FOURTH CIRCUIT
	*	STATE OF LOUISIANA
	*	
	*	
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APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2000-3537, DIVISION "I-7"
HONORABLE TERRI F. LOVE, JUDGE
* * * * * *
JAMES F. MC KAY, III
JUDGE
* * * * * *

(Court composed of Chief Judge William H. Byrnes, III, Judge James F. McKay, III, Judge Dennis R. Bagneris, Sr.)

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-and-
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REVERSED AND REMANDED

Stacey Marcel, an attorney whose practice is located in Orleans Parish, represented Gloria Hand, a resident of Jefferson Parish, in a community property dispute with her former husband. Ms. Marcel alleges that Mrs. Hand did not pay her for legal services rendered to Mrs. Hand. Therefore, Ms. Marcel brought a suit based on contract against Mrs. Hand in Orleans Parish. In response to Ms. Marcel's suit, Mrs. Hand filed a declinatory exception of improper venue, claiming that Ms. Marcel's suit was one on open account and that venue was proper only in Jefferson Parish. The trial court overruled Mrs. Hand's exception. It is from this ruling that Mrs. Hand now appeals.

Although a trial court judgment overruling a declinatory exception of improper venue is not a final judgment, it is an appealable interlocutory judgment, and we can consider the merits of the appeal. Herlitz Construction Co., Inc. v. Hotel Investors of New Iberia, Inc., 396 So.2d 878 (La. 1981). The fundamental issue before this Court is whether the alleged debt owed by Mrs. Hand to Ms. Marcel is one that is based on contract or

one that stems from an open account. If the alleged debt is from a breach of

contract the trial court's overruling of the defendant's exception was correct.

However, if the alleged debt is based on an open account, the trial court's

ruling must be reversed.

Although a claim on open account necessarily involves some type of

contractual relationship between the parties, the law has recognized it in a

different way than a normal breach of contract claim. Olinde v. Couvillion,

94-1275 (La. App. 4 Cir. 2/23/95), 650 So.2d 1241. As it relates to legal

services, the attorney-client relationship entails services rendered on a

continuing basis in a matter. As a result, the cost of these services will

probably not be readily ascertainable in advance of their performance so that

a part or all of the balance will be past due. This situation is a classic

example of an amount owed on open account. Furthermore, Louisiana

Revised Statute 9:2781 (C) specifically includes charges for legal services

within the meaning of open account.

The issue we are faced with in the instant case is similar to the one

addressed by the Fifth Circuit in Chehardy, Sherman, Ellis, Breslin &

Murray v. Amerasia, Co., Inc., 96-384 (La. App. 5 Cir. 11/14/96), 694 So.2d

355. In <u>Chehardy</u>, the plaintiff law firm filed suit against a former client for an outstanding bill. The suit was styled as one on open account, but the plaintiff argued that the suit should come under the venue exceptions made by Louisiana Code of Civil Procedure Article 76.1. The Fifth Circuit disagreed and found that venue should be determined pursuant to Louisiana Code of Civil Procedure Article 42 as the legislature had not created an exception for this situation. Although Ms. Marcel styles her suit as one based on breach of contract, the same remedy as the one sought by the plaintiff in <u>Chehardy</u> is being sought in this suit. Accordingly, Ms. Marcel's suit must also follow the venue rules of Article 42, which provide that a suit brought against a defendant domiciled in Louisiana shall be brought in the parish of his or her domicile.

For the foregoing reasons, the trial court judgment is reversed. The matter is remanded to the trial court for entry of the proper order transferring the case to the 24th Judicial District Court, Parish of Jefferson.

REVERSED AND REMANDED