

No. 05-18-00558-CV

IN THE COURT OF APPEALS FOR THE
FIFTH DISTRICT OF TEXAS IN DALLAS

FILED IN
5th COURT OF APPEALS
DALLAS, TEXAS
01/14/2019 3:12:34 PM
LISA MATZ
Clerk

STEPHEN B. HOPPER AND LAURA S. WASSMER,

Appellants/Relators,

V.

**JOHN L. MALESOVAS, D/B/A MALESOVAS LAW FIRM, AND
FEE, SMITH, SHARP & VITULLO, LLP,**

Appellees/Real Parties in Interest.

**APPELLANTS/RELATORS' UNOPPOSED
MOTION TO DISMISS APPEAL**

TO THE HONORABLE COURT OF APPEALS:

Under Texas Rule of Appellate Procedure 42.1, Appellants/Relators Stephen B. Hopper and Laura S. Wassmer (“Appellants”) file this motion to voluntarily dismiss their appeal and respectfully request that the Court dismiss the consolidated proceedings in the above-referenced action.

1. This is a consolidated interlocutory appeal/mandamus proceeding from the probate court’s April 24, 2018 temporary injunction order. In that order, the probate court enjoined JPMorgan from distributing the proceeds of a confidential settlement pending the resolution, in arbitration, of a dispute between

Appellants and Appellees/Real Parties in Interest (“Appellees”) over the proper division of the settlement funds.

2. Briefing is complete in this consolidated proceeding, but this case has not been set for oral argument.

3. In the meantime, the parties proceeded to an arbitration hearing on their fee dispute and the arbitrator issued his award on December 20, 2018. In that award, the arbitrator determined the fee that should be paid to Appellees from the settlement proceeds—leaving the remainder for Appellants.

4. As a result, the parties now have a final, binding resolution of their fee dispute on the merits and agree that the settlement proceeds should be paid in accordance with the arbitrator’s award. This consolidated proceeding is therefore moot and should be dismissed.

5. Appellees do not oppose this requested relief.

Respectfully submitted,

/s/ Anne M. Johnson

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CERTIFICATE OF CONFERENCE

I hereby certify that on the 20th day of December, 2018, I conferred with Brian Lauten, counsel for Appellees/Real Parties in Interest, about the relief requested herein. Mr. Lauten indicated that Appellees/Real Parties in Interest do not oppose the requested relief.

/s/ Anne M. Johnson

Anne M. Johnson

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was forwarded to all counsel of record in accordance with the Texas Rules of Civil Procedure on the 14th day of January, 2019.

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