

**CORRECTED CLERK'S RECORD
TRIAL COURT CAUSE PR-11-03238-1
IN THE COUNTY PROBATE COURT
OF DALLAS COUNTY
HONORABLE BRENDA H THOMPSON JUDGE PRESIDING**

FILED IN
5th COURT OF APPEALS
DALLAS, TEXAS
6/1/2018 8:09:38 AM

LISA MATZ
Clerk

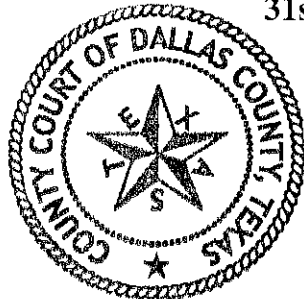
**IN THE MATTER OF
MAX HOPPER, DECEDENT**

**Appealed to the
Court of Appeals for the Fifth District of Texas, at Dallas, Texas.**

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**Delivered to the Court of Appeals for the Fifth District of Texas, at Dallas, Texas on
31st day of May, 2018.**



Trinidad Pimentel, Deputy Clerk



THE STATE OF TEXAS

Probate Court

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**Estate of: IN THE MATTER OF
MAX HOPPER, DECEDENT**

Cause No. PR-11-03238-1/05-18-00558CV

I, **JOHN F. WARREN**, County Clerk and Clerk of the County and Probate Courts, in and for said county, do hereby certify that the following is the true and correct original instruments and plain copies of miscellaneous papers (i.e., correspondence) in the matter of the above named and styled cause.

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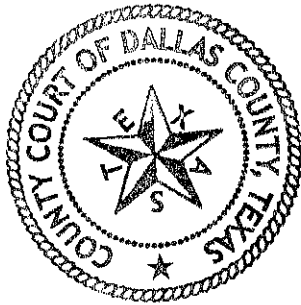
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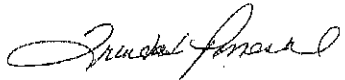
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The same appear now on file and of record in the Probate Courts of Dallas County, Texas a certified copy of the original instruments and miscellaneous papers (i.e., correspondence).

WITNESS MY HAND AND OFFICIAL SEAL OF OFFICE, this 31st day of May, 2018.

JOHN F. WARREN, County Clerk
Dallas County, Texas




By: TRINIDAD PIMENTEL
Deputy

The State of Texas §
County of Dallas §

Trial Court Cause No. PR-11-03238-1

SECRET

DALLAS COUNTY, TEXAS

CAUSE NO. PR-11-03238-1

IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

IN THE PROBATE COURT

NO. 1

DALLAS COUNTY, TEXAS

INTERVENTION DEFENDANTS' NOTICE OF ACCELERATED APPEAL

Intervention Defendants Stephen B. Hopper and Laura S. Wassmer state their desire, under Texas Rules of Appellate Procedure 25.1 and 28.1, to appeal the temporary injunction order signed by this Court on April 24, 2018, as well as any other adverse orders or rulings merged into, subsumed within, or relied upon in issuing the temporary injunction, in *In re: Estate of Max D. Hopper*, Cause No. PR-11-03238-1, in Probate Court No. 1 of Dallas County, Texas. Intervention Defendants appeal to the Court of Appeals for the Fifth District of Texas at Dallas. This is an accelerated, interlocutory appeal of an order granting a temporary injunction, as

authorized by TEX. CIV. PRAC. & REM. CODE § 51.014(a)(4). This accelerated appeal does not involve a parental termination or child protection case.

Respectfully submitted,

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Attorneys for Intervention Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May, 2018, the foregoing *Notice of Accelerated Appeal* was filed using the e-filing system which will send notification of such filing to the following parties via email:

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/s/ Anne M. Johnson
Anne M. Johnson

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED,

JO N. HOPPER,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

IN THE PROBATE COURT

NO. 1

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM,

Intervenor,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN
CHASE BANK, N.A.,

Defendants.

PETITION IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Intervenor, John L. Malesovas, d/b/a Malesovas Law Firm ("Intervenor"), and files this Petition in Intervention complaining of Defendants, STEPHEN B. HOPPER ("Hopper"), LAURA S. WASSMER ("Wassmer"), or (hereinafter collectively "Clients") and JPMORGAN CHASE BANK, N.A. ("JPM"), and for cause would show the following:

I.
DISCOVERY CONTROL PLAN

1.01 Intervenor requests this lawsuit proceed under a Level 3 Discovery Control Plan pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II.
PARTIES

2.01 Intervenor is an individual licensed to practice law in the State of Texas and doing business as Malesovas Law Firm.

2.02 Defendant, Stephen B. Hopper ("Hopper"), was a former client of Intervenor and is being served herewith pursuant to TRCP 21a.

2.03 Defendant, Laura S. Wassmer ("Wassmer"), was a former client of Intervenor and is being served herewith pursuant to TRCP 21a. Hopper and Wassmer are hereinafter jointly referred to as "Clients."

2.04 Defendant, JPMorgan Chase Bank, N.A. ("JPM"), is a Defendant in the underlying case and is being served herewith pursuant to TRCP 21a.

III.
JURISDICTION AND VENUE

3.01 Venue is proper in Dallas County, Texas pursuant to §15.002(a)(1), Tex. Civ. Prac. & Rem. Code, as Dallas County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred and because venue is proper in the underlying action. This Court has jurisdiction to hear this claim because Intervenor has an interest in the matter in controversy.

IV.
FACTS AND CAUSES OF ACTION

4.01 Intervenor, along with Fee, Smith, Sharp & Vitullo, LLP (jointly "Attorneys"), entered into a contingent fee agreement with Clients, a true and correct copy of which is attached hereto as Exhibit A ("Agreement"). Pursuant to the terms of the Agreement, Attorneys fully performed and this case against JPM was tried to a very favorable verdict in this Court.

4.02 Thereafter, on or about April 3 and 4, 2018, through another attorney whom Clients hired for appellate purposes, Jeff Levinger, Clients unilaterally settled the case with JPM without Attorneys authority, agreement and consent. A Rule 11 agreement was filed with the Court on April 4 confirming the settlement between Clients and JPM, and the settlement was announced in open court at 9:00 am on April 5, 2018. Within one (1) hour thereafter, at approximately 10:10 a.m., April 5, 2018, Clients terminated Attorneys under the Agreement and advised Attorneys that they were not going to pay the fee due under the Agreement. Clients also advised Attorneys that they were going to instruct Mr. Levinger to retain an unspecified percentage of the settlement proceeds from JPM in his trust account.

4.03 Intervenor has a justiciable interest in the pending suit in that Intervenor has a lien on and interest in the settlement proceeds of the settlement Clients have entered into with JPM. As such, pursuant to *Texas Mut. Ins. Co. v. Ledbetter*, 251 S.W.3d 31 (Tex. 2008), Intervenor as a lienholder in the settlement proceeds of this case, has an absolute right to intervene. Further, as stated by the Supreme Court in *Ledbetter*, to the extent that Clients, JPM and/or their attorneys settle a case without reimbursing a lienholder, "everyone involved is liable ... for conversion." Thus, Intervenor seeks a declaration from this Court pursuant to Tex.Civ.Prac. & Rem Code 37.001 et. seq. confirming Intervenor's security interest in the settlement proceeds and directing JPM and Clients to pay such interest directly to Intervenor.

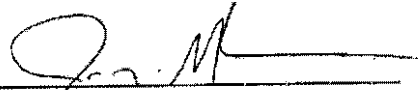
4.04 In addition, Clients' actions as described above constitute a breach of the Agreement, as well as an anticipatory breach of the Agreement, thereby entitling Intervenor to the full amount of the fee from the settlement as set forth in the Agreement for which Intervenor sues Clients.

4.05 Attorneys fully performed under the Agreement with no complaint from Clients and secured a very favorable jury verdict. As a result of this favorable jury verdict, Clients were able to secure a settlement with JPM. Only after Clients unilaterally settled with JPM did Clients terminate the Agreement and cook up baseless reasons for not paying the fee due under the Agreement. Clients accepted, used and enjoyed the services of Attorneys which resulted in the settlement with JPM. In accordance with the Courts' holdings in *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356 (Tex.App. – Dallas 2018, no pet.) and *Enochs v. Brown*, 872 S.W.2d 312 (Tex.App. – Austin 1994, no writ), Clients are estopped and quasi-estopped from challenging the validity of the Agreement and the fee due Intervenor thereunder. Further, it would be unconscionable for Clients to challenge the validity of the Agreement after having already accepted the benefits from Attorneys under the contract. Accordingly, Intervenor moves the Court to declare pursuant to Tex.Civ.Prac. & Rem Code 37.001 et. seq. that the Agreement is valid and enforceable and order that the fee due Intervenor under the Agreement from the proceeds of the settlement must be paid by JPM and Clients directly to Intervenor.

4.06 In addition, Intervenor seeks his attorneys' fees from Clients pursuant to Tex.Civ.Prac. & Rem Code 37.009 as well as Tex.Civ.Prac. & Rem Code 38.001. All conditions precedent have been satisfied pursuant to Tex.Civ.Prac.& Rem Code 38.001.

WHEREFORE, PREMISES CONSIDERED, Intervenor moves the Court for all relief requested herein, as well as such other and further relief, in law or in equity, to which he may show himself justly entitled.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 6, 2018, in accordance with the Texas Rules of Civil Procedure to:


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John L. Malesovas

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED,

JO N. HOPPER,

Intervenor,

v.

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

IN THE PROBATE COURT

NO. 1

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and
FEE, SMITH, SHARP & VITULLO, LLP

Intervenors,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN
CHASE BANK, N.A.,

Defendants.

**FEE, SMITH, SHARP & VITULLO, LLP'S PETITION IN INTERVENTION,
APPLICATION FOR DECLARATORY RELIEF, REQUEST FOR TRO
AND TEMPORARY INJUNCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Intervenor, Fee, Smith, Sharp & Vitullo, LLP ("Intervenor"), and files this Petition in Intervention and Petition for Declaratory Judgment and Application for Temporary Restraining Order and for Temporary Injunction complaining of Defendants, STEPHEN B. HOPPER ("Hopper"), LAURA S. WASSMER ("Wassmer"), or (hereinafter collectively "Clients"

and/or "Defendants") and JPMORGAN CHASE BANK, N.A. ("JPM"), and for cause would show the following:

I.
DISCOVERY CONTROL PLAN

1.01 Intervenor requests this lawsuit proceed under a Level 3 Discovery Control Plan pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II.
PARTIES

2.01 Intervenor is a limited liability partnership and law firm and doing business as Fee, Smith, Sharp & Vitullo, LLP.

2.02 Defendant, Stephen B. Hopper ("Hopper"), was a former client of Intervenor and is being served herewith pursuant to TRCP 21a.

2.03 Defendant, Laura S. Wassmer ("Wassmer"), was a former client of Intervenor and is being served herewith pursuant to TRCP 21a. Hopper and Wassmer are hereinafter jointly referred to as "Clients".

2.04 JPMorgan Chase Bank, N.A. ("JPM"), is a Defendant in the underlying case and an interested party to this Petition in Intervention and is being served herewith pursuant to TRCP 21a.

III.
JURISDICTION AND VENUE

3.01 Venue is proper in Dallas County, Texas pursuant to §15.002(a)(1), Tex. Civ. Prac. & Rem. Code, as Dallas County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred and because venue is proper in the underlying action. This Court has exclusive jurisdiction to hear this claim because Intervenor has an interest in the matter in controversy that involves the Defendants and The Estate of Max D. Hopper. To

the extent that The Estate of Max D. Hopper is a party to the settlement with JPM or to the extent that beneficiaries of The Estate of Max D. Hopper are parties to the settlement with JPM then this Court and only this Court has exclusive jurisdiction over this matter.

IV. FACTS

4.01 Intervenor, along with John L. Malesovas, d/b/a Malesovas Law Firm, (jointly “Attorneys”), represented Defendants pursuant to a valid and enforceable contingency fee agreement in the underlying lawsuit pending in this Court. Intervenor’s have fully performed under the terms of the contingency fee agreement. On April 3, 2018 and April 4, 2018, Defendants Appellate Counsel Jeff Levinger filed a Rule 11 agreement with the Court notifying the Court that there was a settlement between Defendants and JP Morgan Chase. At approximately 9:05 am on April 5, 2018, Anthony L. Vitullo on behalf of Defendant’s announced in open court that a settlement between Defendant and JP Morgan Chase had been reached (without violating the confidentiality). At approximately 10:10 am on April 5, 2018, Defendants terminated Intervenor’s without “Cause”. On April 6, 2018, Intervenor, Fee, Smith, Sharp and Vitullo LLP withdrew from representing Defendants in the underlying lawsuit. Intervenor’s Fee, Smith, Sharp & Vitullo own a property right in the “Settlement Proceeds” from the settlement between Defendant and JP Morgan Chase. Intervenor files this Petition in Intervention and Declaratory Judgment and TRO and Temporary Injunction to enforce its property rights in the “Settlement Proceeds.”

4.02 Intervenor has a justiciable interest and property interest in the pending suit in that Intervenor has a lien on and interest in the settlement proceeds of the settlement Clients have entered into with JPM. This lawsuit is a simple declaratory judgment action to enforce Intervenor’s property rights. As such, pursuant to *Texas Mut. Ins. Co. v. Ledbetter*, 251 S.W.3d

31 (2008), Intervenor as a lienholder in the settlement proceeds of this case, has an absolute right to intervene. Further, as stated by the Supreme Court in *Ledbetter*, to the extent that Clients, JPM and/or their attorneys settle a case without reimbursing a lienholder, “everyone involved is liable ... for conversion.” Thus, Intervenor seeks a declaration from this Court pursuant to TEX. CIV. PRAC. & REM CODE § 37.001 et. seq. (Vernon 2014), confirming Intervenor’s security interest in the settlement proceeds and directing JPM and Clients to pay such interest directly to Intervenor. This lawsuit is a simple declaratory judgment action to enforce Intervenor’s property rights.

4.03 Attorneys fully performed under the Agreement and secured a very favorable jury verdict. As a result of the auspicious jury verdict, Clients were able to secure a confidential settlement with JPM. Only after Clients through their appellate attorney Jeff Levinger unilaterally settled with JPM did Clients terminate Attorneys. Clients accepted, used and enjoyed the services of Attorneys which resulted in the settlement with JPM. In accordance with the Courts’ holdings in *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2018, no pet.), *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003); *Mandell & Wright*, 441 S.W.2d 841, 847 (Tex. 1969). Clients are estopped from challenging the validity of the Agreement and the fee due Intervenor thereunder and the property rights Intervenor has to the “Settlement Proceeds.” The optics of Defendants terminating Intervenor—literally as the confidential settlement is being announced—is enormously telling and should be seen for what it is. Further, it would be unconscionable for Clients to challenge the property rights of Intervenor after having already accepted the benefits from Attorneys under the contingency fee agreement. Accordingly, Intervenor moves the Court to declare that the

Intervenor owns a property right in the "Settlement Proceeds" and that the Agreement is valid and enforceable and ordering that the fee due Intervenor under the Agreement from the proceeds of the settlement must be paid my JPM and Clients directly to Intervenor. Alternatively, Intervenor asks this Court to take judicial notice under Rule 201 of the Texas Rules of Evidence that Defendants have waived each and every defense they have, if any, by virtue of the fact that they terminated *after* the settlement was reached. That is long standing and undeniable Texas law. *See Tillery*, 54 S.W.3d at 360-61; *Enochs*, 872 S.W.2d at 317; *Mandell*, 441 S.W.2d at 847.

4.04 In addition, Intervenor seeks its attorneys' fees from Clients pursuant to TEX .CIV. PRAC. & REM CODE § 37.009 as well as TEX. CIV. PRAC. & REM CODE § 38.001. All conditions precedent to Intervenor's claim for relief have been performed, have occurred, or been waived.

V.
SUIT FOR DECLARATORY RELIEF

5.01 Intervenor incorporates all of the preceding paragraphs as if they were set forth in their entirety herein.

5.02 Intervenor seeks from this court a declaratory judgment for the following reasons: An actual and justiciable controversy (ies) exists and has arisen between Intervenor and Defendants, and specific orders from this Court as follows as to each of the matters below. Intervenor further seeks judgment against Defendants pursuant to the UDJA declaring the rights, status and other legal relations of Intervenor and Defendants regarding the rights and obligations hereunder of the parties, one to another and to have this Honorable Court declare the rights and legal relations in respect to any and all interests of the parties in relation to the property rights of the Intervenor in the "Settlement Proceeds" from the settlement between Clients, the Estate, and JPM. To the extent JPM entered into a settlement with the Estate of Max D. Hopper this

Honorable Court has exclusive jurisdiction to declaring any rights Intervenor's may have in the "Settlement Proceeds".

5.03 Intervenor is entitled to a declaration from this Honorable Court as follows:

1. Intervenor's own a property right to the "Settlement Proceeds."
2. Intervenor is entitled to immediate possession of its property right to the "Settlement Proceeds."
3. To the extent that the Estate of Max D. Hopper is a party to the settlement with JPM, this Honorable Court has exclusive jurisdiction to declare the rights of the parties including the property rights of the Intervenor.
4. Intervenor is entitled to the full and exclusive use, possession and enjoyment of its interest in the "Settlement Proceeds".
5. That the JPM as IA of The Estate of Max D. Hopper, pursuant to the Texas Probate Code, that it is in the best interest of the Estate to pay Intervenor its interest in the "Settlement Proceeds".
6. That the Court Order JPM as IA of the Estate of Max D. Hopper to pay Intervenor's interest in the "Settlement Proceeds".
7. This Court seeks judgment against Defendants pursuant to the Texas Uniform Declaratory Judgment Act ("UDJA"), Texas Civil Practice & Remedies Code Section 37.001 et seq. Intervenor and Defendants are legal or natural persons having an interest in the matters set forth herein that would be affected by the declarations sought herein, as provided under Texas Civil Practice & Remedies Code, Section 37.006(a). Plaintiff also seeks all legal fees and expenses as allowed under law and set forth elsewhere in this pleading, all of which are incorporated by reference herein

in support hereof.

8. As a result of the aforementioned actions of Defendants, Intervenor has been damaged in an amount in excess of the minimum jurisdictional limits of the Court, for which they now sue.

VI. ATTORNEY'S FEES

6.01 Pursuant to Section 38.001 of the Texas Civil Practice and Remedies Code, Intervenor seeks its reasonable and necessary attorney's fees in this case which include the following:

- a. Preparation and trial of this lawsuit;
- b. Post-Trial, pre-appeal legal services;
- c. An appeal to the court of appeals;
- d. Making or responding to an application for writ of error to the Supreme Court of Texas;
- e. An appeal to the Supreme Court of Texas in the event application for writ of error is granted; and
- f. Post-judgment discovery and collection in the event execution on the judgment is necessary.

VII. ELEMENTS FOR INJUNCTIVE RELIEF

7.01 In light of the above described facts, Intervenor seeks recovery from Defendants. The nature of the lawsuit is an action for breach of a written attorney fee agreement, unjust enrichment, and damages based on Defendants' failure to pay for the legal services fully performed under the fee agreement.

7.02 Intervenor is likely to succeed on the merits of this lawsuit because Intervenor

shows a probable right to the relief it seeks on final hearing. On final hearing, Intervenor is likely to prove each and every element of all claims asserted against the respective Defendants as the evidence above shows that Intervenor fully performed under the written fee agreement. Defendants represented and agreed to pay Intervenor for the legal services rendered and Defendants have informed Intervenor that they do not intend to pay for the legal services rendered.

7.03 Unless this Honorable Court immediately restrains the Defendants, the Intervenor will suffer immediate and irreparable injury, for which there is no adequate remedy at law to afford Intervenor complete, final, and equal relief. More specifically, Intervenor will show the court the following:

- a) The harm to Intervenor is imminent because Defendants have started to finalize the settlement in the underlying lawsuit and requested that the settlement proceeds be provided to Defendants' attorney, Jeff Levinger.
- b) This imminent harm will cause Intervenor irreparable injury in that once Defendants provide the "Settlement Proceeds" to Jeff Levinger he is obligated to protect the settlement proceeds for the benefit of his clients—the Defendants. In addition, the settlement proceeds will not be protected from unauthorized distributions, conversion, or bank failure; and, moreover, Intervenor should not be forced to give an interest free loan to either Defendants or Mr. Levinger's bank with money that belongs in equity and good conscience to Intervenor.
- c) There is no adequate remedy at law which will give Intervenor complete, final and equal relief because once Defendants do not have sufficient assets to satisfy Intervenor's damages, Intervenor will not be able to recover its damages from Defendants if

Intervenor were to prevail on the merits of this suit.

VIII. **BOND**

8.01 Intervenor is willing to post a reasonable temporary restraining order bond and request the court to set such bond; be that as it may, there should be no bond because Defendants should be forced to explain with clear and specific evidence what it monetarily disputes with any delta going into either the court's registry or an interest bearing account under the exclusive jurisdiction of this Court.

IX. **TRO REMEDY**

9.01 Intervenor has met its burden by establishing each element which must be present before injunctive relief can be granted by this court; and, therefore, Intervenor is entitled to the requested temporary restraining order.

9.02 Intervenor requests that the court restrain Defendants from the following actions (the "Actions") with regard to the "Settlement Proceeds":

- taking any action to transfer, liquidate, convert, encumber, pledge, loan, share, sale, market for sale, conceal, hide, hypothecate, secret, dissipate, deplete, neglect, misuse, damage and/or destroy, lease, assign, granting a lien, security interest, or other interest in, allow the use of, or otherwise dispose of any and all part of the Settlement Proceeds; and
- encouraging, requesting, assisting, suggesting, directing, or implying to anyone that any natural or legal person perform or do any of the matters or things otherwise prohibited by the temporary restraining order.

9.03 It is essential that the court immediately and temporarily restrain Defendants herein, from committing any of the above Actions.

9.04 In order to preserve the *status quo* during the pendency of this action, Intervenor requests that the Defendants be temporarily enjoined from committing the above Actions.

9.05 On final trial on the merits, that the Court permanently enjoin Defendants herein, from committing the above Actions.

9.06 That the Court order the Intervenor's interests in the "Settlement Proceeds" be placed in the Registry of the Court or an interest-bearing court for the benefit of Defendants within the exclusive jurisdiction of the Court.

WHEREFORE, PREMISES CONSIDERED, Intervenor respectfully requests that the Defendants be cited to appear and answer, as required by law, and that Intervenor have the following relief;

1. Actual, direct, indirect, economic, non-economic, and consequential damages in the amount determine to have been sustained by Intervenor;
2. Pre- and Post-Judgment Interest;
3. Costs of this lawsuit, including reasonable attorney's fees, experts fees, and other disbursements; and
4. A temporary restraining order will issue against the Defendants;
5. The Court sets a reasonable bond for the temporary restraining order; or, places the disputed funds into the registry;
6. After notice and hearing, a temporary injunction will issue enjoining and restraining Defendants', Defendants' officers, agents, employees, successors and assigns, and attorneys from directly or indirectly committing any of the above listed Actions.
7. After trial on the merits, the Court permanently enjoin Defendants', Defendants' officers, agents, employees, successors and assigns, and attorneys from directly or indirectly committing any of the above listed Actions.
8. That the Intervenor's interest in the "Settlement Proceeds" be placed in the Registry

of the Court.

9. Such other and further relief, at law or in equity, to which Intervenor may show themselves to be justly entitled.

Respectfully Submitted,

BRIAN LAUTEN, P.C.

A handwritten signature in black ink, appearing to read "BP Lauten", with a large, stylized flourish at the end.

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**ATTORNEYS FOR INTERVENOR
FEE SMITH SHARP & VITULLO, LLP**

CERTIFICATE OF SERVICE

In accordance with Rule 21a of the Texas Rules of Civil Procedure, the undersigned certifies that a true and correct copy of the foregoing instrument has been served upon all counsel of record via the ECF case manager system and by electronic filing on April 6, 2018.

Cc:

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JPMorgan Chase Bank, N.A.*

A handwritten signature in black ink, appearing to read "BPL" followed by a stylized flourish.

BRIAN P. LAUTEN
ATTORNEY FOR INTERVENOR

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED,

JO N. HOPPER,

Intervenor,

v.

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

IN THE PROBATE COURT

NO. 1

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and
FEE, SMITH, SHARP & VITULLO, LLP

Intervenors,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN
CHASE BANK, N.A.,


Defendants.

VERIFICATION

STATE OF TEXAS)
)
COUNTY OF DALLAS)

BEFORE ME, the undersigned authority, on this day personally appeared **ANTHONY L. VITULLO**, who, being by me duly sworn on oath, deposed and stated that he is a Senior Partner at Fee, Smith, Sharp & Vitullo, LLP, named as Intervenor in the above-entitled and numbered

cause; that he has read the Petition in Intervention and Petition for Declaratory Judgment and Application for Temporary Restraining Order and for Temporary Injunction; and that every statement contained therein is within his personal knowledge and is true and correct, and that he is authorized to sign on behalf of Fee, Smith, Sharp & Vitullo, LLP.

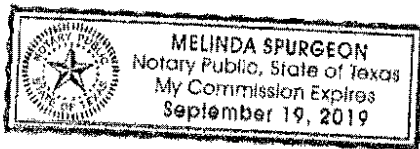


ANTHONY L. VITULLO

SUBSCRIBED AND SWORN TO BEFORE ME this 6th day of April, 2018.



NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



MY COMMISSION EXPIRES: 9-19-2019

CAUSE NO. PR-113238-1

IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

IN THE PROBATE COURT

NO. 1

DALLAS COUNTY, TEXAS

OBJECTION TO PETITIONS IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendants, Stephen B. Hopper and Laura S. Wassmer ("the Clients"), and file this Objection to the Petitions in Intervention filed by Intervenors John Malesovas and Fee, Smith, Sharp & Vitullo, LLP ("Intervenors"), and respectfully show the Court the following:

This Court Lacks Jurisdiction

This Court has no jurisdiction over this dispute. The contract, which the Intervenors rely

upon to support their claims, contains a mandatory arbitration provision. The language contained in the aforementioned contract states as follows:

20. ARBITRATION: . . . should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, *if any controversy or claim arises out of or is related to this agreement*, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (*including malpractice claims and fee disputes*), Attorneys and Client both *waive any right to bring a court action* or have a jury trial and agree that the *dispute shall be submitted to binding arbitration* to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas.¹

This agreement was signed by both Intervenor. Based on this arbitration provision, this Court does *not* have jurisdiction over this matter; Intervenor have waived their right to bring any action in this Court or any other court.

Any doubts regarding the existence or scope of an agreement are resolved in favor of arbitration. *In re FirstMerit Bank, N.A.*, 52 S.W.3d 749, 753 (Tex. 2001). The arbitration provision in the agreement applies to "any controversy or claim [that] arises out of or is related to this agreement." This type of language is construed broadly. *In re Conseco Fin. Serv. Corp.*, 19 S.W.3d 562, 568 (Tex. App. - Waco 2000, orig. proceeding). There is no question that Intervenor's claims arise out of, and are related to, the agreement. Intervenor maintain throughout their petitions that they are entitled to a contingent fee under the agreement.² The Clients dispute this fee, which is a matter within the scope of the arbitration clause. Intervenor also seek declaratory relief regarding their rights under the agreement and claim that the Clients breached the agreement. Once it is determined that an arbitration provision exists and the claim falls within the scope of that provision, a court has no discretion – it must compel arbitration and

¹ See p. 7 of Exhibit A attached to Petition in Intervention filed by Malesovas (emphasis supplied).

² Petition in Intervention at 5.

stay any further proceedings. *See Pepe Int'l Dev. Co. v. Garcia*, 915 S.W.2d 925, 930-31 (Tex. App. - Houston [1st Dist.] 1996, orig. proceeding).

Although the Clients dispute the enforceability of the contingent fee agreement, this issue should be decided by the arbitrator -- not this Court. Once there is an agreement to arbitrate, substantive attacks on the validity of the contract are to be resolved by the arbitrator, and not by the court. *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440, 445-46 (2006); *FUNimation Entm't v. SC Films Int'l*, 2013 WL 5770383, (E.D. Tex. Oct. 24, 2013); *Lawrence v. Comprehensive Bus. Serv. Co.*, 833 F.2d 1159, 1162 (5th Cir.1987) (submitting issue regarding illegality defense to arbitration); *Mesa Operating Ltd. P'ship v. La. Intrastate Gas Corp.*, 797 F.2d 238, 244 (5th Cir.1986) (submitting claim that contract was void *ab initio* to arbitration because parties failed to demonstrate that the arbitration agreement was "invalid separately from the entire contract").

Additionally, and without waiving their position that the agreement is unenforceable, in the alternative* event that the agreement is determined to be enforceable -- the Clients contend that the Intervenor breached the agreement. Pleading alternative theories does not defeat the effect of an arbitration clause that broadly covers all disputes that arise out of the underlying agreement. *In re Kellogg Brown & Root Inc.*, 166 S.W.3d 732, 740 (Tex. 2005).

For those reasons set forth above, the Clients object to Intervenor's improper attempt to invoke this Court's jurisdiction. This Court should strike the interventions and/or compel the Intervenor to pursue their claims in arbitration. Subject to and without waiving this objection, the Intervenor has not established a right to seek any equitable relief for those reasons discussed below.

Lack of Imminent Harm

A threat of imminent harm is a prerequisite for injunctive relief. *Operation Rescue-Nat'l v. Planned Parenthood of Houston and Se. Tex., Inc.*, 975 S.W.2d 546, 554 (Tex. 1998). Fear or apprehension of injury will not support a temporary injunction. *Frey*, 647 S.W.2d at 248; *Matrix Network, Inc. v. Ginn*, 211 S.W.3d 944, 947-48 (Tex. App.—Dallas 2007, no pet.). “An injunction will not issue unless it is shown that the respondent will engage in the activity enjoined.” *State v. Morales*, 869 S.W.2d 941, 946 (Tex. 1994). If the evidence shows no intent to do the thing sought to be enjoined, the injunctive relief must be denied. *Luccous v. J.C. Kinley Co.*, 376 S.W.2d 336, 341 (Tex. 1964); *see also Dallas Gen. Drivers, Warehousemen & Helpers v. Wamix, Inc., of Dallas*, 156 Tex. 408, 416, 295 S.W.2d 873, 879 (1956).

Intervenors have not shown -- and cannot show -- there is a threat of imminent harm. The Clients have agreed to place the disputed fee into their attorney's (Jeff Levinger) trust account. Further, they have agreed not to disburse those funds (the disputed fee amount) from Mr. Levinger's trust account until this matter is finally resolved. This situation is governed by Rule 1.14 of the Texas Disciplinary Rules of Professional Conduct. Under Rule 1.14, a lawyer in Mr. Levinger's position is *required* to maintain the disputed portion of any settlement in his trust account (or other escrow account) and not disburse the disputed amount until the matter is resolved. Both the Clients and Mr. Levinger have agreed to comply with their obligations under Rule 1.14. Accordingly, there is no imminent harm or danger regarding the disbursement of the disputed fee amount.

Intervenors claim, incorrectly, that they are entitled to the full and exclusive use, possession and enjoyment of their interest in the settlement proceeds. However, Rule 1.14 states otherwise: If a dispute arises concerning a lawyer's interest in settlement funds, “the portion in

dispute shall be kept separated by the lawyer until the dispute is resolved, and the undisputed portion shall be distributed appropriately.” Rule 1.14 Texas Disciplinary Rules of Professional Conduct. Even if an attorney believes he has earned a fee – if the fee is disputed, the funds must be maintained in a trust account until the dispute was resolved. *Fry v. Comm’n for Lawyer Discipline*, 979 S.W.2d 331, 335 (Tex. App. – Houston [14thDist.] 1998, pet. denied). Thus, Intervenor’s have no entitlement to the exclusive use or possession of the disputed fee amount.

Intervenor’s Have an Adequate Remedy at Law

Intervenor’s claim that that they do not have an adequate remedy because they will not be able to recover their damages from the Clients if Intervenor’s prevail on their claims. This allegation is not supported by – and it is *contrary to* – the evidence. In the unlikely event that Intervenor’s prevail on their claims, the disputed funds will be available for distribution because they will remain in Mr. Levinger’s trust account (or other escrow account). Rule 1.14 provides an adequate remedy to Intervenor’s. An injury is not irreparable if the applicant has an adequate remedy at law. *Midway CC Venture I, LP v. O&V Venture LLC*, 527 S.W.3d 531, 534 (Tex. App. – Houston [1st Dist.] 2017, no writ); *see also McGlothlin v. Kliebert*, 672 S.W.2d 231, 232 (Tex. 1984) (“A temporary injunction will not be granted where there is a plain and adequate remedy at law.”).

Violation of Rule 1.05 – Confidentiality of Information

The Clients dispute whether Intervenor’s are likely to prevail on their claims; however, they should not be forced to litigate this matter before this Court. Litigating this issue in a public forum and in front of other parties – including the Clients’ adversaries – would require the disclosure of confidential and privileged information. Rule 1.05 requires attorneys to maintain the confidentiality of this information, with very few exceptions. The only applicable exception

is contained in Rule 1.05(c)(5), which allows a lawyer to reveal confidential information “to the extent *reasonably necessary* to enforce a claim” on behalf of the lawyer. The comments to Rule 1.05 also provide, when a lawyer is seeking to collect a fee from a client, “Any disclosure by the lawyer, however, should be as protective of the client's interests as possible.” Comment 15 to Rule 1.05, Texas Disciplinary Rules of Professional Conduct.

However, Intervenor has ignored the express limitations set forth in Rule 1.05. It is not reasonable or necessary for Intervenor to reveal any confidential information in *court* – where the Clients’ adversaries and other parties have access to this information. This should be done in arbitration, where the Clients’ confidential information can be protected from disclosure to other parties. Intervenor itself included a mandatory arbitration provision in their attorney’s fee contract to govern this precise dispute; yet, they have ignored both the arbitration provision and their own ethical obligations under Rule 1.05 to be as protective of the Clients’ interests as possible.

Intervenor’s Requested Relief Threatens to Change the Status Quo

On April 4, 2018, the Clients and JP Morgan Chase Bank filed a Rule 11 agreement confirming they agreed to settle this case based on confidential terms, including the amount of the settlement. Intervenor’s requested relief -- seeking to have the disputed funds placed in the registry of this Court – threatens to violate the confidentiality of the settlement agreement. The relief sought by Intervenor would necessarily require the amount of the settlement to be disclosed – either directly or indirectly – and become a matter of public record. Arguably, this would violate the confidentiality of the settlement agreement and/or jeopardize the settlement. Thus, contrary to Intervenor’s allegations, a temporary restraining order would *not* preserve the status quo; rather, it would have the opposite effect – it could potentially *change the status quo*

regarding the settlement. For this reason as well, the Clients object to the relief sought by Intervenor.

Conclusion

For those reasons set forth herein, the Clients request this Court to sustain their objections to the Petitions in Intervention, strike the interventions, compel the Intervenor to pursue their claims in arbitration, that the interventions be stayed, and/or that this Court deny all other relief sought by Intervenor.

Respectfully submitted,

s/ James E. Pennington

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Attorneys for Defendants
Stephen B. Hopper and Laura S. Wassmer

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of April, 2018, the foregoing ***Objection to Petitions in Intervention*** was filed using the e-filing system which will send notification of such filing to the following parties via email:

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s/ James E. Pennington
James E. Pennington

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED,

IN THE PROBATE COURT

JO N. HOPPER,

Intervenor,

v.

NO. 1

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and
FEE, SMITH, SHARP & VITULLO, LLP

Attorneys,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, individually and as
Beneficiaries of the ESTATE OF
MAX D. HOPPER, DECEASED,
the ESTATE OF MAX D. HOPPER,
DECEASED, JPMORGAN CHASE
BANK, N.A.,

Defendants.

**JOHN L. MALESOVAS, d/b/a MALESOVAS LAW FIRM AND FEE, SMITH, SHARP &
VITULLO, LLP'S CONSOLIDATED FIRST AMENDED JOINT PETITION IN
INTERVENTION AND PETITION FOR DECLARATORY JUDGMENT, APPLICATION
FOR TEMPORARY RESTRAINING ORDER, FOR TEMPORARY INJUNCTION,
AND MOTION TO DEPOSIT FUNDS IN THE REGISTRY**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Attorneys, John L. Malesovas, d/b/a Malesovas Law Firm ("MLF")
and Fee, Smith, Sharp & Vitullo, LLP ("FSSV") (MLF and FSSV hereinafter jointly

referred to as "Attorneys"), and files this Petition in Intervention and Petition for Declaratory Judgment and Application for Temporary Restraining Order and for Temporary Injunction complaining of Defendants, STEPHEN B. HOPPER ("Hopper"), LAURA S. WASSMER ("Wassmer"), individually and as beneficiaries of the Estate of Max D. Hopper (hereinafter collectively "Clients" and/or "Defendants"), the Estate of Max D. Hopper, deceased and JPMORGAN CHASE BANK, N.A. ("JPM"), and for cause would show the following:

I.
DISCOVERY CONTROL PLAN

1.01 Intervenor requests this lawsuit proceed under a Level 3 Discovery Control Plan pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II.
PARTIES

2.01 John L. Malesovas is an attorney licensed to practice law in the State of Texas and doing business as Malesovas Law Firm.

2.02 FSSV is a limited liability partnership and law firm and doing business as Fee, Smith, Sharp & Vitullo, LLP.

2.03 Defendant, Stephen B. Hopper ("Hopper"), individually and as a beneficiary of the Estate of Max D. Hopper, deceased, was a former client of Attorneys and is being served herewith pursuant to TRCP 21a.

2.04 Defendant, Laura S. Wassmer ("Wassmer"), individually and as a beneficiary of the Estate of Max D. Hopper, deceased, was a former client of Attorneys and is being served herewith pursuant to TRCP 21a. Hopper and Wassmer are hereinafter jointly referred to as "Clients".

2.05 The Estate of Max D. Hopper is an estate in administration under the jurisdiction of this Court, and Clients have asserted claims herein on behalf of the Estate as the beneficiaries of the Estate.

2.06 JPMorgan Chase Bank, N.A. ("JPM"), is a Defendant in the underlying case and an interested party to this Petition in Intervention and is being served herewith pursuant to TRCP 21a.

III. JURISDICTION AND VENUE

3.01 Venue is proper in Dallas County, Texas pursuant to §15.002(a)(1), Tex. Civ. Prac. & Rem. Code, as Dallas County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred and because venue is proper in the underlying action. This Court has exclusive jurisdiction to hear this claim because Intervenor has an interest in the matter in controversy that involves the Defendants and The Estate of Max D. Hopper. See TEX. ESTATES CODE ANN. § 32.007 et seq. (Vernon 2014), and, TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014) (authorizing declaratory judgment actions in probate court when such relief is germane to an Estate). To the extent that The Estate of Max D. Hopper is a party to the settlement with JPM or to the extent that beneficiaries of The Estate of Max D. Hopper are parties to the settlement with JPM then this Court and only this Court has exclusive jurisdiction over this matter.

IV. FACTS

4.01 MLF and FSSV, (jointly "Attorneys"), represented Defendants pursuant to a valid and enforceable contingency fee agreement in the underlying lawsuit pending in

this Court. A true and correct copy of the contingent fee agreement will be tendered to the Court for *in camera* inspection at the hearing (hereinafter "Agreement"). Intervenor has fully performed under the terms of the Agreement. On April 3, 2018 and April 4, 2018, Clients' Appellate Counsel, Jeff Levinger, settled Clients' claims against JPM and on April 4, 2018 PM filed a Rule 11 agreement with the Court notifying the Court that there was a settlement between Clients and JPM ("Settlement"). At approximately 9:05 am on April 5, 2018, Anthony L. Vitullo appeared before this Court on behalf of Clients and announced in open court and on the record the confidential settlement between Clients and JPM. At approximately 10:10am on April 5, 2018, Clients' attorney, Jim Pennington, terminated Attorneys without cause and advised Attorneys that they were not going to pay the fee due under the Agreement. Mr. Pennington also advised Attorneys that he was going to instruct Mr. Levinger to retain an unspecified percentage of the Settlement proceeds in his trust account. On April 6, 2018, FSSV withdrew from representing Clients in the underlying lawsuit. Attorneys own a property right in the Settlement proceeds. Attorneys file this Petition in Intervention and Declaratory Judgment and Request for TRO and Temporary Injunction to enforce their property rights in the Settlement proceeds.

4.02 Attorneys have a justiciable interest and property interest in the pending suit in that Attorneys have a lien on and interest in the Settlement proceeds. This lawsuit is a simple declaratory judgment action to enforce Attorneys property rights. As such, pursuant to *Texas Mut. Ins. Co, v. Ledbetter*, 251 S.W.3d 31 (2008), Attorneys are lienholders in the Settlement proceeds of this case, and have an absolute right to intervene. Further, as stated by the Supreme Court in *Ledbetter*, to the extent that

Clients, JPM and/or their attorneys settle a case without reimbursing a lienholder, "everyone involved is liable ... for conversion." Thus, Attorneys seek a declaration from this Court pursuant to Tex. Civ. Prac. & Rem Code § 37.001 et. seq. confirming Attorneys' security interest in the Settlement proceeds and directing JPM and Clients to pay such interest directly to Attorneys. This lawsuit is a simple declaratory judgment action to enforce Attorneys' property rights.

4.03 Attorneys fully performed under the Agreement with no complaint from Clients and secured a very favorable jury verdict. As a result of this favorable jury verdict, Clients were able to secure a confidential settlement with JPM. Only after Clients, through their appellate attorney Jeff Levinger, unilaterally settled with JPM did Clients terminate Attorneys. Clients accepted, used and enjoyed the services of Attorneys which resulted in the Settlement. In accordance with the Courts' holdings in *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356 (Tex. App.—Dallas 2018, no pet.) and *Enochs v. Brown*, 872 S.W.2d 312 (Tex. App. – Austin 1994, no writ), Clients are estopped and quasi-estopped from challenging the validity of the Agreement and the fee due Attorneys thereunder and the property rights Attorneys have to the Settlement proceeds. Further, it would be unconscionable for Clients to challenge the property rights of Attorneys under the Agreement after having already accepted the benefits from Attorneys under the Agreement. Further, by accepting the benefits under the Agreement without complaint, Clients have waived any right to complain about the Agreement. Accordingly, Attorneys move the Court to declare that Attorneys own a property right in the Settlement proceeds" and that the Agreement is valid and

enforceable and to further order Clients and JPM to pay all fees and expenses due Attorneys under the Agreement directly to Attorneys from the Settlement proceeds.

4.04 In addition, Attorneys seek their attorneys' fees from Clients pursuant to Tex. Civ. Prac. & Rem Code §§ 37.009, 38.001 (Vernon 2014). All conditions precedent to Attorneys' claim for relief have been performed or have occurred.

V.
SUIT FOR DECLARATORY RELIEF

5.01 Attorneys incorporate all of the preceding paragraphs as if they were set forth in their entirety herein.

5.02 Attorneys' seek a declaratory judgment pursuant to the Texas Uniform Declaratory Judgment Act ("UDJA"), Texas Civil Practice & Remedies Code Section 37.001 et seq. An actual and justiciable controversy exists and has arisen between Attorneys and Clients. Attorneys seek judgment against Defendants pursuant to the UDJA declaring the rights, status and other legal relations of Attorneys and Clients regarding the payment of Attorneys interest in the Settlement proceeds. Because the Estate is a party to the Settlement, this Honorable Court has exclusive jurisdiction to declare Attorneys legal interests in the Settlement proceeds.

5.03 Attorneys are entitled to a declaration from this Honorable Court to the following:

- a. Attorneys own a property right in the Settlement proceeds;
- b. Attorneys are entitled to immediate possession of their property right in the Settlement proceeds;
- c. This Honorable Court has exclusive jurisdiction to declare the rights of the parties to the Settlement proceeds;

- d. Attorneys are entitled to the full and exclusive use, possession and enjoyment of their interest in the Settlement proceeds;
- e. That it is in the best interest of the Estate to pay Attorneys their interest in the Settlement proceeds; and
- f. That the Clients and JPM be directed to pay Attorneys interest in the Settlement proceeds directly to Attorneys.

5.04 Attorneys also seek all legal fees and expenses from Clients as allowed under the UDJA as this would be fair and equitable given the facts and circumstances of this dispute.

VI. ATTORNEY'S FEES

6.01 Pursuant to 37.009 and/or 38.001 of the Texas Civil Practice and Remedies Code, Attorneys seek all reasonable and necessary attorney's fees in this case which include the following:

- a. Preparation and trial of this lawsuit;
- b. Post-Trial, pre-appeal legal services;
- c. An appeal to the court of appeals;
- d. Making or responding to an application for writ of error to the Supreme Court of Texas;
- e. An appeal to the Supreme Court of Texas in the event application for writ of error is granted; and
- f. Post-judgment discovery and collection in the event execution on the judgment is necessary.

VII.

ELEMENTS FOR INJUNCTIVE RELIEF

7.01 Attorneys are likely to succeed on the merits of this lawsuit because Attorneys have a probable right to relief they seek on final hearing. On final hearing Attorneys are likely to prove each and every element of all claims asserted against Clients as foregoing shows that Attorneys fully performed under the Agreement. Attorneys have a security interest in the Settlement proceeds and Clients have informed Attorneys that they do not intend to pay or honor Attorneys interest in the Settlement proceeds.

7.02 Unless this Honorable Court immediately restrains Clients from diverting the Settlement proceeds to their own attorneys, the Attorneys will suffer immediate and irreparable injury, for which there is no adequate remedy at law, because in effect, Attorneys will have lost the protection of their security interest in the Settlement proceeds. Attorneys have a lien on and security interest in the Settlement proceeds, the purpose of which is to prevent Clients from taking all of the Settlement proceeds and unilaterally controlling their use and disposition. The Clients simply saying that they will instruct their attorney to keep some unspecified portion of the Settlement proceeds in his trust account eviscerates Attorneys' security interest in the Settlement Proceeds. Attorneys will show the court the following:

- a) The harm to Attorneys is imminent because Clients have started to finalize the Settlement and are attempting to have Attorneys' interest in the Settlement proceeds paid to Clients' attorney, Jeff Levinger.
- b) This imminent harm will cause Attorneys irreparable injury in that once Defendants pay the Settlement proceeds to Jeff Levinger, Attorneys will not

be able to enforce their lien and security interest because Levinger will claim that he is obligated to hold the funds in his trust account, interest free, until the ownership of the fees is resolved. But Rules 1.14 of the Texas Rules of Professional Conduct do not require, nor do they even allow, Clients attorney to even take possession of the Settlement proceeds. Instead, Attorneys' lien and security interest allow them to take possession of their interest in the Settlement proceeds. Thus, unless a temporary restraining order and temporary injunction are issued, Attorney's lien and security interest in the Settlement proceeds will be eviscerated. In addition, Attorneys' interest in the Settlement proceeds will not be protected from unauthorized distributions, conversion, or bank failure.

- c) There is no adequate remedy at law which will enforce Attorneys' lien and security interest absent action from this Court. Further, Clients will not be financially able to respond in damages upon final trial from this intervention unless Attorney's interest in the Settlement proceeds is protected by this Court.

VIII. BOND

8.01 Attorneys are willing to post a reasonable temporary restraining order bond and request the court to set such bond.

IX. TRO REMEDY

9.01 Attorneys have met Attorneys' burden by establishing each element which must be present before injunctive relief can be granted by this court, therefore Attorneys

are entitled to the requested temporary restraining order.

9.02 Attorneys request the court to issue an Order:

a. Restraining Clients from taking any action to transfer, liquidate, convert, encumber, pledge, loan, share, sale, market for sale, conceal, hide, secret, dissipate, deplete, neglect, misuse, damage and/or destroy, lease, assign, granting a lien, security interest, or other interest in, allow the use of, or otherwise dispose of any and all part of Attorneys' interest in the Settlement proceeds;

b. Ordering that Defendants and any of his, her, their, or its agents, servants, employees, successors, assigns and those persons in active concert or participation therewith, must:

1. Deposit into the registry of this Court the portion of Attorneys' interest in the Settlement proceeds which Clients contend they do not owe Attorneys under the Agreement, which shall remain on deposit in the registry until further Order of the Court, when such funds become available and are ripe for distribution from JPMorgan Chase, N.A. to the underlying Plaintiffs in satisfaction of the confidential settlement agreement reached herein;

2. Pay directly to Attorneys the portion of Attorneys' interest in the Settlement proceeds which Clients do not dispute to be due and owing from the Settlement proceeds immediately when those funds become available under the terms of the Settlement.

9.03 It is essential that grant a temporary restraining order as requested herein in order to preserve the status quo during the pendency of this action.

9.04 That after notice and hearing the Court convert the temporary restraining order into a temporary injunction, and that on final trial on the merits, that the Court disburse to Attorneys all funds deposited into the registry of the Court pursuant to the

temporary restraining order and temporary injunction.

X.
MOTION TO REQUIRE DEPOSIT OF FUNDS
(WHICH IS A NON-APPEALABLE ORDER THAT IS NOT
INJUNCTIVE RELIEF—AS A MATTER OF LAW)

10.01 This court has the inherent power to order that disputed funds be deposited in the registry of the court. See *Prodeco Exploration, Inc. v. Ware*, 684 S.W.2d 199, 201 (Tex. Civ. App.—Houston [1st Dist.] 1984, no writ) (“The trial court has the inherent authority to direct [a party] to deposit disputed funds into the registry of the court pending the outcome of the litigation.”); see also *Castilleja v. Camero*, 414 S.W.2d 431, 433 (Tex. 1967). In addition, in order to secure an order directing a party to deposit disputed funds in the registry of the Court, a party does not have to satisfy the prerequisite for securing a temporary restraining order or temporary injunction. *Diana River & Assocs., P.C. v. Calvillo*, 986 S.W.2d 795, 797-798 (Tex. App.—Corpus Christi 1999, no pet.) (citing *McQuadev. E.D. Sys. Corp.*, 570 S.W.2d 33, 35 (Tex. Civ. App.—Dallas 1978, no writ)). Orders to deposit money into the registry of the court cannot be characterized as temporary injunctions and are non-appealable. *Prodeco*, 684 S.W.2d at 201; *Alpha Petroleum Co. v. Dunn*, 60 S.W.2d 469, 471 (Tex. Civ. App.—Galveston 1933, writ dismiss’d).

10.02 Clients have filed a pleading in response to Attorneys’ intervention wherein Clients admit that there are disputed funds from the Settlement proceeds. But Clients do not identify the amount of the disputed portion of the Settlement proceeds. Clients suggest that this unidentified amount of funds be kept in their possession, through their attorney, Jeff Levinger, pending the outcome of this dispute. In essence, Clients want to continue to control all disputed funds without oversight from this Court

and without even identifying the amount they dispute. That is obviously unacceptable to Attorneys to let the fox guard the hen house pending the outcome of this matter.

10.03 Accordingly, pursuant to this Court's inherent power, Attorneys move this Court to order that all of the Settlement proceeds be deposited into the registry of this Court pending further order of this Court so that the Settlement can be funded, JPM can be dismissed, and all parties with any interest in the Settlement proceeds can assert their claims and they can be resolved without any fear that one party or the other will dissipate the funds or secure an advantage over the other through possession of the funds pending the outcome of this dispute. The Court can then determine. What amount is in dispute, who is making a claim to the disputed amount, the basis for any such claim, and ultimately to whom the funds should be distributed.

WHEREFORE, PREMISES CONSIDERED, Attorneys respectfully request for all relief requested herein, as well as such other and further relief, in law or in equity, to which they may show themselves justly entitled.

Respectfully Submitted,

BRIAN LAUTEN, P.C.

A handwritten signature in black ink, appearing to read 'BP Lauten', with a stylized flourish at the end.

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ATTORNEYS FOR INTERVENORS

CERTIFICATE OF SERVICE

In accordance with Rule 21a of the Texas Rules of Civil Procedure, the undersigned certifies that a true and correct copy of the foregoing instrument has been served upon all counsel of record via the ECF case manager system and by electronic filing on April 9, 2018.

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and JPMorgan Chase Bank, N.A., in its Corporate Capacity***

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A handwritten signature in black ink, appearing to read "BP Lauten", with a stylized flourish at the end.

BRIAN P. LAUTEN
ATTORNEY FOR INTERVENORS

IN THE PROBATE COURT

JO N. HOPPER,

Intervenor,

V.

NO. 1

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and
FEE, SMITH, SHARP & VITULLO, LLP

Intervenors,

V.

STEPHEN B. HOPPER, LAURA S. WASSMER, individually and as Beneficiaries of the ESTATE OF MAX D. HOPPER, DECEASED, the ESTATE OF MAX D. HOPPER, DECEASED, JPMORGAN CHASE BANK, N.A.,

Defendants.

VERIFICATION

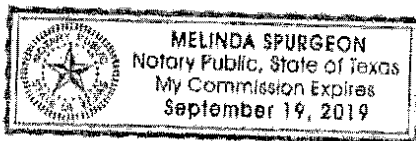
STATE OF TEXAS)
COUNTY OF DALLAS)


BEFORE ME, the undersigned authority, on this day personally appeared **ANTHONY L. VITULLO**, who, being by me duly sworn on oath, deposed and stated that he is a Senior Partner at Fee, Smith, Sharp & Vitullo, LLP, named as Intervenor in the above-entitled and numbered cause; that he has read **JOHN L. MALESOVAS, d/b/a MALESOVAS LAW FIRM AND FEE, SMITH, SHARP & VITULLO, LLP'S CONSOLIDATED FIRST AMENDED JOINT PETITION IN INTERVENTION AND PETITION FOR DECLARATORY JUDGMENT AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND FOR TEMPORARY INJUNCTION AND REQUESTS FOR DISCLOSURES** ; and that every statement contained therein is within his personal knowledge and is true and correct, and that he is authorized to sign on behalf of Fee, Smith, Sharp & Vitullo, LLP.



ANTHONY L. VITULLO

SUBSCRIBED AND SWORN TO BEFORE ME this 9th day of April, 2018.




NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES: 9-19-2019

ORIGINAL

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER, §
DECEASED, §

IN THE PROBATE COURT

JO N. HOPPER, §

Intervenor, §

v. §

NO. 1

JPMORGAN CHASE BANK, N.A., §
STEPHEN B. HOPPER, and LAURA §
S. WASSMER, §

Defendants. §

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a §
MALESOVAS LAW FIRM, and §
FEE, SMITH, SHARP & VITULLO, LLP §

Intervenors, §

v. §

STEPHEN B. HOPPER, LAURA S. §
WASSMER, individually and as §
Beneficiaries of the ESTATE OF §
MAX D. HOPPER, DECEASED, §
the ESTATE OF MAX D. HOPPER, §
DECEASED, JPMORGAN CHASE §
BANK, N.A., §

Defendants. §

TEMPORARY RESTRAINING ORDER

Came to be heard on the 9TH day of April 2018, the minimum amount of notice having been duly provided pursuant to Local Rule 2.02(a) of Dallas County, Fee Smith Sharp & Vitullo, LLP and John L. Malesovas d/b/a Malesovas Law Firm's (collectively, "Intervenors") *Verified Petition(s) in Intervention, Application for Temporary Restraining Order, Temporary Injunction, and Application for Declaratory Relief* against, *inter alia*,



Stephen Hopper and Laura Wassmer, individually and as beneficiaries of the Estate of Max D. Hopper, deceased, (hereinafter jointly "Clients") and JPMorgan Chase Bank, N.A. (hereinafter "JPM") (Clients and JPM hereinafter jointly, "Defendants" with respect to the claims now pending in this Intervention).

The Court, after considering the *Intervenors' Collective Verified Original Petition in Intervention, Application for Temporary Restraining Order, Temporary Injunction, and Application for Declaratory Relief*, the evidence submitted by Intervenors *in camera*, the relevant exhibits, the arguments of counsel, concludes that—unless immediately restrained, Defendants will irreparably injure Intervenors.

This Court has subject matter jurisdiction over the dispute brought before it under both, TEX. ESTATES CODE ANN. § 32.007 et seq. (Vernon 2014), and, TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014) (authorizing declaratory judgment actions in probate court when such relief is germane to an Estate).

Intervenors respective Pleas and application for TRO are timely filed, given that this Court has yet to sign a judgment; and, therefore, retains plenary power over this proceeding. See TEX. R. CIV. P. 60 et seq.

This Court has, preliminarily, taken judicial notice, pursuant to Rule 201 of the Texas Rules of Evidence, of the following facts that, in reasonable probability, appear to be true at this preliminary stage of the proceeding:

- 1.) In, around, or about November of 2015, Clients executed a valid and enforceable contingency agreement ("CA") with Intervenors;
- 2.) On or about April 5, 2018, attorneys for Clients and JPM appeared before this Court and announced, without revealing any of the substantive terms, that a confidential settlement had been reached between them in the underlying dispute pending in this Court (hereinafter "Settlement");
- 3.) On or about the same day, April 5, 2018, but—literally what appears to have been within minutes after the Court was informed that a settlement had been reached by the parties in this underlying dispute—Clients terminated their CA with Intervenors by and through their attorney, James Pennington;

- 4.) Intervenors have filed what, by all accounts, appears to be a valid and enforceable First Party Attorney's Fees Lien in the proceeds of the Settlement;
- 5.) Intervenors fully performed; or, at the very least, substantially and materially performed all of their duties, responsibilities, and obligations under the CA at or before the time Clients terminated the CA—as those legal terms are meant in, *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2018, no pet.), *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003), and *Mandell & Wright*, 441 S.W.2d 841, 847 (Tex. 1969); and
- 6.) Given the timing of the termination of Intervenors, Clients are estopped, quasi-estopped, and/or have waived any and all defenses, if any, that could or would be lodged to the CA or the quality of the legal services performed by Intervenors.

Based upon these preliminary findings, this Court is of the opinion that Intervenors have established a probability of success on the merits on their application for, *inter alia*, declaratory relief. See TEX. CIV. PRAC. & REM. CODE § 37.004 et seq. (Vernon 2014). This Court is of the opinion that, unless restrained, one or more Defendants are likely to cause permanent damage to Intervenors, should they be allowed to transfer, hypothecate, assign, or take title to Intervenors' interest in the settlement proceeds before the pleas in Intervention are adjudicated on the merits. Such harm would be irreparable because this Court is of the opinion that there is no showing; or, in the alternative, an inadequate showing that Defendants could timely and immediately pay the disputed funds to Intervenors, should Intervenors ultimately prevail in this proceeding, and because Intervenors have a security interest in and lien upon a portion of the settlement proceeds which would be eviscerated by allowing Clients to dispose of 100% of the settlement proceeds as they saw fit. Moreover, given the

Court's preliminary findings set forth above in (i)-(vi), Intervenor's have established a property right and secured interest in the proceeds at issue.

The Court is, **THEREFORE**, of the opinion that Intervenor's are entitled to the issuance of a Temporary Restraining Order and that such an Order is necessary to protect Intervenor's rights. This **ORDER** is necessary because of the immediate need to enforce the security interest and lien which Intervenor's have in a portion of the settlement proceeds and to stop the wrongful flow of funds in the near future from being disseminated to either Clients or their attorneys, or some other third party subject to Clients' direction and control, upon which Intervenor's would have no adequate remedy at law. Without intervention by this Court, Intervenor's property right, that is Intervenor's security interest in and lien upon the settlement proceeds, would be destroyed and there would be no way to restore that property right in the Settlement proceeds themselves.

This Court is further of the opinion that Intervenor's are entitled to an **EXPEDITED DISCOVERY ORDER**. Therefore, Stephen Hopper and Laura Wassmer shall be made available for deposition on and certainly no later than **Tuesday, April 17, 2018**. If the parties cannot agree on a suitable location for these depositions, they shall be taken in this Court's jury room. The depositions are limited solely to the matters in dispute in the pled Intervention filings and shall last no longer than two hours per deponent (per side). In addition, Intervenor's may serve a *duces tecum* with the deposition notices, which shall be limited to no more than seven (7) discovery requests. The deposition notice shall provide two business days notice to the deponent.

It is further **ORDERED** that Intervenor's may move this Court for a dispositive summary judgment on 14 days notice of any hearing; and any response shall be due to be filed within 5 days of the hearing; and any reply shall be due to be filed within 2 days of the hearing.

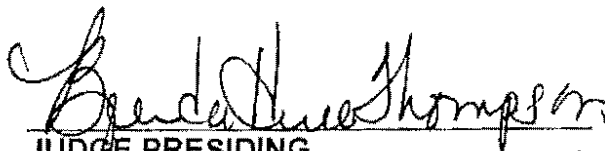
It is therefore **ORDERED, ADJUDGED, and DECREED** that Defendants, Stephen Hopper, Laura Wassmer, and JPMorgan Chase, N.A., and any of his, her, their, or its agents, servants, employees, successors, assigns and those persons in active concert or participation therewith, must:

- 1) Deposit all of the settlement proceeds due to Stephen B. Hopper and Laura s. Wassmer, individually and as beneficiaries of the Estate of Max Hopper, Deceased, into a safekeeping account with JPMorgan Chase Bank, NA, to be held in trust until further Order of this Court. Funds in the safekeeping account shall be withdrawn only upon Order of this Court;
- 2) The parties are **ORDERED** to preserve and prevent the destruction of all documents, including electronic data, emails, and notes, that relate in any way to the matters and claims set forth in the Intervenor's respective Pleas on file—and, moreover, all electronic storage devices must be imaged and preserved.

IT IS FURTHER ORDERED that this order is effective immediately upon Intervenor's deposit with the appropriate clerk of this Court a ~~Corporate Surety or cash~~ ^{BAT} bond in the amount of \$ 10,000,000 ~~XX~~ 00 (U.S. dollars).

IT IS FURTHER ORDERED that Intervenor's application for a temporary injunction is set for an evidentiary hearing and will be heard before this Court on April 24, 2018 at 9 o'clock a.m., and that Stephen Hopper, Laura Wassmer, and JPMorgan Chase, N.A. appear and show cause, if any, why this Temporary Restraining Order should not be continued and converted into a Temporary Injunction until final hearing and trial hereon.

Signed and issued this the 10th day of April 2018, at 4:00 o'clock p.m.


JUDGE PRESIDING

CAUSE NO. PR-113238-1

IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

IN THE PROBATE COURT

NO. 1

DALLAS COUNTY, TEXAS

MOTION TO COMPEL ARBITRATION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendants, Stephen B. Hopper and Laura S. Wassmer ("the Clients"), and file this Motion to Compel Arbitration of the claims asserted by Intervenors John Malesovas and Fee, Smith, Sharp & Vitullo, LLP ("Intervenors"), and respectfully show the Court the following:

The Clients request this Court to order the parties to arbitrate Intervenors' claims. The agreement(s), which the Intervenors rely upon to support their claims, contains a mandatory

arbitration provision. The language contained in the aforementioned agreement states as follows:

20. ARBITRATION: . . . should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, *if any controversy or claim arises out of or is related to this agreement*, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (*including malpractice claims and fee disputes*), Attorneys and Client both *waive any right to bring a court action* or have a jury trial and agree that the *dispute shall be submitted to binding arbitration* to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas.¹

Intervenors introduced copies of the agreements (signed by Intervenors) into evidence at a hearing on April 9, 2018 regarding Intervenor's request for a temporary restraining order.² On April 10, 2018, this Court determined that the Clients and Intervenors executed the agreements.³ It is undisputed that both agreements contain an arbitration provision, as set forth above. The Clients have requested that Intervenors pursue their claims in arbitration; however, Intervenors refused to arbitrate their claims.

A court shall order the parties to arbitrate on application of a party showing an agreement to arbitrate and the opposing party's refusal to arbitrate. *Tex. Civ. Prac. & Rem. Code, Section 171.021*. Pursuant to the aforementioned statute, the Clients request this Court to compel the parties to arbitration. Additionally, the Clients request this Court to stay the intervention pursuant to Sections 171.021 and 171.025 of the *Tex. Civ. Prac. & Rem. Code*.

Intervenors have waived their right to bring any action in this Court or any other court. Any doubts regarding the existence or scope of an agreement are resolved in favor of arbitration. *In re FirstMerit Bank, N.A.*, 52 S.W.3d 749, 753 (Tex. 2001). The arbitration provision in the

¹ See p. 7 of Exhibit A attached to Petition in Intervention filed by Malesovas (emphasis supplied).

² Intervenors and/or Plaintiffs' Exhibits 1 and 2. There were two separate agreements signed by each of the Clients.

³ April 10, 2018 Order at 2. The Clients do not dispute they executed the agreements; however, they dispute, among other things, whether the attorney's fee provision in the agreements is enforceable or valid. See discussion *infra* at 3.

agreement applies to “any controversy or claim [that] arises out of or is related to this agreement.” This type of language is construed broadly. *In re Conseco Fin. Serv. Corp.*, 19 S.W.3d 562, 568 (Tex. App. - Waco 2000, orig. proceeding). There is no question that Intervenor’s claims arise out of, and are related to, the agreement. Intervenor maintains throughout their petitions that they are entitled to a contingent fee under the agreement.⁴ The Clients dispute this fee, which is a matter within the scope of the arbitration clause. Intervenor also seeks declaratory relief regarding their rights under the agreement and claims that the Clients breached the agreement. Once it is determined that an arbitration provision exists and the claim falls within the scope of that provision, a court has no discretion – it must compel arbitration and stay any further proceedings. *See Pepe Int’l Dev. Co. v. Garcia*, 915 S.W.2d 925, 930-31 (Tex. App. - Houston [1st Dist.] 1996, orig. proceeding).

Although the Clients dispute the enforceability of the contingent fee agreement, this issue should be decided by the arbitrator -- not this Court. Once there is an agreement to arbitrate, substantive attacks on the validity of the contract are to be resolved by the arbitrator, and not by the court. *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440, 445-46 (2006) (holding that an arbitration provision is severable from the remainder of the contract and, unless the challenge is to the arbitration clause itself, the issue of the contract’s validity is considered by the arbitrator). In *Buckeye*, the United States Supreme Court held that “because respondents challenge the Agreement, but not specifically its arbitration provisions, those provisions are enforceable apart from the remainder of the contract. The challenge should therefore be considered by an arbitrator, not a court.” *Id.* at 446. *See also, FUNimation Entm’t v. SC Films Int’l*, 2013 WL 5770383, (E.D. Tex. Oct. 24, 2013); *Lawrence v. Comprehensive Bus. Serv. Co.*, 833 F.2d 1159, 1162 (5th Cir.1987) (submitting issue regarding illegality defense to arbitration);

⁴ First Amended Joint Petition in Intervention at 3-5; see also Original Petition in Intervention at 5.

Mesa Operating Ltd. P'ship v. La. Intrastate Gas Corp., 797 F.2d 238, 244 (5th Cir.1986) (submitting claim that contract was void *ab initio* to arbitration because parties failed to demonstrate that the arbitration agreement was "invalid separately from the entire contract").

Additionally, and without waiving their position that the agreement is unenforceable, in the alternative event that the agreement is determined to be enforceable – the Clients contend that the Intervenor's breached the agreement. Pleading alternative theories does not defeat the effect of an arbitration clause that broadly covers all disputes that arise out of the underlying agreement. *In re Kellogg Brown & Root Inc.*, 166 S.W.3d 732, 740 (Tex. 2005).

Request for Immediate Hearing and/or Ruling

The Clients request this Court to set this matter for hearing in the immediate future *before* any discovery is conducted and *before* the April 24, 2018 hearing on Intervenor's temporary injunction. This Court may *not* defer any ruling on the Clients' motion to compel arbitration. *In re MHI Partnership, Ltd.*, 7 S.W.3d 918, 923 (Tex. App. – Houston [1st Dist.] 1999, orig. proceeding). Delaying a decision on the merits of arbitrability substantially defeats the policy behind section 171.021's abbreviated procedure, and it violates section 171.021's mandate to decide the issues summarily. *Id.* at 923. Deferring a ruling on this matter would effectively force the Clients to litigate Intervenor's claims in court. Thus, it would be an abuse of discretion to defer any ruling on arbitrability until after discovery and/or the temporary injunction hearing, scheduled for April 24, 2018. *Id.* at 923.

Conclusion

For those reasons set forth herein, the Clients request this Court to set this matter for an immediate hearing and/or that the Court issue a ruling on this motion immediately, that this Court compel the Intervenor's to pursue their claims in arbitration, that the interventions be

stayed, and that the Clients have all other relief, at law or in equity, which the Clients may be entitled.

Respectfully submitted,

s/ James E. Pennington

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Stephen B. Hopper and Laura S. Wassmer

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of April, 2018, the foregoing *Motion to Compel Arbitration* was filed using the e-filing system which will send notification of such filing to the following parties via email:

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April 11, 2018

VIA ELECTRONIC FILING AND HAND DELIVERY

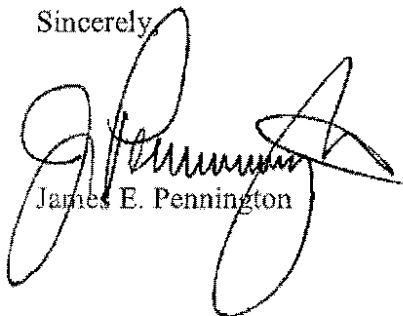
The Honorable Brenda Hull Thompson
Judge, Probate Court No. 1
Dallas County
1201 Elm Street, Suite 2400-A
Dallas, Texas 75207

Re: Cause No. PR-11-3238-1; Estate of Max D. Hopper; Jo N. Hopper v. Stephen Hopper and Laura Wassmer v. JPMorgan Chase Bank pending in Probate Court No. 1, Dallas County, Texas

Dear Judge Thompson:

A motion to compel arbitration was filed today in the above-referenced matter. On behalf of the movants, I respectfully request this matter be set for hearing immediately. As explained the motion, movants are entitled to an immediate ruling on this matter *before* discovery and/or the temporary injunction hearing scheduled on April 24, 2018. This Court may *not* defer a ruling on the motion to compel arbitration. *In re MHI Partnership, Ltd.*, 7 S.W.3d 918, 923 (Tex. App. – Houston [1st Dist.] 1999, orig. proceeding). Deferring a ruling on this matter would effectively force movants to litigate Intervenor's claims in court. Thus, it would be an abuse of discretion to defer any ruling on arbitrability until after discovery and/or the temporary injunction hearing, scheduled for April 24, 2018. *Id.* at 923. Accordingly, I respectfully request that a hearing be scheduled on this motion later this week. Thank you for your consideration of this matter.

Sincerely,



James E. Pennington

cc: All counsel (via electronic filing)

Respectfully submitted,

BAKER & BOTTS L.L.P.

By: 

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**ATTORNEYS FOR
JPMORGAN CHASE BANK, N.A.
IN ITS CAPACITY AS INDEPENDENT
ADMINISTRATOR OF THE ESTATE
OF MAX D. HOPPER, DECEASED AND
IN ITS CORPORATE CAPACITY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served on the following counsel of record via the electronic service manager and/or by email on this 11th day of April, 2018.

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April 12, 2018

VIA ELECTRONIC FILING AND HAND DELIVERY

The Honorable Brenda Hull Thompson
Judge, Probate Court No. 1
Dallas County
1201 Elm Street, Suite 2400-A
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URGENT – IMMEDIATE HEARING REQUESTED

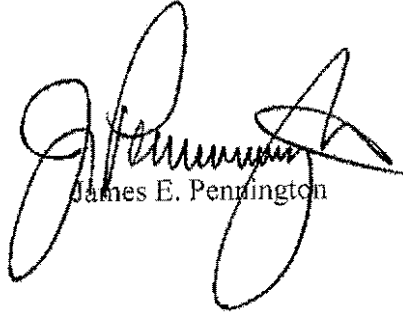
Re: Cause No. PR-11-3238-1; Estate of Max D. Hopper; Jo N. Hopper v. Stephen Hopper and Laura Wassmer v. JPMorgan Chase Bank pending in Probate Court No. 1, Dallas County, Texas

Dear Judge Thompson:

Yesterday, I filed a motion to compel arbitration in the above-referenced matter and requested an immediate hearing and/or ruling on this matter. As explained in the motion and my correspondence to the Court, movants are entitled to an immediate ruling on this matter *before* any discovery takes place. Pursuant to your April 10, 2018 order, Intervenor has scheduled the depositions of movants for April 16, 2018. Additionally, a temporary injunction hearing is scheduled for April 24, 2018.

Accordingly, it is imperative that we obtain a hearing and/or a ruling on the motion to compel arbitration **before April 16, 2018**. *See, In re MHI Partnership, Ltd.*, 7 S.W.3d 918, 923 (Tex. App. – Houston [1st Dist.] 1999, orig. proceeding). Accordingly, I respectfully request that a hearing be scheduled on this motion immediately -- before the depositions commence on April 16, 2018. Thank you for your consideration and timeliness in responding to this matter.

Sincerely,



James E. Pennington

cc: All counsel (via electronic filing)

CAUSE NO. PR-113238-1

IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

IN THE PROBATE COURT

NO. 1

DALLAS COUNTY, TEXAS

NOTICE OF HEARING ON MOTION TO COMPEL ARBITRATION

Please take notice that a hearing on Defendants' Motion to Compel Arbitration has been scheduled for April 24, 2018, at 9:00 a.m., before the Honorable Judge Brenda Hull Thompson in Probate Court No. 1, Dallas County, Texas.

Respectfully submitted,

s/ James E. Pennington
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Attorneys for Defendants
Stephen B. Hopper and Laura S. Wassmer

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April, 2018, the foregoing *Notice of Hearing on Motion to Compel Arbitration* was filed using the e-filing system which will send notification of such filing to the following parties via email:

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s/ James E. Pennington
James E. Pennington

CAUSE NO. PR-11-3238-1

JOHN L. MALESOVAS, d/b/a	§	IN THE PROBATE COURT
MALESOVAS LAW FIRM, and	§	
FEE, SMITH, SHARP & VITULLO, LLP	§	
	§	
Intervenors,	§	
	§	
v.	§	NO. 1
	§	
STEPHEN B. HOPPER, LAURA S.	§	
WASSMER, individually and as	§	
Beneficiaries of the ESTATE OF	§	
MAX D. HOPPER, DECEASED,	§	
the ESTATE OF MAX D. HOPPER,	§	
DECEASED, JPMORGAN CHASE	§	
BANK, N.A.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**INTERVENORS' (LAWYERS) CONSOLIDATED OBJECTIONS AND
RESPONSE TO HOPPER AND WASSMER's (CLIENTS) MOTION TO
COMPEL ARBITRATION, AND BENCH BRIEF IN SUPPORT
OF TEMPORARY ORDERS & RELIEF**

**I.
Summary of Argument**

The intervenors in this civil action, namely, John L. Malesovas d/b/a Malesovas Law Firm and Fee Smith Sharp & Vitullo, LLP (collectively, "Lawyers"), fully embrace the language and contractual obligations of the parties as set forth and articulated in that certain "Contingency Fee Contract of Representation" ("Contingency Agreement"), executed on or about November 19, 2015, between the Lawyers on the one hand and Stephen Hopper and Laura Wassmer (collectively, "Clients") on the other hand, including, specifically, its arbitration provision. Be that as it may, Clients' Motion to Compel Arbitration (the "Motion") wrongfully presupposes that, because there is an arbitration provision at play, this Court is allegedly divested of its jurisdiction to grant

temporary relief in the form of an order to deposit funds or a temporary injunction; on the contrary, the two concepts cannot be conflated and, indeed, they are mutually exclusive. Accordingly, this Court has jurisdiction and the inherent power (to grant temporary relief and to maintain continuous jurisdiction over the settlement proceeds), notwithstanding the arbitration provision, for three salient reasons:

- (1) By statute, the trial court retains jurisdiction *before and during* an arbitration to grant temporary relief. See *Senter Investments v. Veerjee*, 358 S.W.3d 841, 845 (Tex. App.—Dallas 2012, no pet.); see also TEX. CIV. PRAC. & REM. CODE § 171.086(a)(2)-(3)(1) &(b)(3)(B) (Vernon 2014). To this end, *Senter* and its progeny are abundantly clear that the trial court's jurisdiction to grant temporary relief and its obligation to compel binding arbitration, if any, are mutually exclusive. Clients' Motion wrongfully presupposes the trial court can only do one or the other. Not so. Clients' position to the contrary advances an incorrect proposition of law. See *Senter*, 358 S.W.3d at 845; TEX. CIV. PRAC. & REM. CODE § 171.086(a)(2)-(3)(1) &(b)(3)(B).
- (2) Even assuming *arguendo* the narrow legal issue before this Court is subject to arbitration, and notwithstanding the fact that this Court retains continuing jurisdiction to grant temporary relief, the issue before this Court is not subject to the Contingency Agreement's arbitration clause. On the contrary, the sole issue before this Court is the Lawyers' fully vested and secured property and ownership rights in the disputed funds, which are being held by JPMorgan Chase Bank, N.A. ("JPM"). The Lawyers have no agreement with JPM and the latter is not, obviously, a party to the Contingency Agreement executed between Lawyers and Clients. See *Transamerica Occidental Life Ins. Co. v. Rapid Settlements, Ltd.*, 284 S.W.3d 385, 393-94 (Tex. App.—Houston [1st Dist.] 2008, no

pet.) (reversible error to find that the holder of the settlement funds, who is a non-signatory to the arbitration agreement, is subject to binding arbitration award). JPM is the Independent Administrator of Max Hopper's Estate, it has possession of the disputed funds, and, therefore, this Court has jurisdiction to grant the Lawyers declaratory relief under TCPRC 37.005, given that this issue is "incident" to an Estate, upon which this Court maintains continuing and exclusive jurisdiction. See TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014).

- (3) Finally, because the Lawyers fully performed and, because the Clients terminated Lawyers only *after* a settlement was reached, Clients are fully estopped; accordingly, there is nothing to arbitrate—at least in so far as Lawyers' vested and secured property and ownership rights are concerned. See *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2001, pet. denied); *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003). Even assuming *arguendo* the Clients were not fully estopped from asserting a claim, and they undoubtedly are, they are certainly estopped from taking irreconcilable positions. On the one hand, Clients are contending that the Contingency Agreement is void and unenforceable. Only by arguing that the Contingency Agreement is void and unenforceable can Clients contend that Lawyers should not be compensated for their legal services. Yet, on the other hand, Clients are seeking to enforce the arbitration clause, which is embodied within the very Contingency Agreement they claim is void and unenforceable. The Clients cannot haphazardly pick and choose which provisions of the Contingency Agreement they like, while wholeheartedly ignoring and disregarding those provisions

which they dislike. Principles of estoppel prohibit Clients from being on three sides of a two-sided issue.

For these reasons, this Court should grant temporary relief and table, temporarily, deciding Clients' Motion to Compel Arbitration until the pleadings and the evidentiary record is more fully developed so that it can be fairly and reasonably determined which claims are and are not subject to arbitration, given the fact that the property and ownership issues germane to Lawyers' claims to the disputed funds—through JPM—are not subject to arbitration. The complex adjudication of the underlying lawsuit was never a *pro bono* project—Lawyers must be paid and without any unnecessary and undue delay.

II.

Standard(s) of Review

A.

An Order Directing Disputed Funds to be Deposited into the Registry is neither an Injunction nor an Appealable Order

A "trial court has the inherent authority to order a party to deposit disputed funds into the registry of the Court." See *Diana River Assocs., P.C. v. Calvillo*, 986 S.W.2d 795, 797 (Tex. App. – Corpus Christi 1999, pet. denied). To this end, an order simply directing a party to deposit disputed funds into the registry of the court is not a temporary injunction and is not appealable. See *id.* at 798; see also *Alpha Petroleum Co. v. Dunn*, 60 S.W.2d 469, 471 (Tex. Civ. App.—Galveston 1933, writ dismissed); accord *Prodeco Exploration, Inc. v. Ware*, 684 S.W.2d 199, 201 (Tex. App.—Houston [1st Dist.] 1984, no writ).

B.
**An Order Granting a Temporary Injunction is
Subject to a Deferential Abuse of Discretion Standard**

In contrast to an order that requires disputed funds to be deposited into the court's registry (which is neither an injunction nor appealable), a trial judge's decision to grant a temporary injunction is subject to a deferential abuse of discretion standard. See *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002); see also *Walling v. Metcalfe*, 863 S.W.2d 56, 57 (Tex. 1993). Under no circumstances can the reviewing court substitute its judgment for the trial court's decision to grant an injunction, unless the trial court's decision is so arbitrary that it exceeds the bounds of reasonable discretion. See *Butnaru*, 84 S.W.3d at 204

III.
Brief Factual Predicate

Lawyers represented Clients pursuant to that certain signed and fully executed Contingency Agreement(s). See Exhibits "A" & "B." The Contingency Agreement specifies that Clients shall cause to be paid to Lawyers 45% of any anything of value recovered (should Lawyers represent Clients through trial, which they certainly did). See *id.* (p. 2, ¶ 3). The Contingency Agreement clearly and unambiguously specifies that Lawyers have a valid, readily enforceable First Party Attorneys' Fees Lien and secured interest in the settlement proceeds at issue. *Id.* (p. 5, ¶ 11). Literally within twenty-fours of a settlement having been reached, Clients terminated Lawyers. See Exhibit "C." Given that Lawyers were terminated only *after* their work was completed, Clients cannot deny that they accepted, used, and enjoyed the legal services, which contributed in whole or in part to the settlement at issue.

Clients have anticipatorily and materially breached the Contingency Agreement by, *inter alia*, refusing to pay Lawyers the just amounts due and owing under the contract. *Id.*

On April 10, 2018, this Court heard Lawyers' application for a Temporary Restraining Order (TRO) and, consistent with that application, it entered findings, that: (i) Lawyers have a valid and enforceable First Party Attorney's Fees Lien in the proceeds of the settlement; (ii) Lawyers fully performed, or, alternatively, substantially and materially performed all of their duties, responsibilities, and obligations under the Contingency Agreement; (iii) and Clients are estopped, quasi-estopped, or have waived all defenses, if any, that could otherwise be asserted had those defenses, if any, not been lodged *ex-post*. Accordingly, the Court granted the TRO to protect Lawyers' secured and fully vested ownership and property rights in the settlement proceeds.

At issue here is the Clients' Motion to Compel Arbitration. As noted *supra*, that requested relief is entirely independent of and wholly unrelated to Lawyers' application for an order to deposit disputed funds into the registry of the court and/or a temporary injunction. As Lawyers establish more fully below, this Court should grant a temporary order to protect the funds in dispute and it should temporarily carry Clients' Motion with the case until the evidentiary record is more fully developed so that a pragmatic decision can be made as to which claim or claims are truly covered by the arbitration provision in the Contingency Agreement and which ones are not. These matters are more fully briefed and articulated herein below.

IV.
Argument & Authorities

A.

**This Court has Jurisdiction to Grant Temporary Relief
Regardless of whether the Claims are Subject to Arbitration**

By statute, a trial court maintains jurisdiction to grant temporary relief protecting disputed funds *before* and even *during* the pendency of an arbitration. See *Senter Investments v. Veerjee*, 358 S.W.3d 841, 845 (Tex. App.—Dallas 2012, no pet.); see also TEX. CIV. PRAC. & REM. CODE § 171.086(a)(2)-(3)(1)&(b)(3)(B) (Vernon 2014). Indeed, the Alternative Dispute Resolution Act, as codified in Chapter 171 of the Civil Practice & Remedies Code, is precisely on point and clearly states:

(a) Before arbitration proceedings begin, in support of arbitration a party may file an application for a court order, including an order to:

...

(2) invoke the jurisdiction of the court over an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner and subject to the conditions under which the proceeding may be instituted and conducted ancillary to a civil action in a district court;

(3) restrain or enjoin:

(A) the destruction of all or an essential part of the subject matter of the controversy;

(b) During the period an arbitration is pending before the arbitrators or at or after the conclusion of the arbitration, a party may file an application for a court order, including an order:

(1) that was referred to or that would serve a purpose referred to in Subsection (a);

(B) in an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner of and subject to the conditions under which the proceeding may be conducted ancillary to a civil action in a district court.

See TEX. CIV. PRAC. & REM. CODE § 171.086(a)(2)-(3)(1)&(b)(3)(B) (emphasis added).

To this end, *Senter* cites to, *Manna v. Romero*, 48 S.W.3d 247 (Tex. App.—San Antonio 2001, pet. dim'd w.o.j.), which is precisely on point. In *Manna*, the court of appeals affirmed the trial court's order granting a temporary injunction, but it reversed the trial court's order denying a motion to compel arbitration. See *id.* at 251. Thus, the trial court can, without error, grant temporary relief to protect disputed funds, while simultaneously granting a motion to compel arbitration. *Id.*; see also *Structured Capital Resources Corp. v. Arctic Cold Storage, LLC*, 237 S.W.3d 890, 894-95 (Tex. App.—Tyler 2007, orig. proceeding) (“it is entirely permissible for a trial court to order disputed funds paid into the registry of the court until its ownership is determined” and “a temporary injunction, or court order, to maintain the status quo, that is, keep the money from disappearing, was desirable whether it was going to trial or arbitration”).

Clients' Motion wrongfully assumes the trial court can only do one or the other—that argument is rejected by the appellate courts and expressly rebuked by statute. Compare *Senter*, 358 S.W.3d at 845, *Structured Capital Resources Corp.*, 237 S.W.3d at 894-95, and, TEX. CIV. PRAC. & REM. CODE § 171.086(a)(2)-(3)(1) &(b)(3)(B), with, *Manna*, 48 S.W.3d at 251.

B.
Lawyers' Ownership and Property Dispute with JPM
Is Not Subject to Any Arbitration Agreement Whatsoever

Where, as here, there is a non-signatory to an arbitration agreement, namely JPM in the case at bar, who holds funds that are claimed by competing parties who have in fact agreed to arbitrate—it is appropriate for the trial court to maintain jurisdiction over the dispute at hand. On point is, *Transamerica Occidental Life Ins. Co. v. Rapid Settlements, Ltd.*, 284 S.W.3d 385 (Tex. App.—Houston [1st Dist.] 2008, no pet.), which is instructive. There, Echols had a structured settlement, which was funded by Transamerica, who was the annuity obligor. Echols sold his settlement to Rapid for a discounted lump sum. The agreement between Echols and Rapid contained an arbitration clause. Before payment of the lump sum matured, Echols revoked his consent to the agreement. *Id.* at 388.

Rapid filed a demand for arbitration and it ultimately prevailed in the proceeding against Echols. Subsequently, Rapid filed suit to enforce the arbitration award against Transamerica, albeit the latter was a non-party to the arbitration. Pursuant to the arbitration award, the trial court ordered Transamerica to deliver payment to Rapid. *Id.* Upon receiving notice of the judgment, Transamerica appealed. Reversing the trial court's judgment and holding that Transamerica was not bound by the arbitration award because it was a non-signatory to the agreement, *Transamerica* held:

Transamerica's role in the structured settlement transaction—one informed by state law—does not render it a party to the transfer agreement's arbitration clause or otherwise bind it as a non-signatory. Accordingly, we hold that the arbitration clause in the transfer agreement between Echols and Rapid Settlements does not bind Transamerica, and that neither the arbitration award nor the trial court's judgment confirming that award is enforceable against it.

Id. at 393-94 (emphasis added). Because Transamerica held the funds and because it was not bound by any arbitration agreement, the appropriate forum to adjudicate the dispute over ownership of the funds remained in the trial court.

Transamerica can be analogized to the present case; here, JPM, just like the annuity obligor in *Transamerica*, is the sole possessor of the disputed funds. But, as was the very situation in *Transamerica*, JPM is clearly a non-signatory to the Contingency Agreement between Lawyers and Clients.¹ See Exhibits "A" & "B." In the case at bar, the sole issue before this Court—at this very preliminary stage of the proceeding—is the proper and just allocation of the proceeds held by JPM, who is undoubtedly a non-signatory to any arbitration agreement, jurisdiction, therefore, remains exclusively in this Court to resolve this narrow issue.

It should be duly noted that JPM remains the Independent Administrator of Max Hopper's Estate, and, as things currently stand, it alone has exclusive possession of the disputed funds; therefore, this Court has jurisdiction to grant Lawyers declaratory relief under Section 37.005, given that what is contested is property "incident" to an Estate, upon which this Court maintains continuing and exclusive jurisdiction. See TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014). Because the narrow issue before this Court is not arbitrable in any event, this Court cannot compel binding arbitration—at least with respect to the limited ownership dispute regarding the settlement proceeds.

¹ Texas law imposes a heavy burden upon the Clients to establish that JPM, as a non-signatory, can be compelled to binding arbitration. See *In re Big 8 Food Stores*, 166 S.W.3d 869, 876 (Tex. App.—El Paso 2005, orig. proceeding); *Mohamed v. Auto Nation USA Corp.*, 89 S.W.3d 830, 836 (Tex. App.—Houston [1st Dist.] 2002, no pet.) ("the initial burden of the party seeking to compel arbitration—to establish the arbitration agreement's existence- includes the entity seeking to enforce the arbitration agreement was a party to it or had the right to enforce the agreement notwithstanding"). Clients have no evidence—literally none—that JPM has agreed to litigate any portion of this dispute in a parallel arbitration proceeding.

C.
The Clients are Fully Estopped

Because the Lawyers fully performed and, because the Clients terminated Lawyers only *after* a settlement was reached, Clients are fully estopped; accordingly, there is nothing to arbitrate—at least in so far as Lawyers' vested and secured property and ownership rights are concerned. See *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2001, pet. denied); *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003).

Indeed, *Enochs* held:

The trial court made findings of fact that Whitehurst [Lawyer] provided valuable legal services to Justin [Client] by successfully handling his personal injury claim, and that Justin accepted, used, and enjoyed these services and the product of these services. These findings support the theory of quasi-estoppel. The principle of quasi-estoppel precludes a party from asserting, to another's disadvantage, a right inconsistent with a position he has previously taken...it is unconscionable for Enoch, on Justin's behalf, to challenge the validity of the contingent fee contract when Justin has accepted the benefits of Whitehurst's services. We overrule Enoch's fifth point of error.

872 S.W.2d at 317 [citations omitted].

Even assuming *arguendo* the Clients were not fully estopped from asserting a claim, and they undoubtedly are, they are certainly estopped from taking irreconcilable positions. On the one hand, Clients are contending that the Contingency Agreement is void and unenforceable. Only by arguing that the Contingency Agreement is void and unenforceable can Clients contend that Lawyers should not be compensated for their legal services. Yet, on the other hand, Clients are arguing the arbitration clause, which is embodied within the very Contingency Agreement they claim is void, must

nevertheless be enforced. The Clients cannot haphazardly pick and choose which provisions of the Contingency Agreement they like, while wholeheartedly ignoring and disregarding those provisions which they dislike. Principles of estoppel prohibit Clients from being on three sides of a two-sided issue.

**D.
This Court has Discretion to Escrow the Funds
Without Reaching the Merits of the Injunction
(and that Ruling is Non-Appealable)**

This Court has discretion to escrow the disputed funds without granting a temporary injunction and without even reaching the merits. See, e.g., *Prodeco Exploration, Inc. v. Ware*, 684 S.W.2d 199, 201 (Tex. App.—Houston [1st Dist.] 1984, no writ); *Diana Rivera & Assoc., P.C. v. Calvillo*, 986 S.W.2d 795, 797-98 (Tex. App.—Corpus Christi 1999, pet. denied); accord *Castilleja v. Camero*, 414 S.W.2d 431, 433 (Tex. 1967). If the Court simply escrows the disputed funds, and retains jurisdiction over the funds, it has discretion to do that and such an order is neither a temporary injunction nor the type of ruling that is subject to appeal. See *Diana Rivera & Assoc., P.C.*, 986 S.W.2d at 798.

**V.
Conclusion**

In conclusion, this Court should grant temporary relief and protect Lawyers' vested and secured property and ownership rights in the disputed funds. This Court should hold any ruling on compelling arbitration temporarily in abeyance until the record is more fully developed as to what claims, if any, are subject to the Contingency Agreement's arbitration clause.

WHEREFORE, PREMISES CONSIDERED, the Intervenor, John L. Malesovas d/b/a Malesovas Law Firm and Fee Smith Sharp & Vitullo, LLP, respectfully pray that this Honorable Court convert this Court's TRO into a temporary order protecting the settlement funds in dispute; that the Court hold any ruling on the motion to compel arbitration temporarily in abeyance; and further grant the Intervenor (Lawyer) all such further relief whether in law or in equity upon which they may show themselves justly entitled.

Respectfully Submitted,

BRIAN LAUTEN, P.C.

A handwritten signature in black ink, appearing to read "BP Lauten", with a stylized flourish at the end.

BRIAN P. LAUTEN

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Ste. 1450

Dallas, Texas 75219

(214) 414-0996 telephone

ATTORNEYS FOR INTERVENORS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 20, 2018, in accordance with the Texas Rules of Civil Procedure to:

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Kerry F. Schonwald
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and JPMorgan Chase Bank, N.A., in its
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**BRIAN P. LAUTEN
ATTORNEY FOR INTERVENORS**

CONTINGENCY FEE CONTRACT OF REPRESENTATION

The undersigned **Stephen Hopper, and Laura Wassmer** referred to as "Client" or "Clients" employ and retain Fee, Smith, Sharp & Vitullo, LLP, and Malesovas Law Firm, (herein "Attorneys") to represent Client as set forth herein.

1. SCOPE OF REPRESENTATION: Attorneys agree to investigate and evaluate and litigate Client's possible claim or claims of negligence, fraud, breach of contract, and breach of fiduciary duty against JP MORGAN CHASE and persons and companies relating to JP MORGAN CHASE BANKS wrongful acts in acting as the independent administrator of the Estate of Max Hopper..

Client understands and agrees that the scope of representation herein does not include the filing of any claim against any state or federal entity or employee or filing or pursuing an appeal from disposition in the Trial Court. Client understands and agrees that the scope of representation herein does not include defending any claims or lawsuits filed against Client. Client is retaining separate counsel on a flat fee agreement or other fee arrangement to defend them against any claims filed by any parties.

Client understands and agrees that the scope of representation herein does not include representing Clients in the probate lawsuit or lawsuit involving Chase bank, and defending Client against Chase bank or any other party.

Client understands and agrees that Attorneys will not file suit against entities that are in a foreign jurisdiction or are international companies whom in attorney's opinion cannot be sued in a United States court. Client understands and agrees that Attorneys are not obligated to pursue entities that are defunct and/or bankrupt.

Client hereby agrees and understands that Attorneys retain the right to withdraw from representation of Client at any time, so long as said withdrawal would not unduly prejudice Client's right to bring suit or to seek or retain another attorney to represent Client. In such event, Client agrees to timely sign an appropriate Motion for Substitution of Counsel. If after disposition in the trial court, Client desires to appeal, a new and separate agreement shall be entered into by the parties as to services and fees for any appeal, or Client shall retain separate counsel to handle any appeal and Attorneys shall retain their interest in the case under this agreement applicable to any recovery obtained by settlement or otherwise.

2. AUTHORITY OF ATTORNEYS: Client empowers Attorneys to take all steps in this matter deemed by them to be advisable for the investigation and handling of Client's

Claims, including hiring investigators, expert witnesses, and/or other attorneys and filing any legal action necessary. Client authorizes and empowers Attorneys to do any and all things necessary and proper in the enforcement, compromise, settlement, adjustment and collection of Client's Claim, and Client further authorizes and empowers them to sign any and all pleadings and all releases, checks, drafts, authorizations and other papers necessary and proper in connection with the prosecution or enforcement of Client's Claims and collection or settlement of the damages awarded or to be paid therefore, and to receive such funds or other property in Client's name and for Client on account of any judgment recovered or any settlement agreed upon in connection with Client's Claim. Full power and authority is given by Client to Attorneys to adjust, settle or compromise Client's Claim, but no final settlement shall be made and consummated by Attorneys without first submitting the offer, compromise, or adjustment to Client for approval, and Client agrees not to compromise or settle Client's Claim without the Attorneys' authority, agreement and consent. Should Client make a settlement in violation of this Agreement, Client agrees to pay Attorneys the full fee agreed upon under paragraph 3 "Attorneys' Fee", below.

3. ATTORNEYS' FEE: This Agreement is a contingency fee contract. Specifically, if Attorneys are successful in recovering money or anything of value for Client, by settlement prior to trial begins, Attorneys shall receive attorneys' fees in the amount of forty percent (40%) of the gross recovery. The attorney fee will be split amongst the attorneys as follows: FSSV 50% Malesovas Law Firm 50% If the matter is resolved after trial begins, Attorneys shall receive attorneys' fees in the amount of forty-five (45%) of the gross recovery. All attorneys' fees shall be a percentage of the gross recovery. Gross recovery means the gross amount of money or other value or property recovered for Client, before the deduction of expenses. Trial is considered to have commenced at 5:00 p.m. on the Friday closest to ten (10) days before jury selection begins or evidence is first presented to the trier of fact, whichever is the earlier of these two events. If Attorneys do not recover any money or other value or property for Client, Client will not owe any attorneys' fees. Client agrees that Attorneys may, in their discretion, employ associate counsel to assist in prosecuting Client's cause of action, and Client does not object to the participation of any lawyers Attorneys may choose to involve in this representation of Client. With the exceptions set forth below, payment of attorneys' fees to associate counsel is the responsibility of Attorneys. In the event that the case is settled by way of a structured settlement, Client approves and authorizes attorneys' fees to be based upon the present value benefit of the settlement and further authorizes Attorneys to take attorneys' fees either in cash or in structured payment, as Attorneys deem appropriate.

In some instances, it may be necessary for Attorneys to retain special outside counsel to assist on matters other than prosecuting Client's claims for damages. Examples of such instances include the following: a defendant may seek bankruptcy protection; or a defendant may attempt to fraudulently transfer some of its assets to

avoid paying the Client's claim; a defendant may transfer assets out of the country thereby necessitating the retention of foreign counsel, or a complex, multi-party settlement may require an ethics opinion from outside counsel; or special action in probate court may be necessary apart from the usual probate proceedings involved in an estate; or a separate lawsuit may need to be filed against a defendant's insurance company. Client agrees that Attorneys may retain such special outside counsel to represent Client when Attorneys deem such assistance to be reasonably necessary, and that the fees of such counsel will be deducted from Client's share of the recovery.

4. **COSTS AND OTHER EXPENSES:** Clients **WILL NOT BE** responsible to pay for costs and expenses as incurred. Such costs include filing fees, expert witness fees, court reporter and video fees, copy charges, postage, mailing, travel, witness fees, electronic document conversion fees, delivery fees, internal operating costs and other related charges incurred or paid as an expense on behalf of Client and paid to third-party vendors or incurred internally by Attorneys and charged to Client in connection with Attorneys' representation of Client.

5. **DISBURSEMENT OF PROCEEDS TO CLIENT:** Client understands that Attorneys make no guarantee or assurance of any kind regarding the likelihood of success of Client's claims. Upon receipt by Attorneys of the proceeds of any settlement or judgment, Attorneys shall (1) retain either forty percent (40%) of the proceeds as their attorneys' fees if the matter is settled or resolved before trial begins or forty-five (45%) percent of the proceeds as their attorneys' fees if the matter is settled or resolved after trial begins, (2) deduct from Client's share of the proceeds any costs and expenses, including the fees of any special outside counsel that Attorneys may incur on Client's behalf, and (3) disburse the remainder of Client's share of the proceeds to Client. At the time of disbursement of any proceeds, Client will be provided with a disbursement sheet reflecting the attorneys' fees, the expenses deducted out of Client's share, and the remainder of Client's share.

Upon some circumstances, health insurers, workers compensation carriers, or others who have paid benefits or provided services on Client's behalf may claim a right to recover a portion of the proceeds of any action brought on behalf of the Client and may place Attorneys on notice of their claim. Except as may be required by law, Attorneys will not agree to protect any claim of a subrogation carrier or other creditor without Client's consent.

6. **POWER OF ATTORNEY:** Client gives Attorneys a power of attorney to execute and negotiate all reasonable and necessary documents connected with the handling of this cause of action, including pleadings, contracts, checks or drafts, settlement agreements, compromises and releases, verifications, dismissals and orders, proofs of claim, ballots, verified statements including those pursuant to Bankruptcy Rule 2019,

and all other documents that Client could properly execute. Client's claims will not be settled without obtaining Client's consent.

7. **COOPERATION; ADDRESS CHANGE; RETURN OF DOCUMENTS:** Client agrees to cooperate with Attorneys to permit Client's claims to be investigated and developed; to disclose to Attorneys all facts relevant to the claim; and to be reasonably available to attend any necessary meetings, depositions, preparation sessions, hearings and trial. Client shall appear on reasonable notice at any and all depositions and Court appearances and shall comply with all reasonable requests of Attorneys in connection with preparation and presentation of Client's claims. The Client acknowledges and agrees that all communications with Attorneys are privileged. The Client acknowledges that Attorneys may represent other individuals on the same or similar matters and therefore may communicate matters of common interest to all of Attorneys' clients. Therefore, Client agrees and understands that other individuals who are clients of Attorneys may also invoke the attorney client privilege as to Attorneys' communications with Client. The Client acknowledges and agrees not to provide attorney work product or attorney client communications to any other person.

Client shall promptly notify Attorneys of any change of marital status or death of spouse. Client shall promptly notify Attorneys of any bankruptcy proceedings involving Client or Client's spouse. Client shall promptly notify Attorneys of any other legal proceedings to which Client or Client's spouse is a party.

Client agrees to notify Attorneys in writing of each change in Client's mailing address (work or home) or telephone number (work, home and cell) during the term of this representation within seven (7) days of each such change of address or telephone number. When the case is completed, and subject to any Court orders, Attorneys will provide Client the opportunity to retrieve any documents and/or materials that Client provided to Attorneys or that Attorneys have obtained from other sources in connection with the case. However, if Client has not retrieved those documents and/or materials within ninety (90) days after Attorneys have mailed to Client written notice that the case is completed and that those documents and/or material are available to Client, Attorneys may dispose of those documents and/or materials.

8. **NO TAX ADVICE:** Attorneys have advised Client that the pursuit of resolution of this claim may have various tax consequences. Client understands that Attorneys do not render tax advice and are not being retained to offer such advice to Client or to represent Client before the IRS. Moreover, Client accepts responsibility for making any payment or filings necessitated by the resolution of Client's claim.

Client understands that applicable State law may impose sales, service or other tax on any amount that Client may recover or the fees due Attorneys hereunder. Client also understands that applicable Federal income tax law may require that Client pay

income tax on the fees due Attorneys hereunder, separate and apart from and in addition to any taxes owed by Attorneys. Client agrees that any such taxes (other than Federal and/or State income taxes that Attorneys may owe on monies actually received by them) shall be paid out of my share of any recovery.

9. **DEATH OF CLIENT:** The provisions of this Agreement will not terminate upon the death of Client. In the event of the death of Client, any duly appointed Representative of Client's heirs and/or estate will be bound by this Agreement to the extent allowed by applicable law, including without limitation, the provisions of this Agreement relating to the recovery of attorneys' fees and costs and other expenses. Any such Representative shall, upon request by Attorneys, execute a new Agreement in the capacity as Representative for the heirs and/or estate of the Client.

10. **OFFER OF SETTLEMENT:** Client understands that applicable law may, under certain circumstances, allow a Defendant to make an offer of settlement to Client and if Client rejects or does not accept such an offer, such may result in any award, verdict or judgment in Client's favor being reduced as provided by such law. Client understands that Client has the final authority to accept or reject any offer of settlement. Client understands that if Client rejects or does not accept such an offer, and Client's recovery is subsequently reduced, the fees owed to Attorneys will be calculated on the amount of any award, verdict or judgment before reduction, and the reduction shall be out of Client's share of any recovery.

11. **SECURITY INTEREST:** Client hereby assigns, transfers and conveys over to Attorneys an amount equal to either forty percent (40%) of the proceeds if the matter is settled or resolved before trial begins or forty-five percent (45%) of the proceeds if the matter is resolved after trial begins, of any property, money or other value recovered by settlement, compromise, verdict or judgment of the claims described in this contract. Client does hereby give and grant to Attorneys an express security interest, in addition to any statutory lien, upon Client's claims and any and all judgments recovered, and any and all funds or property realized or paid by compromise or settlement, as security for the compensation and costs and expenses advanced or due to be paid or reimbursed to Attorneys hereunder. This security interest is to continue in the event Attorneys are discharged without good cause. If the claims are not assignable at law, Client expressly assigns to Attorneys, to the extent of attorneys' fees and disbursements, any sum realized by way of a settlement or any judgment obtained thereon.

12. **BINDING EFFECT:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

13. **TERMINATION OF REPRESENTATION:** Client understands that Client can terminate Attorneys' representation of Client at any time by providing written notice to

Attorneys. Should Client elect to terminate Attorneys' representation prior to the full conclusion of Attorneys' representation, Client understands and agrees that Attorneys have a claim for expenses of litigation and unpaid attorneys' fees which will become due upon receipt by Client or any successor attorney of Client or any proceeds for any remaining portion of Client's claim. Client understands that the obligation for unpaid attorneys' fees will be calculated based on the percentage of work completed on the case or claims at the time Client terminates Attorneys.

14. NO GUARANTEE OF RECOVERY: Client understands that no guarantee or assurances of any kind have been made regarding the likelihood of success of Client's claim, but that Attorneys will use their skill and diligence, as well as their experience, to diligently pursue Client's action.

15. MISCELLANEOUS: In case any one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

This contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings, or written or oral agreements between the parties respecting within the subject matter.

16. STATUTE OF LIMITATIONS: Client understands that an issue may exist as to whether the applicable statute of limitations has expired. This issue is raised in many lawsuits even if the Client's claims are not beyond the Statute of Limitations. Client understands that Attorneys must perform an evaluation of Client's claim prior to filing Client's lawsuit, and that this evaluation will first require Client to provide Attorneys with all relevant documents and other information requested. It is possible that the statute of limitations has already expired or may expire during the interim between the date of Client's signature below and the filing of Client's lawsuit. Client agrees to accept this risk.

17. REFERRAL OR ASSOCIATION OF ADDITIONAL COUNSEL: Client agrees that Attorneys may refer this matter to another lawyer or associate additional lawyers to assist in representing Client and prosecuting the Client's cause of action. Prior to the referral or association becoming effective, Client shall consent in writing to the terms of the arrangement after being advised of (1) the identity of the lawyer or law firm involved, (2) whether the fees will be divided based on the proportion of services rendered or by lawyers agreeing to assume joint responsibility for the representation, and (3) the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be

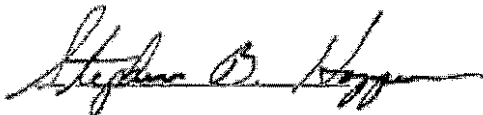
made. The referral or association of additional attorneys will not increase the total fee owed by the Client.

18. NOTICE TO CLIENTS: Attorneys are only licensed to practice law in the State of Texas. To the extent that Attorneys are required to appear in Court in other States, Attorneys will seek permission of the appropriate Court to appear pro hac vice. If pro hac vice admission is granted, Attorneys will be subject to the disciplinary rules of that particular jurisdiction. Attorneys are also subject to the disciplinary jurisdiction of the State Bar of Texas. The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. For more information call (800) 932-1900.

20. ARBITRATION: It is Attorney's goal to maintain at all times a constructive and positive relationship with Client on the matter described above and on future matters in which Attorney may perform services for Client. However, should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, if any controversy or claim arises out of is related to this agreement, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (including malpractice claims and fee disputes), Attorneys and Client both waive any right to bring a court action or have a jury trial and agree that the dispute shall be submitted to binding arbitration to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas..

CLIENT HAS READ AND UNDERSTANDS THIS CONTRACT AND AGREES AS STATED ABOVE AS OF THE DATE NOTED BELOW.

Laura Wassmer



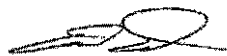
Stephen Hopper

Date: 11/19/2015

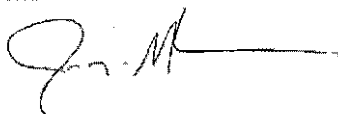
Address: 3625 N. Classen Blvd Oklahoma City, OK 7318

Telephone Numbers: 405-639-9186

ATTORNEYS:



Fee, Smith, Sharn & Vitullo, LLP



Malesovas Law Firm

CONTINGENCY FEE CONTRACT OF REPRESENTATION

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Client understands and agrees that the scope of representation herein does not include representing Clients in the probate lawsuit, ~~or lawsuit involving Chase bank, and defending Client against Chase bank or any other party.~~ *LW*

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Client hereby agrees and understands that Attorneys retain the right to withdraw from representation of Client at any time, so long as said withdrawal would not unduly prejudice Client's right to bring suit or to seek or retain another attorney to represent Client. In such event, Client agrees to timely sign an appropriate Motion for Substitution of Counsel. If after disposition in the trial court, Client desires to appeal, a new and separate agreement shall be entered into by the parties as to services and fees for any appeal, or Client shall retain separate counsel to handle any appeal and Attorneys shall retain their interest in the case under this agreement applicable to any recovery obtained by settlement or otherwise.

2. **AUTHORITY OF ATTORNEYS:** Client empowers Attorneys to take all steps in this matter deemed by them to be advisable for the investigation and handling of Client's Claims, including hiring investigators, expert witnesses, and/or other attorneys and filing any legal action necessary. Client authorizes and empowers Attorneys to do any and all things necessary and proper in the enforcement, compromise, settlement, adjustment and collection of Client's Claim, and Client further authorizes and empowers them to sign any and all pleadings and all releases, checks, drafts, authorizations and other papers necessary and proper in connection with the prosecution or enforcement of Client's Claims and collection or settlement of the damages awarded or to be paid therefore, and to receive such funds or other property in Client's name and for Client on account of any judgment recovered or any settlement agreed upon in connection with Client's Claim. Full power and authority is given by Client to Attorneys to adjust, settle or compromise Client's Claim, but no final settlement shall be made and consummated by Attorneys without first submitting the offer, compromise, or adjustment to Client for approval, and Client agrees not to compromise or settle Client's Claim without the Attorneys' authority, agreement and consent. Should Client make a settlement in violation of this Agreement, Client agrees to pay Attorneys the full fee agreed upon under paragraph 3 "Attorneys' Fee", below.

3. **ATTORNEYS' FEE:** This Agreement is a contingency fee contract. Specifically, if Attorneys are successful in recovering money or anything of value for Client, by settlement prior to trial begins, Attorneys shall receive attorneys' fees in the amount of forty percent (40%) of the gross recovery. The attorney fee will be split amongst the attorneys as follows: FSSV 50% Malesovas Law Firm 50% If the matter is resolved after trial begins, Attorneys shall receive attorneys' fees in the amount of forty-five (45%) of the gross recovery. All attorneys' fees shall be a percentage of the gross recovery. Gross recovery means the gross amount of money or other value or property recovered for Client, before the deduction of expenses. Trial is considered to have commenced at 5:00 p.m. on the Friday closest to ten (10) days before jury selection begins or evidence is first presented to the trier of fact, whichever is the earlier of these two events. If Attorneys do not recover any money or other value or property for Client, Client will not owe any attorneys' fees. Client agrees that Attorneys may, in their discretion, employ associate counsel to assist in prosecuting Client's cause of action, and Client does not object to the participation of any lawyers Attorneys may choose to involve in this representation of Client. With the exceptions set forth below, payment of attorneys' fees to associate counsel is the responsibility of Attorneys. In the event that the case is settled by way of a structured settlement, Client approves and authorizes attorneys' fees to be based upon the present value benefit of the settlement and further authorizes Attorneys to take attorneys' fees either in cash or in structured payment, as Attorneys deem appropriate.

In some instances, it may be necessary for Attorneys to retain special outside counsel to assist on matters other than prosecuting Client's claims for damages. Examples of such instances include the following: a defendant may seek bankruptcy protection; or a defendant may attempt to fraudulently transfer some of its assets to avoid paying the Client's claim; a defendant may transfer assets out of the country thereby necessitating the retention of foreign counsel; or a complex, multi-party settlement may require an ethics opinion from outside counsel; or special action in probate court may be necessary apart from the usual probate proceedings involved in an estate; or a separate lawsuit may need to be filed against a defendant's insurance company. Client agrees that Attorneys may retain such special outside counsel to represent Client when Attorneys deem such assistance to be reasonably necessary, and that the fees of such counsel will be deducted from Client's share of the recovery.

4. **COSTS AND OTHER EXPENSES:** Clients **WILL NOT BE** responsible to pay for costs and expenses as incurred. Such costs include filing fees, expert witness fees, court reporter and video fees, copy charges, postage, mailing, travel, witness fees, electronic document conversion fees, delivery fees, internal operating costs and other related charges incurred or paid as an expense on behalf of Client and paid to third-party vendors or incurred internally by Attorneys and charged to Client in connection with Attorneys' representation of Client.

5. **DISBURSEMENT OF PROCEEDS TO CLIENT:** Client understands that Attorneys make no guarantee or assurance of any kind regarding the likelihood of success of Client's claims. Upon receipt by Attorneys of the proceeds of any settlement or judgment, Attorneys shall (1) retain either forty percent (40%) of the proceeds as their attorneys' fees if the matter is settled or resolved before trial begins or forty-five (45%) percent of the proceeds as their attorneys' fees if the matter is settled or resolved after trial begins, (2) deduct from Client's share of the proceeds any costs and expenses, including the fees of any special outside counsel that Attorneys may incur on Client's behalf, and (3) disburse the remainder of Client's share of the proceeds to Client. At the time of disbursement of any proceeds, Client will be provided with a disbursement sheet reflecting the attorneys' fees, the expenses deducted out of Client's share, and the remainder of Client's share.

Upon some circumstances, health insurers, workers compensation carriers, or others who have paid benefits or provided services on Client's behalf may claim a right to recover a portion of the proceeds of any action brought on behalf of the Client and may place Attorneys on notice of their claim. Except as may be required by law, Attorneys will not agree to protect any claim of a subrogation carrier or other creditor without Client's consent.

6. **POWER OF ATTORNEY:** Client gives Attorneys a power of attorney to execute and negotiate all reasonable and necessary documents connected with the handling of this cause of action, including pleadings, contracts, checks or drafts, settlement agreements, compromises and releases, verifications, dismissals and orders, proofs of claim, ballots, verified statements including those pursuant to Bankruptcy Rule 2019, and all other documents that Client could properly execute. Client's claims will not be settled without obtaining Client's consent.

7. **COOPERATION: ADDRESS CHANGE: RETURN OF DOCUMENTS:** Client agrees to cooperate with Attorneys to permit Client's claims to be investigated and developed; to disclose to Attorneys all facts relevant to the claim; and to be reasonably available to attend any necessary meetings, depositions, preparation sessions, hearings and trial. Client shall appear on reasonable notice at any and all depositions and Court appearances and shall comply with all reasonable requests of Attorneys in connection with preparation and presentation of Client's claims. The Client acknowledges and agrees that all communications with Attorneys are privileged. The Client acknowledges that Attorneys may represent other individuals on the same or similar matters and therefore may communicate matters of common interest to all of Attorneys' clients. Therefore, Client agrees and understands that other individuals who are clients of Attorneys may also invoke the attorney client privilege as to Attorneys' communications with Client. The Client acknowledges and agrees not to provide attorney work product or attorney client communications to any other person.

Client shall promptly notify Attorneys of any change of marital status or death of spouse. Client shall promptly notify Attorneys of any bankruptcy proceedings involving Client or Client's spouse. Client shall promptly notify Attorneys of any other legal proceedings to which Client or Client's spouse is a party.

Client agrees to notify Attorneys in writing of each change in Client's mailing address (work or home) or telephone number (work, home and cell) during the term of this representation within seven (7) days of each such change of address or telephone number. When the case is completed, and subject to any Court orders, Attorneys will provide Client the opportunity to retrieve any documents and/or materials that Client provided to Attorneys or that Attorneys have obtained from other sources in connection with the case. However, if Client has not retrieved those documents and/or materials within ninety (90) days after Attorneys have mailed to Client written notice that the case is completed and that those documents and/or material are available to Client, Attorneys may dispose of those documents and/or materials.

8. **NO TAX ADVICE:** Attorneys have advised Client that the pursuit of resolution of this claim may have various tax consequences. Client understands that Attorneys do not render tax advice and are not being retained to offer such advice to Client or to represent Client before the IRS. Moreover, Client accepts responsibility for making any payment or filings necessitated by the resolution of Client's claim.

Client understands that applicable State law may impose sales, service or other tax on any amount that Client may recover or the fees due Attorneys hereunder. Client also understands that applicable Federal income tax law may require that Client pay income tax on the fees due Attorneys hereunder, separate and apart from and in addition to any taxes owed by Attorneys. Client agrees that any such taxes (other than Federal and/or State income taxes that Attorneys may owe on monies actually received by them) shall be paid out of my share of any recovery.

9. **DEATH OF CLIENT:** The provisions of this Agreement will not terminate upon the death of Client. In the event of the death of Client, any duly appointed Representative of Client's heirs and/or estate will be bound by this Agreement to the extent allowed by applicable law, including without limitation, the provisions of this Agreement relating to the recovery of attorneys' fees and costs and other expenses. Any such Representative shall, upon request by Attorneys, execute a new Agreement in the capacity as Representative for the heirs and/or estate of the Client.

10. **OFFER OF SETTLEMENT:** Client understands that applicable law may, under certain circumstances, allow a Defendant to make an offer of settlement to Client and if Client rejects or does not accept such an offer, such may result in any award, verdict or judgment in Client's favor being reduced as provided by such law. Client understands that Client has the final authority to accept or reject any offer of settlement. Client understands that if Client rejects or does not accept such an offer, and Client's recovery is subsequently reduced, the fees owed to Attorneys will be calculated on the amount of any award, verdict or judgment before reduction, and the reduction shall be out of Client's share of any recovery.

11. **SECURITY INTEREST:** Client hereby assigns, transfers and conveys over to Attorneys an amount equal to either forty percent (40%) of the proceeds if the matter is settled or resolved before trial begins or forty-five percent (45%) of the proceeds if the matter is resolved after trial begins, of any property, money or other value recovered by settlement, compromise, verdict or judgment of the claims described in this contract. Client does hereby give and grant to Attorneys an express security interest, in addition to any statutory lien, upon Client's claims and any and all judgments recovered, and any and all funds or property realized or paid by compromise or settlement, as security for the compensation and costs and expenses advanced or due to be paid or reimbursed to Attorneys hereunder. This security interest is to continue in the event Attorneys are discharged without good cause. If the claims are not assignable at law, Client expressly assigns to Attorneys, to the extent of attorneys' fees and disbursements, any sum realized by way of a settlement or any judgment obtained thereon.

12. **BINDING EFFECT:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

13. **TERMINATION OF REPRESENTATION:** Client understands that Client can terminate Attorneys' representation of Client at any time by providing written notice to Attorneys. Should Client elect to terminate Attorneys' representation prior to the full conclusion of Attorneys' representation, Client understands and agrees that Attorneys have a claim for expenses of litigation and unpaid attorneys' fees which will become due upon receipt by Client or any successor attorney of Client or any proceeds for any remaining portion of Client's claim. Client understands that the obligation for unpaid attorneys' fees will be calculated based on the percentage of work completed on the case or claims at the time Client terminates Attorneys.

14. **NO GUARANTEE OF RECOVERY:** Client understands that no guarantee or assurances of any kind have been made regarding the likelihood of success of Client's claim, but that Attorneys will use their skill and diligence, as well as their experience, to diligently pursue Client's action.

15. **MISCELLANEOUS:** In case any one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

This contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings, or written or oral agreements between the parties respecting within the subject matter.

16. **STATUTE OF LIMITATIONS:** Client understands that an issue may exist as to whether the applicable statute of limitations has expired. This issue is raised in many lawsuits

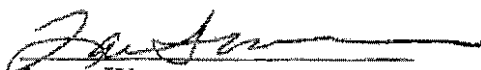
even if the Client's claims are not beyond the Statute of Limitations. Client understands that Attorneys must perform an evaluation of Client's claim prior to filing Client's lawsuit, and that this evaluation will first require Client to provide Attorneys with all relevant documents and other information requested. It is possible that the statute of limitations has already expired or may expire during the interim between the date of Client's signature below and the filing of Client's lawsuit. Client agrees to accept this risk.

17. REFERRAL OR ASSOCIATION OF ADDITIONAL COUNSEL: Client agrees that Attorneys may refer this matter to another lawyer or associate additional lawyers to assist in representing Client and prosecuting the Client's cause of action. Prior to the referral or association becoming effective, Client shall consent in writing to the terms of the arrangement after being advised of (1) the identity of the lawyer or law firm involved, (2) whether the fees will be divided based on the proportion of services rendered or by lawyers agreeing to assume joint responsibility for the representation, and (3) the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be made. The referral or association of additional attorneys will not increase the total fee owed by the Client.

18. NOTICE TO CLIENTS: Attorneys are only licensed to practice law in the State of Texas. To the extent that Attorneys are required to appear in Court in other States, Attorneys will seek permission of the appropriate Court to appear pro hac vice. If pro hac vice admission is granted, Attorneys will be subject to the disciplinary rules of that particular jurisdiction. Attorneys are also subject to the disciplinary jurisdiction of the State Bar of Texas. The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. For more information call (800) 932-1900.

20. ARBITRATION: It is Attorney's goal to maintain at all times a constructive and positive relationship with Client on the matter described above and on future matters in which Attorney may perform services for Client. However, should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, if any controversy or claim arises out of or is related to this agreement, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (including malpractice claims and fee disputes), Attorneys and Client both waive any right to bring a court action or have a jury trial and agree that the dispute shall be submitted to binding arbitration to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas..

CLIENT HAS READ AND UNDERSTANDS THIS CONTRACT AND AGREES AS STATED ABOVE AS OF THE DATE NOTED BELOW.


Laura Wassmer

Stephen Hopper

Date: _____

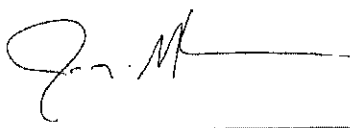
Address: _____

Telephone Numbers:

ATTORNEYS:



Fee, Smith, Sharp & Vitullo, LLP



Malesovas Law Firm

ORIGINAL

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER, §
DECEASED, §

IN THE PROBATE COURT

JO N. HOPPER, §

Intervenor, §

v. §

NO. 1

JPMORGAN CHASE BANK, N.A., §
STEPHEN B. HOPPER, and LAURA §
S. WASSMER, §

Defendants. §

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a §
MALESOVAS LAW FIRM, and §
FEE, SMITH, SHARP & VITULLO, LLP §

Intervenors, §

v. §

STEPHEN B. HOPPER, LAURA S. §
WASSMER, individually and as §
Beneficiaries of the ESTATE OF §
MAX D. HOPPER, DECEASED, §
the ESTATE OF MAX D. HOPPER, §
DECEASED, JPMORGAN CHASE §
BANK, N.A., §

Defendants. §

TEMPORARY RESTRAINING ORDER

Came to be heard on the 9TH day of April 2018, the minimum amount of notice having been duly provided pursuant to Local Rule 2.02(a) of Dallas County, Fee Smith Sharp & Vitullo, LLP and John L. Malesovas d/b/a Malesovas Law Firm's (collectively, "Intervenors") *Verified Petition(s) in Intervention, Application for Temporary Restraining Order, Temporary Injunction, and Application for Declaratory Relief* against, *inter alia*,

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ORDER - TEMPORARY RESTRAINING ORD
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Stephen Hopper and Laura Wassmer, individually and as beneficiaries of the Estate of Max D. Hopper, deceased, (hereinafter jointly "Clients") and JPMorgan Chase Bank, N.A. (hereinafter "JPM") (Clients and JPM hereinafter jointly, "Defendants" with respect to the claims now pending in this Intervention).

The Court, after considering the *Intervenors' Collective Verified Original Petition in Intervention, Application for Temporary Restraining Order, Temporary Injunction, and Application for Declaratory Relief*, the evidence submitted by Intervenors *in camera*, the relevant exhibits, the arguments of counsel, concludes that—unless immediately restrained, Defendants will irreparably injure Intervenors.

This Court has subject matter jurisdiction over the dispute brought before it under both, TEX. ESTATES CODE ANN. § 32.007 et seq. (Vernon 2014), *and*, TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014) (authorizing declaratory judgment actions in probate court when such relief is germane to an Estate):

Intervenors respective Pleas and application for TRO are timely filed, given that this Court has yet to sign a judgment; and, therefore, retains plenary power over this proceeding. See TEX. R. CIV. P. 60 et seq.

This Court has, preliminarily, taken judicial notice, pursuant to Rule 201 of the Texas Rules of Evidence, of the following facts that, in reasonable probability, appear to be true at this preliminary stage of the proceeding:

- 1.) In, around, or about November of 2015, Clients executed a valid and enforceable contingency agreement ("CA") with Intervenors;
- 2.) On or about April 5, 2018, attorneys for Clients and JPM appeared before this Court and announced, without revealing any of the substantive terms, that a confidential settlement had been reached between them in the underlying dispute pending in this Court (hereinafter "Settlement");
- 3.) On or about the same day, April 5, 2018, but—literally what appears to have been within minutes after the Court was informed that a settlement had been reached by the parties in this underlying dispute—Clients terminated their CA with Intervenors by and through their attorney, James Pennington;

- 4.) Intervenors have filed what, by all accounts, appears to be a valid and enforceable First Party Attorney's Fees Lien in the proceeds of the Settlement;
- 5.) Intervenors fully performed; or, at the very least, substantially and materially performed all of their duties, responsibilities, and obligations under the CA at or before the time Clients terminated the CA—as those legal terms are meant in, *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2018, no pet.), *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003), and *Mandell & Wright*, 441 S.W.2d 841, 847 (Tex. 1969); and
- 6.) Given the timing of the termination of Intervenors, Clients are estopped, quasi-estopped, and/or have waived any and all defenses, if any, that could or would be lodged to the CA or the quality of the legal services performed by Intervenors.

Based upon these preliminary findings, this Court is of the opinion that Intervenors have established a probability of success on the merits on their application for, *inter alia*, declaratory relief. See TEX. CIV. PRAC. & REM. CODE § 37.004 et seq. (Vernon 2014). This Court is of the opinion that, unless restrained, one or more Defendants are likely to cause permanent damage to Intervenors, should they be allowed to transfer, hypothecate, assign, or take title to Intervenors' interest in the settlement proceeds before the pleas in Intervention are adjudicated on the merits. Such harm would be irreparable because this Court is of the opinion that there is no showing; or, in the alternative, an inadequate showing that Defendants could timely and immediately pay the disputed funds to Intervenors, should Intervenors ultimately prevail in this proceeding, and because Intervenors have a security interest in and lien upon a portion of the settlement proceeds which would be eviscerated by allowing Clients to dispose of 100% of the settlement proceeds as they saw fit. Moreover, given the

Court's preliminary findings set forth above in (i)-(vi), Intervenor's have established a property right and secured interest in the proceeds at issue.

The Court is, **THEREFORE**, of the opinion that Intervenor's are entitled to the issuance of a Temporary Restraining Order and that such an Order is necessary to protect Intervenor's rights. This **ORDER** is necessary because of the immediate need to enforce the security interest and lien which Intervenor's have in a portion of the settlement proceeds and to stop the wrongful flow of funds in the near future from being disseminated to either Clients or their attorneys, or some other third party subject to Clients' direction and control, upon which Intervenor's would have no adequate remedy at law. Without intervention by this Court, Intervenor's property right, that is Intervenor's security interest in and lien upon the settlement proceeds, would be destroyed and there would be no way to restore that property right in the Settlement proceeds themselves.

This Court is further of the opinion that Intervenor's are entitled to an **EXPEDITED DISCOVERY ORDER**. Therefore, Stephen Hopper and Laura Wassmer shall be made available for deposition on and certainly no later than **Tuesday, April 17, 2018**. If the parties cannot agree on a suitable location for these depositions, they shall be taken in this Court's jury room. The depositions are limited solely to the matters in dispute in the pled Intervention filings and shall last no longer than two hours per deponent (per side). In addition, Intervenor's may serve a *duces tecum* with the deposition notices, which shall be limited to no more than seven (7) discovery requests. The deposition notice shall provide two business days notice to the deponent.

It is further **ORDERED** that Intervenor's may move this Court for a dispositive summary judgment on 14 days notice of any hearing; and any response shall be due to be filed within 5 days of the hearing; and any reply shall be due to be filed within 2 days of the hearing.

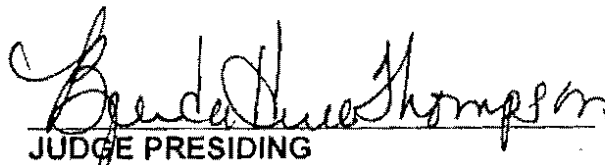
It is therefore **ORDERED, ADJUDGED, and DECREED** that Defendants, Stephen Hopper, Laura Wassmer, and JPMorgan Chase, N.A., and any of his, her, their, or its agents, servants, employees, successors, assigns and those persons in active concert or participation therewith, must:

- 1) Deposit all of the settlement proceeds due to Stephen B. Hopper and Laura s. Wassmer, individually and as beneficiaries of the Estate of Max Hopper, Deceased, into a safekeeping account with JPMorgan Chase Bank, NA, to be held in trust until further Order of this Court. Funds in the safekeeping account shall be withdrawn only upon Order of this Court;
- 2) The parties are **ORDERED** to preserve and prevent the destruction of all documents, including electronic data, emails, and notes, that relate in any way to the matters and claims set forth in the Intervenor's respective Pleas on file—and, moreover, all electronic storage devices must be imaged and preserved.

IT IS FURTHER ORDERED that this order is effective immediately upon Intervenor's deposit with the appropriate clerk of this Court a Corporate Surety on cash bond in the amount of \$ 10,000,000 ~~XX~~00 (U.S. dollars). PART 1

IT IS FURTHER ORDERED that Intervenor's application for a temporary injunction is set for an evidentiary hearing and will be heard before this Court on April 24, 2018 at 9 o'clock a.m., and that Stephen Hopper, Laura Wassmer, and JPMorgan Chase, N.A. appear and show cause, if any, why this Temporary Restraining Order should not be continued and converted into a Temporary Injunction until final hearing and trial hereon.

Signed and issued this the 10th day of April 2018, at 4:50 o'clock p.m.


JUDGE PRESIDING

LAW OFFICES OF JAMES E. PENNINGTON

A PROFESSIONAL CORPORATION
900 JACKSON STREET, SUITE 440
DALLAS, TEXAS 75202-4473

JAMES E. PENNINGTON
LICENSED IN TEXAS AND COLORADO

PHONE (214) 741-3022
FAX (214) 741-3055
E-MAIL: jep@jeplawyer.com

April 5, 2018

VIA EMAIL: blauten@brianlauten.com

Brian P. Lauten
Brian Lauten, P.C.
3811 Turtle Creek Blvd.
Suite 1450
Dallas, Texas 75219

Re: Case No. PR-11-3238-1; In re: Estate of Max Hopper, Deceased, Jo N. Hopper v. JP Morgan Chase Bank, N.A., et al., in the Probate Court of Dallas County, Texas.

Brian:

As you know, I represent Dr. Stephen Hopper and Laura Wassmer in connection with a dispute that has developed involving your clients, Anthony Vitullo and Fee, Smith, Sharp & Vitullo, LLP. Please be advised that my clients have decided to terminate their relationship with Mr. Vitullo, Fee, Smith, Sharp & Vitullo, LLP and John Malesovas. Their decision to terminate this relationship is based on a number of factors, which are too numerous to set forth herein. However, I provided you with a brief summary of those reasons yesterday during our call and suggested we meet in person to discuss this in more detail. Ultimately, as a result of several issues that were discovered by Jeff Levinger, the appellate lawyer retained to handle the appeal of the jury's verdict, my clients decided to settle the case with JP Morgan Chase. Most, if not all of these issues, were caused by your clients' omissions before and during trial, such as failing to present expert testimony and several jury charge issues which would have made an appeal very difficult for my clients. Additionally, I discovered a number of facts, some of which I outlined during our call, which indicate that the contingency fee agreement is probably not enforceable and which show that – even if it is enforceable – your clients breached the agreement. As a result, I am notifying you that my clients are – effective immediately -- terminating their relationship with Mr. Vitullo, Fee, Smith, Sharp & Vitullo, LLP and Mr. Malesovas and his firm. It is unclear to me whether you are representing Mr. Malesovas or his firm. Please advise, so that I can notify Mr. Malesovas if needed.

At this time, I am requesting your clients to provide me with their *entire* file regarding their representation of my clients. Although your clients have previously provided me with

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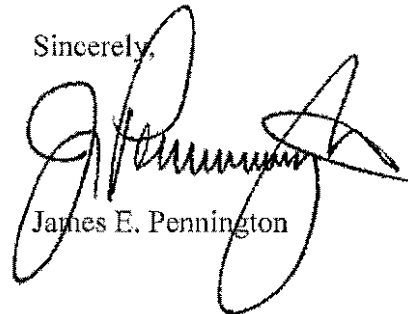
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Brian Lauten
April 5, 2018
Page 2

portions of the file, the files which were provided are not complete and were not provided in the manner in which they were originally maintained by the firm. I am not suggesting anything improper about the manner in which the files were previously produced. However, I am pointing this out to emphasize the importance of making sure that I receive the complete file in the same manner that it was maintained by your clients. You may provide the electronic files on a portable hard drive and have this device, along with the physical files, delivered to my office.

Finally, as I indicated during our call, my clients are willing to discuss a resolution of the attorney's fees related to your clients' representation, so give this some more thought and let me know if you have a proposal. In the meantime, I will instruct Mr. Levinger to retain a percentage of the settlement in his trust account until this matter is resolved. Thank you for your anticipated cooperation. If you have any questions, please feel free to give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Pennington', with a large, stylized flourish extending from the end of the signature.

James E. Pennington

CAUSE NO. PR-11-03238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED

IN THE PROBATE COURT

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

NO. 1

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

DALLAS COUNTY, TEXAS

SUPPLEMENT TO MOTION TO COMPEL ARBITRATION

Defendants Stephen B. Hopper and Laura S. Wassmer ("the Clients") file this Supplement to their Motion to Compel Arbitration, filed April 11, 2018 (the "Motion"). The Motion requests that this Court order the parties to arbitrate Intervenors' claims pursuant to the mandatory arbitration provision in two separate "Contingency Fee Contract[s] of Representation" between Intervenors and the Clients (the "Fee Agreements"). The Motion is set

for hearing on April 24, 2018, at 9:00 am. The Clients submit the following additional points in support of the Motion:

A. The Court should rule on the Motion to Compel Arbitration immediately.

As a preliminary matter, the Clients reiterate their request for an immediate ruling on the Motion. The Court has no discretion to defer a ruling on the Motion in favor of further litigation on the merits. (Motion at 4.) In particular, the Court may not issue injunctive relief without first ruling on the Motion. *See In re MetroPCS Comms., Inc.*, 391 S.W.3d 329, 340 (Tex. App.—Dallas 2013, orig. proceeding). In *MetroPCS*, the Dallas Court of Appeals held that a trial court abused its discretion in granting injunctive relief without first ruling on a motion to dismiss under a forum-selection clause. *Id.* The Texas Supreme Court has held that forum-selection law is analogous to arbitration law because arbitration clauses are simply a “specialized kind of forum-selection clause.” *Pinto Tech. Ventures, L.P. v. Sheldon*, 526 S.W.3d 428, 437 (Tex. 2017) (internal quotations omitted). Thus, the Court must rule on the Motion prior to issuing further injunctive relief or permitting any further proceedings in the intervention litigation, including discovery.¹

B. Arbitration of Intervenors’ claims is required under both the TAA and the FAA.

In addition to the arguments and authorities cited in the Motion, the Court should compel arbitration under the Federal Arbitration Act (“FAA”). *See* 9 U.S.C. §§ 3-4. The FAA applies to this dispute because the Fee Agreements concern interstate commerce—the provision of legal services by Texas lawyers, in Texas litigation, to clients that reside in Oklahoma and Kansas respectively. *See In re Rubiola*, 334 S.W.3d 220, 223 (Tex. 2011) (“The Federal Arbitration Act (FAA) generally governs arbitration provisions in contracts involving interstate commerce.”);

¹ The Clients appeared for deposition on April 16, 2018, pursuant to this Court’s expedited discovery order in the TRO, but did so while maintaining their objections that discovery is inappropriate while the Motion is pending.

see also *In re Touchstone Home Health LLC*, 572 B.R. 255, 268 (Bankr. D. Colo. 2017) (holding that “many attorney-client engagement agreements” affect interstate commerce, including those where client engages a law firm in a different state or the law firm performs services in a different state, and citing cases to that effect). The FAA and the corresponding provisions of the Texas Arbitration Act (“TAA”)—which were cited in the Motion—are not mutually exclusive. *In re D. Wilson Const. Co.*, 196 S.W.3d 774, 779-80 (Tex. 2006). Both laws apply unless there is a conflict. *See id.*

To compel arbitration under the FAA, like the TAA, the movant need only show: (1) a valid arbitration clause; and (2) that the claims in dispute fall within the agreement’s scope. *Rubiola*, 334 S.W.3d at 223. Where these two elements are satisfied, the court must issue an order compelling arbitration and must dismiss or stay the underlying proceedings. *See id.*; see also *In re Merrill Lynch Trust Co. FSB*, 235 S.W.3d 185, 195 (Tex. 2007). Both elements are satisfied here for the reasons discussed in the Motion. (Motion at 2-4.)

First, the Fee Agreements contain a valid and enforceable arbitration provision. (Ex. A-1 § 20; Ex. B-1 § 20.)² Intervenors themselves have sworn that the Fee Agreements are “valid and enforceable.” (First Amended Joint Petition in Intervention at 3.) Although the Clients dispute the enforceability of the contingency fee agreement, the validity of the contract itself must be decided by the arbitrator, not the Court. *See, e.g., Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440, 445-46 (2006). (*See also* Motion at 3-4.) The law is well-settled that arbitration provisions are severable from the remainder of the contract; so unless there is some question about the enforceability of the arbitration provision itself—and there is not—any other questions

² True and correct copies of the Fee Agreements are attached hereto. *See* Exhibit A (Declaration of Stephen B. Hopper); Exhibit B (Declaration of Laura S. Wassmer). These agreements were attached to Intervenors’ pleadings, sworn by Mr. Vitullo to be “valid and enforceable contingency fee agreement[s],” and admitted into evidence at the hearing on the Temporary Restraining Order. (*See* Motion at 2; First Amended Joint Petition in Intervention at 3.) Thus, there can be no dispute about the authenticity or the execution of the Fee Agreements.

of contract validity must be considered by the arbitrator in the first instance. *Id.*; *see also In re Kaplan Higher Educ. Corp.*, 235 S.W.3d 206, 210 (Tex. 2007) (orig. proceeding). The Fee Agreements also contain an explicit severability provision (in Section 15), such that the arbitration clause is enforceable even though other parts of the contract fail.

Second, there is no question that Intervenor's claims fall within the scope of the arbitration clause because their claims arise out of, and are related to, the Fee Agreements. (Ex. A-1 § 20; Ex. B-1 § 20; *see also* Motion at 2.) By its terms, the arbitration clause encompasses "any other matter that may arise between Client and Attorney (including malpractice claims and *fee disputes*)." (Ex. A-1 § 20; Ex. B-1 § 20) (emphasis added).

As a result, the Court should immediately issue an order compelling arbitration under both the FAA and the TAA, and should dismiss or stay the intervention proceedings. (*See* Motion at 2-4.) *See also Merrill Lynch*, 235 S.W.3d at 195 ("Both the Federal and Texas Arbitration Acts require courts to stay litigation of issues that are subject to arbitration. Without such a stay, arbitration would no longer be the 'rapid, inexpensive alternative to traditional litigation' it was intended to be, so long as one could find a trial judge willing to let the litigation proceed for a while.") (internal citations and quotations omitted); 9 U.S.C. § 3 (mandatory stay of litigation with respect to "any issue referable to arbitration"); TEX. CIV. PRAC. & REM. CODE § 171.021(c) ("An order compelling arbitration must include a stay of any proceeding subject to Section 171.025."); TEX. CIV. PRAC. & REM. CODE § 171.025(a) ("The court shall stay a proceeding that involves an issue subject to arbitration if an order for arbitration or an application for that order is made under this subchapter.").

CONCLUSION AND PRAYER

The Clients respectfully request that the Court compel the Intervenor to pursue their claims in arbitration; stay or dismiss the Intervenor's claims; and grant the Clients all other relief, at law or in equity, to which they may be entitled.

Respectfully submitted,

/s/ James E. Pennington

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andrew.guthrie@haynesboone.com

Attorneys for Defendants
Stephen B. Hopper and Laura S. Wassmer

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of April, 2018, the foregoing Supplement to Motion to Compel Arbitration was filed using the e-filing system which will send notification of such filing to the following parties via email:

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blauten@brianlauten.com

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**Attorneys for Defendant, JPMorgan Chase Bank, N.A., as Independent
Administrator of the Estate of Max D. Hopper, Deceased, and JPMorgan Chase
Bank, N.A., in its Corporate Capacity**

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Attorneys for Defendant, JPMorgan Chase Bank, N.A.

/s/ James E. Pennington _____
James E. Pennington

Exhibit A

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED

IN THE PROBATE COURT

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

NO. 1

DALLAS COUNTY, TEXAS

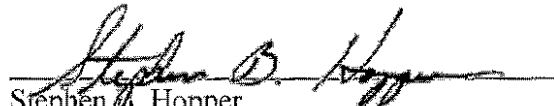
DECLARATION OF STEPHEN B. HOPPER

I, Stephen B. Hopper, hereby declare that the following facts are true and correct:

1. My name is Stephen B. Hopper. I am over twenty-one years of age, have never been convicted of a felony or other crime involving moral turpitude, and suffer from no mental or physical disability that would render me incompetent to make this Declaration.

2. I am a resident of Oklahoma City, Oklahoma, and a Defendant in the above-referenced action. I am able to declare, and I hereby do declare, that all of the facts stated in this Declaration are true and correct and are within my personal knowledge.

3. On November 19, 2015, I executed a "Contingency Fee Contract of Representation" that had already been signed by attorneys from Fee, Smith, Sharp & Vitullo, LLP, and Malesovas Law Firm. A true and correct copy of the contract that I executed is attached hereto as Exhibit A-1.


Stephen B. Hopper

JURAT

My name is Stephen B. Hopper, my date of birth is 11/21/1956, and my address is 3625 N. Classen Blvd., Oklahoma City, OK, 73118. I declare under penalty of perjury that every statement in the foregoing is true and correct.

Executed in Oklahoma County, State of Oklahoma, on the 19 day of April, 2018.

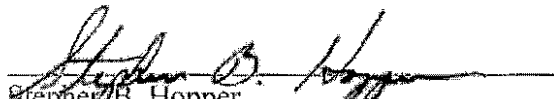

Stephen B. Hopper

Exhibit A-1

CONTINGENCY FEE CONTRACT OF REPRESENTATION

The undersigned **Stephen Hopper, and Laura Wassmer** referred to as "Client" or "Clients" employ and retain Fee, Smith, Sharp & Vitullo, LLP, and Malesovas Law Firm, (herein "Attorneys") to represent Client as set forth herein.

1. SCOPE OF REPRESENTATION: Attorneys agree to investigate and evaluate and litigate Client's possible claim or claims of negligence, fraud, breach of contract, and breach of fiduciary duty against JP MORGAN CHASE and persons and companies relating to JP MORGAN CHASE BANKS wrongful acts in acting as the independent administrator of the Estate of Max Hopper..

Client understands and agrees that the scope of representation herein does not include the filing of any claim against any state or federal entity or employee or filing or pursuing an appeal from disposition in the Trial Court. Client understands and agrees that the scope of representation herein does not include defending any claims or lawsuits filed against Client. Client is retaining separate counsel on a flat fee agreement or other fee arrangement to defend them against any claims filed by any parties.

Client understands and agrees that the scope of representation herein does not include representing Clients in the probate lawsuit or lawsuit involving Chase bank, and defending Client against Chase bank or any other party.

Client understands and agrees that Attorneys will not file suit against entities that are in a foreign jurisdiction or are international companies whom in attorney's opinion cannot be sued in a United States court. Client understands and agrees that Attorneys are not obligated to pursue entities that are defunct and/or bankrupt.

Client hereby agrees and understands that Attorneys retain the right to withdraw from representation of Client at any time, so long as said withdrawal would not unduly prejudice Client's right to bring suit or to seek or retain another attorney to represent Client. In such event, Client agrees to timely sign an appropriate Motion for Substitution of Counsel. If after disposition in the trial court, Client desires to appeal, a new and separate agreement shall be entered into by the parties as to services and fees for any appeal, or Client shall retain separate counsel to handle any appeal and Attorneys shall retain their interest in the case under this agreement applicable to any recovery obtained by settlement or otherwise.

2. AUTHORITY OF ATTORNEYS: Client empowers Attorneys to take all steps in this matter deemed by them to be advisable for the investigation and handling of Client's

Claims, including hiring investigators, expert witnesses, and/or other attorneys and filing any legal action necessary. Client authorizes and empowers Attorneys to do any and all things necessary and proper in the enforcement, compromise, settlement, adjustment and collection of Client's Claim, and Client further authorizes and empowers them to sign any and all pleadings and all releases, checks, drafts, authorizations and other papers necessary and proper in connection with the prosecution or enforcement of Client's Claims and collection or settlement of the damages awarded or to be paid therefore, and to receive such funds or other property in Client's name and for Client on account of any judgment recovered or any settlement agreed upon in connection with Client's Claim. Full power and authority is given by Client to Attorneys to adjust, settle or compromise Client's Claim, but no final settlement shall be made and consummated by Attorneys without first submitting the offer, compromise, or adjustment to Client for approval, and Client agrees not to compromise or settle Client's Claim without the Attorneys' authority, agreement and consent. Should Client make a settlement in violation of this Agreement, Client agrees to pay Attorneys the full fee agreed upon under paragraph 3 "Attorneys' Fee", below.

3. **ATTORNEYS' FEE:** This Agreement is a contingency fee contract. Specifically, if Attorneys are successful in recovering money or anything of value for Client, by settlement prior to trial begins, Attorneys shall receive attorneys' fees in the amount of forty percent (40%) of the gross recovery. The attorney fee will be split amongst the attorneys as follows: FSSV 50% Malesovas Law Firm 50% If the matter is resolved after trial begins, Attorneys shall receive attorneys' fees in the amount of forty-five (45%) of the gross recovery. All attorneys' fees shall be a percentage of the gross recovery. Gross recovery means the gross amount of money or other value or property recovered for Client, before the deduction of expenses. Trial is considered to have commenced at 5:00 p.m. on the Friday closest to ten (10) days before jury selection begins or evidence is first presented to the trier of fact, whichever is the earlier of these two events. If Attorneys do not recover any money or other value or property for Client, Client will not owe any attorneys' fees. Client agrees that Attorneys may, in their discretion, employ associate counsel to assist in prosecuting Client's cause of action, and Client does not object to the participation of any lawyers Attorneys may choose to involve in this representation of Client. With the exceptions set forth below, payment of attorneys' fees to associate counsel is the responsibility of Attorneys. In the event that the case is settled by way of a structured settlement, Client approves and authorizes attorneys' fees to be based upon the present value benefit of the settlement and further authorizes Attorneys to take attorneys' fees either in cash or in structured payment, as Attorneys deem appropriate.

In some instances, it may be necessary for Attorneys to retain special outside counsel to assist on matters other than prosecuting Client's claims for damages. Examples of such instances include the following: a defendant may seek bankruptcy protection; or a defendant may attempt to fraudulently transfer some of its assets to

avoid paying the Client's claim; a defendant may transfer assets out of the country thereby necessitating the retention of foreign counsel, or a complex, multi-party settlement may require an ethics opinion from outside counsel; or special action in probate court may be necessary apart from the usual probate proceedings involved in an estate; or a separate lawsuit may need to be filed against a defendant's insurance company. Client agrees that Attorneys may retain such special outside counsel to represent Client when Attorneys deem such assistance to be reasonably necessary, and that the fees of such counsel will be deducted from Client's share of the recovery.

4. **COSTS AND OTHER EXPENSES:** Clients **WILL NOT BE** responsible to pay for costs and expenses as incurred. Such costs include filing fees, expert witness fees, court reporter and video fees, copy charges, postage, mailing, travel, witness fees, electronic document conversion fees, delivery fees, internal operating costs and other related charges incurred or paid as an expense on behalf of Client and paid to third-party vendors or incurred internally by Attorneys and charged to Client in connection with Attorneys' representation of Client.

5. **DISBURSEMENT OF PROCEEDS TO CLIENT:** Client understands that Attorneys make no guarantee or assurance of any kind regarding the likelihood of success of Client's claims. Upon receipt by Attorneys of the proceeds of any settlement or judgment, Attorneys shall (1) retain either forty percent (40%) of the proceeds as their attorneys' fees if the matter is settled or resolved before trial begins or forty-five (45%) percent of the proceeds as their attorneys' fees if the matter is settled or resolved after trial begins, (2) deduct from Client's share of the proceeds any costs and expenses, including the fees of any special outside counsel that Attorneys may incur on Client's behalf, and (3) disburse the remainder of Client's share of the proceeds to Client. At the time of disbursement of any proceeds, Client will be provided with a disbursement sheet reflecting the attorneys' fees, the expenses deducted out of Client's share, and the remainder of Client's share.

Upon some circumstances, health insurers, workers compensation carriers, or others who have paid benefits or provided services on Client's behalf may claim a right to recover a portion of the proceeds of any action brought on behalf of the Client and may place Attorneys on notice of their claim. Except as may be required by law, Attorneys will not agree to protect any claim of a subrogation carrier or other creditor without Client's consent.

6. **POWER OF ATTORNEY:** Client gives Attorneys a power of attorney to execute and negotiate all reasonable and necessary documents connected with the handling of this cause of action, including pleadings, contracts, checks or drafts, settlement agreements, compromises and releases, verifications, dismissals and orders, proofs of claim, ballots, verified statements including those pursuant to Bankruptcy Rule 2019,

and all other documents that Client could properly execute. Client's claims will not be settled without obtaining Client's consent.

7. COOPERATION; ADDRESS CHANGE; RETURN OF DOCUMENTS: Client agrees to cooperate with Attorneys to permit Client's claims to be investigated and developed; to disclose to Attorneys all facts relevant to the claim; and to be reasonably available to attend any necessary meetings, depositions, preparation sessions, hearings and trial. Client shall appear on reasonable notice at any and all depositions and Court appearances and shall comply with all reasonable requests of Attorneys in connection with preparation and presentation of Client's claims. The Client acknowledges and agrees that all communications with Attorneys are privileged. The Client acknowledges that Attorneys may represent other individuals on the same or similar matters and therefore may communicate matters of common interest to all of Attorneys' clients. Therefore, Client agrees and understands that other individuals who are clients of Attorneys may also invoke the attorney client privilege as to Attorneys' communications with Client. The Client acknowledges and agrees not to provide attorney work product or attorney client communications to any other person.

Client shall promptly notify Attorneys of any change of marital status or death of spouse. Client shall promptly notify Attorneys of any bankruptcy proceedings involving Client or Client's spouse. Client shall promptly notify Attorneys of any other legal proceedings to which Client or Client's spouse is a party.

Client agrees to notify Attorneys in writing of each change in Client's mailing address (work or home) or telephone number (work, home and cell) during the term of this representation within seven (7) days of each such change of address or telephone number. When the case is completed, and subject to any Court orders, Attorneys will provide Client the opportunity to retrieve any documents and/or materials that Client provided to Attorneys or that Attorneys have obtained from other sources in connection with the case. However, if Client has not retrieved those documents and/or materials within ninety (90) days after Attorneys have mailed to Client written notice that the case is completed and that those documents and/or material are available to Client, Attorneys may dispose of those documents and/or materials.

8. NO TAX ADVICE: Attorneys have advised Client that the pursuit of resolution of this claim may have various tax consequences. Client understands that Attorneys do not render tax advice and are not being retained to offer such advice to Client or to represent Client before the IRS. Moreover, Client accepts responsibility for making any payment or filings necessitated by the resolution of Client's claim.

Client understands that applicable State law may impose sales, service or other tax on any amount that Client may recover or the fees due Attorneys hereunder. Client also understands that applicable Federal income tax law may require that Client pay

income tax on the fees due Attorneys hereunder, separate and apart from and in addition to any taxes owed by Attorneys. Client agrees that any such taxes (other than Federal and/or State income taxes that Attorneys may owe on monies actually received by them) shall be paid out of my share of any recovery.

9. **DEATH OF CLIENT:** The provisions of this Agreement will not terminate upon the death of Client. In the event of the death of Client, any duly appointed Representative of Client's heirs and/or estate will be bound by this Agreement to the extent allowed by applicable law, including without limitation, the provisions of this Agreement relating to the recovery of attorneys' fees and costs and other expenses. Any such Representative shall, upon request by Attorneys, execute a new Agreement in the capacity as Representative for the heirs and/or estate of the Client.

10. **OFFER OF SETTLEMENT:** Client understands that applicable law may, under certain circumstances, allow a Defendant to make an offer of settlement to Client and if Client rejects or does not accept such an offer, such may result in any award, verdict or judgment in Client's favor being reduced as provided by such law. Client understands that Client has the final authority to accept or reject any offer of settlement. Client understands that if Client rejects or does not accept such an offer, and Client's recovery is subsequently reduced, the fees owed to Attorneys will be calculated on the amount of any award, verdict or judgment before reduction, and the reduction shall be out of Client's share of any recovery.

11. **SECURITY INTEREST:** Client hereby assigns, transfers and conveys over to Attorneys an amount equal to either forty percent (40%) of the proceeds if the matter is settled or resolved before trial begins or forty-five percent (45%) of the proceeds if the matter is resolved after trial begins, of any property, money or other value recovered by settlement, compromise, verdict or judgment of the claims described in this contract. Client does hereby give and grant to Attorneys an express security interest, in addition to any statutory lien, upon Client's claims and any and all judgments recovered, and any and all funds or property realized or paid by compromise or settlement, as security for the compensation and costs and expenses advanced or due to be paid or reimbursed to Attorneys hereunder. This security interest is to continue in the event Attorneys are discharged without good cause. If the claims are not assignable at law, Client expressly assigns to Attorneys, to the extent of attorneys' fees and disbursements, any sum realized by way of a settlement or any judgment obtained thereon.

12. **BINDING EFFECT:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

13. **TERMINATION OF REPRESENTATION:** Client understands that Client can terminate Attorneys' representation of Client at any time by providing written notice to

Attorneys. Should Client elect to terminate Attorneys' representation prior to the full conclusion of Attorneys' representation, Client understands and agrees that Attorneys have a claim for expenses of litigation and unpaid attorneys' fees which will become due upon receipt by Client or any successor attorney of Client or any proceeds for any remaining portion of Client's claim. Client understands that the obligation for unpaid attorneys' fees will be calculated based on the percentage of work completed on the case or claims at the time Client terminates Attorneys.

14. NO GUARANTEE OF RECOVERY: Client understands that no guarantee or assurances of any kind have been made regarding the likelihood of success of Client's claim, but that Attorneys will use their skill and diligence, as well as their experience, to diligently pursue Client's action.

15. MISCELLANEOUS: In case any one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

This contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings, or written or oral agreements between the parties respecting within the subject matter.

16. STATUTE OF LIMITATIONS: Client understands that an issue may exist as to whether the applicable statute of limitations has expired. This issue is raised in many lawsuits even if the Client's claims are not beyond the Statute of Limitations. Client understands that Attorneys must perform an evaluation of Client's claim prior to filing Client's lawsuit, and that this evaluation will first require Client to provide Attorneys with all relevant documents and other information requested. It is possible that the statute of limitations has already expired or may expire during the interim between the date of Client's signature below and the filing of Client's lawsuit. Client agrees to accept this risk.

17. REFERRAL OR ASSOCIATION OF ADDITIONAL COUNSEL: Client agrees that Attorneys may refer this matter to another lawyer or associate additional lawyers to assist in representing Client and prosecuting the Client's cause of action. Prior to the referral or association becoming effective, Client shall consent in writing to the terms of the arrangement after being advised of (1) the identity of the lawyer or law firm involved, (2) whether the fees will be divided based on the proportion of services rendered or by lawyers agreeing to assume joint responsibility for the representation, and (3) the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be

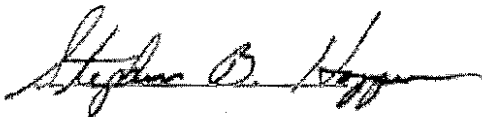
made. The referral or association of additional attorneys will not increase the total fee owed by the Client.

18. NOTICE TO CLIENTS: Attorneys are only licensed to practice law in the State of Texas. To the extent that Attorneys are required to appear in Court in other States, Attorneys will seek permission of the appropriate Court to appear pro hac vice. If pro hac vice admission is granted, Attorneys will be subject to the disciplinary rules of that particular jurisdiction. Attorneys are also subject to the disciplinary jurisdiction of the State Bar of Texas. The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. For more information call (800) 932-1900.

20. ARBITRATION: It is Attorney's goal to maintain at all times a constructive and positive relationship with Client on the matter described above and on future matters in which Attorney may perform services for Client. However, should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, if any controversy or claim arises out of is related to this agreement, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (including malpractice claims and fee disputes), Attorneys and Client both waive any right to bring a court action or have a jury trial and agree that the dispute shall be submitted to binding arbitration to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas..

CLIENT HAS READ AND UNDERSTANDS THIS CONTRACT AND AGREES AS STATED ABOVE AS OF THE DATE NOTED BELOW.

Laura Wassmer



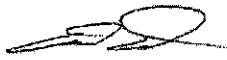
Stephen Hopper

Date: 11/19/2015

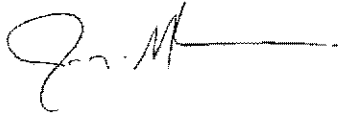
Address: 3625 N Classen Blvd Oklahoma City, OK 7318

Telephone Numbers: 405-639-9186

ATTORNEYS:



Fee. Smith. Sharn & Vitullo. LLP



Malesovas Law Firm

Exhibit B

CAUSE NO. PR-11-03238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED

IN THE PROBATE COURT

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

NO. 1

DALLAS COUNTY, TEXAS

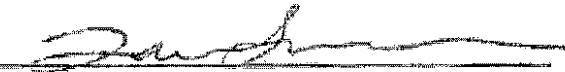
DECLARATION OF LAURA S. WASSMER

I, Laura S. Wassmer, hereby declare that the following facts are true and correct:

1. My name is Laura S. Wassmer. I am over twenty-one years of age, have never been convicted of a felony or other crime involving moral turpitude, and suffer from no mental or physical disability that would render me incompetent to make this Declaration.

2. I am a resident of Prairie Village, Kansas, and a Defendant in the above-referenced action. I am able to declare, and I hereby do declare, that all of the facts stated in this Declaration are true and correct and are within my personal knowledge.

3. On or before November 20, 2015, I executed a "Contingency Fee Contract of Representation" that had already been signed by attorneys from Fee, Smith, Sharp & Vitullo, LLP, and Malesovas Law Firm. A true and correct copy of the contract that I executed is attached hereto as Exhibit B-1.


Laura S. Wassmer

JURAT

My name is Laura S. Wassmer, my date of birth is 1/21/62, and my address is 7700 Mission Road, Prairie Village, Kansas 66208. I declare under penalty of perjury that every statement in the foregoing is true and correct.

Executed in Johnson County, Kansas, on the 20 day of April, 2018.



Laura S. Wassmer

Exhibit B-1

CONTINGENCY FEE CONTRACT OF REPRESENTATION

The undersigned **Stephen Hopper**, and **Laura Wassmer** referred to as "Client" or "Clients" employ and retain Fee, Smith, Sharp & Vitullo, LLP, and Malesovas Law Firm, (herein "Attorneys") to represent Client as set forth herein.

1. **SCOPE OF REPRESENTATION:** Attorneys agree to investigate and evaluate and litigate Client's possible claim or claims of negligence, fraud, breach of contract, and breach of fiduciary duty against JP MORGAN CHASE and persons and companies relating to JP MORGAN CHASE BANKs wrongful acts in acting as the independent administrator of the Estate of Max Hopper..

Client understands and agrees that the scope of representation herein does not include the filing of any claim against any state or federal entity or employee or filing or pursuing an appeal from disposition in the Trial Court. ~~Client understands and agrees that the scope of representation herein does not include defending any claims or lawsuits filed against Client.~~ Client is retaining separate counsel on a flat fee agreement or other fee arrangement to defend them against any claims filed by any parties. *other than Chase. LW*

Client understands and agrees that the scope of representation herein does not include representing Clients in the probate lawsuit, ~~or lawsuit involving Chase bank, and defending Client against Chase bank or any other party.~~ *LW*

Client understands and agrees that Attorneys will not file suit against entities that are in a foreign jurisdiction or are international companies whom in attorney's opinion cannot be sued in a United States court. Client understands and agrees that Attorneys are not obligated to pursue entities that are defunct and/or bankrupt.

Client hereby agrees and understands that Attorneys retain the right to withdraw from representation of Client at any time, so long as said withdrawal would not unduly prejudice Client's right to bring suit or to seek or retain another attorney to represent Client. In such event, Client agrees to timely sign an appropriate Motion for Substitution of Counsel. If after disposition in the trial court, Client desires to appeal, a new and separate agreement shall be entered into by the parties as to services and fees for any appeal, or Client shall retain separate counsel to handle any appeal and Attorneys shall retain their interest in the case under this agreement applicable to any recovery obtained by settlement or otherwise.

2. **AUTHORITY OF ATTORNEYS:** Client empowers Attorneys to take all steps in this matter deemed by them to be advisable for the investigation and handling of Client's Claims, including hiring investigators, expert witnesses, and/or other attorneys and filing any legal action necessary. Client authorizes and empowers Attorneys to do any and all things necessary and proper in the enforcement, compromise, settlement, adjustment and collection of Client's Claim, and Client further authorizes and empowers them to sign any and all pleadings and all releases, checks, drafts, authorizations and other papers necessary and proper in connection with the prosecution or enforcement of Client's Claims and collection or settlement of the damages awarded or to be paid therefore, and to receive such funds or other property in Client's name and for Client on account of any judgment recovered or any settlement agreed upon in connection with Client's Claim. Full power and authority is given by Client to Attorneys to adjust, settle or compromise Client's Claim, but no final settlement shall be made and consummated by Attorneys without first submitting the offer, compromise, or adjustment to Client for approval, and Client agrees not to compromise or settle Client's Claim without the Attorneys' authority, agreement and consent. Should Client make a settlement in violation of this Agreement, Client agrees to pay Attorneys the full fee agreed upon under paragraph 3 "Attorneys' Fee", below.

3. **ATTORNEYS' FEE:** This Agreement is a contingency fee contract. Specifically, if Attorneys are successful in recovering money or anything of value for Client, by settlement prior to trial begins, Attorneys shall receive attorneys' fees in the amount of forty percent (40%) of the gross recovery. The attorney fee will be split amongst the attorneys as follows: FSSV 50% Malesovas Law Firm 50% If the matter is resolved after trial begins, Attorneys shall receive attorneys' fees in the amount of forty-five (45%) of the gross recovery. All attorneys' fees shall be a percentage of the gross recovery. Gross recovery means the gross amount of money or other value or property recovered for Client, before the deduction of expenses. Trial is considered to have commenced at 5:00 p.m. on the Friday closest to ten (10) days before jury selection begins or evidence is first presented to the trier of fact, whichever is the earlier of these two events. If Attorneys do not recover any money or other value or property for Client, Client will not owe any attorneys' fees. Client agrees that Attorneys may, in their discretion, employ associate counsel to assist in prosecuting Client's cause of action, and Client does not object to the participation of any lawyers Attorneys may choose to involve in this representation of Client. With the exceptions set forth below, payment of attorneys' fees to associate counsel is the responsibility of Attorneys. In the event that the case is settled by way of a structured settlement, Client approves and authorizes attorneys' fees to be based upon the present value benefit of the settlement and further authorizes Attorneys to take attorneys' fees either in cash or in structured payment, as Attorneys deem appropriate.

In some instances, it may be necessary for Attorneys to retain special outside counsel to assist on matters other than prosecuting Client's claims for damages. Examples of such instances include the following: a defendant may seek bankruptcy protection; or a defendant may attempt to fraudulently transfer some of its assets to avoid paying the Client's claim; a defendant may transfer assets out of the country thereby necessitating the retention of foreign counsel, or a complex, multi-party settlement may require an ethics opinion from outside counsel; or special action in probate court may be necessary apart from the usual probate proceedings involved in an estate; or a separate lawsuit may need to be filed against a defendant's insurance company. Client agrees that Attorneys may retain such special outside counsel to represent Client when Attorneys deem such assistance to be reasonably necessary, and that the fees of such counsel will be deducted from Client's share of the recovery.

4. **COSTS AND OTHER EXPENSES:** Clients **WILL NOT BE** responsible to pay for costs and expenses as incurred. Such costs include filing fees, expert witness fees, court reporter and video fees, copy charges, postage, mailing, travel, witness fees, electronic document conversion fees, delivery fees, internal operating costs and other related charges incurred or paid as an expense on behalf of Client and paid to third-party vendors or incurred internally by Attorneys and charged to Client in connection with Attorneys' representation of Client.

5. **DISBURSEMENT OF PROCEEDS TO CLIENT:** Client understands that Attorneys make no guarantee or assurance of any kind regarding the likelihood of success of Client's claims. Upon receipt by Attorneys of the proceeds of any settlement or judgment, Attorneys shall (1) retain either forty percent (40%) of the proceeds as their attorneys' fees if the matter is settled or resolved before trial begins or forty-five (45%) percent of the proceeds as their attorneys' fees if the matter is settled or resolved after trial begins, (2) deduct from Client's share of the proceeds any costs and expenses, including the fees of any special outside counsel that Attorneys may incur on Client's behalf, and (3) disburse the remainder of Client's share of the proceeds to Client. At the time of disbursement of any proceeds, Client will be provided with a disbursement sheet reflecting the attorneys' fees, the expenses deducted out of Client's share, and the remainder of Client's share.

Upon some circumstances, health insurers, workers compensation carriers, or others who have paid benefits or provided services on Client's behalf may claim a right to recover a portion of the proceeds of any action brought on behalf of the Client and may place Attorneys on notice of their claim. Except as may be required by law, Attorneys will not agree to protect any claim of a subrogation carrier or other creditor without Client's consent.

6. **POWER OF ATTORNEY:** Client gives Attorneys a power of attorney to execute and negotiate all reasonable and necessary documents connected with the handling of this cause of action, including pleadings, contracts, checks or drafts, settlement agreements, compromises and releases, verifications, dismissals and orders, proofs of claim, ballots, verified statements including those pursuant to Bankruptcy Rule 2019, and all other documents that Client could properly execute. Client's claims will not be settled without obtaining Client's consent.

7. **COOPERATION; ADDRESS CHANGE; RETURN OF DOCUMENTS:** Client agrees to cooperate with Attorneys to permit Client's claims to be investigated and developed; to disclose to Attorneys all facts relevant to the claim; and to be reasonably available to attend any necessary meetings, depositions, preparation sessions, hearings and trial. Client shall appear on reasonable notice at any and all depositions and Court appearances and shall comply with all reasonable requests of Attorneys in connection with preparation and presentation of Client's claims. The Client acknowledges and agrees that all communications with Attorneys are privileged. The Client acknowledges that Attorneys may represent other individuals on the same or similar matters and therefore may communicate matters of common interest to all of Attorneys' clients. Therefore, Client agrees and understands that other individuals who are clients of Attorneys may also invoke the attorney client privilege as to Attorneys' communications with Client. The Client acknowledges and agrees not to provide attorney work product or attorney client communications to any other person.

Client shall promptly notify Attorneys of any change of marital status or death of spouse. Client shall promptly notify Attorneys of any bankruptcy proceedings involving Client or Client's spouse. Client shall promptly notify Attorneys of any other legal proceedings to which Client or Client's spouse is a party.

Client agrees to notify Attorneys in writing of each change in Client's mailing address (work or home) or telephone number (work, home and cell) during the term of this representation within seven (7) days of each such change of address or telephone number. When the case is completed, and subject to any Court orders, Attorneys will provide Client the opportunity to retrieve any documents and/or materials that Client provided to Attorneys or that Attorneys have obtained from other sources in connection with the case. However, if Client has not retrieved those documents and/or materials within ninety (90) days after Attorneys have mailed to Client written notice that the case is completed and that those documents and/or material are available to Client, Attorneys may dispose of those documents and/or materials.

8. **NO TAX ADVICE:** Attorneys have advised Client that the pursuit of resolution of this claim may have various tax consequences. Client understands that Attorneys do not render tax advice and are not being retained to offer such advice to Client or to represent Client before the IRS. Moreover, Client accepts responsibility for making any payment or filings necessitated by the resolution of Client's claim.

Client understands that applicable State law may impose sales, service or other tax on any amount that Client may recover or the fees due Attorneys hereunder. Client also understands that applicable Federal income tax law may require that Client pay income tax on the fees due Attorneys hereunder, separate and apart from and in addition to any taxes owed by Attorneys. Client agrees that any such taxes (other than Federal and/or State income taxes that Attorneys may owe on monies actually received by them) shall be paid out of my share of any recovery.

9. **DEATH OF CLIENT:** The provisions of this Agreement will not terminate upon the death of Client. In the event of the death of Client, any duly appointed Representative of Client's heirs and/or estate will be bound by this Agreement to the extent allowed by applicable law, including without limitation, the provisions of this Agreement relating to the recovery of attorneys' fees and costs and other expenses. Any such Representative shall, upon request by Attorneys, execute a new Agreement in the capacity as Representative for the heirs and/or estate of the Client.

10. **OFFER OF SETTLEMENT:** Client understands that applicable law may, under certain circumstances, allow a Defendant to make an offer of settlement to Client and if Client rejects or does not accept such an offer, such may result in any award, verdict or judgment in Client's favor being reduced as provided by such law. Client understands that Client has the final authority to accept or reject any offer of settlement. Client understands that if Client rejects or does not accept such an offer, and Client's recovery is subsequently reduced, the fees owed to Attorneys will be calculated on the amount of any award, verdict or judgment before reduction, and the reduction shall be out of Client's share of any recovery.

11. **SECURITY INTEREST:** Client hereby assigns, transfers and conveys over to Attorneys an amount equal to either forty percent (40%) of the proceeds if the matter is settled or resolved before trial begins or forty-five percent (45%) of the proceeds if the matter is resolved after trial begins, of any property, money or other value recovered by settlement, compromise, verdict or judgment of the claims described in this contract. Client does hereby give and grant to Attorneys an express security interest, in addition to any statutory lien, upon Client's claims and any and all judgments recovered, and any and all funds or property realized or paid by compromise or settlement, as security for the compensation and costs and expenses advanced or due to be paid or reimbursed to Attorneys hereunder. This security interest is to continue in the event Attorneys are discharged without good cause. If the claims are not assignable at law, Client expressly assigns to Attorneys, to the extent of attorneys' fees and disbursements, any sum realized by way of a settlement or any judgment obtained thereon.

12. **BINDING EFFECT:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

13. **TERMINATION OF REPRESENTATION:** Client understands that Client can terminate Attorneys' representation of Client at any time by providing written notice to Attorneys. Should Client elect to terminate Attorneys' representation prior to the full conclusion of Attorneys' representation, Client understands and agrees that Attorneys have a claim for expenses of litigation and unpaid attorneys' fees which will become due upon receipt by Client or any successor attorney of Client or any proceeds for any remaining portion of Client's claim. Client understands that the obligation for unpaid attorneys' fees will be calculated based on the percentage of work completed on the case or claims at the time Client terminates Attorneys.

14. **NO GUARANTEE OF RECOVERY:** Client understands that no guarantee or assurances of any kind have been made regarding the likelihood of success of Client's claim, but that Attorneys will use their skill and diligence, as well as their experience, to diligently pursue Client's action.

15. **MISCELLANEOUS:** In case any one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

This contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings, or written or oral agreements between the parties respecting within the subject matter.

16. **STATUTE OF LIMITATIONS:** Client understands that an issue may exist as to whether the applicable statute of limitations has expired. This issue is raised in many lawsuits

even if the Client's claims are not beyond the Statute of Limitations. Client understands that Attorneys must perform an evaluation of Client's claim prior to filing Client's lawsuit, and that this evaluation will first require Client to provide Attorneys with all relevant documents and other information requested. It is possible that the statute of limitations has already expired or may expire during the interim between the date of Client's signature below and the filing of Client's lawsuit. Client agrees to accept this risk.

17. **REFERRAL OR ASSOCIATION OF ADDITIONAL COUNSEL:** Client agrees that Attorneys may refer this matter to another lawyer or associate additional lawyers to assist in representing Client and prosecuting the Client's cause of action. Prior to the referral or association becoming effective, Client shall consent in writing to the terms of the arrangement after being advised of (1) the identity of the lawyer or law firm involved, (2) whether the fees will be divided based on the proportion of services rendered or by lawyers agreeing to assume joint responsibility for the representation, and (3) the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be made. The referral or association of additional attorneys will not increase the total fee owed by the Client.

18. **NOTICE TO CLIENTS:** Attorneys are only licensed to practice law in the State of Texas. To the extent that Attorneys are required to appear in Court in other States, Attorneys will seek permission of the appropriate Court to appear pro hac vice. If pro hac vice admission is granted, Attorneys will be subject to the disciplinary rules of that particular jurisdiction. Attorneys are also subject to the disciplinary jurisdiction of the State Bar of Texas. The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. For more information call (800) 932-1900.

20. **ARBITRATION:** It is Attorney's goal to maintain at all times a constructive and positive relationship with Client on the matter described above and on future matters in which Attorney may perform services for Client. However, should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, if any controversy or claim arises out of or is related to this agreement, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (including malpractice claims and fee disputes), Attorneys and Client both waive any right to bring a court action or have a jury trial and agree that the dispute shall be submitted to binding arbitration to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas..

CLIENT HAS READ AND UNDERSTANDS THIS CONTRACT AND AGREES AS STATED ABOVE AS OF THE DATE NOTED BELOW.


Laura Wassmer

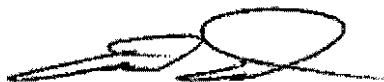
Stephen Hopper

Date: _____

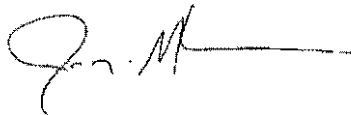
Address: _____

Telephone Numbers:

ATTORNEYS:



Fee, Smith, Sharp & Vitullo, LLP



Malesovas Law Firm

CAUSE NO. PR-11-3238-1

JOHN L. MALESOVAS, d/b/a	§	IN THE PROBATE COURT
MALESOVAS LAW FIRM, and	§	
FEE, SMITH, SHARP & VITULLO, LLP	§	
	§	
Intervenors,	§	
	§	
v.	§	NO. 1
	§	
STEPHEN B. HOPPER, LAURA S.	§	
WASSMER, individually and as	§	
Beneficiaries of the ESTATE OF	§	
MAX D. HOPPER, DECEASED,	§	
the ESTATE OF MAX D. HOPPER,	§	
DECEASED, JPMORGAN CHASE	§	
BANK, N.A.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**INTERVENORS' (LAWYERS) CONSOLIDATED TRADITIONAL RULE 166a(c)
MOTION FOR SUMMARY JUDGMENT (MSJ) ON THEIR SECURED AND
FULLY VESTED PROPERTY AND OWNERSHIP RIGHTS TO THE
DISPUTED FUNDS, APPLICATION FOR ATTORNEY'S FEES,
AND BRIEF IN SUPPORT**

**I.
Summary of Argument**

On or about November 19, 2015, the intervenors in this civil action, John L. Malesovas d/b/a Malesovas Law Firm and Fee Smith Sharp & Vitullo, LLP (collectively, "Lawyers"), executed that certain "Contingency Fee Contract of Representation" ("Contingency Agreement"), with Stephen Hopper and Laura Wassmer (collectively, "Clients"). Lawyers represented Clients pre-trial, at trial, and through settlement. Under the Contingency Agreement, Lawyers have a fully vested, perfected, and secured property and ownership interest in the settlement proceeds (45% of the recovery and value created). Because Clients terminated Lawyers *after* the latter fully performed, Clients are fully estopped. It would be unconscionable to hold otherwise. Therefore,

Lawyers are entitled to a declaration that they are entitled to the full amount of their fully vested, contingency interest without any further delay. See *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2001, pet. denied); *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003).

Lawyers are entitled to traditional summary judgment and this Court should, pursuant to Section 37.005 et seq. of the Civil Practice & Remedies Code, immediately declare the following: (i) Clients are fully estopped from contesting the enforceability of the Contingency Agreement; (ii) Lawyers have a secured, perfected, and fully vested property and ownership right in the settlement proceeds (up to the very limit of their contingency interest); (iii) and Lawyers are entitled to immediate possession of their property and ownership rights in the settlement proceeds. Because there is no genuine issue of any material fact, Lawyers are entitled to the declaratory relief requested as a matter of law.

II. Exhibits & Competent Evidence

Exhibit "A" --	Contingency Fee Contract
Exhibit "B" --	Termination Letter
Exhibit "C" --	Deposition Excerpt of Stephen Hopper
Exhibit "D" --	Deposition Excerpt of Laura Wassmer
Exhibit "E" --	Verified Application for TRO
Exhibit "F" --	TRO
Exhibit "G" --	Court's Charge/Verdict Form
Exhibit "H" --	Rule 11 Settlement

III.
Brief Factual Predicate

Lawyers represented Clients pursuant to a valid and enforceable Contingency Agreement pre-trial, at trial, and when the underlying case settled. See Exhibits "A" & "G." The underlying lawsuit was tried in September 2017 and, as the Court well knows, a substantial verdict was returned in Clients' favor. This Court can take judicial notice¹ of the Court's Charge and the Jury's Verdict Form. See Exhibit "G."

On or about April 3rd or 4th, 2018, Clients' freshly retained appellate counsel, Jeff Levinger, settled Clients' claims against JPMorgan Chase Bank, N.A. ("JPM") and, on April 4, 2018, the parties caused to be filed a Rule 11 agreement notifying the Court that there was a settlement between Clients and JPM ("Settlement"). This Court can take judicial notice of the Rule 11 Settlement Agreement filed of record. See Exhibit "H."

At approximately 9:05 a.m. on April 5, 2018, Anthony L. Vitullo, Esq. appeared before the Court on Clients' behalf and announced in open court that a confidential settlement had been reached between Clients and JPM. The Court can take judicial notice of this fact from the record of the proceedings before the Court that day.

Approximately one hour later, 10:10 a.m. on April 5, 2018 to be exact, Clients' separately retained attorney, Jim Pennington, terminated Lawyers without cause, and advised Lawyers that Clients would not pay the fees that are due and owing under the Contingency Agreement. See Exhibit "B."

On April 6, 2018, and in light of the irreconcilable conflict of interest created by Clients' termination letter(s), Lawyers immediately withdrew from representing Clients;

¹ See TEX. R. EVID. 201.

and, subsequently, Lawyers intervened to assert and enforce their secured, perfected, and fully vested ownership and property rights in the Settlement proceeds.

On April 9, 2018, this Court heard Lawyers' Application for Temporary Restraining Order (TRO) and, on April 10, 2018, the Court entered a TRO preventing the disbursement of the disputed funds. See Exhibit "F." This Court granted Lawyers' parallel request for an expedited discovery order. See *id.* (p. 4, ¶ 2).

On April 16, 2018, Clients were deposed under the Court's expedited discovery order, wherein Clients admitted that they received, enjoyed, and accepted legal services provided by Lawyers (under the Contingency Agreement), that such legal services had been and were fully performed, and that Clients terminated the Contingency Agreement only after they reached a settlement. Because those depositions were taken under the auspices of an agreed upon protective and confidentiality order, the relevant testimony is being submitted to the Court *in camera* under a sealed envelope. The relevant citations that support this MSJ are tendered *in camera* as follows: Exhibit "C" (54-55; 83; 96), and, Exhibit "D" (96-99).

IV. Argument & Authorities

A. **Because Clients Terminated Lawyers After Full Performance, Clients Are Estopped**

Because Lawyers fully performed and, because Clients terminated Lawyers only *after* a settlement was reached, Clients are fully estopped; accordingly, the Lawyers have a fully vested and secured property and ownership right,² upon which this Court

² An attorney's right to compensation pursuant to a contingency fee agreement "**is a property right determined under applicable state law.**" See *Marre v. United States*, 117 F.3d 297, 307 (5th Cir. 1997) (emphasis added). Under Texas law, a contingency fee contract "is generally considered to be

should grant summary judgment. See *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2001, pet. denied); *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003).

Indeed, *Enochs* held:

The trial court made findings of fact that Whitehurst [Lawyer] provided valuable legal services to Justin [Client] by successfully handling his personal injury claim, and that Justin accepted, used, and enjoyed these services and the product of these services. These findings support the theory of quasi-estoppel. The principle of quasi-estoppel precludes a party from asserting, to another's disadvantage, a right inconsistent with a position he has previously taken...it is unconscionable for Enoch, on Justin's behalf, to challenge the validity of the contingent fee contract when Justin has accepted the benefits of Whitehurst's services. We overrule Enoch's fifth point of error.

872 S.W.2d at 317 [citations omitted].

In the case at bar, Clients admitted that they accepted, received, and enjoyed the benefits of Lawyers' legal services; and, furthermore, Clients admitted that Lawyers fully performed under the Contingency Agreement and that they did not terminate Lawyers

an executory contract." *Id.*, at 307-308 (citing *Lee v. Cherry*, 812 S.W.2d 361, 363 (Tex. App.—Houston [14th Dist.] 1991, writ denied); *Brenan v. LaMotte*, 441 S.W.2d 626, 630 (Tex. Civ. App.—San Antonio 1969, no writ); *White v. Brookline Trust Co.*, 371 S.W.2d 597, 600 (Tex. Civ. App.—Amarillo 1963, writ ref'd n.r.e.); *Carroll v. Hunt*, 168 S.W.2d 238, 240 (Tex. Com. App. 1943, opinion adopted)).

Once the contingency occurs, however, the agreed upon contingency fee is no longer executory, and it is beyond question that an attorney has a lien on any judgment or settlement securing his or her services. Indeed, such a lien "is paramount to the rights of the parties in the suit, and is superior to other liens on the money or property involved, subsequent in point of time." See *Marre*, 117 F.3d at 308 (quoting *In re Willis*, 143 B.R. 428, 432 (Bankr. E.D. Tex. 1992)).

Here, the Contingency Agreement expressly provides in pertinent part:

[I]f Attorneys are successful in recovering money or anything of value for Client, by settlement prior to trial begins, Attorneys shall receive attorneys' fees in the amount of forty percent (40%) of the gross recovery.... If the matter is resolved after trial begins, Attorneys shall receive attorneys' fees in the amount of forty-five (45%) of the gross recovery.

See Exhibit "A" (p. 2, ¶ 3).

until the case was concluded by the Settlement. The relevant pages of testimony that establish those admissions are submitted to this Court *in camera* under a sealed envelope as Exhibit "C" (54-55; 83; 96), and, Exhibit "D" (96-99).

**B.
Because Clients are Estopped, Lawyers have a Fully
Vested Security Interest and Property Right, that is
Ripe for Summary Judgment**

Under Texas law, "a contract may establish an attorney's lien for money received in judgment or settlement of a matter." See *Norem v. Norem*, Civil Action No. 3:07-CV-0051, 2008 WL 2245821, at *6 (N.D. Tex. June 2, 2008) (Stickney, J.) [citations omitted]. Here, the Contingency Agreement does exactly that; it *expressly* grants Lawyers a security interest in and first party lien upon any settlement proceeds (including anything of "value" which would encompass a reverse contingency on the successful defense of the counter-claims) as follows:

Client hereby assigns, transfers and conveys over to Attorneys an amount equal to either forty percent (40%) of the proceeds if the matter is settled or resolved before trial begins or forty-five percent (45%) of the proceeds if the matter is resolved after trial begins, of any property, money or other value recovered by settlement, compromise, verdict or judgment of the claims described in this contract. Client does hereby give and grant to Attorneys an express security interest, in addition to any statutory lien, upon Client's claims and any and all judgments recovered, and any and all funds or property realized or paid by compromise or settlement, as security for the compensation and costs and expenses advanced or due to be paid or reimbursed to Attorneys hereunder. This security interest is to continue in the event Attorneys are discharged without good cause. If the claims are not assignable at law, Client expressly assigns to Attorneys, to the extent of attorneys' fees and disbursements, any sum realized by way of a settlement or any judgment obtained thereon.

See Exhibit "A" (p. 5, ¶ 11).

Bottom Line: A contractual attorneys' lien is fully enforceable in Texas. See *Norem*, 2008 WL 2245821, at *6; see also *United States v. Betancourt*, No. CRIM. B-

03-090-S1, 2005 WL 3348908, at *3 (S.D. Tex. Dec. 8, 2005) (Tagle, J.). Upon full performance, as here, Lawyers' interest in the settlement proceeds is undeniably a "property right." See *Marre v. United States*, 117 F.3d 297, 307 (5th Cir. 1997).

By the very language of the Contingency Agreement itself, a lien applies to any "property, money or other value recovered" when the "matter is resolved after trial begins ... [or] by settlement." See Exhibit "A" (p. 5, ¶ 11). This Court can take judicial notice of the following: (i) the Contingency Agreement, a copy of which has already been admitted into evidence at the TRO hearing; (ii) jury charge and verdict form (Exhibit "G"); (iii) the announcement of the settlement in open court on April 5, 2018 and the Rule 11 Settlement Agreement filed with the Court on April 4, 2017 (Exhibit "H"); and (iv) Clients' termination of Lawyers on April 5, 2018, a copy of which has already been admitted into evidence at the TRO hearing (Exhibit "B").

**C.
Lawyers are Entitled to their Attorney's
Fees Under Section 37.009**

Given Clients' underhanded actions in terminating Lawyers and trying to avoid paying a fee within hours of settling this case, an award of attorney's fees in the Lawyers' favor is particularly *apropos*. See TEX. CIV. PRAC. & REM. CODE § 37.009 (Vernon 2014). Lawyers respectfully request that the Court award them their reasonable and necessary attorney's fees (which can be done by fee application after summary judgment is granted), which would be "just" and "equitable." *Id.* at § 37.009.

**V.
Conclusion**

In conclusion, because there is no genuine issue of any material fact, Lawyers are entitled to the declaratory relief requested herein.

WHEREFORE, PREMISES CONSIDERED, Intervenor (Lawyers) respectfully pray that this Honorable Court grant their summary judgment; grant the declaratory relief requested; award attorney's fees; and fully grant Lawyers all such further relief whether in law or in equity upon which they may show themselves justly entitled.

Respectfully Submitted,

BRIAN LAUTEN, P.C.

A handwritten signature in black ink, appearing to read 'BP Lauten', with a stylized flourish at the end.

BRIAN P. LAUTEN

State Bar No. 24031603

blauten@brianlauten.com

3811 Turtle Creek Blvd.

Ste. 1450

Dallas, Texas 75219

(214) 414-0996 telephone

ATTORNEYS FOR INTERVENORS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 20, 2018, in accordance with the Texas Rules of Civil Procedure to:

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and JPMorgan Chase Bank, N.A., in its Corporate Capacity**

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**BRIAN P. LAUTEN
ATTORNEY FOR INTERVENORS**

CONTINGENCY FEE CONTRACT OF REPRESENTATION

The undersigned **Stephen Hopper, and Laura Wassmer** referred to as "Client" or "Clients" employ and retain Fee, Smith, Sharp & Vitullo, LLP, and Malesovas Law Firm, (herein "Attorneys") to represent Client as set forth herein.

1. SCOPE OF REPRESENTATION: Attorneys agree to investigate and evaluate and litigate Client's possible claim or claims of negligence, fraud, breach of contract, and breach of fiduciary duty against JP MORGAN CHASE and persons and companies relating to JP MORGAN CHASE BANKS wrongful acts in acting as the independent administrator of the Estate of Max Hopper..

Client understands and agrees that the scope of representation herein does not include the filing of any claim against any state or federal entity or employee or filing or pursuing an appeal from disposition in the Trial Court. Client understands and agrees that the scope of representation herein does not include defending any claims or lawsuits filed against Client. Client is retaining separate counsel on a flat fee agreement or other fee arrangement to defend them against any claims filed by any parties.

Client understands and agrees that the scope of representation herein does not include representing Clients in the probate lawsuit or lawsuit involving Chase bank, and defending Client against Chase bank or any other party.

Client understands and agrees that Attorneys will not file suit against entities that are in a foreign jurisdiction or are international companies whom in attorney's opinion cannot be sued in a United States court. Client understands and agrees that Attorneys are not obligated to pursue entities that are defunct and/or bankrupt.

Client hereby agrees and understands that Attorneys retain the right to withdraw from representation of Client at any time, so long as said withdrawal would not unduly prejudice Client's right to bring suit or to seek or retain another attorney to represent Client. In such event, Client agrees to timely sign an appropriate Motion for Substitution of Counsel. If after disposition in the trial court, Client desires to appeal, a new and separate agreement shall be entered into by the parties as to services and fees for any appeal, or Client shall retain separate counsel to handle any appeal and Attorneys shall retain their interest in the case under this agreement applicable to any recovery obtained by settlement or otherwise.

2. AUTHORITY OF ATTORNEYS: Client empowers Attorneys to take all steps in this matter deemed by them to be advisable for the investigation and handling of Client's

Claims, including hiring investigators, expert witnesses, and/or other attorneys and filing any legal action necessary. Client authorizes and empowers Attorneys to do any and all things necessary and proper in the enforcement, compromise, settlement, adjustment and collection of Client's Claim, and Client further authorizes and empowers them to sign any and all pleadings and all releases, checks, drafts, authorizations and other papers necessary and proper in connection with the prosecution or enforcement of Client's Claims and collection or settlement of the damages awarded or to be paid therefore, and to receive such funds or other property in Client's name and for Client on account of any judgment recovered or any settlement agreed upon in connection with Client's Claim. Full power and authority is given by Client to Attorneys to adjust, settle or compromise Client's Claim, but no final settlement shall be made and consummated by Attorneys without first submitting the offer, compromise, or adjustment to Client for approval, and Client agrees not to compromise or settle Client's Claim without the Attorneys' authority, agreement and consent. Should Client make a settlement in violation of this Agreement, Client agrees to pay Attorneys the full fee agreed upon under paragraph 3 "Attorneys' Fee", below.

3. **ATTORNEYS' FEE:** This Agreement is a contingency fee contract. Specifically, if Attorneys are successful in recovering money or anything of value for Client, by settlement prior to trial begins, Attorneys shall receive attorneys' fees in the amount of forty percent (40%) of the gross recovery. The attorney fee will be split amongst the attorneys as follows: FSSV 50% Malesovas Law Firm 50% If the matter is resolved after trial begins, Attorneys shall receive attorneys' fees in the amount of forty-five (45%) of the gross recovery. All attorneys' fees shall be a percentage of the gross recovery. Gross recovery means the gross amount of money or other value or property recovered for Client, before the deduction of expenses. Trial is considered to have commenced at 5:00 p.m. on the Friday closest to ten (10) days before jury selection begins or evidence is first presented to the trier of fact, whichever is the earlier of these two events. If Attorneys do not recover any money or other value or property for Client, Client will not owe any attorneys' fees. Client agrees that Attorneys may, in their discretion, employ associate counsel to assist in prosecuting Client's cause of action, and Client does not object to the participation of any lawyers Attorneys may choose to involve in this representation of Client. With the exceptions set forth below, payment of attorneys' fees to associate counsel is the responsibility of Attorneys. In the event that the case is settled by way of a structured settlement, Client approves and authorizes attorneys' fees to be based upon the present value benefit of the settlement and further authorizes Attorneys to take attorneys' fees either in cash or in structured payment, as Attorneys deem appropriate.

In some instances, it may be necessary for Attorneys to retain special outside counsel to assist on matters other than prosecuting Client's claims for damages. Examples of such instances include the following: a defendant may seek bankruptcy protection; or a defendant may attempt to fraudulently transfer some of its assets to

avoid paying the Client's claim; a defendant may transfer assets out of the country thereby necessitating the retention of foreign counsel, or a complex, multi-party settlement may require an ethics opinion from outside counsel; or special action in probate court may be necessary apart from the usual probate proceedings involved in an estate; or a separate lawsuit may need to be filed against a defendant's insurance company. Client agrees that Attorneys may retain such special outside counsel to represent Client when Attorneys deem such assistance to be reasonably necessary, and that the fees of such counsel will be deducted from Client's share of the recovery.

4. **COSTS AND OTHER EXPENSES:** Clients **WILL NOT BE** responsible to pay for costs and expenses as incurred. Such costs include filing fees, expert witness fees, court reporter and video fees, copy charges, postage, mailing, travel, witness fees, electronic document conversion fees, delivery fees, internal operating costs and other related charges incurred or paid as an expense on behalf of Client and paid to third-party vendors or incurred internally by Attorneys and charged to Client in connection with Attorneys' representation of Client.

5. **DISBURSEMENT OF PROCEEDS TO CLIENT:** Client understands that Attorneys make no guarantee or assurance of any kind regarding the likelihood of success of Client's claims. Upon receipt by Attorneys of the proceeds of any settlement or judgment, Attorneys shall (1) retain either forty percent (40%) of the proceeds as their attorneys' fees if the matter is settled or resolved before trial begins or forty-five (45%) percent of the proceeds as their attorneys' fees if the matter is settled or resolved after trial begins, (2) deduct from Client's share of the proceeds any costs and expenses, including the fees of any special outside counsel that Attorneys may incur on Client's behalf, and (3) disburse the remainder of Client's share of the proceeds to Client. At the time of disbursement of any proceeds, Client will be provided with a disbursement sheet reflecting the attorneys' fees, the expenses deducted out of Client's share, and the remainder of Client's share.

Upon some circumstances, health insurers, workers compensation carriers, or others who have paid benefits or provided services on Client's behalf may claim a right to recover a portion of the proceeds of any action brought on behalf of the Client and may place Attorneys on notice of their claim. Except as may be required by law, Attorneys will not agree to protect any claim of a subrogation carrier or other creditor without Client's consent.

6. **POWER OF ATTORNEY:** Client gives Attorneys a power of attorney to execute and negotiate all reasonable and necessary documents connected with the handling of this cause of action, including pleadings, contracts, checks or drafts, settlement agreements, compromises and releases, verifications, dismissals and orders, proofs of claim, ballots, verified statements including those pursuant to Bankruptcy Rule 2019,

and all other documents that Client could properly execute. Client's claims will not be settled without obtaining Client's consent.

7. **COOPERATION; ADDRESS CHANGE; RETURN OF DOCUMENTS:** Client agrees to cooperate with Attorneys to permit Client's claims to be investigated and developed; to disclose to Attorneys all facts relevant to the claim; and to be reasonably available to attend any necessary meetings, depositions, preparation sessions, hearings and trial. Client shall appear on reasonable notice at any and all depositions and Court appearances and shall comply with all reasonable requests of Attorneys in connection with preparation and presentation of Client's claims. The Client acknowledges and agrees that all communications with Attorneys are privileged. The Client acknowledges that Attorneys may represent other individuals on the same or similar matters and therefore may communicate matters of common interest to all of Attorneys' clients. Therefore, Client agrees and understands that other individuals who are clients of Attorneys may also invoke the attorney client privilege as to Attorneys' communications with Client. The Client acknowledges and agrees not to provide attorney work product or attorney client communications to any other person.

Client shall promptly notify Attorneys of any change of marital status or death of spouse. Client shall promptly notify Attorneys of any bankruptcy proceedings involving Client or Client's spouse. Client shall promptly notify Attorneys of any other legal proceedings to which Client or Client's spouse is a party.

Client agrees to notify Attorneys in writing of each change in Client's mailing address (work or home) or telephone number (work, home and cell) during the term of this representation within seven (7) days of each such change of address or telephone number. When the case is completed, and subject to any Court orders, Attorneys will provide Client the opportunity to retrieve any documents and/or materials that Client provided to Attorneys or that Attorneys have obtained from other sources in connection with the case. However, if Client has not retrieved those documents and/or materials within ninety (90) days after Attorneys have mailed to Client written notice that the case is completed and that those documents and/or material are available to Client, Attorneys may dispose of those documents and/or materials.

8. **NO TAX ADVICE:** Attorneys have advised Client that the pursuit of resolution of this claim may have various tax consequences. Client understands that Attorneys do not render tax advice and are not being retained to offer such advice to Client or to represent Client before the IRS. Moreover, Client accepts responsibility for making any payment or filings necessitated by the resolution of Client's claim.

Client understands that applicable State law may impose sales, service or other tax on any amount that Client may recover or the fees due Attorneys hereunder. Client also understands that applicable Federal income tax law may require that Client pay

income tax on the fees due Attorneys hereunder, separate and apart from and in addition to any taxes owed by Attorneys. Client agrees that any such taxes (other than Federal and/or State income taxes that Attorneys may owe on monies actually received by them) shall be paid out of my share of any recovery.

9. **DEATH OF CLIENT:** The provisions of this Agreement will not terminate upon the death of Client. In the event of the death of Client, any duly appointed Representative of Client's heirs and/or estate will be bound by this Agreement to the extent allowed by applicable law, including without limitation, the provisions of this Agreement relating to the recovery of attorneys' fees and costs and other expenses. Any such Representative shall, upon request by Attorneys, execute a new Agreement in the capacity as Representative for the heirs and/or estate of the Client.

10. **OFFER OF SETTLEMENT:** Client understands that applicable law may, under certain circumstances, allow a Defendant to make an offer of settlement to Client and if Client rejects or does not accept such an offer, such may result in any award, verdict or judgment in Client's favor being reduced as provided by such law. Client understands that Client has the final authority to accept or reject any offer of settlement. Client understands that if Client rejects or does not accept such an offer, and Client's recovery is subsequently reduced, the fees owed to Attorneys will be calculated on the amount of any award, verdict or judgment before reduction, and the reduction shall be out of Client's share of any recovery.

11. **SECURITY INTEREST:** Client hereby assigns, transfers and conveys over to Attorneys an amount equal to either forty percent (40%) of the proceeds if the matter is settled or resolved before trial begins or forty-five percent (45%) of the proceeds if the matter is resolved after trial begins, of any property, money or other value recovered by settlement, compromise, verdict or judgment of the claims described in this contract. Client does hereby give and grant to Attorneys an express security interest, in addition to any statutory lien, upon Client's claims and any and all judgments recovered, and any and all funds or property realized or paid by compromise or settlement, as security for the compensation and costs and expenses advanced or due to be paid or reimbursed to Attorneys hereunder. This security interest is to continue in the event Attorneys are discharged without good cause. If the claims are not assignable at law, Client expressly assigns to Attorneys, to the extent of attorneys' fees and disbursements, any sum realized by way of a settlement or any judgment obtained thereon.

12. **BINDING EFFECT:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

13. **TERMINATION OF REPRESENTATION:** Client understands that Client can terminate Attorneys' representation of Client at any time by providing written notice to

Attorneys. Should Client elect to terminate Attorneys' representation prior to the full conclusion of Attorneys' representation, Client understands and agrees that Attorneys have a claim for expenses of litigation and unpaid attorneys' fees which will become due upon receipt by Client or any successor attorney of Client or any proceeds for any remaining portion of Client's claim. Client understands that the obligation for unpaid attorneys' fees will be calculated based on the percentage of work completed on the case or claims at the time Client terminates Attorneys.

14. NO GUARANTEE OF RECOVERY: Client understands that no guarantee or assurances of any kind have been made regarding the likelihood of success of Client's claim, but that Attorneys will use their skill and diligence, as well as their experience, to diligently pursue Client's action.

15. MISCELLANEOUS: In case any one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

This contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings, or written or oral agreements between the parties respecting within the subject matter.

16. STATUTE OF LIMITATIONS: Client understands that an issue may exist as to whether the applicable statute of limitations has expired. This issue is raised in many lawsuits even if the Client's claims are not beyond the Statute of Limitations. Client understands that Attorneys must perform an evaluation of Client's claim prior to filing Client's lawsuit, and that this evaluation will first require Client to provide Attorneys with all relevant documents and other information requested. It is possible that the statute of limitations has already expired or may expire during the interim between the date of Client's signature below and the filing of Client's lawsuit. Client agrees to accept this risk.

17. REFERRAL OR ASSOCIATION OF ADDITIONAL COUNSEL: Client agrees that Attorneys may refer this matter to another lawyer or associate additional lawyers to assist in representing Client and prosecuting the Client's cause of action. Prior to the referral or association becoming effective, Client shall consent in writing to the terms of the arrangement after being advised of (1) the identity of the lawyer or law firm involved, (2) whether the fees will be divided based on the proportion of services rendered or by lawyers agreeing to assume joint responsibility for the representation, and (3) the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be

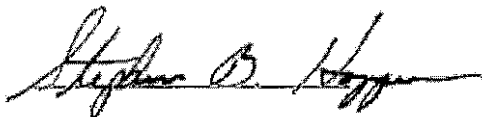
made. The referral or association of additional attorneys will not increase the total fee owed by the Client.

18. **NOTICE TO CLIENTS:** Attorneys are only licensed to practice law in the State of Texas. To the extent that Attorneys are required to appear in Court in other States, Attorneys will seek permission of the appropriate Court to appear pro hac vice. If pro hac vice admission is granted, Attorneys will be subject to the disciplinary rules of that particular jurisdiction. Attorneys are also subject to the disciplinary jurisdiction of the State Bar of Texas. The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. For more information call (800) 932-1900.

20. **ARBITRATION:** It is Attorney's goal to maintain at all times a constructive and positive relationship with Client on the matter described above and on future matters in which Attorney may perform services for Client. However, should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, if any controversy or claim arises out of is related to this agreement, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (including malpractice claims and fee disputes), Attorneys and Client both waive any right to bring a court action or have a jury trial and agree that the dispute shall be submitted to binding arbitration to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas..

CLIENT HAS READ AND UNDERSTANDS THIS CONTRACT AND AGREES AS STATED ABOVE AS OF THE DATE NOTED BELOW.

Laura Wassmer



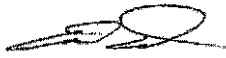
Stephen Hopper

Date: 11/19/2015

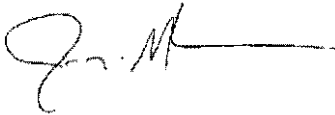
Address: 3625 N Classen Blvd Oklahoma City, OK 7318

Telephone Numbers: 405-639-9186

ATTORNEYS:



Fee, Smith, Sharn & Vitullo, LLP



Malesovas Law Firm

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Client understands that applicable State law may impose sales, service or other tax on any amount that Client may recover or the fees due Attorneys hereunder. Client also understands that applicable Federal income tax law may require that Client pay income tax on the fees due Attorneys hereunder, separate and apart from and in addition to any taxes owed by Attorneys. Client agrees that any such taxes (other than Federal and/or State income taxes that Attorneys may owe on monies actually received by them) shall be paid out of my share of any recovery.

9. **DEATH OF CLIENT:** The provisions of this Agreement will not terminate upon the death of Client. In the event of the death of Client, any duly appointed Representative of Client's heirs and/or estate will be bound by this Agreement to the extent allowed by applicable law, including without limitation, the provisions of this Agreement relating to the recovery of attorneys' fees and costs and other expenses. Any such Representative shall, upon request by Attorneys, execute a new Agreement in the capacity as Representative for the heirs and/or estate of the Client.

10. **OFFER OF SETTLEMENT:** Client understands that applicable law may, under certain circumstances, allow a Defendant to make an offer of settlement to Client and if Client rejects or does not accept such an offer, such may result in any award, verdict or judgment in Client's favor being reduced as provided by such law. Client understands that Client has the final authority to accept or reject any offer of settlement. Client understands that if Client rejects or does not accept such an offer, and Client's recovery is subsequently reduced, the fees owed to Attorneys will be calculated on the amount of any award, verdict or judgment before reduction, and the reduction shall be out of Client's share of any recovery.

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15. **MISCELLANEOUS:** In case any one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

This contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings, or written or oral agreements between the parties respecting within the subject matter.

16. **STATUTE OF LIMITATIONS:** Client understands that an issue may exist as to whether the applicable statute of limitations has expired. This issue is raised in many lawsuits

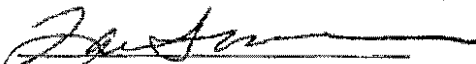
even if the Client's claims are not beyond the Statute of Limitations. Client understands that Attorneys must perform an evaluation of Client's claim prior to filing Client's lawsuit, and that this evaluation will first require Client to provide Attorneys with all relevant documents and other information requested. It is possible that the statute of limitations has already expired or may expire during the interim between the date of Client's signature below and the filing of Client's lawsuit. Client agrees to accept this risk.

17. **REFERRAL OR ASSOCIATION OF ADDITIONAL COUNSEL:** Client agrees that Attorneys may refer this matter to another lawyer or associate additional lawyers to assist in representing Client and prosecuting the Client's cause of action. Prior to the referral or association becoming effective, Client shall consent in writing to the terms of the arrangement after being advised of (1) the identity of the lawyer or law firm involved, (2) whether the fees will be divided based on the proportion of services rendered or by lawyers agreeing to assume joint responsibility for the representation, and (3) the share of the fee that each lawyer or law firm will receive or, if the division is based on the proportion of services performed, the basis on which the division will be made. The referral or association of additional attorneys will not increase the total fee owed by the Client.

18. **NOTICE TO CLIENTS:** Attorneys are only licensed to practice law in the State of Texas. To the extent that Attorneys are required to appear in Court in other States, Attorneys will seek permission of the appropriate Court to appear pro hac vice. If pro hac vice admission is granted, Attorneys will be subject to the disciplinary rules of that particular jurisdiction. Attorneys are also subject to the disciplinary jurisdiction of the State Bar of Texas. The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. For more information call (800) 932-1900.

20. **ARBITRATION:** It is Attorney's goal to maintain at all times a constructive and positive relationship with Client on the matter described above and on future matters in which Attorney may perform services for Client. However, should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, if any controversy or claim arises out of or is related to this agreement, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (including malpractice claims and fee disputes), Attorneys and Client both waive any right to bring a court action or have a jury trial and agree that the dispute shall be submitted to binding arbitration to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas..

CLIENT HAS READ AND UNDERSTANDS THIS CONTRACT AND AGREES AS STATED ABOVE AS OF THE DATE NOTED BELOW.


Laura Wassmer

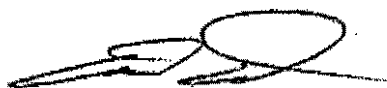
Stephen Hopper

Date: _____

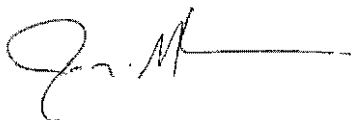
Address: _____

Telephone Numbers:

ATTORNEYS:



Fee, Smith, Sharp & Vitullo, LLP



Malesovas Law Firm

LAW OFFICES OF JAMES E. PENNINGTON

A PROFESSIONAL CORPORATION
900 JACKSON STREET, SUITE 440
DALLAS, TEXAS 75202-4473

JAMES E. PENNINGTON
LICENSED IN TEXAS AND COLORADO

PHONE (214) 741-3022
FAX (214) 741-3055
E-MAIL: jep@jeplawyer.com

April 5, 2018

VIA EMAIL: blauten@brianlauten.com

Brian P. Lauten
Brian Lauten, P.C.
3811 Turtle Creek Blvd.
Suite 1450
Dallas, Texas 75219

Re: Case No. PR-11-3238-1; In re: Estate of Max Hopper, Deceased, Jo N. Hopper v. JP Morgan Chase Bank, N.A., et al., in the Probate Court of Dallas County, Texas.

Brian:

As you know, I represent Dr. Stephen Hopper and Laura Wassmer in connection with a dispute that has developed involving your clients, Anthony Vitullo and Fee, Smith, Sharp & Vitullo, LLP. Please be advised that my clients have decided to terminate their relationship with Mr. Vitullo, Fee, Smith, Sharp & Vitullo, LLP and John Malesovas. Their decision to terminate this relationship is based on a number of factors, which are too numerous to set forth herein. However, I provided you with a brief summary of those reasons yesterday during our call and suggested we meet in person to discuss this in more detail. Ultimately, as a result of several issues that were discovered by Jeff Levinger, the appellate lawyer retained to handle the appeal of the jury's verdict, my clients decided to settle the case with JP Morgan Chase. Most, if not all of these issues, were caused by your clients' omissions before and during trial, such as failing to present expert testimony and several jury charge issues which would have made an appeal very difficult for my clients. Additionally, I discovered a number of facts, some of which I outlined during our call, which indicate that the contingency fee agreement is probably not enforceable and which show that – even if it is enforceable – your clients breached the agreement. As a result, I am notifying you that my clients are – effective immediately -- terminating their relationship with Mr. Vitullo, Fee, Smith, Sharp & Vitullo, LLP and Mr. Malesovas and his firm. It is unclear to me whether you are representing Mr. Malesovas or his firm. Please advise, so that I can notify Mr. Malesovas if needed.

At this time, I am requesting your clients to provide me with their *entire* file regarding their representation of my clients. Although your clients have previously provided me with

EXHIBIT
B

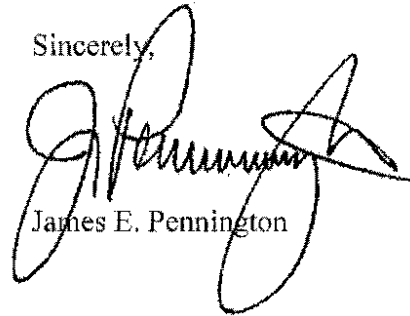
Page 169

Brian Lauten
April 5, 2018
Page 2

portions of the file, the files which were provided are not complete and were not provided in the manner in which they were originally maintained by the firm. I am not suggesting anything improper about the manner in which the files were previously produced. However, I am pointing this out to emphasize the importance of making sure that I receive the complete file in the same manner that it was maintained by your clients. You may provide the electronic files on a portable hard drive and have this device, along with the physical files, delivered to my office.

Finally, as I indicated during our call, my clients are willing to discuss a resolution of the attorney's fees related to your clients' representation, so give this some more thought and let me know if you have a proposal. In the meantime, I will instruct Mr. Levinger to retain a percentage of the settlement in his trust account until this matter is resolved. Thank you for your anticipated cooperation. If you have any questions, please feel free to give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Pennington", with a large, stylized flourish extending from the end of the signature.

James E. Pennington

LAW OFFICES OF JAMES E. PENNINGTON

A PROFESSIONAL CORPORATION
900 JACKSON STREET, SUITE 440
DALLAS, TEXAS 75202-4473

JAMES E. PENNINGTON
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April 5, 2018

VIA EMAIL: john@malesovas.com
jmalesovas@gmail.com

John Malesovas
1801 S. MoPac Expressway
Suite 320
Austin, Texas 78746

Re: Case No. PR-11-3238-1; In re: Estate of Max Hopper, Deceased, Jo N. Hopper v. JP Morgan Chase Bank, N.A., et al., in the Probate Court of Dallas County, Texas.

Mr. Malesovas:

In the event you have not previously been advised, I have been retained to represent Dr. Stephen Hopper and Laura Wassmer in connection with a dispute that has developed involving your representation in the above-referenced matter. Please be advised that my clients have decided to terminate their relationship with you and Mr. Vitullo, and your respective law firms. Mr Vitullo was advised of this decision earlier today. The clients' decision to terminate this relationship is based on a number of factors, which are too numerous to set forth herein. Yesterday, I spoke with Mr. Vitullo's attorney, Brian Lauten, and provided him with a brief summary of those reasons and I offered to meet in person to discuss this in more detail. Ultimately, as a result of several issues that were discovered by Jeff Levinger, the appellate lawyer retained to handle the appeal of the jury's verdict, my clients decided to settle the case with JP Morgan Chase. Most, if not all of these issues, were caused by the attorneys' omissions before and during trial, such as failing to present expert testimony and several jury charge issues which would have made an appeal very difficult for my clients. Additionally, I discovered a number of facts, some of which I outlined during my call yesterday with Mr. Lauten, which indicate that the contingency fee agreement is probably not enforceable and which show that – even if it is enforceable – you and/or Mr. Vitullo breached the agreement. As a result, I am notifying you that my clients are – effective immediately -- terminating their relationship with you and your law firm.

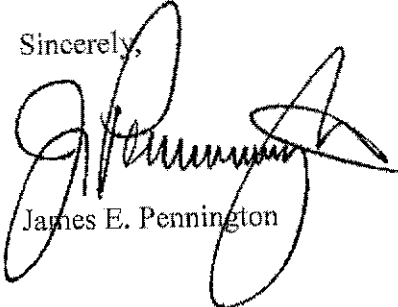
At this time, I am requesting you to provide me with your *entire* file regarding your representation of my clients. Please make sure that I receive the complete file in the same

John Malesovas
April 5, 2018
Page 2

manner that it was maintained by you and/or your law firm. You may provide the electronic files on a portable hard drive and have this device, along with the physical files, delivered to my office.

Finally, as I indicated to Mr. Lauten during our call, my clients are willing to discuss a resolution of the attorney's fees related to your representation, so please discuss this with Mr. Vitullo and let me know if you have a proposal. In the meantime, I will instruct Mr. Levinger to retain a percentage of the settlement in his trust account until this matter is resolved. Thank you for your anticipated cooperation. If you have any questions, please feel free to give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Pennington", with a large, stylized flourish extending from the end of the signature.

James E. Pennington

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED,

JO N. HOPPER,

Intervenor,

v.

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

IN THE PROBATE COURT

NO. 1

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and
FEE, SMITH, SHARP & VITULLO, LLP

Attorneys,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, individually and as
Beneficiaries of the ESTATE OF
MAX D. HOPPER, DECEASED,
the ESTATE OF MAX D. HOPPER,
DECEASED, JPMORGAN CHASE
BANK, N.A.,

Defendants.

**INTERVENORS'
EXHIBIT "C"**

IN CAMERA INSPECTION

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED,

JO N. HOPPER,

Intervenor,

v.

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and
FEE, SMITH, SHARP & VITULLO, LLP

Attorneys,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, individually and as
Beneficiaries of the ESTATE OF
MAX D. HOPPER, DECEASED,
the ESTATE OF MAX D. HOPPER,
DECEASED, JPMORGAN CHASE
BANK, N.A.,

Defendants.

IN THE PROBATE COURT

NO. 1

OF DALLAS COUNTY, TEXAS

**INTERVENORS'
EXHIBIT "D"**

IN CAMERA INSPECTION

referred to as "Attorneys"), and files this Petition in Intervention and Petition for Declaratory Judgment and Application for Temporary Restraining Order and for Temporary Injunction complaining of Defendants, STEPHEN B. HOPPER ("Hopper"), LAURA S. WASSMER ("Wassmer"), individually and as beneficiaries of the Estate of Max D. Hopper (hereinafter collectively "Clients" and/or "Defendants"), the Estate of Max D. Hopper, deceased and JPMORGAN CHASE BANK, N.A. ("JPM"), and for cause would show the following:

I.
DISCOVERY CONTROL PLAN

1.01 Intervenor requests this lawsuit proceed under a Level 3 Discovery Control Plan pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II.
PARTIES

2.01 John L. Malesovas is an attorney licensed to practice law in the State of Texas and doing business as Malesovas Law Firm.

2.02 FSSV is a limited liability partnership and law firm and doing business as Fee, Smith, Sharp & Vitullo, LLP.

2.03 Defendant, Stephen B. Hopper ("Hopper"), individually and as a beneficiary of the Estate of Max D. Hopper, deceased, was a former client of Attorneys and is being served herewith pursuant to TRCP 21a.

2.04 Defendant, Laura S. Wassmer ("Wassmer"), individually and as a beneficiary of the Estate of Max D. Hopper, deceased, was a former client of Attorneys and is being served herewith pursuant to TRCP 21a. Hopper and Wassmer are hereinafter jointly referred to as "Clients".

2.05 The Estate of Max D. Hopper is an estate in administration under the jurisdiction of this Court, and Clients have asserted claims herein on behalf of the Estate as the beneficiaries of the Estate.

2.06 JPMorgan Chase Bank, N.A. ("JPM"), is a Defendant in the underlying case and an interested party to this Petition in Intervention and is being served herewith pursuant to TRCP 21a.

III. JURISDICTION AND VENUE

3.01 Venue is proper in Dallas County, Texas pursuant to §15.002(a)(1), Tex. Civ. Prac. & Rem. Code, as Dallas County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred and because venue is proper in the underlying action. This Court has exclusive jurisdiction to hear this claim because Intervenor has an interest in the matter in controversy that involves the Defendants and The Estate of Max D. Hopper. See TEX. ESTATES CODE ANN. § 32.007 et seq. (Vernon 2014), and, TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014) (authorizing declaratory judgment actions in probate court when such relief is germane to an Estate). To the extent that The Estate of Max D. Hopper is a party to the settlement with JPM or to the extent that beneficiaries of The Estate of Max D. Hopper are parties to the settlement with JPM then this Court and only this Court has exclusive jurisdiction over this matter.

IV. FACTS

4.01 MLF and FSSV, (jointly "Attorneys"), represented Defendants pursuant to a valid and enforceable contingency fee agreement in the underlying lawsuit pending in

this Court. A true and correct copy of the contingent fee agreement will be tendered to the Court for *in camera* inspection at the hearing (hereinafter "Agreement"). Intervenor has fully performed under the terms of the Agreement. On April 3, 2018 and April 4, 2018, Clients' Appellate Counsel, Jeff Levinger, settled Clients' claims against JPM and on April 4, 2018 PM filed a Rule 11 agreement with the Court notifying the Court that there was a settlement between Clients and JPM ("Settlement"). At approximately 9:05 am on April 5, 2018, Anthony L. Vitullo appeared before this Court on behalf of Clients and announced in open court and on the record the confidential settlement between Clients and JPM. At approximately 10:10am on April 5, 2018, Clients' attorney, Jim Pennington, terminated Attorneys without cause and advised Attorneys that they were not going to pay the fee due under the Agreement. Mr. Pennington also advised Attorneys that he was going to instruct Mr. Levinger to retain an unspecified percentage of the Settlement proceeds in his trust account. On April 6, 2018, FSSV withdrew from representing Clients in the underlying lawsuit. Attorneys own a property right in the Settlement proceeds. Attorneys file this Petition in Intervention and Declaratory Judgment and Request for TRO and Temporary Injunction to enforce their property rights in the Settlement proceeds.

4.02 Attorneys have a justiciable interest and property interest in the pending suit in that Attorneys have a lien on and interest in the Settlement proceeds. This lawsuit is a simple declaratory judgment action to enforce Attorneys property rights. As such, pursuant to *Texas Mut. Ins. Co, v. Ledbetter*, 251 S.W.3d 31 (2008), Attorneys are lienholders in the Settlement proceeds of this case, and have an absolute right to intervene. Further, as stated by the Supreme Court in *Ledbetter*, to the extent that

Clients, JPM and/or their attorneys settle a case without reimbursing a lienholder, "everyone involved is liable ... for conversion." Thus, Attorneys seek a declaration from this Court pursuant to Tex. Civ. Prac. & Rem Code § 37.001 et. seq. confirming Attorneys' security interest in the Settlement proceeds and directing JPM and Clients to pay such interest directly to Attorneys. This lawsuit is a simple declaratory judgment action to enforce Attorneys' property rights.

4.03 Attorneys fully performed under the Agreement with no complaint from Clients and secured a very favorable jury verdict. As a result of this favorable jury verdict, Clients were able to secure a confidential settlement with JPM. Only after Clients, through their appellate attorney Jeff Levinger, unilaterally settled with JPM did Clients terminate Attorneys. Clients accepted, used and enjoyed the services of Attorneys which resulted in the Settlement. In accordance with the Courts' holdings in *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356 (Tex. App.—Dallas 2018, no pet.) and *Enochs v. Brown*, 872 S.W.2d 312 (Tex. App. – Austin 1994, no writ), Clients are estopped and quasi-estopped from challenging the validity of the Agreement and the fee due Attorneys thereunder and the property rights Attorneys have to the Settlement proceeds. Further, it would be unconscionable for Clients to challenge the property rights of Attorneys under the Agreement after having already accepted the benefits from Attorneys under the Agreement. Further, by accepting the benefits under the Agreement without complaint, Clients have waived any right to complain about the Agreement. Accordingly, Attorneys move the Court to declare that Attorneys own a property right in the Settlement proceeds" and that the Agreement is valid and

enforceable and to further order Clients and JPM to pay all fees and expenses due Attorneys under the Agreement directly to Attorneys from the Settlement proceeds.

4.04 In addition, Attorneys seek their attorneys' fees from Clients pursuant to Tex. Civ. Prac. & Rem Code §§ 37.009, 38.001 (Vernon 2014). All conditions precedent to Attorneys' claim for relief have been performed or have occurred.

V.
SUIT FOR DECLARATORY RELIEF

5.01 Attorneys incorporate all of the preceding paragraphs as if they were set forth in their entirety herein.

5.02 Attorneys' seek a declaratory judgment pursuant to the Texas Uniform Declaratory Judgment Act ("UDJA"), Texas Civil Practice & Remedies Code Section 37.001 et seq. An actual and justiciable controversy exists and has arisen between Attorneys and Clients. Attorneys seek judgment against Defendants pursuant to the UDJA declaring the rights, status and other legal relations of Attorneys and Clients regarding the payment of Attorneys interest in the Settlement proceeds. Because the Estate is a party to the Settlement, this Honorable Court has exclusive jurisdiction to declare Attorneys legal interests in the Settlement proceeds.

5.03 Attorneys are entitled to a declaration from this Honorable Court to the following:

- a. Attorneys own a property right in the Settlement proceeds;
- b. Attorneys are entitled to immediate possession of their property right in the Settlement proceeds;
- c. This Honorable Court has exclusive jurisdiction to declare the rights of the parties to the Settlement proceeds;

- d. Attorneys are entitled to the full and exclusive use, possession and enjoyment of their interest in the Settlement proceeds;
- e. That it is in the best interest of the Estate to pay Attorneys their interest in the Settlement proceeds; and
- f. That the Clients and JPM be directed to pay Attorneys interest in the Settlement proceeds directly to Attorneys.

5.04 Attorneys also seek all legal fees and expenses from Clients as allowed under the UDJA as this would be fair and equitable given the facts and circumstances of this dispute.

VI. ATTORNEY'S FEES

6.01 Pursuant to 37.009 and/or 38.001 of the Texas Civil Practice and Remedies Code, Attorneys seek all reasonable and necessary attorney's fees in this case which include the following:

- a. Preparation and trial of this lawsuit;
- b. Post-Trial, pre-appeal legal services;
- c. An appeal to the court of appeals;
- d. Making or responding to an application for writ of error to the Supreme Court of Texas;
- e. An appeal to the Supreme Court of Texas in the event application for writ of error is granted; and
- f. Post-judgment discovery and collection in the event execution on the judgment is necessary.

VII.

ELEMENTS FOR INJUNCTIVE RELIEF

7.01 Attorneys are likely to succeed on the merits of this lawsuit because Attorneys have a probable right to relief they seek on final hearing. On final hearing Attorneys are likely to prove each and every element of all claims asserted against Clients as foregoing shows that Attorneys fully performed under the Agreement. Attorneys have a security interest in the Settlement proceeds and Clients have informed Attorneys that they do not intend to pay or honor Attorneys interest in the Settlement proceeds.

7.02 Unless this Honorable Court immediately restrains Clients from diverting the Settlement proceeds to their own attorneys, the Attorneys will suffer immediate and irreparable injury, for which there is no adequate remedy at law, because in effect, Attorneys will have lost the protection of their security interest in the Settlement proceeds. Attorneys have a lien on and security interest in the Settlement proceeds, the purpose of which is to prevent Clients from taking all of the Settlement proceeds and unilaterally controlling their use and disposition. The Clients simply saying that they will instruct their attorney to keep some unspecified portion of the Settlement proceeds in his trust account eviscerates Attorneys' security interest in the Settlement Proceeds. Attorneys will show the court the following:

- a) The harm to Attorneys is imminent because Clients have started to finalize the Settlement and are attempting to have Attorneys' interest in the Settlement proceeds paid to Clients' attorney, Jeff Levinger.
- b) This imminent harm will cause Attorneys irreparable injury in that once Defendants pay the Settlement proceeds to Jeff Levinger, Attorneys will not

be able to enforce their lien and security interest because Levinger will claim that he is obligated to hold the funds in his trust account, interest free, until the ownership of the fees is resolved. But Rules 1.14 of the Texas Rules of Professional Conduct do not require, nor do they even allow, Clients attorney to even take possession of the Settlement proceeds. Instead, Attorneys' lien and security interest allow them to take possession of their interest in the Settlement proceeds. Thus, unless a temporary restraining order and temporary injunction are issued, Attorney's lien and security interest in the Settlement proceeds will be eviscerated. In addition, Attorneys' interest in the Settlement proceeds will not be protected from unauthorized distributions, conversion, or bank failure.

- c) There is no adequate remedy at law which will enforce Attorneys' lien and security interest absent action from this Court. Further, Clients will not be financially able to respond in damages upon final trial from this intervention unless Attorney's interest in the Settlement proceeds is protected by this Court.

VIII. BOND

8.01 Attorneys are willing to post a reasonable temporary restraining order bond and request the court to set such bond.

IX. TRO REMEDY

9.01 Attorneys have met Attorneys' burden by establishing each element which must be present before injunctive relief can be granted by this court, therefore Attorneys

are entitled to the requested temporary restraining order.

9.02 Attorneys request the court to issue an Order:

a. Restraining Clients from taking any action to transfer, liquidate, convert, encumber, pledge, loan, share, sale, market for sale, conceal, hide, secret, dissipate, deplete, neglect, misuse, damage and/or destroy, lease, assign, granting a lien, security interest, or other interest in, allow the use of, or otherwise dispose of any and all part of Attorneys' interest in the Settlement proceeds;

b. Ordering that Defendants and any of his, her, their, or its agents, servants, employees, successors, assigns and those persons in active concert or participation therewith, must:

1. Deposit into the registry of this Court the portion of Attorneys' interest in the Settlement proceeds which Clients contend they do not owe Attorneys under the Agreement, which shall remain on deposit in the registry until further Order of the Court, when such funds become available and are ripe for distribution from JPMorgan Chase, N.A. to the underlying Plaintiffs in satisfaction of the confidential settlement agreement reached herein;

2. Pay directly to Attorneys the portion of Attorneys' interest in the Settlement proceeds which Clients do not dispute to be due and owing from the Settlement proceeds immediately when those funds become available under the terms of the Settlement.

9.03 It is essential that grant a temporary restraining order as requested herein in order to preserve the status quo during the pendency of this action.

9.04 That after notice and hearing the Court convert the temporary restraining order into a temporary injunction, and that on final trial on the merits, that the Court disburse to Attorneys all funds deposited into the registry of the Court pursuant to the

temporary restraining order and temporary injunction.

X.
MOTION TO REQUIRE DEPOSIT OF FUNDS
(WHICH IS A NON-APPEALABLE ORDER THAT IS NOT
INJUNCTIVE RELIEF—AS A MATTER OF LAW)

10.01 This court has the inherent power to order that disputed funds be deposited in the registry of the court. See *Prodeco Exploration, Inc. v. Ware*, 684 S.W.2d 199, 201 (Tex. Civ. App.—Houston [1st Dist.] 1984, no writ) (“The trial court has the inherent authority to direct [a party] to deposit disputed funds into the registry of the court pending the outcome of the litigation.”); see also *Castilleja v. Camero*, 414 S.W.2d 431, 433 (Tex. 1967). In addition, in order to secure an order directing a party to deposit disputed funds in the registry of the Court, a party does not have to satisfy the prerequisite for securing a temporary restraining order or temporary injunction. *Diana River & Assocs., P.C. v. Calvillo*, 986 S.W.2d 795, 797-798 (Tex. App.—Corpus Christi 1999, no pet.) (citing *McQuadev. E.D. Sys. Corp.*, 570 S.W.2d 33, 35 (Tex. Civ. App.—Dallas 1978, no writ)). Orders to deposit money into the registry of the court cannot be characterized as temporary injunctions and are non-appealable. *Prodeco*, 684 S.W.2d at 201; *Alpha Petroleum Co. v. Dunn*, 60 S.W.2d 469, 471 (Tex. Civ. App.—Galveston 1933, writ dism'd).

10.02 Clients have filed a pleading in response to Attorneys' intervention wherein Clients admit that there are disputed funds from the Settlement proceeds. But Clients do not identify the amount of the disputed portion of the Settlement proceeds. Clients suggest that this unidentified amount of funds be kept in their possession, through their attorney, Jeff Levinger, pending the outcome of this dispute. In essence, Clients want to continue to control all disputed funds without oversight from this Court

and without even identifying the amount they dispute. That is obviously unacceptable to Attorneys to let the fox guard the hen house pending the outcome of this matter.

10.03 Accordingly, pursuant to this Court's inherent power, Attorneys move this Court to order that all of the Settlement proceeds be deposited into the registry of this Court pending further order of this Court so that the Settlement can be funded, JPM can be dismissed, and all parties with any interest in the Settlement proceeds can assert their claims and they can be resolved without any fear that one party or the other will dissipate the funds or secure an advantage over the other through possession of the funds pending the outcome of this dispute. The Court can then determine. What amount is in dispute, who is making a claim to the disputed amount, the basis for any such claim, and ultimately to whom the funds should be distributed.

WHEREFORE, PREMISES CONSIDERED, Attorneys respectfully request for all relief requested herein, as well as such other and further relief, in law or in equity, to which they may show themselves justly entitled.

Respectfully Submitted,

BRIAN LAUTEN, P.C.



BRIAN P. LAUTEN
State Bar No. 24031603
blauten@brianlauten.com
3811 Turtle Creek Boulevard
Ste. 1450
Dallas, Texas 75219
(214) 414-0996 telephone

ATTORNEYS FOR INTERVENORS

CERTIFICATE OF SERVICE

In accordance with Rule 21a of the Texas Rules of Civil Procedure, the undersigned certifies that a true and correct copy of the foregoing instrument has been served upon all counsel of record via the ECF case manager system and by electronic filing on April 9, 2018.

Alan S. Loewinsohn
Jim L. Flegle
Kerry F. Schonwald
Loewinsohn Flegle Deary Simon LLP
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Dallas, Texas 75251
214-572-1717 Facsimile
alanl@lfdslaw.com
jimf@lfdslaw.com
kerrys@lfdslaw.com
Attorneys for Intervenor Jo Hopper

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J. Carl Cecere
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Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

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jeichman@hunton.com
glinyard@hunton.com
***Attorneys for Defendant, JPMorgan Chase Bank, N.A.,
as Independent Administrator of the Estate of Max D. Hopper, Deceased,
and JPMorgan Chase Bank, N.A., in its Corporate Capacity***

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Jessica B. Pulliam
Baker Botts L.L.P.
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Attorneys for Defendant, JPMorgan Chase Bank, N.A.

Evan A. Young
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512-322-8306 Facsimile
evan.young@bakerbotts.com
**Attorneys for Defendant,
JPMorgan Chase Bank, N.A.**

A handwritten signature in black ink, appearing to read "BP Lauten", with a large, stylized "Q" or "L" at the end.

BRIAN P. LAUTEN
ATTORNEY FOR INTERVENORS

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED,

JO N. HOPPER,

Intervenor,

v.

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

JOHN L. MALESOVAS, d/b/a
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the ESTATE OF MAX D. HOPPER,
DECEASED, JPMORGAN CHASE
BANK, N.A.,

Defendants.

IN THE PROBATE COURT

NO. 1

OF DALLAS COUNTY, TEXAS

VERIFICATION

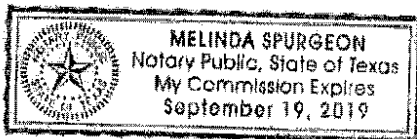
STATE OF TEXAS)
)
COUNTY OF DALLAS)


BEFORE ME, the undersigned authority, on this day personally appeared **ANTHONY L. VITULLO**, who, being by me duly sworn on oath, deposed and stated that he is a Senior Partner at Fee, Smith, Sharp & Vitullo, LLP, named as Intervenor in the above-entitled and numbered cause; that he has read **JOHN L. MALESOVAS, d/b/a MALESOVAS LAW FIRM AND FEE, SMITH, SHARP & VITULLO, LLP'S CONSOLIDATED FIRST AMENDED JOINT PETITION IN INTERVENTION AND PETITION FOR DECLARATORY JUDGMENT AND APPLICATION FOR TEMPORARY RESTRAINING ORDER AND FOR TEMPORARY INJUNCTION AND REQUESTS FOR DISCLOSURES**; and that every statement contained therein is within his personal knowledge and is true and correct, and that he is authorized to sign on behalf of Fee, Smith, Sharp & Vitullo, LLP.



ANTHONY L. VITULLO

SUBSCRIBED AND SWORN TO BEFORE ME this 9th day of April, 2018.




NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

MY COMMISSION EXPIRES: 9-19-2019

ORIGINAL

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER, §
DECEASED, §

IN THE PROBATE COURT

JO N. HOPPER, §

Intervenor, §

v. §

NO. 1

JPMORGAN CHASE BANK, N.A., §
STEPHEN B. HOPPER, and LAURA §
S. WASSMER, §

Defendants. §

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a §
MALESOVAS LAW FIRM, and §
FEE, SMITH, SHARP & VITULLO, LLP §

Intervenors, §

v. §

STEPHEN B. HOPPER, LAURA S. §
WASSMER, individually and as §
Beneficiaries of the ESTATE OF §
MAX D. HOPPER, DECEASED, §
the ESTATE OF MAX D. HOPPER, §
DECEASED, JPMORGAN CHASE §
BANK, N.A., §

Defendants. §

TEMPORARY RESTRAINING ORDER

Came to be heard on the 9TH day of April 2018, the minimum amount of notice having been duly provided pursuant to Local Rule 2.02(a) of Dallas County, Fee Smith Sharp & Vitullo, LLP and John L. Malesovas d/b/a Malesovas Law Firm's (collectively, "Intervenors") *Verified Petition(s) in Intervention, Application for Temporary Restraining Order, Temporary Injunction, and Application for Declaratory Relief* against, *inter alia*,

Stephen Hopper and Laura Wassmer, individually and as beneficiaries of the Estate of Max D. Hopper, deceased, (hereinafter jointly "Clients") and JPMorgan Chase Bank, N.A. (hereinafter "JPM") (Clients and JPM hereinafter jointly, "Defendants" with respect to the claims now pending in this Intervention).

The Court, after considering the *Intervenors' Collective Verified Original Petition in Intervention, Application for Temporary Restraining Order, Temporary Injunction, and Application for Declaratory Relief*, the evidence submitted by Intervenors *in camera*, the relevant exhibits, the arguments of counsel, concludes that—unless immediately restrained, Defendants will irreparably injure Intervenors.

This Court has subject matter jurisdiction over the dispute brought before it under both, TEX. ESTATES CODE ANN. § 32.007 et seq. (Vernon 2014), and, TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014) (authorizing declaratory judgment actions in probate court when such relief is germane to an Estate):

Intervenors respective Pleas and application for TRO are timely filed, given that this Court has yet to sign a judgment; and, therefore, retains plenary power over this proceeding. See TEX. R. CIV. P. 60 et seq.

This Court has, preliminarily, taken judicial notice, pursuant to Rule 201 of the Texas Rules of Evidence, of the following facts that, in reasonable probability, appear to be true at this preliminary stage of the proceeding:

- 1.) In, around, or about November of 2015, Clients executed a valid and enforceable contingency agreement ("CA") with Intervenors;
- 2.) On or about April 5, 2018, attorneys for Clients and JPM appeared before this Court and announced, without revealing any of the substantive terms, that a confidential settlement had been reached between them in the underlying dispute pending in this Court (hereinafter "Settlement");
- 3.) On or about the same day, April 5, 2018, but—literally what appears to have been within minutes after the Court was informed that a settlement had been reached by the parties in this underlying dispute—Clients terminated their CA with Intervenors by and through their attorney, James Pennington;

- 4.) Intervenor has filed what, by all accounts, appears to be a valid and enforceable First Party Attorney's Fees Lien in the proceeds of the Settlement;
- 5.) Intervenor fully performed; or, at the very least, substantially and materially performed all of their duties, responsibilities, and obligations under the CA at or before the time Clients terminated the CA—as those legal terms are meant in, *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2018, no pet.), *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003), and *Mandell & Wright*, 441 S.W.2d 841, 847 (Tex. 1969); and
- 6.) Given the timing of the termination of Intervenor, Clients are estopped, quasi-estopped, and/or have waived any and all defenses, if any, that could or would be lodged to the CA or the quality of the legal services performed by Intervenor.

Based upon these preliminary findings, this Court is of the opinion that Intervenor has established a probability of success on the merits on their application for, *inter alia*, declaratory relief. See TEX. CIV. PRAC. & REM. CODE § 37.004 et seq. (Vernon 2014). This Court is of the opinion that, unless restrained, one or more Defendants are likely to cause permanent damage to Intervenor, should they be allowed to transfer, hypothecate, assign, or take title to Intervenor's interest in the settlement proceeds before the pleas in Intervention are adjudicated on the merits. Such harm would be irreparable because this Court is of the opinion that there is no showing; or, in the alternative, an inadequate showing that Defendants could timely and immediately pay the disputed funds to Intervenor, should Intervenor ultimately prevail in this proceeding, and because Intervenor has a security interest in and lien upon a portion of the settlement proceeds which would be eviscerated by allowing Clients to dispose of 100% of the settlement proceeds as they saw fit. Moreover, given the

Court's preliminary findings set forth above in (i)-(vi), Intervenor's have established a property right and secured interest in the proceeds at issue.

The Court is, **THEREFORE**, of the opinion that Intervenor's are entitled to the issuance of a Temporary Restraining Order and that such an Order is necessary to protect Intervenor's rights. This **ORDER** is necessary because of the immediate need to enforce the security interest and lien which Intervenor's have in a portion of the settlement proceeds and to stop the wrongful flow of funds in the near future from being disseminated to either Clients or their attorneys, or some other third party subject to Clients' direction and control, upon which Intervenor's would have no adequate remedy at law. Without intervention by this Court, Intervenor's property right, that is Intervenor's security interest in and lien upon the settlement proceeds, would be destroyed and there would be no way to restore that property right in the Settlement proceeds themselves.

This Court is further of the opinion that Intervenor's are entitled to an **EXPEDITED DISCOVERY ORDER**. Therefore, Stephen Hopper and Laura Wassmer shall be made available for deposition on and certainly no later than **Tuesday, April 17, 2018**. If the parties cannot agree on a suitable location for these depositions, they shall be taken in this Court's jury room. The depositions are limited solely to the matters in dispute in the pled Intervention filings and shall last no longer than two hours per deponent (per side). In addition, Intervenor's may serve a *duces tecum* with the deposition notices, which shall be limited to no more than seven (7) discovery requests. The deposition notice shall provide two business days notice to the deponent.

It is further **ORDERED** that Intervenor's may move this Court for a dispositive summary judgment on 14 days notice of any hearing; and any response shall be due to be filed within 5 days of the hearing; and any reply shall be due to be filed within 2 days of the hearing.

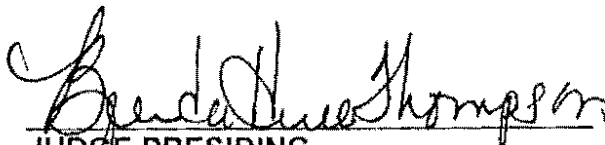
It is therefore **ORDERED, ADJUDGED, and DECREED** that Defendants, Stephen Hopper, Laura Wassmer, and JPMorgan Chase, N.A., and any of his, her, their, or its agents, servants, employees, successors, assigns and those persons in active concert or participation therewith, must:

- 1) Deposit all of the settlement proceeds due to Stephen B. Hopper and Laura s. Wassmer, individually and as beneficiaries of the Estate of Max Hopper, Deceased, into a safekeeping account with JPMorgan Chase Bank, NA, to be held in trust until further Order of this Court. Funds in the safekeeping account shall be withdrawn only upon Order of this Court;
- 2) The parties are **ORDERED** to preserve and prevent the destruction of all documents, including electronic data, emails, and notes, that relate in any way to the matters and claims set forth in the Intervenor's respective Pleas on file—and, moreover, all electronic storage devices must be imaged and preserved.

IT IS FURTHER ORDERED that this order is effective immediately upon Intervenor's deposit with the appropriate clerk of this Court a ~~bond~~ ^{Corporate Surety or cash bond} in the amount of \$ 10,000,000 ²⁰ ~~XX~~00 (U.S. dollars).

IT IS FURTHER ORDERED that Intervenor's application for a temporary injunction is set for an evidentiary hearing and will be heard before this Court on April 24, 2018 at 9 o'clock a.m., and that Stephen Hopper, Laura Wassmer, and JPMorgan Chase, N.A. appear and show cause, if any, why this Temporary Restraining Order should not be continued and converted into a Temporary Injunction until final hearing and trial hereon.

Signed and issued this the 10th day of April 2018, at 4:00 o'clock p.m.


JUDGE PRESIDING

CAUSE No. PR-11-3238-1

FILED

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IN RE: ESTATE OF MAX D. HOPPER,
DECEASED

IN THE PROBATE COURT

JOHN F. WARREN
COUNTY CLERK
DALLAS COUNTY

JON N. HOPPER

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.
STEPHEN B. HOPPER, LAURA S.
WASSMER,

Defendants.

NO. 1

DALLAS COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

EXHIBIT



 ORIGINAL^G

Here are the instructions for answering the questions.

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.
4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.
5. All the questions and answers are important. No one should say that any question or answer is not important.
6. Answer "yes" or "no" to all questions unless you are told otherwise. A "yes" answer must be based on a preponderance of the evidence unless you are told otherwise. Whenever a question requires an answer other than "yes" or "no," your answer must be based on a preponderance of the evidence unless you are told otherwise.

The term "preponderance of the evidence" means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a "yes" answer, then answer "no." A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from the other facts proved.

7. A party's conduct includes the conduct of another who acts with the party's authority or apparent authority. Authority for another to act for a party must arise from the party's agreement that the other act on behalf and for the benefit of the party. If a party so authorizes another to perform an act, that other party is also authorized to do whatever else is proper, usual, and necessary to perform the act expressly authorized. Apparent authority exists if a party (1) knowingly permits

another to hold himself out as having authority or, (2) through lack of ordinary care, bestows on another such indications of authority that lead a reasonably prudent person to rely on the apparent existence of authority to his detriment. Only the acts of the party sought to be charged with responsibility for the conduct of another may be considered in determining whether apparent authority exists.

8. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

9. Do not answer questions by drawing straws or by any method of chance.

10. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror's amount and then figuring the average.

11. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."

12. Unless otherwise instructed, the answers to the questions must be based on the decision of at least five of the six jurors. The same five jurors must agree on every answer. Do not agree to be bound by a vote of anything less than five jurors, even if it would be a majority.

13. In answering questions about damages, answer each question separately. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what a party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of the judgment. Do not add any amount for interest on damages, if any.

As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

DEFINITIONS

"JPMorgan" means JPMorgan Chase Bank, N.A.

"Fee Agreement" means Plaintiff's Exhibit 7.

"The Estate" means the Estate of Max D. Hopper.

Question No. 1

After JPMorgan was appointed Independent Administrator on June 30, 2010, did JPMorgan fail to comply with one or more of the following fiduciary duties:

- a. JPMorgan's duty to act toward Jo Hopper in the utmost good faith and exercise the most scrupulous honesty;

Answer "Yes" or "No": YES

- b. JPMorgan's duty to place the interests of Jo Hopper above its own and to not use the advantage of its position to gain any benefit for itself at the expense of Jo Hopper;

Answer "Yes" or "No": YES

- c. JPMorgan's duty to fully and fairly disclose to Jo Hopper all material facts known to JPMorgan that might affect her rights.

Answer "Yes" or "No": YES

If you answered "Yes" to any subpart of Question No. 1, then answer the following question. Otherwise, do not answer the following question.

Question No. 2

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Jo Hopper for her damages, if any, that were proximately caused by such conduct?

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him or her would have foreseen that the event, or some similar event might reasonably result therefrom. There may be more than one proximate cause of an event.

Consider the following element of damages, if any, and none other.

Do not add any amount for interest on damages, if any.

Answer in dollars and cents, if any.

- a. Jo Hopper's mental anguish sustained in the past.

"Mental anguish" means a relatively high degree of mental pain and distress that is more than mere worry, anxiety, vexation, embarrassment, or anger.

Answer: \$ 500,000.00

- b. Attorneys' fees paid by Jo Hopper before this lawsuit to address JPMorgan's breaches of its fiduciary duties.

Answer: \$ 222,780.95

Answer the following question only if you unanimously answered "yes" to Question No. 1 and with an amount greater than \$0 to any part of Question No. 2. Otherwise, do not answer the following question.

To answer "yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of five or more jurors. Otherwise, you must not answer the following question.

Question No. 3

Do you find by clear and convincing evidence that the harm to Jo Hopper from JPMorgan's breach of fiduciary duty resulted from malice?

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegation sought to be established.

"Malice" means a specific intent by JPMorgan to cause substantial injury or harm to Jo Hopper.

Answer "Yes" or "No": yes

Answer the following question only if you unanimously answered "Yes" to Question No. 3. Otherwise, do not answer the following question.

You must unanimously agree on the amount of any award of exemplary damages.

Question No. 4

What sum of money, if any, if paid now in cash, should be assessed against JPMorgan and awarded to Jo Hopper as exemplary damages, if any, for the conduct found in response to Question No. 3?

"Exemplary damages" means an amount that you may in your discretion award as a penalty or by way of punishment.

Factors to consider in awarding exemplary damages, if any, are—

1. The nature of the wrong;
2. The character of the conduct involved;
3. The degree of culpability of JPMorgan;
4. The situation and sensibilities of the parties concerned;
5. The extent to which such conduct offends a public sense of justice and propriety; and
6. The net worth of JPMorgan.

Answer in dollars and cents, if any.

Answer: \$ 2,000,000.00

If you answered with an amount greater than \$0 to any subpart of Question 2, then answer the following question. Otherwise do not answer the following question.

Question No. 5

Did the negligence, if any, or knowing participation in JPMorgan's breach of fiduciary duty, if any, of those named below proximately cause Jo Hopper's damages?

"Negligence" means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

"Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him or her would have foreseen that the event, or some similar event might reasonably result therefrom. There may be more than one proximate cause of an event.

"Knowing participation in JPMorgan's breach of fiduciary duty" requires that (1) the person or entity knowingly participated in JPMorgan's breach of fiduciary duty, and (2) that person or entity knew of the fiduciary relationship and was aware of his participation in JPMorgan's breach of its duty.

- a. Answer "Yes" or "No" with regard to the negligence, if any, of the following:

Jo Hopper

NO

- b. Answer "Yes" or "No" with regard to knowing participation in JPMorgan's breach of fiduciary duty, if any, of each of the following:

Stephen Hopper

NO

Laura Wassmer

NO

Gary Stolbach and Glast, Phillips & Murray

NO

If you answered "Yes" to Question 5 for more than one of those named below, then answer the following question. Otherwise do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the injury you found in question 2. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

Question No. 6

For each person or entity you found caused or contributed to cause the injury, find the percentage of responsibility attributable to each for the conduct you have found:

JPMorgan	_____
Jo Hopper	_____
Stephen Hopper	_____
Laura Wassmer	_____
Gary Stolbach and Glast, Phillips & Murray	_____
Total	<u>100%</u>

Question No. 7

Did JPMorgan fail to comply with the Fee Agreement with regard to Jo Hopper?

Answer "Yes" or "No": YES

If you answered "Yes" to Question No. 7, then answer the following question. Otherwise, do not answer the following question.

Question No. 8

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Jo Hopper for her damages, if any, that resulted from such failure to comply?

Consider the following elements of damages, if any, and none other.

Do not add any amount for interest on damages, if any.

Answer separately in dollars and cents for damages, if any, with respect to each of the following:

- a. Attorney's fees paid by Jo Hopper before this lawsuit to address JPMorgan's failure to perform its responsibilities under the Fee Agreement.

Answer: \$ 222,780.95

- b. Money owed to Jo Hopper for reimbursement of expenses.

Answer: \$ 58,051.47

If you answered "Yes" to Question No. 7, then answer the following question. Otherwise do not answer the following question.

Question No. 9

What is a reasonable fee for the necessary services of Jo Hopper's attorneys regarding her claim for breach of contract, stated in dollars and cents?

Factors to consider in determining a reasonable fee include:

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly.
2. The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer.
3. The fee customarily charged in the locality for similar legal services.
4. The amount involved and the results obtained.
5. The time limitations imposed by the client or by the circumstances.
6. The nature and length of the professional relationship with the client.
7. The experience, reputation, and ability of the lawyer or lawyers performing the services.
8. Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Answer with an amount for each of the following:

1. For representation through this trial.

Answer: \$ 4,061,518.00

2. For representation through appeal to the court of appeals.

Answer: \$ 200,000.00

3. For representation at the petition for review stage in the Supreme Court of Texas.

Answer: \$ 50,000.00

4. For representation at the merits briefing stage in the Supreme Court of Texas.

Answer: \$ 75,000.00

5. For representation through oral argument and the completion of proceedings in the Supreme Court of Texas.

Answer: \$ 50,000.00

Question No. 10

Does JPMorgan as Independent Administrator hold money that in equity and good conscience belongs to Jo Hopper?

Answer "Yes" or "No": yes

If you answered "Yes" to Question No. 10, then answer the following question. Otherwise, do not answer the following question.

Question No. 11

What is the amount of money held by JPMorgan as Independent Administrator that in equity and good conscience belongs to Jo Hopper?

Answer: \$ 58,682.00

Question No. 12

What is a reasonable fee for the necessary services of Jo Hopper's attorneys regarding the Robledo claims, stated in dollars and cents?

"Robledo claims" mean all the declaratory judgment claims that regarding the house and lot located at 9 Robledo Drive, Dallas, Texas and other issues addressed in the court of appeals opinion issued in December 2014.

Factors to consider in determining a reasonable fee include:

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly.
2. The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer.
3. The fee customarily charged in the locality for similar legal services.
4. The amount involved and the results obtained.
5. The time limitations imposed by the client or by the circumstances.
6. The nature and length of the professional relationship with the client.
7. The experience, reputation, and ability of the lawyer or lawyers performing the services.
8. Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Answer with an amount for each of the following:

1. For representation through this trial.

Answer: \$ 4,052,035.00

2. For representation in a future appeal through appeal to the court of appeals.

Answer: \$ 200,000.00

3. For representation in a future appeal at the petition for review stage in the Supreme Court of Texas.

Answer: \$ 50,000.00

4. For representation in a future appeal at the merits briefing stage in the Supreme Court of Texas.

Answer: \$ 75,000.00

5. For representation in a future appeal through oral argument and the completion of proceedings in the Supreme Court of Texas.

Answer: \$ 50,000.00

Question No. 13

What is a reasonable fee for the necessary services of Jo Hopper's attorneys in obtaining a ruling that Jo Hopper does not owe the Estate any money for attorneys' fees, stated in dollars and cents?

Factors to consider in determining a reasonable fee include:

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly.
2. The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer.
3. The fee customarily charged in the locality for similar legal services.
4. The amount involved and the results obtained.
5. The time limitations imposed by the client or by the circumstances.
6. The nature and length of the professional relationship with the client.
7. The experience, reputation, and ability of the lawyer or lawyers performing the services.
8. Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Answer with an amount for each of the following:

1. For representation through this trial.

Answer: \$ 1469,828.00

2. For representation through appeal to the court of appeals.

Answer: \$ 200,000.00

3. For representation at the petition for review stage in the Supreme Court of Texas.

Answer: \$ 50,000.00

4. For representation at the merits briefing stage in the Supreme Court of Texas.

Answer: \$ 75,000.00

5. For representation through oral argument and the completion of proceedings in the Supreme Court of Texas.

Answer: \$ 50,000.00

Question No. 14

Did JPMorgan fail to comply with the Fee Agreement with respect to Stephen Hopper and/or Laura Wassmer?

Answer "Yes" or "No" for each of the following:

Stephen B. Hopper: yes

Laura S. Wassmer: yes

If you answered Question Number 14 "Yes," Answer this Question. Otherwise do not answer the following question.

Question No. 15

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Stephen B. Hopper and/or Laura S. Wassmer for their damages, if any, that resulted from JPMorgan's failure to comply with the Fee Agreement?

Consider the following elements of damages, if any, and none other.

1. The amount of legal fees Stephen Hopper paid to his attorneys prior to the inception of the litigation that were the natural, probable and foreseeable consequence of JPMorgan's failure to comply with the Fee Agreement.

Answer in dollars and cents, if any, for the following:

Stephen B. Hopper: \$ 84,500.00

2. The amount of legal fees Laura Wassmer paid her attorneys prior to the inception of the litigation that were the natural, probable and foreseeable consequence of JPMorgan's failure to comply with the Fee Agreement.

Answer in dollars and cents, if any, for the following:

Laura S. Wassmer: \$ 78,000.00

3. The loss of potential inheritance to Stephen B. Hopper that was a natural, probable and foreseeable consequence of JP Morgan's failure to comply with the Fee Agreement.

Answer in dollars and cents, if any, for the following:

Stephen B. Hopper: \$ 1,847,500.00

4. The loss of potential inheritance to Laura S. Wassmer that was a natural, probable and foreseeable consequence of JP Morgan's failure to comply with the Fee Agreement.

Answer in dollars and cents, if any, for the following:

Laura S. Wassmer: \$ 1,847,500.00

There is no Question No. 16

There is no Question No. 17

There is no Question No. 18

There is no Question No. 19

Question No. 20

After JPMorgan was appointed Independent Administrator on June 30, 2010, did JPMorgan fail to comply with one or more of the following fiduciary duties, which it owed Stephen B. Hopper and Laura S. Wassmer as beneficiaries of the Estate?

- a. JPMorgan's duty to act toward Stephen Hopper and Laura Wassmer in the utmost good faith and exercise the most scrupulous honesty;

Answer "Yes" or "No": YES

- b. JPMorgan's duty to place the interests of Stephen Hopper and Laura Wassmer above its own and to not use the advantage of its position to gain any benefit for itself at the expense of Stephen Hopper and Laura Wassmer;

Answer "Yes" or "No": YES

- c. JPMorgan's duty to fully and fairly disclose to Stephen Hopper and Laura Wassmer all material facts known to JPMorgan that might affect their rights.

Answer "Yes" or "No": YES

If you answered "Yes" to Question 20, then answer the following question. Otherwise, do not answer the following question.

Question No. 21

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate the Estate for damages, if any, resulting from the conduct complained about in Question 20?

Consider the following elements of damages, if any, and none other.

Any reduction in the value of the Estate.

Do not add any amount for interest on damages, if any.

Answer in dollars and cents for damages, if any.

Answer: \$ 3,695,000.00

If you answered "Yes" to any subpart of Question 20, then answer the following question. Otherwise, do not answer the following question.

Question No. 22

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate the Stephen Hopper and Laura Wassmer for damages, if any, that were proximately caused by the conduct inquired about in Question 20?

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him would have fore- seen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

Consider the following elements of damages, if any, and none other.

Any reduction in the value of the Estate.

Consider each element separately. Do not add any amount for interest on damages, if any.

Answer separately in dollars and cents for damages, if any.

For Stephen Hopper, in dollars and cents:

Answer: \$ 1,847,500.00

For Laura Wassmer, in dollars and cents:

Answer: \$ 1,847,500.00

If you answered with an amount greater than \$0 to any subpart of Question 21 or 22, then answer the following question. Otherwise do not answer the following question.

Question No. 23

Did the negligence, if any, or knowing participation in JPMorgan's breach of fiduciary duty, if any, of those named below proximately cause Stephen Hopper's, Laura Wassmer's, or the Estate's damages?

"Negligence" when used with respect to Jo Hopper, Stephen Hopper, and Laura Wassmer means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

"Negligence" when used with respect to the conduct of Gary Stolbach and Glast, Phillips & Murray, means failure to use ordinary care, that is, failing to do that which an attorney would have done under the same or similar circumstances or doing that which an attorney would not have done under the same or similar circumstances.

"Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him or her would have foreseen that the event, or some similar event might reasonably result therefrom. There may be more than one proximate cause of an event.

"Knowing participation in JPMorgan's breach of fiduciary duty" requires that (1) the person or entity knowingly participated in JPMorgan's breach of fiduciary duty, and (2) that person or entity knew of the fiduciary relationship and was aware of his participation in JPMorgan's breach of its duty.

- a. Answer "Yes" or "No" with regard to the negligence, if any, of the following:

Jo Hopper
Stephen Hopper
Laura Wassmer
Gary Stolbach and Glast, Phillips & Murray

NO
NO
NO
YES

- b. Answer "Yes" or "No" with regard to knowing participation in JPMorgan's breach of fiduciary duty, if any, of each of the following:

Jo Hopper
Gary Stolbach and Glast, Phillips & Murray

NO
NO

If you answered "Yes" to Question 23 for more than one of those named below, then answer the following question. Otherwise do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the injury you found in question 21. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

Question No. 24

For each person or entity you found caused or contributed to cause the injury, find the percentage of responsibility attributable to each for the conduct you have found:

JPMorgan	90
Jo Hopper (negligence)	0
Jo Hopper (knowing participation)	0
Stephen Hopper	0
Laura Wassmer (negligence)	0
Gary Stolbach and Glast, Phillips & Murray (negligence)	10
Gary Stolbach and Glast, Phillips & Murray (knowing participation)	0
Total	100%

Answer the following question only if you unanimously answered "Yes" to any subpart of Question No. 20. Otherwise, do not answer the following question.

To answer "yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of five or more jurors. Otherwise, you must not answer the following question.

Question No. 25

Do you find by clear and convincing evidence that the harm to the Estate from JPMorgan's breach of fiduciary duty resulted from malice?

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegation sought to be established.

"Malice" means a specific intent by JPMorgan to cause substantial injury or harm to the Estate.

Answer "Yes" or "No": YES

Answer the following question only if you unanimously answered "Yes" to Question Number 25. Otherwise, do not answer the following question.

You must unanimously agree on the amount of any award of exemplary damages.

Question No. 26

What sum of money, if any, if paid now in cash, should be assessed against JPMorgan and awarded to Estate as exemplary damages, if any, for the conduct found in response to Question No. 25?

"Exemplary damages" means an amount that you may in your discretion award as a penalty or by way of punishment.

Factors to consider in awarding exemplary damages, if any, are—

1. The nature of the wrong;
2. The character of the conduct involved;
3. The degree of culpability of JPMorgan;
4. The situation and sensibilities of the parties concerned;
5. The extent to which such conduct offends a public sense of justice and propriety; and
6. The net worth of JPMorgan.

Answer in dollars and cents, if any.

Answer: \$ 2,000,000,000.00

Question No. 27

Did JPMorgan commit fraud against Stephen B. Hopper and/or Laura S. Wassmer?

Fraud occurs when—

1. A party makes a material misrepresentation; and
2. The misrepresentation is made with knowledge of its falsity or made recklessly without any knowledge of the truth and as a positive assertion, and
3. The misrepresentation is made with the intention that it should be acted on by the other party, and
4. The other party relies on the misrepresentation and thereby suffers injury.

Fraud also occurs when—

1. A party fails to disclose a material fact within the knowledge of that party; and
2. The party knows that the other party is ignorant of the fact and does not have an equal opportunity to discover the truth; and
3. The party intends to induce the other party to take some action by failing to disclose the fact; and
4. The other party suffers injury as a result of acting without knowledge of the undisclosed fact.

"Misrepresentation" means—

1. A statement of opinion based on a false statement of fact; or
2. A statement of opinion that the maker knows to be false; or
3. An expression of opinion that is false, made by one who has, or purports to have, special knowledge of the subject matter of the opinion.

Answer "Yes" or "No" with for each of the following:

Stephen B. Hopper:

YES

Laura S. Wassmer:

YES

Answer the following question only if you answered "Yes" to Question Number 27
Otherwise, do not answer the following question.

Question No. 28

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Stephen Hopper and Laura Wassmer for their damages, if any, that were proximately caused by such fraud?

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

Consider the following elements of damages, if any, and none other.

1. The amount of legal fees Stephen Hopper paid to his attorneys prior to the inception of the litigation that were the natural, probable and foreseeable consequence of JPMorgan's fraud.

Answer in dollars and cents, if any, for the following:

Stephen B. Hopper: \$ 84,500.00

2. The amount of legal fees Laura Wassmer paid her attorneys prior to the inception of the litigation that were the natural, probable and foreseeable consequence of JPMorgan's fraud.

Answer in dollars and cents, if any, for the following:

Laura S. Wassmer: \$ 78,000.00

3. The loss of potential inheritance to Stephen B. Hopper that was a natural, probable and foreseeable consequence of JP Morgan's fraud.

Answer in dollars and cents, if any, for the following:

Stephen B. Hopper: \$ 1,847,500.00

4. The loss of potential inheritance to Laura S. Wassmer that was a natural, probable and foreseeable consequence of JP Morgan's fraud.

Answer in dollars and cents, if any, for the following:

Laura S. Wassmer: \$ 1,847,500.00

If you answered "Yes" to Question 28, then answer the following question. Otherwise do not answer the following question.

Question No. 29

Did the negligence, if any, or knowing participation in JPMorgan's breach of fiduciary duty, if any, of those named below proximately cause Stephen Hopper's, Laura Wassmer's, or the Estate's damages?

"Negligence" when used with respect to Jo Hopper, Stephen Hopper, and Laura Wassmer means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

"Negligence" when used with respect to the conduct of Gary Stolbach and Glast, Phillips & Murray, means failure to use ordinary care, that is, failing to do that which an attorney would have done under the same or similar circumstances or doing that which an attorney would not have done under the same or similar circumstances.

"Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him or her would have foreseen that the event, or some similar event might reasonably result therefrom. There may be more than one proximate cause of an event.

"Knowing participation in JPMorgan's breach of fiduciary duty" requires that (1) the person or entity knowingly participated in JPMorgan's breach of fiduciary duty, and (2) that person or entity knew of the fiduciary relationship and was aware of his participation in JPMorgan's breach of its duty.

- a. Answer "Yes" or "No" with regard to the negligence, if any, of the following:

Jo Hopper
Stephen Hopper
Laura Wassmer
Gary Stolbach and Glast, Phillips & Murray

NO
NO
NO
YES

- b. Answer "Yes" or "No" with regard to knowing participation in JPMorgan's breach of fiduciary duty, if any, of each of the following:

Jo Hopper
Gary Stolbach and Glast, Phillips & Murray

NO
NO

If you answered "Yes" to Question 29 for more than one of those named below, then answer the following question. Otherwise do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the injury you found in question 28. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

Question No. 30

For each person or entity you found caused or contributed to cause the injury, find the percentage of responsibility attributable to each for the conduct you have found:

JPMorgan	<u>90</u>
Jo Hopper (negligence)	<u>8</u>
Jo Hopper (knowing participation)	<u>0</u>
Stephen Hopper	<u>0</u>
Laura Wassmer (negligence)	<u>0</u>
Gary Stolbach and Glast, Phillips & Murray (negligence)	<u>10</u>
Gary Stolbach and Glast, Phillips & Murray (knowing participation)	<u>0</u>
Total	<u>100%</u>

Answer the following question only if you unanimously answered "Yes" to any part of Question No. 27. Otherwise, do not answer the following question.

To answer "yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of five or more jurors. Otherwise, you must not answer the following question.

Question No. 31

Do you find by clear and convincing evidence that the harm to Stephen B Hopper and/or Laura S. Wassmer resulted from fraud as found in Question 27?

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

Fraud occurs when—

1. A party makes a material misrepresentation; and
2. The misrepresentation is made with knowledge of its falsity or made recklessly without any knowledge of the truth and as a positive assertion, and
3. The misrepresentation is made with the intention that it should be acted on by the other party, and
4. The other party relies on the misrepresentation and thereby suffers injury.

Fraud also occurs when—

1. A party fails to disclose a material fact within the knowledge of that party; and
2. The party knows that the other party is ignorant of the fact and does not have an equal opportunity to discover the truth; and
3. The party intends to induce the other party to take some action by failing to disclose the fact; and
4. The other party suffers injury as a result of acting without knowledge of the undisclosed fact.

"Misrepresentation" means—

1. A statement of opinion based on a false statement of fact; or

2. A statement of opinion that the maker knows to be false; or
3. An expression of opinion that is false, made by one who has, or purports to have, special knowledge of the subject matter of the opinion.

Answer "Yes" or "No" as to each of the following:

Laura S. Wassmer YES

Stephen B. Hopper YES

Answer the following question regarding JPMorgan only if you unanimously answered "Yes" to Question 31 regarding that defendant. Otherwise, do not answer the following question regarding that defendant

Question No. 32

What sum of money, if any, if paid now in cash, should be assessed against JPMorgan and awarded to Stephen B. Hopper and Laura S. Wassmer as exemplary damages, if any, for the conduct found in response to Question 31.

"Exemplary damages" means an amount that you may in your discretion award as a penalty or by way of punishment.

Factors to consider in awarding exemplary damages, if any, are—

- a. The nature of the wrong.
- b. The character of the conduct involved.
- c. The degree of culpability of JPMorgan
- d. The situation and sensibilities of the parties concerned
- e. The extent to which such conduct offends a public sense of justice and propriety
- f. The net worth of JPMorgan

Answer in dollars and cents, if any, as to each of the following:

Laura S. Wassmer \$ 1,000,000.00

Stephen B. Hopper \$ 1,000,000.00

Question No. 33

Did the negligence, if any, of JPMorgan proximately cause injury to Stephen B. Hopper and/or Laura S. Wassmer?

"Negligence" means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

"Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

Answer "Yes" or "No" for each of the following:

Laura S. Wassmer

YES

Stephen B. Hopper

YES

Answer the following question only if you answered "Yes" to Question Number 33. Otherwise, do not answer the following question.

Question No. 34

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Stephen Hopper and Laura Wassmer for their damages, if any, that were proximately caused by negligence?

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

Consider the following elements of damages, if any, and none other. Answer in dollars and cents, if any, for the following:

1. The amount of legal fees Stephen Hopper paid to his attorneys prior to the inception of the litigation that were the natural, probable and foreseeable consequence of JPMorgan's negligence.

Stephen B. Hopper: \$ 84,500.00

2. The amount of legal fees Laura Wassmer paid her attorneys prior to the inception of the litigation that were the natural, probable and foreseeable consequence of JPMorgan's negligence.

Laura S. Wassmer: \$ 78,000.00

3. The loss of potential inheritance to Stephen B. Hopper that was a natural, probable and foreseeable consequence of JP Morgan's negligence.

Stephen B. Hopper: \$ 1,847,500.00

4. The loss of potential inheritance to Laura S. Wassmer that was a natural, probable and foreseeable consequence of JP Morgan's negligence.

Laura S. Wassmer: \$ 1,847,500.00

If you answered "Yes" to Question 34, then answer the following question. Otherwise do not answer the following question.

Question No. 35

Did the negligence, if any, or knowing participation in JPMorgan's breach of fiduciary duty, if any, of those named below proximately cause Stephen Hopper's or Laura Wassmer's damages?

"Negligence" when used with respect to Jo Hopper, Stephen Hopper, and Laura Wassmer means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

"Negligence" when used with respect to the conduct of Gary Stolbach and Glast, Phillips & Murray, means failure to use ordinary care, that is, failing to do that which an attorney would have done under the same or similar circumstances or doing that which an attorney would not have done under the same or similar circumstances.

"Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

"Proximate cause" means a cause that was a substantial factor in bringing about an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him or her would have foreseen that the event, or some similar event might reasonably result therefrom. There may be more than one proximate cause of an event.

"Knowing participation in JPMorgan's breach of fiduciary duty" requires that (1) the person or entity knowingly participated in JPMorgan's breach of fiduciary duty, and (2) that person or entity knew of the fiduciary relationship and was aware of his participation in JPMorgan's breach of its duty.

- a. Answer "Yes" or "No" with regard to the negligence, if any, of the following:

Jo Hopper

NO

Stephen Hopper

NO

Laura Wassmer

NO

Gary Stolbach and Glast, Phillips & Murray

YES

- b. Answer "Yes" or "No" with regard to knowing participation in JPMorgan's breach of fiduciary duty, if any, of each of the following:

Jo Hopper

NO

Gary Stolbach and Glast, Phillips & Murray

NO

If you answered "Yes" to Question 35 for more than one of those named below, then answer the following question. Otherwise do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the injury you found in question 34. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

Question No. 36

For each person or entity you found caused or contributed to cause the injury, find the percentage of responsibility attributable to each for the conduct you have found:

JPMorgan	90
Jo Hopper (negligence)	0
Jo Hopper (knowing participation)	0
Stephen Hopper	0
Laura Wassmer (negligence)	0
Gary Stolbach and Glast, Phillips & Murray (negligence)	10
Gary Stolbach and Glast, Phillips & Murray (knowing participation)	0
Total	100%

Answer the following question only if you unanimously answered "Yes" to Question 33. Otherwise, do not answer the following question.

To answer "Yes" to any part of the following question, your answer must be unanimous. You may answer "No" to any part of the following question only upon a vote of 5 more jurors. Otherwise, you must not answer that part of the following question.

Question No. 37

Do you find by clear and convincing evidence that the harm to Stephen B. Hopper, Laura S. Wassmer, or the Estate resulted from gross negligence attributable to JPMorgan?

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

"Gross negligence" means an act or omission by JPMorgan

1. which when viewed objectively from the standpoint JPMorgan at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and
2. of which JPMorgan has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

You are further instructed that JPMorgan may be grossly negligent because of an act by Susan Novak if, but only if--

1. JPMorgan authorized the doing and the manner of the act, or
2. Susan Novak was unfit and JPMorgan was reckless in employing her, or
3. Susan Novak was employed in a managerial capacity and was acting in the scope of employment, or
4. JPMorgan or a manager of JPMorgan ratified or approved the act.

A person is a manager or is employed in a managerial capacity if--

1. that person has authority to employ, direct, and discharge an employee of JPMorgan; or

2. JPMorgan has confided to that person the management of the whole or a department or division of the business of JPMorgan

Answer "Yes" or "No" as to each of the following:

Laura S. Wassmer YES

Stephen B. Hopper YES

Answer the following question only if you unanimously answered "Yes" to Question 37. Otherwise, do not answer the following question.

Question No. 38

You must unanimously agree on the amount of any award of exemplary damages.

What sum of money, if any, if paid now in cash, should be assessed against JPMorgan and awarded to Stephen B. Hopper, Laura Wassmer or the Estate as exemplary damages, if any, for the conduct unanimously found in response to Question 37?

"Exemplary damages" means an amount that you may in your discretion award as a penalty or by way of punishment.

Factors to consider in awarding exemplary damages, if any, are--

1. The nature of the wrong.
2. The character of the conduct involved.
3. The degree of culpability of JPMorgan.
4. The situation and sensibilities of the parties concerned.
5. The extent to which such conduct offends a public sense of justice and propriety.
6. The net worth of JPMorgan.

Answer in dollars and cents, if any, for each of the following:

Laura S. Wassmer \$ 1,000,000,000.00

Stephen B. Hopper \$ 1,000,000,000.00

Question No. 39

Did JPMorgan commit conversion against the Estate?

Conversion occurs when:

1. a party owned or had possession of the property or entitlement to possession, and
2. another party unlawfully and without authorization assumed and exercised control over the property to the exclusion or, or inconsistent with, the plaintiff's rights as an owner, and
3. the first party demanded return of the property, and
4. the other party refused to return the property.

Answer "Yes" or "No."

Answer: YES

If you answered "Yes" to Question 39, then answer the following question. Otherwise, do not answer the following question.

Question No. 40

What sum of money, if any, if paid now in cash, would fairly compensate the Estate for the value of the property JPMorgan converted, if any, valued at the time of such conversion?

Answer in dollars and cents for damages, if any:

Answer: \$ 3,695,000.00

Question No. 41

Does JPMorgan as Independent Administrator hold money that in equity and good conscience belongs to the Estate?

Answer "Yes" or "No": YES

If you answered "Yes" to Question No. 41, then answer the following question. Otherwise, do not answer the following question.

Question No. 42

What is the amount of money held by JPMorgan as Independent Administrator that in equity and good conscience belongs to the Estate?

Answer: \$ 3,695,000.00

Question No. 43

Did JPMorgan as Independent Administrator act in good faith, whether successful or not, in defending the action for its removal?

From September 21, 2011 through December 7, 2015, JPMorgan as Independent Administrator defended Jo Hopper's Removal Action.

"Removal Action" means Mrs. Hopper's claims for removal of JPMorgan as Independent Administrator.

"Good faith" means an action that is prompted by honesty of intention and a reasonable belief that the action was probably correct.

Answer "Yes" or "No."

Answer: NO

Question No. 44

What is a reasonable fee for the necessary services of the attorneys for JPMorgan as Independent Administrator in connection with its defense of the Removal Action, stated in dollars and cents?

Factors to consider in determining a reasonable fee include—

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly.
2. The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer.
3. The fee customarily charged in the locality for similar legal services.
4. The amount involved and the results obtained.
5. The time limitations imposed by the client or by the circumstances.
6. The nature and length of the professional relationship with the client.
7. The experience, reputation, and ability of the lawyer or lawyers performing the services.
8. Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Attorneys' Fees Incurred in Defense of the Removal Action:

\$1,185,775.00

Question No. 45

What is the amount of JPMorgan as Independent Administrator's reasonable attorneys' fees necessarily incurred in connection with the proceedings and management of the estate?

Factors to consider in determining a reasonable fee include—

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly.
2. The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer.
3. The fee customarily charged in the locality for similar legal services.
4. The amount involved and the results obtained.
5. The time limitations imposed by the client or by the circumstances.
6. The nature and length of the professional relationship with the client.
7. The experience, reputation, and ability of the lawyer or lawyers performing the services.
8. Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Answer with an amount for representation after December 7, 2015:

1. For representation through trial and the completion of proceedings in the trial court.

Answer: \$ 685,632.00

2. For representation through appeal to the court of appeals.

Answer: \$ 100,000.00

3. For representation at the petition for review stage in the Supreme Court of Texas.

Answer: \$ 75,000.00

4. For representation at the merits briefing stage in the Supreme Court of Texas.

Answer: \$ 50,000.00

5. For representation through oral argument and the completion of proceedings in the Supreme Court of Texas.

Answer: \$ 50,000.00

Presiding Juror:

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.

2. The presiding juror has these duties:

- a. have the complete charge read aloud if it will be helpful to your deliberations;
- b. preside over your deliberations, meaning manage the discussions, and see that you follow these instructions;
- c. give written questions or comments to the bailiff who will give them to the judge;
- d. write down the answers you agree on;
- e. get the signatures for the verdict certificate; and
- f. notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

Instructions for Signing the Verdict Certificate:

1. Unless otherwise instructed, you may answer the questions on a vote of five jurors. The same five jurors must agree on every answer in the charge. This means you may not have one group of five jurors agree on one answer and a different group of five jurors agree on another answer.

2. If five jurors agree on every answer, those five jurors sign the verdict.

If all six of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.

3. All jurors should deliberate on every question. You may end up with all six of you agreeing on some answers, while only five of you agree on other answers. But when you sign the verdict, only those five who agree on every answer will sign the verdict.

4. There are some special instructions before Questions 3, 4, 25, 26, 31, 32, 37, and 38 explaining how to answer those questions. Please follow the instructions. If all six of you answer those questions, you will need to complete a second verdict certificate for those questions.

Do you understand these instructions? If you do not, please tell me now.


JUDGE PRESIDING

9/25/17

Verdict Certificate

Check one:

 Our verdict is unanimous. All six of us have agreed to each and every answer. The presiding juror has signed the certificate for all six of us.

Signature of Presiding Juror

Printed Name of Presiding Juror

☒ Our verdict is not unanimous. Five of us have agreed to each and every answer and have signed the certificate below.

Signature

Name Printed

1. Randy Gault

RANDY GAULT

2. Ireles Alvarez

Ireles Alvarez

3. Bobby Miller

Bobby Miller

4. Stacey Lomack

Stacey Lomack

5. Giovanna Rodriguez

Giovanna Rodriguez

If you have answered Question No. 4, 26, 32, and 38, then you must sign this certificate also.

Additional Certificate

I certify that the jury was unanimous in answering the following questions. All six of us agreed to each of the answers. The presiding juror has signed the certificate for all six of us.

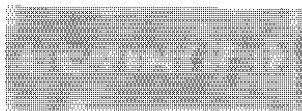
Questions 3, 25, 31, and 37 and 4, 26, 32, and 38.

Signature of Presiding Juror

Printed Name of Presiding Juror

May Sanders

Chaguila Sanders



April 4, 2018

JEFFREY S. LEVINGER
Board Certified Civil Appellate Law
Texas Board of Legal Specialization

By E-Mail

Van H. Beckwith
Baker Botts L.L.P.
2001 Ross Avenue, Suite 700
Dallas, TX 75201

Re: No. PR-11-3238-1; *In re Estate of Max D. Hopper; Jo N. Hopper v. JPMorgan Chase Bank, et al.*; in the Probate Court No. 1 of Dallas County, Texas

Dear Van:

This Rule 11 letter will confirm that Laura Wassmer, Stephen Hopper, the Estate of Max Hopper, and JPMorgan Chase Bank, N.A. have agreed to settle this case based on the confidential terms set forth in the email communication between Robert Sacks and me dated April 3 and 4, 2018. Laura Wassmer, Stephen Hopper, and the Estate agree to withdraw their Motion for Judgment and the hearing set on it for April 5-6, 2018, and the parties shall announce this settlement to the Court. I would appreciate it if you would sign this letter below to signify your acceptance of it.

Sincerely,

Jeffrey S. Levinger
Counsel for Laura Wassmer,
Stephen Hopper, and the Estate
of Max Hopper

JL/rh
Enclosure

AGREED

Van H. Beckwith
Counsel for JPMorgan Chase Bank, N.A.

EXHIBIT
H

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER, DECEASED	§	IN THE PROBATE COURT
	§	
	§	
JO N. HOPPER,	§	
	§	
<i>Plaintiff,</i>	§	
	§	NO. 1
v.	§	
	§	
JPMORGAN CHASE BANK, N.A.,	§	
STEPHEN B. HOPPER, LAURA S.	§	
WASSMER,	§	
	§	
<i>Defendants.</i>	§	DALLAS COUNTY, TEXAS

**MOTION TO QUASH AND FOR PROTECTIVE ORDER
AND OBJECTION TO SUBPOENA DUCES TECUM**

To the Honorable Court:

Pursuant to TEX. R. CIV. P. 176.6(d) and (e), 192.6(b), 199.4, and 205.2, and subject to and without waiving the motion to compel arbitration filed by Laura Wassmer and Stephen Hopper, nonparty witness Jeffrey S. Levinger ("Levinger") moves to quash and for protective order, and objects as follows, with respect to the Attorneys' Notice of Intent to Take the Oral and Videotaped Deposition of Jeffrey S. Levinger with Subpoena Duces Tecum ("Notice") attached hereto as Exhibit A.

1. At approximately 9:35 a.m. on Monday, April 16, 2018, John Malesovas, an attorney who claims to be an intervenor in the fee dispute that has

arisen in this matter, sent an email to Levinger attaching the Notice. This Notice was not served in the manner required by Rules 176.5 and 205.1. Therefore, it is unenforceable for that reason alone. Nonetheless, out of an abundance of caution, Levinger will respond to the Notice as follows.

2. First, in accordance with Rule 199.4, Levinger objects to the time and place designated for the deposition. The time (Tuesday, April 17) and place (the offices of Fee, Smith, Sharp, and Vitullo) are not reasonable. Further, inasmuch as the Notice seeks the production of documents from a nonparty on only one day's notice, it fails to comply with Rule 205.2. Accordingly, the Notice should be quashed and a protective order granted.

3. Second, in accordance with Rule 192.6(b), Levinger is entitled to a protective order to protect him — and his clients, Laura Wassmer and Stephen Hopper — from undue burden, unnecessary expense, harassment, annoyance, invasion of personal, constitutional, and property rights, and intrusion into confidential and privileged matters.

4. Third, in accordance with Rules 176.6(d) and (e), Levinger objects to, and is entitled to a protective order from, the Notice's request for documents and other items. The document request is objectionable because it seeks confidential and privileged information. Further, a protective order is necessary to protect Levinger and his clients from undue burden, unnecessary expense, harassment, annoyance,

invasion of personal, constitutional, and property rights, and intrusion into confidential and privileged matters.

5. Fourth, the Notice violates the Temporary Restraining Order signed on April 10, 2018, which entitles the Intervenor (which includes Malesovas) to expedited depositions of only Stephen Hopper and Laura Wassmer.

For all these reasons, the Notice should be quashed, a protective order denying the requested discovery should be entered, the objections should be sustained, and all other relief to which Levinger or his clients are entitled should be granted. In the meantime, the deposition requested in the Notice is stayed in accordance with Rule 199.4.

Respectfully submitted,

Jeffrey S. Levinger

Jeffrey S. Levinger

State Bar No. 12258300

Levinger PC

1445 Ross Avenue, Suite 2500

Dallas, TX 75201

Telephone: 214-855-6817

Fax: 214-855-6808

jlevinger@levingerpc.com

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Motion to Quash and For Protective Order and Objection to Subpoena Duces Tecum was served by electronic transmission on the following counsel on this 16th day of April, 2018.

John L. Malesovas
Malesovas Law Firm
1901 South Mopac Expressway
Suite 320
Austin, TX 78746

Anthony L. Vitullo
Fee, Smith, Sharp & Vitullo, L.L.P.
Three Galleria Tower
13155 Noel Road, Suite 1000
Dallas, Texas 75240

Alan S. Loewinsohn
Kerry F. Schonwald
Loewinsohn Flegle Deary
Simon LLP
12377 Merit Dr. Suite 900
Dallas, TX 75251

John C. Eichman
Grayson L. Linyard
Hunton & Williams, LLP
1445 Ross Avenue, Suite 3700
Dallas, TX 75202

Van H. Beckwith
Jessica B. Pulliam
Baker Botts, L.L.P.
2001 Ross Avenue, Suite 700
Dallas, TX 75201

Evan A. Young
Baker Botts, L.L.P.
98 San Jacinto Blvd., Suite 1500
Austin, TX 78701

Brian P. Lauten
Brian Lauten, P.C.
3811 Turtle Creek Blvd. Suite 1450
Dallas, TX 75219

James E. Pennington
Law Offices of James. Pennington, P.C.
900 Jackson Street, Suite 440
Dallas, Texas 75202

/s/ Jeffrey S. Levinger

Jeffrey S. Levinger

TAB A

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED,

JO N. HOPPER,

Intervenor,

v.

JPMORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER, and LAURA
S. WASSMER,

Defendants.

IN THE PROBATE COURT

NO. 1

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and
FEE, SMITH, SHARP & VITULLO, LLP

Attorneys,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, individually and as
Beneficiaries of the ESTATE OF
MAX D. HOPPER, DECEASED,
the ESTATE OF MAX D. HOPPER,
DECEASED, JPMORGAN CHASE
BANK, N.A.,

Defendants.

**ATTORNEYS' NOTICE OF INTENT TO TAKE THE
ORAL AND VIDEOTAPED DEPOSITION OF JEFFREY S. LEVINGER
WITH SUBPOENA DUCES TECUM**

TO: Jeffrey S. Levinger, Levinger PC, 1445 Ross Avenue, Suite 2500, Dallas, TX 75202.

PLEASE TAKE NOTICE that under TEXAS RULES OF CIVIL PROCEDURE 199.2, Attorneys
will take the oral deposition of JEFFREY S. LEVINGER. The deposition will be held at the offices
ATTORNEYS' NOTICE OF INTENT TO TAKE THE ORAL AND VIDEOTAPED
DEPOSITION OF JEFFREY S. LEVINGER WITH SUBPOENA DUCES TECUM

PAGE 1

of Fee, Smith, Sharp & Vitullo, LLP, Three Galleria Tower, 13155 Noel Road, Suite 1000, Dallas, Texas, 75240; telephone 972-934-9100. The deposition will be taken on Tuesday, April 17, 2018, beginning at 9:00 a.m., and will continue from day to day until complete.

Pursuant to TEX. R. CIV. P. 199.1(c), notice is given that the deposition may be recorded by stenographic means and by non-stenographic videotape recording before a certified court reporter.

Said deposition, when so taken and returned according to law, will be used in evidence upon the trial of said cause, and you may be present at such time to examine said witness as you may see proper.

Pursuant to Tex. R. Civ. P. 199.2(b)(5), Jeffrey S. Levinger is directed to produce all documents set out on Exhibit "A" and all documents reviewed by him to prepare to testify at this deposition.

Respectfully submitted,



John L. Malesovas
MALESOVAS LAW FIRM
State Bar No. 12857300
1801 South Mopac Expressway, Suite 320
Austin, TX 78746
Telephone: (512) 708-1777
Telecopier: (512) 708-1779
john@malesovas.com

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 14, 2018, in accordance with the Texas Rules of Civil Procedure to:

Alan S. Loewinsohn
Jim L. Flegle
Kerry F. Schonwald
Loewinsohn Flegle Deary Simon LLP
12377 Merit Dr., Suite 900
Dallas, Texas 75251
214-572-1717 Facsimile
alanl@lfdslaw.com
jimf@lfdslaw.com
kerryf@lfdslaw.com
Attorneys for Intervenor Jo Hopper

Jeffrey S. Levinger
J. Carl Cccere
Levinger PC
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Dallas, TX 75202
214-855-6808 Facsimile
jlevinger@levingerpc.com
cccere@cccerepc.com
Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

John C. Eichman
Grayson L. Linyard
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glinyard@hunton.com
*Attorneys for Defendant, JPMorgan Chase Bank, N.A.,
as Independent Administrator of the Estate of Max D. Hopper, Deceased,
and JPMorgan Chase Bank, N.A., in its Corporate Capacity*

Van H. Beckwith
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van.beckwith@bakerbotts.com
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Attorneys for Defendant, JPMorgan Chase Bank, N.A.

Evan A. Young
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Austin, TX 78701
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evan.young@bakerbotts.com
*Attorneys for Defendant,
JPMorgan Chase Bank, N.A.*

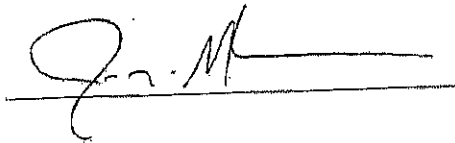
A handwritten signature in dark ink, appearing to read "E. Young", is written over a horizontal line.

EXHIBIT "A"

1. all documents reviewed by him to prepare to testify at this deposition.
2. All email, text, electronic, and paper communication between you and any attorney for JP Morgan Chase Bank, N.A. ("JPM") regarding the negotiation and consummation of the settlement between Dr. Stephen Hopper ("Hopper") and Laura Wassmer ("Wassmer") and JPM ("Settlement"), as well as all attachments to any such communication.
3. All email, text, electronic, and paper communication between you and Hopper or Wassmer prior to 10:09 am, April 5, 2018, as well as all attachments to any such communication.
4. All email, text, electronic, and paper communication between you and Jim Pennington regarding the Settlement prior to 10:09 am, April 5, 2018, as well as all attachments to any such communication.
5. All email, text, electronic, and paper communication between you and Steve Block, or his attorney, Robert Toby, regarding Hopper, Wassmer, Intervenors or this case.

Subpoena

THE STATE OF TEXAS

COUNTY OF TEXAS

To the sheriff, constable, or any person authorized to serve and execute subpoenas as provided in Rule 176, Texas Rules of Civil Procedure.

Greetings:

You are hereby commanded to subpoena and summon the following witness who may be served as follows:

JEFFREY S. LEVINGER

Levinger PC
1445 Ross Avenue, Suite 2500
Dallas, TX 75202
214-855-6817

to appear before a Court Reporter, at the offices of Fee, Smith, Sharp & Vitullo, LLP, Three Galleria Tower, 13155 Noel Road, Suite 1000, Dallas, TX 75240; telephone 972-934-9100, on Tuesday, April 17, 2018, at 9:00 a.m., in order to give deposition as a witness on behalf of the Attorneys in Cause NO. PR-11-3238-1; *In re Estate of Max D. Hopper; Jo N. Hopper v. JPMorgan Chase Bank, et al*; Probate Court No. 1, Dallas County, Texas, to attend from day to day until lawfully discharged.

SAID ABOVE NAMED WITNESS IS FURTHER COMMANDED to produce at said time and place set forth above, the following books, papers, documents, or other tangible things, to-wit:

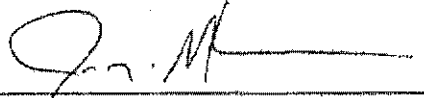
1. all documents reviewed by him to prepare to testify at this deposition.
2. All email, text, electronic, and paper communication between you and any attorney for JP Morgan Chase Bank, N.A. ("JPM") regarding the negotiation and consummation of the settlement between Dr. Stephen Hopper ("Hopper") and Laura Wassmer ("Wassmer") and JPM ("Settlement"), as well as all attachments to any such communication.
3. All email, text, electronic, and paper communication between you and Hopper or Wassmer prior to 10:09 am, April 5, 2018, as well as all attachments to any such communication.
4. All email, text, electronic, and paper communication between you and Jim Pennington regarding the Settlement prior to 10:09 am, April 5, 2018, as well as all attachments to any such communication.
5. All email, text, electronic, and paper communication between you and Steve Block, or his attorney, Robert Toby, regarding Hopper, Wassmer, Intervenor or this case.

The said witness shall continue in attendance from day to day and time to time until discharged according to law. Failure by any person without adequate excuse to obey a subpoena served upon that person may be

deemed a contempt of the court from which the subpoena is issued, and may be punished by fine or confinement, or both.

WITNESS MY HAND this the 14th day of April, 2018.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 14, 2018, in accordance with the Texas Rules of Civil Procedure to:


Alan S. Loewinsohn
Jim L. Flegle
Kerry F. Schonwald
Loewinsohn Flegle Deary Simon LLP
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Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

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*Attorneys for Defendant, JPMorgan Chase Bank, N.A.,
as Independent Administrator of the Estate of Max D. Hopper, Deceased,
and JPMorgan Chase Bank, N.A., in its Corporate Capacity*

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Attorneys for Defendant, JPMorgan Chase Bank, N.A.

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evan.young@bakerbotts.com
*Attorneys for Defendant,
JPMorgan Chase Bank, N.A.*



John L. Malesovas

OFFICER'S RETURN

Came to hand the _____ day of _____ A.D. 20____ at _____ o'clock _____ m., and
executed on the _____ day of _____ A.D. 20____ at _____ o'clock
____ m., by delivering to _____, the within named
witness, in person, a true copy of this Trial Subpoena and tendering him \$10.00 which he accepted.

FEES:

Serving Subpoena	\$ _____
Mileage	\$ _____
TOTAL	\$ _____

_____ Process Server

_____ County, Texas

CAUSE NO. PR-113238-1

**IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED**

JO N. HOPPER

Plaintiff,

v.

**JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER**

Defendants.

**JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP**

Intervenors,

**STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,**

Defendants.

IN THE PROBATE COURT

NO. 1

DALLAS COUNTY, TEXAS

**MOTION TO QUASH AND FOR PROTECTIVE ORDER
AND OBJECTION TO HEARING SUBPOENAS DUCES TECUM**

Subject to and without waiving the pending motion to compel arbitration, and pursuant to TEX. R. CIV. P. 176.6(d)-(f) and 192.6(b), Defendants, Stephen B. Hopper and Laura S. Wassmer ("the Clients") and nonparty attorney Jeffrey S. Levinger ("Levinger") file this Motion to Quash and for Protective Order, and object as follows, with respect to the Subpoenas Duces Tecum ("Subpoenas") attached hereto as Exhibits A-C.

Clients object to Intervenors' Subpoenas, and they object to the temporary injunction

proceeding, because this dispute is subject to binding arbitration. Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor in this action.

Levinger Subpoena

1. At approximately 7:00 a.m. on Wednesday, April 18, 2018, John Malesovas, an intervenor in this lawsuit, attempted to have Levinger served with the Subpoena attached as Exhibit A. The Subpoena purports to require Levinger to attend the temporary injunction hearing scheduled for April 24, 2018 and to produce at the hearing six categories of documents and other items. This Subpoena was not served in the manner required by Rule 176.5 because it lacks the requisite proof of service. Therefore, it is unenforceable for that reason alone. Nonetheless, out of an abundance of caution, the Clients and Levinger will respond to the Subpoena as follows.

2. First, in accordance with Rules 176.6(e)-(f) and 192.6(b), a protective order should be entered to protect the Clients and Levinger from undue burden, unnecessary expense, harassment, annoyance, invasion of personal, constitutional, and property rights, and intrusion into confidential and privileged matters. In addition, Levinger has a conflicting and previously-scheduled court appearance in another case that precludes him from attending the hearing on April 24.

3. Second, in accordance with Rules 176.6(e) and (f), the Clients and Levinger object to, and are entitled to a protective order from, the Subpoena's request for documents and other items. The document request is objectionable because it seeks confidential and privileged information. Further, a protective order is necessary to protect the Clients and Levinger from undue burden, unnecessary expense, harassment, annoyance, invasion of personal, constitutional, and property rights, and intrusion into confidential and privileged matters.

Objections to Documents Requested in Levinger Subpoenas Duces Tecum

Request No. 1. All documents reviewed by him to prepare to testify at this deposition.

Response: Clients object to this request because this dispute is subject to binding arbitration and Defendants do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor in this action. This request is vague and confusing – Levinger has not testified at any deposition.

Request No. 2. All email, text, electronic and paper communication between you and any attorney for JPMorgan Chase Bank N.A. (“JPM”) regarding the negotiation and consummation of the settlement between Dr. Stephen Hopper (“Hopper”) and Laura Wassmer (“Wassmer”) and JPM (“Settlement”), as well as all attachments to any such communication.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor in this action. Clients object to this request on the basis that the documents requested are protected by confidentiality pursuant to the settlement agreement between Defendants and JPMorgan Chase Bank N.A. (“JPMorgan”).

Request No. 3. All email, text, electronic and paper communication between you and Hopper or Wassmer prior to 10:09 a.m., April 5, 2018, as well as all attachments to any such communication.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor in this action. Clients object to this request on the basis of the attorney-client privilege. Levinger is withholding documents responsive to this request based on the attorney-client privilege.

Request No. 4. All email, text, electronic and paper communication between you and Jim Pennington prior to 10:09 a.m., April 5, 2018, as well as all attachments to any such communication.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor in this action. Clients object to this request on the basis of the attorney-client privilege. Levinger is withholding documents responsive to this request based on the attorney-client privilege.

The Clients' Subpoenas

4. At approximately 6:00 p.m. on April 17, 2018, John Malesovas, an intervenor in this lawsuit, served the Clients' attorney with the Subpoenas attached as Exhibit B and C. The Subpoenas require the Clients to attend the temporary injunction hearing scheduled for April 24, 2018 and to produce at the hearing nine (9) categories of documents and other items. In accordance with Rules 176.6(e) and (f), the Clients object to, and are entitled to a protective order from, the Subpoenas' request for documents and other items.

Objections to Documents Requested in Clients' Subpoenas Duces Tecum

Request No. 1. All emails and text messages between and among Laura Wassmer, Dr. Stephen Hopper, and/or anyone else including, but not limited to Jim Pennington and Jeff Levinger (singularly, collectively, and/or disjunctively) regarding settlement of the claims with JPMorgan Chase including but not limited to the ultimate formation of the Rule 11 settlement agreement with JP Morgan Chase, up and until the time the Intervenors were terminated as the attorneys of record for Ms. Wassmer and Dr. Hopper, which was approximately at 10 a.m. on April 5, 2018—as set forth in Exhibit 3 to the TRO hearing.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenors in this action. Clients object to this request on the basis that the documents requested are protected by confidentiality pursuant to the settlement agreement between Defendants and JPMorgan Chase Bank N.A. ("JPMorgan"). Clients are withholding documents responsive to this request on the basis of the attorney-client privilege.

Request No. 2. All documents that support the accusations, allegations, and aspersions cast against Lenny Vitullo and his law firm, Fee Smith Sharp & Vitullo, as set forth in the April 5, 2018 termination letter, which was offered into evidence as Exhibit 3 at the TRO hearing.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenors in this action. Clients object to this request because it is overly broad, burdensome, vague, and ambiguous and it fails to describe the documents sought with reasonable particularity and specificity as required by Rule 196.1. Moreover, this request is beyond the scope of permissible discovery and constitutes an impermissible request for Clients to marshal their evidence. *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex.1989) (disapproving a similar request because the request did not identify any particular type of documents; rather, it was merely a request for all evidence the other party might have in support of its allegations); *See also In re TIG Ins. Co.*, 172 S.W.3d 160, 168 (Tex. App. Beaumont 2005, orig. proceeding). Subject to and without waiving these objections, Clients are unable to completely respond to this request at this

time because Intervenor's have not provided Clients with their complete files, although those files have been requested by Clients.

Request No. 3. All documents that support your position that the contingency agreements, which were admitted into evidence as Exhibits 1-2 at the TRO hearing are unenforceable—either in whole or in part.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor's in this action. Clients object to this request because it is overly broad, burdensome, vague, and ambiguous and it fails to describe the documents sought with reasonable particularity and specificity as required by Rule 196.1. Moreover, this request is beyond the scope of permissible discovery and constitutes an impermissible request for Clients to marshal their evidence. *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex.1989) (disapproving a similar request because the request did not identify any particular type of documents; rather, it was merely a request for all evidence the other party might have in support of its allegations); *See also In re TIG Ins. Co.*, 172 S.W.3d 160, 168 (Tex. App. Beaumont 2005, orig. proceeding). Subject to and without waiving these objections, Clients are unable to completely respond to this request at this time because Intervenor's have not provided Clients with their complete files, although those files have been requested by Clients.

Request No. 4. Copies of all fee agreements that you have with Jeff Levinger, including all billing statements sent to you by Jeff Levinger—and all checks paid to Jeff Levinger; this request specifically includes, also, any and all collateral agreements reached with Jeff Levinger to aid and abet your termination of Lenny Vitullo and any monies Mr. Levinger received or you have contracted to pay him for saving attorneys' fees that are due and owing to Mr. Vitullo et al., if any.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor's in this action. Clients also object to the argumentative, improper and misleading manner in which this request is worded; there were no collateral agreements reached with Jeff Levinger to aid and abet the termination of Lenny Vitullo, nor did Mr. Levinger receive any money for saving any fees which may be owed to Mr. Vitullo. Subject to, and without waiving any of the aforementioned objections, Clients have already produced the fee agreement with Jeff Levinger, billing statements sent by Jeff Levinger and checks paid to Jeff Levinger.

Request No. 5. All documents that establish what you claim to be the dollar amount of attorney's fees in dispute, why there is a dispute, why the dispute was not raised until after a settlement was reached, and how those disputed amounts are quantified and the basis for you disputing what you plainly owe in the contingency contracts at issue.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor's in this action. Clients object to this request on the basis that the documents requested are protected by confidentiality pursuant to the settlement agreement

between Clients and JPMorgan. Clients object to this request because it is overly broad, burdensome, vague, and ambiguous and it fails to describe the documents sought with reasonable particularity and specificity as required by Rule 196.1. Moreover, this request is beyond the scope of permissible discovery and constitutes an impermissible request for Clients to marshal their evidence. *Loftin v. Martin*, 776 S.W.2d 145, 148 (Tex.1989) (disapproving a similar request because the request did not identify any particular type of documents; rather, it was merely a request for all evidence the other party might have in support of its allegations); *See also In re TIG Ins. Co.*, 172 S.W.3d 160, 168 (Tex. App. Beaumont 2005, orig. proceeding). Clients also object to the argumentative, improper and misleading manner in which this request is worded; Clients dispute that they owe a contingency fee under the agreements. Subject to and without waiving these objections, Clients are unable to completely respond to this request at this time because Intervenorors have not provided Clients with their complete files, although those files have been requested by Clients.

Request No. 6. All documents that support the dollar amount of what you claim you owe to Intervenorors, if any, under the contingency agreements and all documents that show how that dollar amount was calculated.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenorors in this action. Clients dispute that they owe a contingency fee under the agreements; instead, Intervenorors may only recover a fee based on quantum meruit. Subject to and without waiving these objections, Clients are unable to completely respond to this request at this time because Intervenorors have not provided Clients with their complete files, although those files have been requested by Clients.

Request No. 7. All documents that show when you actually made the decision to terminate the Intervenorors—including but not limited to all correspondence with Jeff Levinger, which would establish that the decision was allegedly made six months ago, albeit the termination was not actually done until April 5, 2018.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenorors in this action. Clients are withholding documents responsive to this request on the basis of the attorney-client privilege. Clients also object to the argumentative, improper and misleading manner in which this request is worded; Clients dispute that the decision to terminate the Intervenorors was made six months ago.

Request No. 8. All tape recordings of Lenny Vitullo, Taylor Horton or any other attorney in this case.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenorors in this action. Subject to and without waiving this objection, Clients have already produced these recordings to Intervenorors.

Request No. 9. Your executed settlement agreement with JPMorgan Chase.

Response: Clients object to this request because this dispute is subject to binding arbitration and Clients do not waive their position that the Court must compel arbitration of all claims asserted by Intervenor in this action. Clients object to this request on the basis that the documents requested are protected by confidentiality pursuant to the settlement agreement between Defendants and JPMorgan Chase Bank N.A. ("JPMorgan").

Conclusion

For those reasons set forth herein, the Clients request this Court to quash the Subpoenas, enter a protective order, sustain the objections herein and that the Clients have all other relief, at law or in equity, which the Clients may be entitled.

Respectfully submitted,

s/ James E. Pennington

James E. Pennington

State Bar No. 15758510

LAW OFFICES OF JAMES E. PENNINGTON, P.C.

900 Jackson Street, Suite 440

Dallas, Texas 75202-4473

Telephone: (214) 741-3022

Facsimile: (214) 741-3055

jep@jeplawyer.com

Attorneys for Defendants

Stephen B. Hopper and Laura S. Wassmer

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2018, the foregoing *Motion to Quash and for Protective Order* was filed using the e-filing system which will send notification of such filing to the following parties via email:

Brian P. Lauten

Brian Lauten, P.C.

3811 Turtle Creek Boulevard, Ste. 1450

Dallas, Texas 75219
blauten@brianlauten.com
Attorneys for Intervenor Fee Smith Sharp & Vitullo, LLP

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john@malesovas.com
Attorney for Intervenor, John Malesovas

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Jim L. Flegle
Kerry F. Schonwald
Loewinsohn Flegle Deary Simon LLP
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jimf@lfdslaw.com
kerrys@lfdslaw.com
Attorneys for Plaintiff Jo Hopper

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jlevinger@levingerpc.com
cccecere@cecerepc.com
Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

John C. Eichman
Grayson L. Linyard
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jeichman@hunton.com
glinyard@hunton.com
Attorneys for Defendant, JPMorgan Chase Bank, N.A., as Independent Administrator of the Estate of Max D. Hopper, Deceased, and JPMorgan Chase Bank, N.A., in its Corporate Capacity

Van H. Beckwith
Jessica B. Pulliam
Baker Botts L.L.P.

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Attorneys for Defendant, JPMorgan Chase Bank, N.A.

Evan A. Young
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evan.young@bakerbotts.com
Attorneys for Defendant, JPMorgan Chase Bank, N.A.

s/ James E. Pennington
James E. Pennington

EMHPC 4418
~~2018~~
~~4/18/18~~
4/18/18

Subpoena

THE STATE OF TEXAS

COUNTY OF TEXAS

To the sheriff, constable, or any person authorized to serve and execute subpoenas as provided in Rule 176, Texas Rules of Civil Procedure.

Greetings:

You are hereby commanded to subpoena and summon the following witness who may be served as follows:

JEFFREY S. LEVINGER

Levinger, P.C.
1445 Ross Avenue, Suite 2500
Dallas, TX 75202
(214) 855-6817

to appear before on, Tuesday, April 24, 2018, at 9:00 a.m., at the Dallas Probate Court No. 1, Dallas County, 1201 Elm Street, Suite 2400-A, Dallas, Texas 75207, to give testimony at Intervenor's application for a temporary injunction evidentiary hearing in Cause NO. PR-11-3238-1; *In re Estate of Max D. Hopper; Jo N. Hopper v. JPMorgan Chase Bank, et al*; Probate Court No. 1, Dallas County, Texas, to attend from day to day until lawfully discharged.

SAID ABOVE NAMED WITNESS IS FURTHER COMMANDED to produce at said time and place set forth above, the following books, papers, documents, or other tangible things, to-wit:

1. all documents reviewed by him to prepare to testify at this deposition.
2. All email, text, electronic, and paper communication between you and any attorney for JP Morgan Chase Bank, N.A. ("JPM") regarding the negotiation and consummation of the settlement between Dr. Stephen Hopper ("Hopper") and Laura Wassmer ("Wassmer") and JPM ("Settlement"), as well as all attachments to any such communication.
3. All email, text, electronic, and paper communication between you and Hopper or Wassmer prior to 10:09 am, April 5, 2018, as well as all attachments to any such communication.
4. All email, text, electronic, and paper communication between you and Jim Pennington regarding the Settlement prior to 10:09 am, April 5, 2018, as well as all attachments to any such communication.
5. All email, text, electronic, and paper communication between you and Steve Block, or his attorney, Robert Toby, regarding Hopper, Wassmer, Intervenor or this case.
6. Any tape recordings you have of Intervenor.

The said witness shall continue in attendance from day to day and time to time until discharged according to law. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued, and may be punished by fine or confinement, or both.

WITNESS MY HAND this the 16th day of April, 2018.

Respectfully submitted,



John L. Malesovas
MALESOVAS LAW FIRM
State Bar No. 12857300
1801 South Mopac Expressway, Suite 320
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Telecopier: (512) 708-1779
john@malesovas.com

ATTORNEY FOR INTERVENOR

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 16, 2018, in accordance with the Texas Rules of Civil Procedure to:

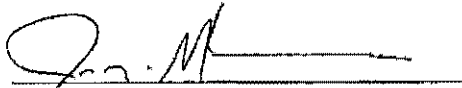
Brian P. Lauten
Brian Lauten, P.C.
3811 Turtle Creek Blvd., Suite 1450
Dallas, TX 75219
blauten@brianlauten.com
Attorneys for Intervenor, Fee Smith Sharp & Vitullo, L.L.P.

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Jim L. Flegle
Kerry F. Schonwald
Loewinsohn Flegle Deary Simon LLP
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214-572-1717 Facsimile
alanl@lfdslaw.com
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kerrys@lfdslaw.com
Attorneys for Plaintiff Jo Hopper

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Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

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Grayson L. Linyard
Hunton & Williams, LLP
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214-468-3599 Facsimile
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glinyard@hunton.com
*Attorneys for Defendant, JPMorgan Chase Bank, N.A.,
as Independent Administrator of the Estate of Max D. Hopper, Deceased,
and JPMorgan Chase Bank, N.A., in its Corporate Capacity*
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Attorneys for Defendant, JPMorgan Chase Bank, N.A.

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512-322-8306 Facsimile
evan.young@bakerbotts.com
Attorneys for Defendant, JPMorgan Chase Bank, N.A.


John L. Malesovas

OFFICER'S RETURN

Came to hand the _____ day of _____ A.D. 20____ at _____ o'clock _____ m., and
executed on the _____ day of _____ A.D. 20____ at _____ o'clock
____ m., by delivering to _____, the within
named witness, in person, a true copy of this Trial Subpoena and tendering him \$10.00 which he
accepted.

FEES:

Serving Subpoena	\$ _____
Mileage	\$ _____
TOTAL	\$ _____

_____ Process Server

_____ County, Texas

Subpoena

THE STATE OF TEXAS

COUNTY OF TEXAS

To the sheriff, constable, or any person authorized to serve and execute subpoenas as provided in Rule 176, Texas Rules of Civil Procedure.

Greetings:

You are hereby commanded to subpoena and summon the following witness who may be served as follows:

LAURA S. WASSMER

c/o James E. Pennington

Law Offices of James E. Pennington, P.C.

900 Jackson Street, Suite 440

Dallas, TX 75202

214-741-3022 (Telephone)

to appear before on, Tuesday, April 24, 2018, at 9:00 a.m., at the Dallas Probate Court No. 1, Dallas County, 1201 Elm Street, Suite 2400-A, Dallas, Texas 75207, to give testimony at Intervenor's application for a temporary injunction evidentiary hearing in Cause NO. PR-11-3238-1; *In re Estate of Max D. Hopper; Jo N. Hopper v. JPMorgan Chase Bank, et al*; Probate Court No. 1, Dallas County, Texas, to attend from day to day until lawfully discharged.

SAID ABOVE NAMED WITNESS IS FURTHER COMMANDED to produce at said time and place set forth above, the following books, papers, documents, or other tangible things, to-wit:

1. All emails and text messages between and among Laura Wassmer, Dr. Stephen Hopper, and/or anyone else including, but not limited to, Jim Pennington and Jeff Levinger (singularly, collectively, and/or disjunctively) regarding settlement of the claims with JPMorgan Chase, up and until the formation of the Rule 11 settlement agreement with JPMorgan Chase, up and until the time the Intervenor's were terminated as the attorneys of record for Ms. Wassmer and Dr. Hopper, which was approximately at 10:00 a.m. on April 5, 2018 – as set forth in Exhibit 3 to the TRO hearing.
2. All documents that support the accusations, allegations, and aspersions cast against Lenny Vitullo and his law firm, Fee, Smith, Sharp & Vitullo, as set forth in the April 5, 2018 termination letter, which was offered into evidence as Exhibit 3 at the TRO hearing.
3. All documents that support your position that the contingency agreements, which were admitted into evidence as Exhibits 1-2 at the TRO hearing are unenforceable – either in whole or in part.
4. Copies of all fee agreements that you have with Jeff Levinger, including all billing statements sent to you by Jeff Levinger – and all checks paid to Jeff Levinger; this request specifically includes, also, any and all collateral agreements reached with Jeff Levinger to

aid and abet your termination of Lenny Vitullo and any monies Mr. Levinger received or you have contracted to pay him for saving attorneys' fees that are due and owing to Mr. Vitullo et al., if any.

5. All documents that establish what you claim to be the dollar amount of attorney's fees in dispute, why there is a dispute, why the dispute was not raised until after a settlement was reached, and how those disputed amounts are quantified and the basis for you disputing what you plainly owe in the contingency contracts at issue.
6. All documents that support the dollar amount of what you claim you owe to Intervenors, if any, under the contingency agreements and all documents that show how that dollar amount was calculated.
7. All documents that show when you actually made the decision to terminate the Intervenors-- including but not limited to all correspondence with Jeff Levinger, which would establish that the decision was allegedly made six months ago, albeit the termination was not actually done until April 5, 2018.
8. All tape recordings of Lenny Vitullo, Taylor Horton or any other attorney in this case.
9. Your executed settlement agreement with JPMorgan Chase.

The said witness shall continue in attendance from day to day and time to time until discharged according to law. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued, and may be punished by fine or confinement, or both.

WITNESS MY HAND this the 17th day of April, 2018.

Respectfully submitted,



John L. Malesovas
MALESOVAS LAW FIRM
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Telephone: (512) 708-1777
Telecopier: (512) 708-1779
john@malesovas.com

ATTORNEY FOR INTERVENOR

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 17, 2018, in accordance with the Texas Rules of Civil Procedure to:

Brian P. Lauten
Brian Lauten, P.C.
3811 Turtle Creek Blvd., Suite 1450
Dallas, TX 75219
blauten@brianlauten.com
Attorneys for Intervenor, Fee Smith Sharp & Vitullo, L.L.P.

Alan S. Loewinsohn
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Kerry F. Schonwald
Loewinsohn Flegle Deary Simon LLP
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kerrys@lfdslaw.com
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Jep@Jeplawyer.com
Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

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J. Carl Cecere
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214-855-6808 Facsimile
jlevinger@levingerpc.com
ccecere@cecerepc.com
Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

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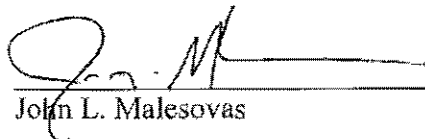
*Attorneys for Defendant, JPMorgan Chase Bank, N.A.,
as Independent Administrator of the Estate of Max D. Hopper, Deceased,
and JPMorgan Chase Bank, N.A., in its Corporate Capacity*

Van H. Beckwith
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Attorneys for Defendant, JPMorgan Chase Bank, N.A.

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evan.young@bakerbotts.com

Attorneys for Defendant, JPMorgan Chase Bank, N.A.


John L. Malesovas

OFFICER'S RETURN

Came to hand the _____ day of _____ A.D. 20____ at _____ o'clock _____.m., and
executed on the _____ day of _____ A.D. 20____ at _____ o'clock
____.m., by delivering to _____, the within
named witness, in person, a true copy of this Trial Subpoena and tendering him \$10.00 which he
accepted.

FEES:

Serving Subpoena	\$ _____
Mileage	\$ _____
TOTAL	\$ _____

_____ Process Server

_____ County, Texas

Subpoena

THE STATE OF TEXAS

COUNTY OF TEXAS

To the sheriff, constable, or any person authorized to serve and execute subpoenas as provided in Rule 176, Texas Rules of Civil Procedure.

Greetings:

You are hereby commanded to subpoena and summon the following witness who may be served as follows:

STEPHEN B. HOPPER

c/o James E. Pennington
Law Offices of James E. Pennington, P.C.
900 Jackson Street, Suite 440
Dallas, TX 75202
214-741-3022 (Telephone)

to appear before on, Tuesday, April 24, 2018, at 9:00 a.m., at the Dallas Probate Court No. 1, Dallas County, 1201 Elm Street, Suite 2400-A, Dallas, Texas 75207, to give testimony at Intervenor's application for a temporary injunction evidentiary hearing in Cause NO. PR-11-3238-1; *In re Estate of Max D. Hopper; Jo N. Hopper v. JPMorgan Chase Bank, et al*; Probate Court No. 1, Dallas County, Texas, to attend from day to day until lawfully discharged.

SAID ABOVE NAMED WITNESS IS FURTHER COMMANDED to produce at said time and place set forth above, the following books, papers, documents, or other tangible things, to-wit:

1. All emails and text messages between and among Laura Wassmer, Dr. Stephen Hopper, and/or anyone else including, but not limited to, Jim Pennington and Jeff Levinger (singularly, collectively, and/or disjunctively) regarding settlement of the claims with JPMorgan Chase, up and until the formation of the Rule 11 settlement agreement with JPMorgan Chase, up and until the time the Intervenor's were terminated as the attorneys of record for Ms. Wassmer and Dr. Hopper, which was approximately at 10:00 a.m. on April 5, 2018 – as set forth in Exhibit 3 to the TRO hearing.
2. All documents that support the accusations, allegations, and aspersions cast against Lenny Vitullo and his law firm, Fee, Smith, Sharp & Vitullo, as set forth in the April 5, 2018 termination letter, which was offered into evidence as Exhibit 3 at the TRO hearing.
3. All documents that support your position that the contingency agreements, which were admitted into evidence as Exhibits 1-2 at the TRO hearing are unenforceable – either in whole or in part.
4. Copies of all fee agreements that you have with Jeff Levinger, including all billing statements sent to you by Jeff Levinger – and all checks paid to Jeff Levinger; this request specifically includes, also, any and all collateral agreements reached with Jeff Levinger to

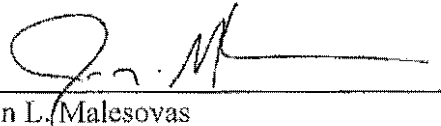
aid and abet your termination of Lenny Vitullo and any monies Mr. Levinger received or you have contracted to pay him for saving attorneys' fees that are due and owing to Mr. Vitullo et al., if any.

5. All documents that establish what you claim to be the dollar amount of attorney's fees in dispute, why there is a dispute, why the dispute was not raised until after a settlement was reached, and how those disputed amounts are quantified and the basis for you disputing what you plainly owe in the contingency contracts at issue.
6. All documents that support the dollar amount of what you claim you owe to Intervenor, if any, under the contingency agreements and all documents that show how that dollar amount was calculated.
7. All documents that show when you actually made the decision to terminate the Intervenor – including but not limited to all correspondence with Jeff Levinger, which would establish that the decision was allegedly made six months ago, albeit the termination was not actually done until April 5, 2018.
8. All tape recordings of Lenny Vitullo, Taylor Horton or any other attorney in this case.
9. Your executed settlement agreement with JPMorgan Chase.

The said witness shall continue in attendance from day to day and time to time until discharged according to law. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued, and may be punished by fine or confinement, or both.

WITNESS MY HAND this the 17th day of April, 2018.

Respectfully submitted,



John L. Malesovas
MALESOVAS LAW FIRM
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Austin, TX 78746
Telephone: (512) 708-1777
Telecopier: (512) 708-1779
john@malesovas.com

ATTORNEY FOR INTERVENOR

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 17, 2018, in accordance with the Texas Rules of Civil Procedure to:

Brian P. Lauten
Brian Lauten, P.C.
3811 Turtle Creek Blvd., Suite 1450
Dallas, TX 75219
blauten@brianlauten.com
Attorneys for Intervenor, Fee Smith Sharp & Vitullo, L.L.P.

Alan S. Loewinsohn
Jim L. Flegle
Kerry F. Schonwald
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kerrys@lfdslaw.com
Attorneys for Plaintiff Jo Hopper

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jep@Jeplawyer.com
Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

Jeffrey S. Levinger
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Levinger PC
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jlevinger@levingerpc.com
ccecere@cecerepc.com
Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

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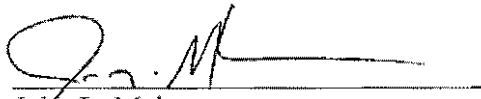
*Attorneys for Defendant, JPMorgan Chase Bank, N.A.,
as Independent Administrator of the Estate of Max D. Hopper, Deceased,
and JPMorgan Chase Bank, N.A., in its Corporate Capacity*

Van H. Beckwith
Jessica B. Pulliam
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Evan A. Young
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evan.young@bakerbotts.com

Attorneys for Defendant, JPMorgan Chase Bank, N.A.


John L. Malesovas

OFFICER'S RETURN

Came to hand the _____ day of _____ A.D. 20____ at _____ o'clock _____.m., and
executed on the _____ day of _____ A.D. 20____ at _____ o'clock
____.m., by delivering to _____, the within
named witness, in person, a true copy of this Trial Subpoena and tendering him \$10.00 which he
accepted.

FEES:

Serving Subpoena	\$ _____
Mileage	\$ _____
TOTAL	\$ _____

_____ Process Server
_____ County, Texas

CAUSE NO. PR-11-03238-1

**IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED**

JO N. HOPPER

Plaintiff,

v.

**JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER**

Defendants.

**JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP**

Intervenors,

**STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,**

Defendants.

IN THE PROBATE COURT

NO. 1

DALLAS COUNTY, TEXAS

AMENDED NOTICE OF HEARING ON MOTION TO COMPEL ARBITRATION

Please take notice that the hearing on Intervention Defendants' Motion to Compel Arbitration has been re-scheduled for Monday, April 30, 2018, at 10:00 a.m., before the Honorable Judge Brenda Hull Thompson in Probate Court No. 1, Dallas County, Texas.

Respectfully submitted,

s/ Anne M. Johnson

James E. Pennington
State Bar No. 15758510
LAW OFFICES OF JAMES E. PENNINGTON, P.C.
900 Jackson Street, Suite 440
Dallas, Texas 75202-4473
Telephone: (214) 741-3022
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Anne M. Johnson
State Bar No. 00794271
Andrew W. Guthrie
State Bar No. 24078606
HAYNES AND BOONE LLP
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anne.johnson@haynesboone.com
andrew.guthrie@haynesboone.com

Attorneys for Defendants
Stephen B. Hopper and Laura S. Wassmer

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of April, 2018, the foregoing *Amended Notice of Hearing on Motion to Compel Arbitration* was filed using the e-filing system which will send notification of such filing to the following parties via email:

Brian P. Lauten
Brian Lauten, P.C.
3811 Turtle Creek Boulevard, Ste. 1450
Dallas, Texas 75219
blauten@brianlauten.com
Attorneys for Intervenor Fee Smith Sharp & Vitullo, LLP

John L. Malesovas
Malesovas Law Firm
State Bar No. 12857300
1801 South Mopac Expressway, Suite 320
Austin, TX 78746
john@malesovas.com
Attorney for Intervenor, John Malesovas

Alan S. Loewinsohn
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12377 Merit Dr., Suite 900
Dallas, Texas 75251
alanl@lfdslaw.com
jimf@lfdslaw.com
kerrys@lfdslaw.com
Attorneys for Plaintiff Jo Hopper

Jeffrey S. Levinger
J. Carl Cecere
Levinger PC
1445 Ross Avenue, Suite 2500
Dallas, TX 75202
jlevinger@levingerpc.com
ccecere@cecerepc.com
Attorneys for Defendants, Stephen B. Hopper and Laura S. Wassmer

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s/ Anne M. Johnson
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CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER, §
DECEASED, §

IN THE PROBATE COURT

JO N. HOPPER, §

Intervenor, §

v. §

NO. 1

JPMORGAN CHASE BANK, N.A., §
STEPHEN B. HOPPER, and LAURA §
S. WASSMER, §

Defendants. §

OF DALLAS COUNTY, TEXAS

JOHN L. MALESOVAS, d/b/a §
MALESOVAS LAW FIRM, and §
FEE, SMITH, SHARP & VITULLO, LLP §

Intervenors, §

v. §

STEPHEN B. HOPPER, LAURA S. §
WASSMER, individually and as §
Beneficiaries of the ESTATE OF §
MAX D. HOPPER, DECEASED, §
the ESTATE OF MAX D. HOPPER, §
DECEASED, JPMORGAN CHASE §
BANK, N.A., §

Defendants. §

TEMPORARY INJUNCTION ORDER

Came to be heard on the 24TH day of April 2018, after appropriate notice to the parties and after the parties presented arguments, Fee Smith Sharp & Vitullo, LLP and John L. Malesovas d/b/a Malesovas Law Firm's (collectively, "Intervenors") *Verified Petition(s) in Intervention, Application for Temporary Restraining Order, Temporary Injunction, and Application for Declaratory Relief* against, *inter alia*, Stephen Hopper and



Laura Wassmer, individually and as beneficiaries of the Estate of Max D. Hopper, deceased, (hereinafter jointly "Clients") and JPMorgan Chase Bank, N.A. (hereinafter "JPM") (Clients and JPM hereinafter jointly, "Defendants" with respect to the claims now pending in this Intervention).

The Court, after considering the *Intervenors' Collective Verified Original Petition in Intervention, Application for Temporary Restraining Order, Temporary Injunction, and Application for Declaratory Relief*, the evidence submitted by Intervenors *in camera*, the relevant exhibits, the arguments of counsel, concludes that—unless immediately restrained, Defendants will irreparably injure Intervenors.

This Court has subject matter jurisdiction over the dispute brought before it under both, TEX. ESTATES CODE ANN. § 32.007 et seq. (Vernon 2014), and, TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014) (authorizing declaratory judgment actions in probate court when such relief is germane to an Estate).

Intervenors respective Pleas and application for Injunctive Relief are timely filed, given that this Court has yet to sign a judgment; and, therefore, retains plenary power over this proceeding. See TEX. R. CIV. P. 60 et seq.

This Court has, preliminarily, taken judicial notice, pursuant to Rule 201 of the Texas Rules of Evidence, of the following facts that, in reasonable probability, appear to be true at this preliminary stage of the proceeding:

- 1.) In, around, or about November of 2015, Clients executed a valid and enforceable contingency agreement ("CA") with Intervenors;
- 2.) On or about April 5, 2018, attorneys for Clients and JPM appeared before this Court and announced, without revealing any of the substantive terms, that a confidential settlement had been reached between them in the underlying dispute pending in this Court (hereinafter "Settlement");
- 3.) On or about the same day, April 5, 2018, but—literally what appears to have been within minutes after the Court was informed that a settlement had been reached by the parties in this underlying dispute—Clients terminated their CA with Intervenors by and through their attorney, James Pennington;

- 4.) Intervenors have filed what, by all accounts, appears to be a valid and enforceable First Party Attorney's Fees Lien in the proceeds of the Settlement;
- 5.) Intervenors fully performed; or, at the very least, substantially and materially performed all of their duties, responsibilities, and obligations under the CA at or before the time Clients terminated the CA—as those legal terms are meant in, *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 360-61 (Tex. App.—Dallas 2018, no pet.), *Enochs v. Brown*, 872 S.W.2d 312, 317 (Tex. App.—Austin 1994, no writ), *disapproved of on unrelated grounds*, by *Roberts v. Williamson*, 111 S.W.3d 113 (Tex. 2003), and *Mandell & Wright*, 441 S.W.2d 841, 847 (Tex. 1969); and
- 6.) Given the timing of the termination of Intervenors, Clients are estopped, quasi-estopped, and/or have waived any and all defenses, if any, that could or would be lodged to the CA or the quality of the legal services performed by Intervenors.

The Court finds that Clients have admitted that some of the settlement funds belong to Intervenors, but Clients refuse to identify the amount that belongs to Intervenors and refuse to allow the undisputed amount that belongs to Intervenors to be paid to Intervenors. Based on this, as well as the Court's findings above, Intervenors are entitled to immediate payment of a portion of the settlement funds once they become due and payable under the terms of the settlement. The Court finds that within hours after the Court heard Intervenors' Application for a Temporary Restraining Order where Intervenors were asking this Court to protect the settlement funds in dispute pending the outcome of their Petition in Intervention and after the Court took the matter under advisement, Clients executed a settlement agreement with JPM which required JPM to wire transfer the settlement funds to any location designated by Clients, which would necessarily include a foreign bank account, and further required Intervenors to waive their lien on the settlement funds and to withdraw their Petition in Intervention claiming an interest in the settlement funds, and that Clients still refused to pay

Intervenors any of the settlement funds. The Court finds that this action by Clients was designed to attempt to circumvent this Court's inherent power to protect the disputed funds and to circumvent Intervenors' lien on the Settlement funds.

The Court finds that based on all of the foregoing and all of the other evidence and stipulations presented, the settlement funds are in danger of being lost or depleted unless this Court exercises its inherent power to protect the settlement funds pending the outcome of Intervenors' Petition in Intervention.

Based upon these preliminary findings, this Court is of the opinion that Intervenors have established a probability of success on the merits on their application for, *inter alia*, declaratory relief. See TEX. CIV. PRAC. & REM. CODE § 37.004 et seq. (Vernon 2014). This Court is of the opinion that, unless restrained, one or more Defendants are likely to cause permanent damage to Intervenors, should they be allowed to transfer, hypothecate, assign, or take title to Intervenors' interest in the settlement proceeds before the pleas in Intervention are adjudicated on the merits. Such harm would be irreparable and injury would be imminent because this Court is of the opinion that there is no showing; or, in the alternative, an inadequate showing that Defendants could timely and immediately pay the disputed funds to Intervenors, should Intervenors ultimately prevail in this proceeding, and because Intervenors have a security interest in and lien upon a portion of the settlement proceeds which would be eviscerated by allowing Clients to dispose of 100% of the settlement proceeds as they saw fit and/or by risk that such funds will be lost or depleted or otherwise disposed of. Moreover, given the Court's preliminary findings set forth above in (i)-(vi), Intervenors have established a property right and secured interest in the proceeds at issue, and the loss of such funds and property right would leave Intervenors with no adequate remedy at law.

The Court is, **THEREFORE**, of the opinion that Intervenors are entitled to the issuance of an Order of Temporary Injunction and that such an Order is necessary to protect Intervenors' rights. This **ORDER** is necessary because of the immediate need to enforce the security interest and lien which Intervenors have in a portion of the settlement proceeds and to stop the wrongful flow of funds in the near future from being disseminated to either Clients or their attorneys, or some other third party subject to

Clients' direction and control, upon which Intervenor's would have no adequate remedy at law. Without intervention by this Court, Intervenor's property right, that is Intervenor's security interest in and lien upon the settlement proceeds, would be destroyed and there would be no way to restore that property right in the Settlement proceeds themselves.

It is therefore **ORDERED, ADJUDGED, and DECREED** that Defendants, Stephen Hopper, Laura Wassmer, and JPMorgan Chase, N.A., and any of his, her, their, or its agents, servants, employees, successors, assigns and those persons in active concert or participation therewith, must:

- 1) Deposit all of the settlement proceeds due to Stephen B. Hopper and Laura S. Wassmer, individually and as beneficiaries of the Estate of Max Hopper, Deceased, into a safekeeping account with JPMorgan Chase Bank, NA, to be treated as a deposit in the registry of the Court, and to be held in trust until further order of this Court. Funds in this safekeeping account shall be withdrawn only upon Order of this Court;
- 2) The parties are **ORDERED** to preserve and prevent the destruction of all documents, including electronic data, emails, and notes, that relate in any way to the matters and claims set forth in the Intervenor's respective Pleas on file—and, moreover, all electronic storage devices must be imaged and preserved.

IT IS FURTHER ORDERED that the \$10,000 corporate or surety cash bond currently deposited with the appropriate clerk of this Court shall remain in place.

IT IS FURTHER ORDERED that trial in this matter is set for

BAT October 1, 2018 at 9:30 o'clock a.m. *All Parties are Ordered to appear for a scheduling conference on or before June 15, 2018.*
Signed and issued this the 24th day of April 2018, at 2:05 o'clock p.m. 2018,

[Signature]
JUDGE PRESIDING

CAUSE NO. PR-11-03238-1

IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

IN THE PROBATE COURT

NO. 1

DALLAS COUNTY, TEXAS

**SECOND AMENDED NOTICE OF HEARING ON
MOTION TO COMPEL ARBITRATION**

Please take notice that the hearing on Intervention Defendants' Motion to Compel Arbitration has been re-scheduled for Tuesday, May 8, 2018, at 4:00 p.m., before the Honorable Judge Brenda Hull Thompson in Probate Court No. 1, Dallas County, Texas.

Respectfully submitted,

s/ Anne M. Johnson

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Stephen B. Hopper and Laura S. Wassmer

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2018, the foregoing *Second Amended Notice of Hearing on Motion to Compel Arbitration* was filed using the e-filing system which will send notification of such filing to the following parties via email:

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s/ Anne M. Johnson
Anne M. Johnson

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served on all counsel of record on April 26, 2018, in accordance with the Texas Rules of Civil Procedure to:

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CAUSE NO. PR-11-3238-1

JOHN L. MALESOVAS, d/b/a	§	IN THE PROBATE COURT
MALESOVAS LAW FIRM, and	§	
FEE, SMITH, SHARP & VITULLO, LLP	§	
	§	
Intervenors,	§	
	§	
v.	§	NO. 1
	§	
STEPHEN B. HOPPER, LAURA S.	§	
WASSMER, individually and as	§	
Beneficiaries of the ESTATE OF	§	
MAX D. HOPPER, DECEASED,	§	
the ESTATE OF MAX D. HOPPER,	§	
DECEASED, JPMORGAN CHASE	§	
BANK, N.A.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**JOHN L. MALESOVAS, d/b/a MALESOVAS LAW FIRM AND FEE, SMITH,
SHARP & VITULLO, LLP's CONSOLIDATED SECOND AMENDED PETITION IN
INTERVENTION, APPLICATION FOR DECLARATORY JUDGMENT,
TEMPORARY & PERMANENT INJUNCTION**

COMES NOW, John L. Malesovas, d/b/a Malesovas Law Firm ("MLF") and Fee, Smith, Sharp & Vitullo, LLP ("FSSV") (MLF and FSSV, collectively "Attorneys"), and files this Second Amended Petition in Intervention, Application for Declaratory Judgment, Temporary and Permanent Injunction complaining of Defendants, Stephen B. Hopper ("Hopper"), Laura S. Wassmer ("Wassmer"), individually and as beneficiaries of the Estate of Max D. Hopper (collectively "Clients"), the Estate of Max D. Hopper, deceased and JPMorgan Chase Bank, N.A. ("JPM"), and for cause would show the following:

**I.
DISCOVERY CONTROL PLAN**

1.01 Intervenors requests this lawsuit proceed under a Level 3 Discovery Control Plan pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

II. PARTIES

2.01 John L. Malesovas is an attorney licensed to practice law in the State of Texas and doing business as Malesovas Law Firm.

2.02 FSSV is a limited liability partnership and law firm and doing business as Fee, Smith, Sharp & Vitullo, LLP.

2.03 Hopper, individually and as a beneficiary of the Estate of Max D. Hopper, deceased, was a former client of Attorneys and is being served herewith pursuant to TRCP 21a.

2.04 Wassmer, individually and as a beneficiary of the Estate of Max D. Hopper, deceased, was a former client of Attorneys and is being served herewith pursuant to TRCP 21a. Hopper and Wassmer are hereinafter jointly referred to as "Clients".

2.05 The Estate of Max D. Hopper is an estate in administration under the jurisdiction of this Court, and Clients have asserted claims herein on behalf of the Estate as the beneficiaries of the Estate.

2.06 JPM is also a Defendant in the underlying case and an interested party to this Petition in Intervention and is being served herewith pursuant to TRCP 21a.

III. JURISDICTION AND VENUE

3.01 Venue is proper in Dallas County, Texas pursuant to §15.002(a)(1), Tex. Civ. Prac. & Rem. Code, as Dallas County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred and because venue is proper in the underlying action. This Court has exclusive jurisdiction to adjudicate this

dispute because Intervenor has a secured and fully vested property interest and property right in the settlement proceeds at issue, which are "incident" to the Estate of Max D. Hopper—and JPM is the Independent Administrator of said Estate (and JPM is in exclusive possession of the disputed funds). See TEX. ESTATES CODE ANN. § 32.007 et seq. (Vernon 2014), and, TEX. CIV. PRAC. & REM. CODE § 37.005 et seq. (Vernon 2014) (authorizing declaratory judgment actions in probate court when such relief is germane to an estate). To the extent that the Estate of Max D. Hopper is a party to the settlement with JPM or to the extent that beneficiaries of the Estate of Max D. Hopper are parties to the settlement with JPM, then this Court and only this Court has exclusive jurisdiction over this matter.

IV. FACTS

4.01 Attorneys represented Clients pursuant to a valid and enforceable contingency fee agreement in the underlying lawsuit pending in this Court. A true and correct copy of the contingent fee agreement was admitted into evidence at the Temporary Injunction hearing (hereinafter, "Agreement"). Intervenor fully performed under the terms of the Agreement. On April 3-4, 2018, Clients' Appellate Counsel, Jeff Levinger, settled Clients' claims against JPM. Clients, through Levinger, caused to be filed a Rule 11 agreement memorializing the fact that a confidential settlement had been reached between Clients on the one hand and JPM on the other hand ("Settlement"). At approximately 9:05 a.m. on April 5, 2018, Anthony L. Vitullo appeared before this Court on Clients' behalf and announced in open court that a confidential settlement had been reached between Clients and JPM. At approximately 10:10 a.m. on April 5, 2018, Clients' attorney, Jim Pennington, terminated Attorneys without cause and advised

Attorneys that Clients would not compensate Attorneys in accordance with the Agreement. Pennington also advised Attorneys that he was going to instruct Levinger to retain an unspecified percentage of the Settlement proceeds in his trust account. On April 6, 2018, FSSV withdrew from representing Clients in the underlying lawsuit. Attorneys own a secured and fully vested property right in the Settlement proceeds (up to the very limits of their contingency interest as set forth in the Agreement). Counsel for Clients and JPM, the latter is the current holder of the Settlement proceeds, have refused to tender any funds directly to the Attorneys, given the pendency of the dispute at hand. Attorneys filed, *inter alia*, a Petition in Intervention to enforce their property rights in the Settlement proceeds. The Court granted Attorneys' request for a TRO and a Temporary Injunction has since been issued.

4.02 Attorneys have a justiciable interest in the pending suit because the disposition of the Settlement proceeds will impact their property rights. This lawsuit is a declaratory judgment action against Clients and JPM to enforce Attorneys' fully vested and secured property rights. As such, pursuant to *Texas Mut. Ins. Co. v. Ledbetter*, 251 S.W.3d 31 (2008), Attorneys are first party, secured lienholders in the Settlement proceeds of this case, and have an absolute right to intervene. Thus, Attorneys seek a declaration from this Court pursuant to TEX. CIV. PRAC. & REM CODE § 37.001 et. seq. (Vernon 2014), confirming Attorneys' security and property interest in the Settlement proceeds and, ultimately, an order directing JPM and Clients to pay such interest directly to Attorneys.

4.03 Attorneys fully performed under the Agreement and obtained a favorable jury verdict on Clients' behalf. Consequently, Clients were able to later secure a

confidential settlement with JPM. Only after Clients, through their appellate attorney, Jeff Levinger, unilaterally settled with JPM—did Clients terminate Attorneys. Clients accepted, used, and enjoyed the services of Attorneys which resulted in the Settlement—the services were valuable and Clients obtained a benefit. In accordance with *Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356 (Tex. App.—Dallas 2001, pet. denied), and *Enochs v. Brown*, 872 S.W.2d 312 (Tex. App. – Austin 1994, no writ), Clients are estopped and, at the very least, quasi-estopped from challenging the validity of the Agreement and the fee due and owing to Attorneys thereunder and the property rights Attorneys have to the Settlement proceeds, which are currently being held by JPM. Moreover, consistent with *Tillery* and *Enochs*, Clients have waived each and every defense, if any, that could otherwise be lodged to the validity of the Agreement, given that Attorneys were terminated only *after* the legal services were accepted, used, and enjoyed by Clients, resulting in a demonstrable benefit to Clients. Further, it would be unconscionable for Clients to be permitted to avoid paying the fees owed, given that Clients have already accepted the benefits of the Attorneys' legal services that were provided under the Agreement. Indeed, by accepting the benefits of the legal services provided under the Agreement, Clients have waived any right to complain about either the quality of those services or the fees that are due and owing as a consequence of those services having been fully provided. Accordingly, Attorneys seek a declaration defining the breadth and scope of their fully secured and vested property rights in the settlement; and, once those rights are declared, an order of disbursement of fees owing to Attorneys consistent with the Court's award of declaratory relief.

4.04 In addition, Attorneys seek the recovery of their attorneys' fees pursuant to TEX. CIV. PRAC. & REM CODE § 37.009 (Vernon 2014)—in enforcing their lien and property rights herein. All conditions precedent to Attorneys' claim for relief have been fully performed, have occurred, accrued, or have been waived.

V.
APPLICATION FOR DECLARATORY RELIEF
UNDER SECTION 37.001

5.01 Attorneys incorporate all of the preceding paragraphs as if they were set forth in their entirety herein.

5.02 Attorneys seek a declaratory judgment pursuant to the TEXAS UNIFORM DECLARATORY JUDGMENT ACT ("UDJA"), TEXAS CIVIL PRACTICE & REMEDIES CODE § 37.001 et seq. (Vernon 2014). An actual and justiciable controversy exists and has arisen between Attorneys, Clients, and JPM. Attorneys seek declaratory relief, a disbursement order, and a judgment against Clients and JPM pursuant to the UDJA declaring the rights, status, and other legal relations of Attorneys *vis a vis* these parties regarding the payment of Attorneys' fees from the Settlement proceeds. Because the Estate is a party to the Settlement, this Honorable Court has exclusive jurisdiction to declare and formally adjudicate Attorneys' ownership rights in the Settlement proceeds.

5.03 Attorneys are entitled to a declaration as follows:

- a. Attorneys own a secured and fully vested property right in the Settlement proceeds currently held by JPM;
- b. Attorneys are entitled to immediate possession of their property rights in the Settlement proceeds currently held by JPM;
- c. This Court has exclusive jurisdiction to declare the rights of the parties to the Settlement proceeds currently held by JPM;
- d. Attorneys are entitled to the full and exclusive use, possession and

enjoyment of their interest in the Settlement proceeds currently held by JPM;

- e. It is in the best interest of the Estate to pay Attorneys their interest in the Settlement proceeds currently held by JPM; and
- f. Clients and JPM be directed to pay Attorneys their fees from the Settlement proceeds currently held by JPM directly to Attorneys.

5.04 Attorneys also seek all legal fees and expenses from Clients and JPM as allowed under the UDJA as this would be fair and equitable given the facts and circumstances of this dispute.

VI. TEMPORARY AND PERMANENT INJUNCTION

6.01 Attorneys seek a permanent injunction. Attorneys have shown a probability of success on the merits because Attorneys have a fully vested and secured property interest in the settlement proceeds. Attorneys fully performed their obligations under the Agreement. Attorneys have a fully vested and secured property interest in the Settlement proceeds and Clients have informed Attorneys that they do not intend to pay or honor Attorneys' interest in the Settlement proceeds—either in whole or in part.

6.02 Unless this Honorable Court immediately restrains Clients and JPM from diverting the Settlement proceeds, the Attorneys will suffer immediate and irreparable injury, for which there is no adequate remedy at law, because in effect, Attorneys will have lost the protection of their security interest in the Settlement proceeds. Moreover, neither of the Defendants are bonded and Clients have established a pattern and practice of terminating their lawyers and refusing to pay their lawyers—either in whole or in part. Attorneys have a first party, secured lien on and fully vested security interest in the Settlement proceeds, the purpose of which is to prevent Clients from taking all of

the Settlement proceeds and unilaterally controlling their use and disposition—to the detriment of Attorneys, who are entitled to be compensated for their services rendered (and their legal expenses advanced and paid on Clients' behalf). Based on the record before this Court, Attorneys have established and will further show on final disposition:

- a) The harm to Attorneys is imminent because Clients and JPM may attempt, if not restrained, to have Attorneys' interest in the Settlement proceeds paid to Clients' attorney, Jeff Levinger.
- b) This imminent harm will cause Attorneys irreparable injury; in that, once Defendants pay the Settlement proceeds to Jeff Levinger, Attorneys will not be able to enforce their lien and security interest because Levinger will be obligated to hold the funds in his trust account, interest free, until the ownership of the fees is resolved. On the contrary, Rule 1.14 et seq. of the Texas Rules of Professional Conduct do not require, nor do they even allow, Clients' attorney to take possession of the Settlement proceeds, over Attorneys' objections, because Attorneys have a fully vested and secured ownership and property right in the Settlement proceeds at issue. To the contrary, Attorneys' first party lien and security interest allow them to take possession of their portion of the Settlement proceeds as duly authorized by the Agreement executed between Clients and Attorneys. Thus, unless a permanent injunction issues, Attorney's lien and security interest in the Settlement proceeds will be eviscerated. In addition, Attorneys' interest in the Settlement proceeds will not be protected from unauthorized distributions, conversion, or bank failure.
- c) There is no adequate remedy at law which will enforce Attorneys' lien and security interest absent action from this Court. Indeed, Clients are not bonded and there has been no showing that Clients could respond and, in fact, pay money damages in the amounts due and owing should they prematurely take possession of the

funds and disburse those funds beyond the jurisdiction of this Court. Clients will simply be unable to respond in—whole or in part—in damages upon final trial from this intervention unless Attorneys' interest in the Settlement proceeds is protected by this Court.

VII.
**BOND HAS BEEN POSTED/
WRITS HAVE BEEN ISSUED, FILED,
AND DULY SERVED**

7.01 Attorneys have posted a reasonable bond in accordance with this Court's order granting a temporary injunction and the appropriate writs have been issued, duly filed, and served on the parties' attorneys of record in accordance with Rule 21a.

VIII.
RELIEF REQUESTED

8.01 Attorneys have obtained a temporary injunction and an order requiring the funds to be deposited with JPM under the exclusive control of this Court, which Attorneys request remain in place and are not waived by this pleading.

8.02 Attorneys request the Court to issue a permanent injunction, consistent with the Court's temporary injunction previously granted, authorizing the following relief, to-wit:

8.02.1 Restraining Clients from taking any action to transfer, liquidate, convert, encumber, pledge, loan, share, sale, market for sale, conceal, hide, secret, dissipate, deplete, neglect, misuse, damage and/or destroy, lease, assign, granting a lien, security interest, or other interest in, allow the use of, or otherwise dispose of any and all part of Attorneys' interest in the Settlement proceeds;

8.02.2 Ordering that Defendants and any of his, her, their, or its agents, servants, employees, successors, assigns and those persons in active concert or participation therewith, must:

1. Deposit into the registry of this Court the portion of Attorneys' interest in the Settlement proceeds which Clients contend they do not owe Attorneys under the Agreement, which shall remain on deposit in the registry until further Order of the Court, when such funds become available and are ripe for distribution from JPM to the underlying Plaintiffs in satisfaction of the confidential settlement agreement reached herein;

2. Pay directly to Attorneys the portion of Attorneys' interest in the Settlement proceeds which Clients do not dispute to be due and owing from the Settlement proceeds immediately when those funds become available under the terms of the Settlement; and

3. Upon final trial and declaration, that the Court enter a disbursement order causing payment to be directed to Attorneys for their legal services rendered in accordance with the Agreement.

8.03 After a final trial on the merits, the Court should immediately disburse all funds due and owing to Attorneys consistent with their ownership rights, as reflected in the Agreement.

IX.

ALTERNATIVELY, UNDER RULE 48, ATTORNEYS MOVE THE COURT FOR AN ORDER REQUIRING THE DISPUTED FUNDS TO BE DEPOSITED INTO THE REGISTRY PENDING A FINAL DISPOSITION ON THE MERITS (WHICH IS A NON-APPEALABLE ORDER

9.01 Under Rule 48, Attorneys plead in the alternative that this court has the inherent power to order that disputed funds be deposited in the registry of the court. See *Prodeco Exploration, Inc. v. Ware*, 684 S.W.2d 199, 201 (Tex. Civ. App.—Houston [1st Dist.] 1984, no writ) ("The trial court has the inherent authority to direct [a party] to deposit disputed funds into the registry of the court pending the outcome of the litigation."); see also *Castilleja v. Camero*, 414 S.W.2d 431, 433 (Tex. 1967). In

addition, in order to secure an order directing a party to deposit disputed funds in the registry of the Court, a party does *not* have to satisfy the prerequisite for securing a temporary injunction. *Diana River & Assocs., P.C. v. Calvillo*, 986 S.W.2d 795, 797-798 (Tex. App.—Corpus Christi 1999, no pet.) (citing *McQuadev. E.D. Sys. Corp.*, 570 S.W.2d 33, 35 (Tex. Civ. App.—Dallas 1978, no writ)). Orders to deposit money into the registry of the court cannot be characterized as temporary injunctions and are non-appealable. *Prodeco*, 684 S.W.2d at 201; *Alpha Petroleum Co. v. Dunn*, 60 S.W.2d 469, 471 (Tex. Civ. App.—Galveston 1933, writ dism'd).

9.02 Clients have filed a pleading in response to Attorneys' Intervention wherein Clients admit that there are disputed funds from the Settlement proceeds. But Clients do not identify the amount of the disputed portion of the Settlement proceeds. Clients suggest that this unidentified amount of funds be kept in their possession, through their attorney, Jeff Levinger, pending the outcome of this dispute. Distilled to its essence, Clients want exclusive control to all of the disputed funds without oversight from this Court and without even identifying the amount they would claim is in dispute. That is obviously unacceptable to Attorneys to let the fox guard the hen house pending the outcome of this matter—and Clients' proposal is inconsistent with Attorney's vested and fully secured property rights in the Settlement proceeds at issue.

9.03 Accordingly, pursuant to this Court's inherent power, Attorneys move this Court, in the alternative under Rule 48, to order that all of the Settlement proceeds be deposited into the registry of this Court (or any other independent escrow account agreed to by the parties that is subject to the jurisdiction of the Court) pending the adjudication of Attorneys' application for a permanent injunction.

WHEREFORE, PREMISES CONSIDERED, Intervenor Attorneys respectfully request a declaratory judgment, a permanent injunction, a disbursement order for their share of the settlement proceeds upon which they are entitled, an award of attorney's fees, and for all such further relief, whether in law or in equity, to which they may show themselves justly entitled.

Respectfully Submitted,

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A handwritten signature in black ink, appearing to read 'BP Lauten', with a stylized flourish at the end.

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The Confidential Settlement Agreement includes certain conditions precedent to any obligation on the part of JPMorgan to make any settlement payment. Specifically, JPMorgan only becomes obligated to pay the confidential "Settlement Amount"

[w]ithin 10 business days following (i) the execution of this Agreement by all Parties, (ii) *the delivery to JPMorgan of the documents required by Section 2(b)*, and (iii) the delivery to JPMorgan of (x) a completed W9 and (y) wire transfer instructions, on the letterhead of the account owner, of such account or accounts as the Heirs may designate

Section 2(b) requires the following before any payment obligation on JPMorgan's part comes due:

JPMorgan's obligation to pay the Settlement Amount is subject to the Heirs' prior satisfaction and removal of all Attorneys' Liens that have been or may be filed or asserted prior to the date of JPMorgan's obligation to pay the Settlement Amount, including but not limited to the liens asserted and petitions in intervention already filed by Fee, Smith, Sharp & Vitullo, LLP and John L. Malesovas d/b/a Malesovas Law Firm. For purposes of this Section, the Heirs "satisfaction and removal" shall mean that the Heirs have delivered to JPMorgan (i) written waivers as to JPMorgan only, signed by all attorneys who have asserted liens and (ii) to the extent such attorneys have filed actions in any court or petitions to intervene in the Action, documents evidencing that such actions or petitions have been withdrawn or an order from a court or arbitrator permitting JPMorgan to pay the Settlement Amount to the Account(s) and no conflicting order of another court or arbitrator shall be in effect precluding such payment.¹

Because those conditions precedent have not been fully satisfied, JPMorgan has no current obligation to make any Settlement Payment. Thus, until satisfaction and removal of any liens as to JPMorgan only and dismissal of any associated petition in intervention as to JPMorgan only, whether by agreement or Court or arbitration order, no Settlement Payment is due, and none will be made by JPMorgan to the Heirs, their current counsel, or any other party. If, in the future, all conditions precedent to payment are satisfied and JPMorgan becomes obligated to make a Settlement Payment, JPMorgan will abide by all then-existing Court Orders regarding the payment or safe-keeping of any settlement funds.

¹ The parties agree that the cited portion is not confidential and may be disclosed to the Court without waiving the confidential portions of the Confidential Settlement Agreement. Should the Court want to review a copy of the Confidential Settlement Agreement, with the settlement amount redacted, JPMorgan will provide an *in camera* review.

In the meantime, the funds necessary to satisfy any possible future funding of the Confidential Settlement Agreement remain with JPMorgan.

Respectfully submitted,

BAKER & BOTTS L.L.P.

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**ATTORNEYS FOR
JPMORGAN CHASE BANK, N.A.
IN ITS CAPACITY AS INDEPENDENT
ADMINISTRATOR OF THE ESTATE
OF MAX D. HOPPER, DECEASED AND
IN ITS CORPORATE CAPACITY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served on the following counsel of record via the electronic service manager and/or by email on this 4th day of May, 2018.

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CAUSE NO. PR-11-03238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED

IN THE PROBATE COURT

JO N. HOPPER

Plaintiff,

v.

JP MORGAN CHASE, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER

Defendants.

NO. I

JOHN L. MALESOVAS, d/b/a
MALESOVAS LAW FIRM, and FEE,
SMITH, SHARP & VITULLO, LLP

Intervenors,

v.

STEPHEN B. HOPPER, LAURA S.
WASSMER, and JPMORGAN CHASE
BANK, N.A.,

Defendants.

DALLAS COUNTY, TEXAS

REPLY IN SUPPORT OF MOTION TO COMPEL ARBITRATION

Defendants Stephen B. Hopper and Laura S. Wassmer ("the Clients") file this Reply in Support of their Motion to Compel Arbitration, and their Supplement to Motion to Compel Arbitration (collectively, the "Motion"), to address arguments raised in Intervenors' (Lawyers) Consolidated Objections and Response to Hopper and Wassmer's (Clients) Motion to Compel Arbitration and Bench Brief in Support of Temporary Orders & Relief (the "Response"). The

Motion is set for hearing on May 8, 2018, at 4:00 pm. The Clients submit the following reply points in support of the Motion:

- A. **This is a fee dispute between the Lawyers and the Clients that falls squarely within the arbitration provision in their Fee Agreements.**

There is no dispute that the Lawyers' Fee Agreements contain a broad, unlimited, and unambiguous arbitration provision:

20. **ARBITRATION:** It is Attorney's goal to maintain at all times a constructive and positive relationship with Client on the matter described above and on future matters in which Attorney may perform services for Client. However, should a dispute arise between Attorney and Client, a prompt and fair resolution is in the interests of all concerned. To this end, if any controversy or claim arises out of is related to this agreement, any services provided by Attorneys to Client in connection with Client's Claims, or any other matter that may arise between Client and Attorney (including malpractice claims and fee disputes), Attorneys and Client both waive any right to bring a court action or have a jury trial and agree that the dispute shall be submitted to binding arbitration to be conducted in Dallas, Texas before the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules of the AAA with one arbitrator who must be an attorney licensed to practice law in the State of Texas..

(Ex. A-1 § 20; Ex. B-1 § 20) (highlighting added). Indeed, the Lawyers have "fully embrace[d] the language and contractual obligations of the parties as set forth and articulated in [the Fee Agreements] including, specifically, its arbitration provision." (Response at 1.)

The only question, then, is whether the Lawyers' claims fall within the scope of their arbitration provision. *In re Rubiola*, 334 S.W.3d 220, 223 (Tex. 2011) (orig. proceeding). But, on that issue, there really is no question because the scope of the provision is so broad. Section 20, drafted by the Lawyers, covers "any controversy or claim" related to the Fee Agreements, and "any other matter that may arise between Client and Attorney." (Ex. A-1 § 20; Ex. B-1 § 20.) As if that weren't clear enough, Section 20 specifically mentions "fee disputes" as the kind of matter that is covered by the arbitration provision. (*Id.*) Because the intervention proceedings here are a *dispute* over whether the Lawyers are entitled to the *fee* contemplated by the Fee

Agreements, these proceedings fall squarely within the scope of the arbitration provision—and must be compelled to arbitration.

Despite this clear language, the Lawyers assert several arguments to avoid the arbitration provision they drafted. Each argument fails.

First, there is no “non-signatory” issue because there is no request—or need—to compel JP Morgan to arbitration. (*See* Response at 9-10.) JP Morgan is not a party to the fee dispute between the Lawyers and the Clients, and thus will not be part of the arbitration proceeding. Even assuming that JP Morgan had a current obligation to pay any settlement proceeds—and it does not, for reasons discussed in its *Notice Regarding April 24, 2018 Temporary Injunction Order*, filed May 4, 2018 (“JP Morgan Notice”)—JP Morgan would simply stand in the position of an interpleader plaintiff. JP Morgan has indicated that it will pay the settlement proceeds as directed by the arbitrator or a court when all settlement conditions have been satisfied. (*See* Transcript of April 9, 2018 TRO hearing at 50; *see also* JP Morgan Notice at 2.) As a result, the Clients do not (and will not) seek any order against JP Morgan in the arbitration. The *Transamerica* case cited by the Lawyers, which involved the enforcement of an arbitration award against a non-signatory, is entirely irrelevant because no such relief is being sought here. *Transamerica Occidental Life Ins. Co. v. Rapid Settlements, Ltd.*, 284 S.W.3d 385, 392-93 (Tex. App.—Houston [14th Dist.] 2008, no pet.).

Further, as noted above and in the JP Morgan Notice, JP Morgan has no obligation to fund the settlement until certain conditions precedent are met, one of which requires the Lawyers to release their liens as against JP Morgan. (JP Morgan Notice at 2.) Because the Lawyers have refused to satisfy this condition, the Lawyers are preventing the Clients—and themselves—from receiving *any* settlement funds (including undisputed funds). In so doing, the Lawyers are

violating their ethical duties to the Clients and potentially subjecting themselves to State Bar discipline. *See* TEX. DISC. R. PROF. CONDUCT 1.14. But again, these disputes—over any fees due to the Lawyers from the settlement proceeds—do not concern JP Morgan, which will pay the same settlement amount regardless of where the money goes. There is no “non-signatory” issue in applying the arbitration provision to this dispute, and the Lawyers cannot avoid their own provision by trying to concoct one.

Second, the Clients are not “estopped” from enforcing the arbitration provision. (Response at 11.) The Lawyers argue there is “nothing to arbitrate” because they “have vested and secured property and ownership rights” in their contingency fee. (*Id.*) But the extent to which the Lawyers have contingency “rights” under the Fee Agreement is very much in dispute; Clients contend the agreement is unenforceable under Texas law, and that will be the subject of the arbitration. Even assuming the Lawyers were right about the impact of *Tillery* and *Enochs* (and they are not), those cases go to the ultimate question of whether a lawyer is entitled to the fee under a contract—the very issue that is covered by the arbitration provision and therefore must be decided by the arbitrator. *See Tillery & Tillery v. Zurich Ins. Co.*, 54 S.W.3d 356, 357 (Tex. App.—Dallas 2001, pet. denied) (holding that lawyer “was not entitled to enforce the contingent fee agreement”); *Enochs v. Brown*, 872 S.W.2d 312, 319-20 (Tex. App.—Austin 1994, no writ) (holding that “the trial court did not err in awarding attorney’s fees to [lawyer] based on the contract”). These are merits arguments that the Lawyers can (and must) assert in the arbitration; they provide no basis to avoid arbitration altogether.

Nor are the Clients taking “irreconcilable positions” by seeking arbitration under an agreement they claim is unenforceable. (Response at 11.) It is black-letter law that an arbitration clause can be valid and enforceable even if it is contained “in a contract that the

arbitrator later finds to be void.” *E.g., Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440, 448 (2006). Indeed, arbitration provisions are severable from the contracts in which they are contained. *Id.* at 445-46. Thus, unless the challenge is to the validity of the arbitration clause itself—and there is no such challenge in this case by any party (*see* Response at 1)—the issue of the validity of the agreement as a whole must be decided by the arbitrator in the first instance. *Buckeye Check Cashing*, 546 U.S. at 445-46; *see also In re Kaplan Higher Educ. Corp.*, 235 S.W.3d 206, 210 (Tex. 2007) (orig. proceeding). Simply put, there is nothing inconsistent about the Clients’ contention that: (1) the Fee Agreement is unenforceable, but that (2) that decision must be made by the arbitrator, because of the valid arbitration clause.

B. This Court must rule on the Motion immediately because the Lawyers have filed—and set for hearing on May 23—a dispositive summary judgment motion.

For the reasons described above and in the Motion, the Clients believe this case requires an unconditional order compelling the Lawyers’ claims to arbitration. But whatever the Court’s ruling might be, it must be soon.

The Texas Supreme Court has mandated that motions to compel arbitration “should be resolved without delay.” *In re Houston Pipe Line Co.*, 311 S.W.3d 449, 451 (Tex. 2009) (orig. proceeding). As a result, Texas appellate courts often find trial courts to have abused their discretion by deferring a ruling on a motion to compel arbitration—or other related challenges to the forum—in favor of:

- Merits discovery;¹

¹ *In re Houston Pipeline Co.*, 311 S.W.3d at 452 (granting mandamus where trial court ordered merits discovery “rather than ruling on the legal issues raised by the motion to compel [arbitration]”); *In re Susan Newell Home Builders, Inc.*, 420 S.W.3d 459, 462-63 (Tex. App.—Dallas 2014, orig. proceeding) (granting mandamus where trial court ordered discovery that “goes directly to the merits of [plaintiff’s] claims” and deferred ruling on certain motions to compel arbitration); *In re MHI Partnership, Ltd.*, 7 S.W.3d 918, 923 (Tex. App.—Houston [1st Dist.] 1999, orig. proceeding) (granting mandamus where trial court forced parties to litigate before ruling on motion to compel arbitration and holding “the trial judge had no discretion to defer his ruling until after discovery had been completed in the case”).

- Injunctive relief;² and
- Summary judgment proceedings.³

The last point is particularly salient here, as the Lawyers have filed—and set for hearing on May 23rd—a summary judgment motion on the very fee dispute that belongs in arbitration. The mere existence of this motion shows that the Lawyers are seeking to have this Court decide merits issues that can only be decided by the arbitrator. But in any event, the Lawyers' inappropriate summary-judgment filing imposes a short deadline on the Court's arbitration ruling, as the Clients' summary-judgment response will be due on May 16th, a little more than a week after the hearing on the Motion.

If the Clients are forced to file a summary-judgment response in this Court—and thus, to litigate the fee dispute on the merits—they will have been deprived of their contractual right to arbitration. See *MHI Partnership, Ltd.*, 7 S.W.3d at 921 (requiring parties to participate in discovery would deprive them “of the benefits of the arbitration clause . . . and the purpose of providing a rapid, inexpensive alternative to traditional litigation would be defeated”) (quoting *Jack B. Anglin Co. v. Tipps*, 842 S.W.2d 266, 272–73 (Tex. 1992) (orig. proceeding)); see also *Tantrum*, 2017 WL 3275901, at *9 (“Texas law prohibits trial courts from ruling on a case’s merits while a motion to compel arbitration is pending.”); *MetroPCS*, 391 S.W.3d at 340 (allowing case to move forward without ruling on forum challenge “will vitiate and render illusory the subject matter of an appeal—i.e., trial in the proper forum”) (internal quotations

² *In re MetroPCS Comms., Inc.*, 391 S.W.3d 329, 340 (Tex. App.—Dallas 2013, orig. proceeding) (granting mandamus where trial court granted TRO and set temporary injunction for hearing “without first ruling on relators’ motions respecting the forum selection clause in question”); see also *Pinto Tech. Ventures, L.P. v. Sheldon*, 526 S.W.3d 428, 437 (Tex. 2017) (Texas courts may “draw analogies between forum-selection clauses and arbitration clauses, which are ‘a specialized kind of forum-selection clause.’”) (internal citations omitted).

³ *Tantrum Street, LLC v. Carson*, No. 05-16-01096-CV, 2017 WL 3275901, at *9-10 (Tex. App.—Dallas July 25, 2017, orig. proceeding) (granting mandamus where trial court ruled on summary judgment motion while motion to compel arbitration was pending).

omitted). Therefore, unless the Court rules on the Motion by May 10th—or at a minimum, grants a continuance of the May 23rd summary-judgment hearing—the Clients will have no choice but to seek emergency relief from the Dallas Court of Appeals in order to protect their rights to arbitration. *See id.* The Clients therefore respectfully request a ruling on the Motion by no later than May 10th.⁴

CONCLUSION AND PRAYER

The Clients respectfully request that the Court compel the Lawyers/Intervenors to pursue their claims in arbitration; stay or dismiss the Lawyers' claims; and grant the Clients all other relief, at law or in equity, to which they may be entitled.

⁴ In the event the Court denies the Motion, the Clients respectfully request a stay of all discovery and trial proceedings pending an accelerated appeal. *See* TEX. CIV. PRAC. & REM. CODE §§ 51.016, 171.098; TEX. R. APP. P. 29.3 (stay of proceedings pending interlocutory appeal appropriate “to preserve the parties’ rights until disposition of the appeal”). Without a stay, the Clients would be denied the “rapid, inexpensive alternative to traditional litigation” they are entitled to under the arbitration provision, even if the court of appeals ultimately rules in their favor. *See In re Merrill Lynch Trust Co. FSB*, 235 S.W.3d 185, 195 (Tex. 2007); TEX. R. APP. P. 29.5 (trial court “must not make an order” pending an interlocutory appeal that “interferes with or impairs the jurisdiction of the appellate court or any relief sought or that may be granted on appeal”).

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CAUSE NO. PR-11-3238-1

JOHN L. MALESOVAS, d/b/a	§	IN THE PROBATE COURT
MALESOVAS LAW FIRM, and	§	
FEE, SMITH, SHARP & VITULLO, LLP	§	
	§	
Intervenors,	§	
	§	
v.	§	NO. 1
	§	
STEPHEN B. HOPPER, LAURA S.	§	
WASSMER, individually and as	§	
Beneficiaries of the ESTATE OF	§	
MAX D. HOPPER, DECEASED,	§	
the ESTATE OF MAX D. HOPPER,	§	
DECEASED, JPMORGAN CHASE	§	
BANK, N.A.,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

**AMENDED NOTICE OF HEARING ON INTERVENORS' CONSOLIDATED
TRADITIONAL RULE 166a(c) MOTION FOR SUMMARY JUDGMENT**

Intervenors' (Lawyers) Consolidated Traditional Rule 166a(c) Motion for Summary Judgment (MSJ) on their Secured and Fully Vested Property and Ownership Rights to the Disputed Funds, Application for Attorney's Fees, and Brief in Support (filed 4.20.18), will be heard on **Monday, June 11, 2018 at 9:00 AM** in the front of Judge Brenda Hull Thompson, The Probate Court, Renaissance Tower, 1201 Elm Street, 24th Floor, Suite 2400-A, Dallas, Texas 75270, Dallas County, Texas.

Respectfully Submitted,

BRIAN LAUTEN, P.C.

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**BRIAN P. LAUTEN
ATTORNEY FOR INTERVENORS**

CAUSE NO. PR-11-3238-1

IN RE: ESTATE OF MAX D. HOPPER,
DECEASED

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IN THE PROBATE COURT

JO N. HOPPER

Plaintiff,

NO. 1

v.

JPMORGAN CHASE BANK, N.A.
STEPHEN B. HOPPER AND LAURA S.
WASSMER,

Defendants.

DALLAS COUNTY, TEXAS

**PLAINTIFF'S UNOPPOSED MOTION TO SEVER HEIRS' CLAIMS AND
INTERVENTION CLAIMS**

Plaintiff Jo N. Hopper ("Plaintiff" or "Mrs. Hopper") files this Unopposed Motion to Sever Heirs' Claims and Intervention Claims ("Motion") as follows:

1. In September 2011, Plaintiff filed suit against JPMorgan Chase Bank, N.A. (the "Bank") for, *inter alia*, declaratory judgment, breach of fiduciary duty, and breach of contract regarding the Bank's actions related to the administration of the Estate of Max D. Hopper. Mrs. Hopper also sued Stephen B. Hopper and Laura S. Wassmer (collectively, the "Heirs") for declaratory judgment. The suit against the Bank and the Heirs is the "Underlying Action." Broadly speaking, Mrs. Hopper asserted two categories of declaratory judgment claims in the Underlying Action. The first generally related to rights regarding the home she shared with her husband on Robledo Drive, as well as other personal property, including but not limited to whether the Bank or the Heirs could force a sale or partition of the home and other personal property (the "Robledo Declaratory Judgment Claims"). Summary judgment rulings related to the Robledo Declaratory Judgment Claims were appealed in 2012, and in 2014, the El Paso Court of Appeals ruled in Mrs. Hopper's favor regarding those claims. The second category of

declaratory judgment claims sought a declaration from the Court that Mrs. Hopper does not owe the Bank, the Estate of Max D. Hopper (the "Estate"), or the Heirs for any professional fees incurred by the Bank in connection with the administration of her late husband's estate, including but not limited to attorney's fees (the "Hunton & Williams Fees Claims"). Prior to the commencement of the trial, the Court granted Plaintiff's Motion for Partial Summary Judgment regarding the Hunton & Williams Fees Claims.

2. The Heirs also asserted claims against the Bank, including for breach of fiduciary duty, breach of contract, fraud, money had and received, conversion, negligence, and gross negligence (the "Heirs' Claims").

3. Trial commenced on the August 28, 2017 on the remaining claims. The case was submitted to the jury on September 25, 2017, and on that date, the Court accepted the jury's verdict.

4. The Court held hearings on post-trial motions on January 4, 2018 and April 4 and 5, 2018. Prior to the commencement of the April 4, 2018 hearing, counsel for the Heirs, Lenny Vitullo, announced that the Heirs had settled the Heirs' Claims with the Bank and that the Heirs were withdrawing their Motion for Entry of Final Judgment. As a result, the only currently outstanding motions before the Court are: (1) Plaintiff's Motion for Entry of Final Judgment and (2) the Bank's Amended Motion for JNOV, and, alternatively, Motion to Disregard Jury Findings or Suggestion of Remittitur.

5. Shortly after Mr. Vitullo announced the Heirs' settlement with the Bank on the record, the Heirs terminated their fee agreements with Mr. Vitullo's firm, Fee Smith, Sharp & Viutllo ("FSSV") and co-counsel the Malesovas Law Firm ("Malesovas"). On April 4, 2018, Malesovas filed a Petition in Intervention in the above-styled action. On April 6, 2018, FSSV

filed its Petition in Intervention, Application for Declaratory Relief, Request for TRO and Temporary Injunction. On April 9, 2018, FSSV and Malesovas filed a Consolidated First Amended Joint Petition in Intervention and Petition for Declaratory Judgment, Application for Temporary Restraining Order, for Temporary Injunction, and Motion to Deposit Funds in the Registry. FSSV and Malesovas are, collectively, the "Intervenors." On May 1, 2018, the Intervenors filed their Consolidated Second Amended Petition in Intervention, Application for Declaratory Judgment, Temporary and Permanent Injunction (the "Intervention Claims").

6. Pursuant to Texas Rule of Civil Procedure 41, "[a]ny claim against a party may be severed and proceeded with separately." The Rule "grants the trial court broad discretion in the matter of severance . . . of causes." *Guaranty Fed. Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652, 658 (Tex. 1990). *See also Liberty Nat'l Fire Insur. Co. v. Akin*, 927 S.W.2d 627, 629 (Tex. 1996) ("Severance of claims under the Texas Rules of Civil Procedure rests within the sound discretion of the trial court.")

7. Plaintiff requests a severance of the Heirs' Claims and the Intervention Claims so that Plaintiff may go forward to a final judgment against the Bank and the Heirs and to avoid further delay and hardship.

8. Severance of the Heirs' Claims and the Intervention Claims will serve justice, avoid prejudice, and contribute to the prompt resolution of this cause by allowing Plaintiff to proceed to final judgment with her claims against the Bank and the Heirs. *See In re State*, 355 S.W.3d 611, 613-614 (Tex. 2011); *F.F.P. Oper. Partners v. Duenez*, 237 S.W.3d 680, 693 (Tex. 2007).

WHEREFORE, Plaintiff requests that the Court order that the Heirs' Claims and the Intervention Claims be severed, made the subject of a separate cause, and assigned a separate

cause number on the docket of this Court, in accordance with the terms of the proposed Order granting severance. Plaintiff further requests the Court grant her such additional relief to which she is justly entitled.

Dated: May 9, 2018

Respectfully submitted,

LOEWINSOHN FLEGLE DEARY SIMON LLP

By: /s/ Alan S. Loewinsohn

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

Counsel for the Bank, the Heirs, and the Intervenors have all stated that they are unopposed to the relief sought in this Motion.

/s/ Kerry Schonwald
Kerry Schonwald

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served upon the following counsel of record this 9th day of May, 2018 via e-service.

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/s/ Alan S. Loewinsohn
ALAN S. LOEWINSOHN

LFDS

LOEWINSOHN FLEGLE
DEARY SIMON LLP

May 9, 2018

VIA E-FILING

Clerk, Probate Court No. 1
1201 Elm Street, Suite 2400-A
Dallas, TX 75270

Re: Cause No. PR-11-3238-1; *Estate of Max D. Hopper; Jo N. Hopper v. Stephen Hopper and Laura Wassmer v. JPMorgan Chase Bank* pending in Probate Court No. 1, Dallas County, Texas

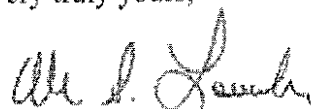
Dear Clerk:

Enclosed please find the proposed Unopposed Order on Plaintiff's Motion to Sever Heirs' Claims and Intervention Claims.

Please present this Order for the Court's consideration.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Alan S. Loewinsohn
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ASL:bsa

Enclosure

cc: John C. Eichman, Brian P. Lauten, Van H. Beckwith, Jessica B. Pulliam,
Jeffrey S. Levinger, J. Carl Cecere (all with enclosures via e-filing)

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THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

IN THE MATTER OF
MAX HOPPER, DECEDENT

§
§
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§

Location: Probate Court
Judicial Officer: THOMPSON, BRENDA H
Filed on: 09/21/2011
Case Number History: PR-11-03238-3

CASE INFORMATION

Related Cases
PR-10-01517-1 (ANCILLARY LAWSUIT)
PR-18-01390-1 (SEVERED)

Case Type: ANCILLARY
Subtype: DECLARATORY
JUDGMENT

Bonds
CASH BOND \$10,000.00
4/11/2018 POSTED
Counts:

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number PR-11-03238-1
Court Probate Court
Date Assigned 01/21/2016
Judicial Officer THOMPSON, BRENDA H

PARTY INFORMATION






DECEDENT HOPPER, MAX D.

Lead Attorneys

DATE

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CASE NO. PR-11-03238-1


















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12/21/2011 LETTER TO COURT
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12/21/2011  CORRESPONDENCE - LETTER TO FILE

12/21/2011  CORRESPONDENCE - LETTER TO FILE


12/23/2011 **MOTION - CONTINUANCE** (11:45 AM) (Judicial Officer: MILLER, MICHAEL E)


12/23/2011  **RESPONSE**
Party: PLAINTIFF HOPPER, JO N.
TO STEPHEN B. HOPPER'S AND LAURA WASSMER'S MOTION FOR CONTINUANCE


12/23/2011  **MOTION**
TO DISQUALIFY RECENTLY-NAMED OPPOSING COUNSEL GERRY W. BEYER

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REQUESTED BY ATTORNEY/PRO SE


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Party: DEFENDANT HOPPER, STEPHEN B.; DEFENDANT WASSMER, LAURA S.
FIRST AMENDED (E-FILE)


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Party: DEFENDANT HOPPER, STEPHEN B.; DEFENDANT WASSMER, LAURA S.
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01/10/2012  CORRESPONDENCE - LETTER TO FILE


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JUDGE DID NOT SIGN OFF ON THIS - ORDER GRANTING STEPHEN HOPPER'S AND LAURA WASSMER'S UNOPPOSED MOTION OFR SUBSTITUTION OF COUSEL


01/13/2012  **MOTION - PARTIAL SUMMARY JUDGMENT**
Party: DEFENDANT HOPPER, STEPHEN B.; DEFENDANT WASSMER, LAURA S.
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Party: PLAINTIFF HOPPER, JO N.










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01/20/2012	 MOTION MOTION TO CONTINUE HEARING AND OBJECTION ON AND AS TO STEPHEN HOPPER'S	
01/23/2012	CANCELED MOTION - PARTIAL SUMMARY JUDGMENT (2:00 PM) (Judicial Officer: MILLER, MICHAEL E) REQUESTED BY ATTORNEY/PRO SE	
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

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

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01/31/2012	MOTION - PARTIAL SUMMARY JUDGMENT (2:30 PM) (Judicial Officer: MILLER, MICHAEL E) <i>Mr. Jennings Lead Counsel. Motion Partial S J filed Nov 30, 2011 is set first</i>
01/31/2012	MOTION - HEARING (2:30 PM) (Judicial Officer: MILLER, MICHAEL E) <i>Plntf Jo N. Hoppers Mot to continue Hrg and Obj on and as to Stephen Hoppers & Laura Wassmers 2nd Amd Mot Partial Summary Judgment with Affidavits</i>
01/31/2012	MOTION - HEARING (2:30 PM) (Judicial Officer: MILLER, MICHAEL E) <i>Motion Allow Service & Filing within 24 days</i>
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02/06/2012	MOTION - QUASH (9:05 AM) (Judicial Officer: MILLER, MICHAEL E) <i>Response to Motion Quash</i>
02/06/2012	MOTION - QUASH (9:10 AM) (Judicial Officer: MILLER, MICHAEL E) <i>Response to Motion Quash</i>
02/06/2012	MOTION - QUASH (9:15 AM) (Judicial Officer: MILLER, MICHAEL E) <i>Response to Motion Quash</i>
02/06/2012	MOTION - QUASH (9:20 AM) (Judicial Officer: MILLER, MICHAEL E) <i>Response Motion Quash</i>

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

02/06/2012	MOTION - QUASH (9:25 AM) (Judicial Officer: MILLER, MICHAEL E) <i>Response to Motion Quash</i>	
02/07/2012	MISC. EVENT <i>SUBPOENA DUCES TECUM FOR VIDEOTAPED DEPOSITION ISSUAED IN THE NAMED OF THE STATE OF TEXAS TO CELIA DORIS KING</i>	
02/07/2012	NOTICE OF HEARING <i>MARK ENOCH</i>	
02/09/2012	CORRESPONDENCE - LETTER TO FILE	
02/13/2012	MOTION Party: DEFENDANT JP MORGAN CHASE, N.A. <i>TO ENFORCE MEDITATION ORDER</i>	
02/13/2012	NOTICE - HEARING / FIAT <i>EFILED. NOTICE OF HEARING (NO FIAT)</i>	
02/14/2012	 ORDER - SUMMARY JUDGMENT <i>MOTIONS FOR SUMMARY JUDGMENT AND ORDER TO MEDIATION</i>	Vol./Book 18, Page 297, 2 pages
02/14/2012	 MOTION <i>PLAINTIFF JO N. HOPPER'S MOTION TO MODIFY THE COURT'S FEBRUARY 14, 2012 ORDER ON THE MOTIONS FOR SUMMARY JUDGMENT, AND, ALTERNATIVELY, FOR NEW TRIAL, PER T.R.C.P., RULE 329B; AND, MOTION TO SEVER</i>	25 pages
02/17/2012	MOTION - HEARING (9:10 AM) (Judicial Officer: MILLER, MICHAEL E) <i>Motion to Quash, Response in Alternative postpone mediation</i>	
02/17/2012	MOTION - ENFORCE (9:10 AM) (Judicial Officer: MILLER, MICHAEL E) <i>the Mediation Order</i>	
03/05/2012	ORDER - MISCELLANEOUS <i>-ORDER-ORDER ON THE MOTION TO ALLOW, WITHIN 24 DAYS OF HEARING, SERVICE AND FILING OF STEPHEN HOPPER'S AND LAURA WASSMER'S FIRST AND SECOND AMENDED MOTIONS FOR PARTIAL SUMMARY JUDGMENT FILED WITH THE COURT ON JANUARY 9 AND 10, 2012, AND AFTER HEARING ARGUMENTS OF COUNSEL AND REVIEWING THE PLEADINGS AND NOTING THE FILING DATES, THE COURT FINDS THAT THE MOTION IS WELL TAKEN AND SHOULD BE GRANTED.</i>	Vol./Book 21, Page 458, 2 pages
03/05/2012	RULE 11 AGREEMENT	Vol./Book 34, Page 450, 3 pages
03/14/2012	 MOTION - NEW TRIAL <i>RECONSIDERATION, CLARIFICATION, AND MODIFICATION.</i>	
03/15/2012	VACATION LETTER	1 pages
03/19/2012	MOTION - PROTECT Party: PLAINTIFF HOPPER, JO N.	
03/20/2012	NOTICE OF HEARING	
03/20/2012	 CORRESPONDENCE - LETTER TO FILE	11 pages 2 pages


THE PROBATE COURT
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03/23/2012	 LETTER TO COURT	
04/06/2012	 MOTION - COMPEL <i>PLAINTIFF JO N. HOPPER'S MOTION TO COMPEL</i>	
04/10/2012	 MOTION - SEVER Party: DEFENDANT HOPPER, STEPHEN B.; DEFENDANT WASSMER, LAURA S.	
04/10/2012	 CORRESPONDENCE - LETTER TO FILE <i>(MULTIPLE COURT JUDGMENTS)</i>	4 pages
04/11/2012	 RESPONSE <i>JPMORGAN CHASE BANK, N.A.'S RESPONSE TO JO HOPPER'S MOTION TO MODIFY ORDER AND FOR NEW TRIA, AND STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION FOR NEW TRIAL RECONSIDERATION, CLARIFICATION, AND MODIFICATION.</i>	
04/13/2012	MOTION - NEW TRIAL (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) <i>Reconsideration, Clarafication & Modification(Mark Enoch motion)</i>	
04/13/2012	MOTION - SEVER (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) <i>Motion to Modicfy Feb 14th 2012 order in the Alternative Motion New Trial and Motion Sever (Jim Jennings motion)</i>	
04/13/2012	MOTION - SEVER (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) <i>Stephen Hopper's & Laura Wassmer's Motion Sever</i>	
04/13/2012	 RESPONSE Party: PLAINTIFF HOPPER, JO N. <i>TO JPMORGAN CHASE BANK RESPONSE TO JO HOPPER'S MOTION TO MODIFY ORDER AND FOR NEW TRIAL, AND STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION FOR NEW TRAIL, RECONSIDERATION, CLARIFICATION AND MODIFICATION</i>	
04/18/2012	 MOTION - PROTECT Party: DEFENDANT HOPPER, STEPHEN B.; DEFENDANT WASSMER, LAURA S.	5 pages
04/19/2012	 SUPPLEMENTAL: MOTION <i>PLAINTIFF JO N. HOPPER'S FIRST SUPPLEMENT TO MOTION TO COMPEL</i>	
04/19/2012	 RESPONSE <i>PLAINTIFF JO N. HOPPER'S RESPONSE TO STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION FOR PROTECTION</i>	
04/24/2012	 RESPONSE <i>OF STEPHEN B. HOPPER AND LAURA S. WASSMER TO PLAINTIFF'S MOTION AND FIRST SUPPLEMENTAL MOTION TO COMPEL DISCOVERY.</i>	
04/24/2012	 LETTER TO COURT <i>THE GRAHAM LAW FIRM</i>	
04/25/2012	MOTION - COMPEL (11:00 AM) (Judicial Officer: MILLER, MICHAEL E) <i>Planitiff Jo N. Hopper's Motion to Compel (Mr. Jennings)</i>	
04/25/2012	 LETTER TO COURT	2 pages

THE PROBATE COURT
DOCKET SHEET
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JOHN C. EICHMAN

04/25/2012

 ORDER

-ORDER DECLARING NULL PRIOR ORDER: ON THIS DAY ON THE COURT'S OWN MOTION, THE COURT REVISITED AND AS A RESULT THEREOF, HEREBY DECLARES NULL AND VOID THE ORDER ENTITLED "ORDER" WHICH WAS SIGNED BY THE COURT ON FEBRUARY 14, 2012

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Page 453, 1 pages

04/26/2012

 LETTER TO COURT

05/03/2012

 VACATION LETTER

5/25/12--6/1/12 (ATTY. JOHN C. EICHMAN)

05/04/2012

MOTION - ENTER ORDER

PLAINTIFF JO N. HOPPER'S MOTION TO ENTER SCHEDULING ORDER

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Page 972, 10 pages

05/07/2012

 LETTER TO COURT

05/08/2012

 NOTICE OF HEARING

05/08/2012

 VACATION LETTER


5/10/12 & 5/11/12-5/18/12 & 6/4/12-6/8/12 (MICHAEL L. GRAHAM)

05/08/2012

 MOTION - STAY

STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION TO STAY

05/08/2012

 LETTER TO COURT

05/09/2012

 LETTER TO COURT

HUNTON WILLIAMS

05/10/2012

 RESPONSE

Party: PLAINTIFF HOPPER, JO N.
TO STEPHEN HOPPER'S AND LAURA WASSMER'S IMPROPERLY SET AND FILED
MOTION TO STAY

05/11/2012

SCHEDULING CONFERENCE (11:30 AM) (Judicial Officer: MILLER, MICHAEL E)

Motion to Enter Scheduling Order

05/11/2012

MOTION - STAY DISCOVERY (11:30 AM) (Judicial Officer: MILLER, MICHAEL E)

05/18/2012

 ORDER - SUMMARY JUDGMENT

-ORDER ON MOTIONS FOR SUMMARY JUDGMENT

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Page 712, 2 pages

06/08/2012

MOTION



Party: PLAINTIFF HOPPER, JO N.
AMENDED MOTION TO ENTER SCHEDULING ORDER- PLAINTIFF11

06/15/2012

MOTION - NEW TRIAL









MOTION FOR NEW TRIAL, RECONSIDERATION, CLARIFICATION, AND
MODIFICATION OF THE MAY 18, 2012 ORDER ON MOTIONS FOR PARTIAL
SUMMARY JUDGMENT

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

06/18/2012	MOTION - SEVER Party: PLAINTIFF HOPPER, JO N. SUBJECT TO PLAINTIFF JO N. HOPPER'S MOTION TO MODIFY AND RECONSIDER THE COURT'S MAY 18TH ORDER, OR ALTERNATIVELY, MOTION FOR NEW TRAIL	Vol./Book 52, Page 728, 5 pages
06/18/2012	MOTION PLAINTIFF JO N. HOPPER'S DESIGNATION OF CO-COUNSEL (E-FILE)	
06/19/2012	VACATION LETTER (JAMES ALBERT JENNINGS) 6/22/12-6/25/12 AND 8/23/12-9/4/12	
06/21/2012	MOTION -FOR PARTITION AND DISTRIBUTION PURSUANT TO TEXAS PROBATE CODE SECTION 149B (E-FILE)	
06/22/2012	TRO HEARING (10:00 AM) (Judicial Officer: MILLER, MICHAEL E)	
06/22/2012	 MOTION -STEPHEN HOPPER'S AND LAURA WASSMER'S FIRST AMENDED MOTION TO SEVER (E-FILE)	Vol./Book 52, Page 734, 5 pages
06/22/2012	MOTION - CONTINUANCE PLAINTIFF JO N. HOPPER'S MOTION TO CONTINUE HEARING ON STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION FOR NEW TRIAL, RECONSIDERATION, CLARIFICATION, AND MODIFICATION OF THE MAY 18, 2012 ORDER ON MOTION FOR SUMMARY JUDGMENT, AND THEIR MOTION TO SERVE,	
06/22/2012	RESPONSE TO PLAINTIFF'S MOTION FOR CONTINUANCE OF JUNE 27, 2012 HEARING (E-FILE)	
06/25/2012	MISC. EVENT STEPHEN HOPPER'S AND LAURA WASSMER'S FIRST AMENDED CROSS CLAIM (E- FILE)-DATED-JUNE 22, 2012	
06/27/2012	SCHEDULING CONFERENCE (11:30 AM) (Judicial Officer: MILLER, MICHAEL E) <i>Plntfs Partially opposed Amended Motion Enter Scheduling Ord.</i>	
06/27/2012	MOTION - SEVER (11:30 AM) (Judicial Officer: MILLER, MICHAEL E) & Motion To Stay Two Different Motions	
06/27/2012	MOTION - NEW TRIAL (11:30 AM) (Judicial Officer: MILLER, MICHAEL E) & Motion Reconsideration 1 document. (Mark Enoch Motion)	
06/27/2012	 ORDER - SCHEDULING -LEVEL 3 SCHEDULING ORDER	Vol./Book 42, Page 982, 5 pages
07/30/2012	MOTION - HEARING (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) <i>Application for Partition and Distribution</i>	
08/02/2012	NOTICE - HEARING / FIAT	2 pages
08/02/2012	MISC. EVENT STEPHEN HOOPER'S AND LAURA WASSMER'S MOTION TO ORDER PLAINTIFF TO ALLOW THE HEIRS TO INSURE THEIR CURRENT YET DEISPUTED UNDIVED INTEREST IN ROBLEDO AND TO PROHIBIT INTERFERENCE OF PLAINTIFF WITH THE HEIR'S ATTEMPTS TO OBTAIN PROPERTY AND LIABILITY INSURANCE	
08/02/2012	RESPONSE EC057J017006389- JP MORGAN CHASE BANK, N.A.'S RESPONSE TO MOTION FOR	

















THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

NEW TRIAL, MOTION TO SERVE, MOTION TO STAY, AND MOTION FOR PARTITION
AND DISTRIBUTION. (E-FILED)














08/03/2012	 MISC. EVENT PLAINTIFF JO N. HOPPER'S OPPOSITION TO : STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION TO ORDER PLAINTIFF TO ALLOW THE HEIRS TO INSURE THEIR CURRENT YET DISPUTED UNDIVIDED INTEREST IN ROBLEOD AND PROHIBIT INTERFERENCE OF PLAINTIFF WITH THE HEIRS' ATTEMPTS TO OBTAIN PROPERTY AND LIABILITY INSURANCE
08/03/2012	 MISC. EVENT PLAINTIFF JO N. HOPPER'S BRIEF IN OPPOSITION TO ORDER'S POINTS NOS. SIX ("6") AND SEVEN("7")
08/03/2012	 MISC. EVENT PLAINTIFF JO N. HOPPER'S BRIEF IN OPPOSITION TO ORDER'S POINT NO. "2"
08/03/2012	MISC. EVENT PLAINTIFF JO N. HOPPER'S OPPOSITION TO MOTION FOR PARTITION AND DISTRIBUTION PURSUANT TO TEXAS PROBATE CODE SECTION 149B
08/06/2012	MOTION - NEW TRIAL (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) & Motion to Sever
08/06/2012	MOTION - SEVER (1:30 PM) (Judicial Officer: MILLER, MICHAEL E)
08/06/2012	MOTION - NEW TRIAL (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) Plaintiffs Motion to Modify New Trial & Motion to Sever
08/06/2012	MOTION - HEARING (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) Motion To Stay
08/06/2012	MOTION - HEARING (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) Motion Stay (Graham)
08/06/2012	APPLICATION TO EXTEND TIME TO FILE (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) to file 149A (Demand Accounting)
08/06/2012	MOTION - HEARING (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) Application for Partition and Distribution filed 6-21-12
08/06/2012	MOTION - HEARING (1:30 PM) (Judicial Officer: MILLER, MICHAEL E) Motion to order Plntf to allow Heirs to Insure theier current Yet Disputed undiveded interest- --etc.....filed 8-2-12 by Mark Enoch office
08/07/2012	 LETTER TO COURT
08/08/2012	 LETTER TO COURT
08/13/2012	 LETTER TO COURT
08/15/2012	 NOTICE - APPEAL (E-FILE)
08/15/2012	 ORDER -SECOND REVISED ORDER ON MOTINS FOR SUMMARY JUDGMENT

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Page 726, 2 pages

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08/15/2012	 ORDER -ORDER TO SERVER	Vol./Book 52, Page 733, 1 pages
08/15/2012	 ORDER -ORDER ON WRITTEN AND ORAL MOTIONS	Vol./Book 52, Page 739, 3 pages
08/15/2012	 ORDER -ORDER ON WRITTEN AND ORAL MOTIONS	Vol./Book 54, Page 764, 3 pages
08/15/2012	 ORDER -SECOND REVISED ORDER ON MOTIONS FOR SUMMARY JUDGMENT	Vol./Book 54, Page 767, 2 pages
08/16/2012	 CORRESPONDENCE - LETTER TO FILE	
08/30/2012	 MOTION PLAINTIFF'S AND DEFENDANT CHILDREN'S JOINT MOTION TO STAY	
08/30/2012	 CORRESPONDENCE - LETTER TO FILE THERE WAS NO JUDGE THAT SIGN OFF ON THIS ORDER - ORDER RE: PLAINTIFF'S AND DEFENDANT CHILDREN'S (UNOPPOSED) JOINT MOTION TO STAY	
08/30/2012	 MOTION PLAINTIFF AND DEFENDANT CHILDREN'S JOINT MOTION TO STAY	
09/10/2012	 NOTICE - APPEAL PLAINTIFF JO N. HOPPER'S NOTICE OF NOTICE	
09/10/2012	 NOTICE - APPEAL	
09/12/2012	 MOTION - ENTER ORDER PLAINTIFF JO N. HOPER'S MOTION TO ENTER NEW ORDER OF SEVERANCE.	
09/18/2012	 MISC. EVENT JPMORGAN CHASE BANK, N.A.'S REQUEST FOR ADDITIONAL ITEMS TO BE INCLUDED IN REPORTER'S RECORD (E-FILE)	3 pages
09/21/2012	 NOTICE OF INDEPENDENT ADMINISTRATOR'S COMPLIANCE WITH THE COURT'S AUGUST 15, 2012 ORDER	
09/27/2012	 LETTER TO COURT	
09/28/2012	CANCELED MOTION - HEARING (2:15 PM) (Judicial Officer: MILLER, MICHAEL E) REQUESTED BY ATTORNEY/PRO SE	
10/03/2012	 LETTER TO COURT	
10/05/2012	 LETTER TO COURT	

THE PROBATE COURT
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CASE NO. PR-11-03238-1
















10/08/2012	 CLERKS RECORDS
10/11/2012	 CLERKS RECORDS CORRESPONDENCE LETTERS (ADDITIONS)
10/12/2012	 LETTER TO COURT
10/17/2012	CLERKS RECORDS 2nd. SUPPLEMENTAL FILED BY- MICHAEL A. YANOF (THOMPSON COE ATTORNEYS AND COUNSELORS)
10/17/2012	 ORDER - CONSOLIDATE -CONSOLLATED ORDER RE: MOTIONS TO SEVER AND ASSIGNING NEW CAUSE NUMBER
10/17/2012	 CORRESPONDENCE - LETTER TO FILE
10/19/2012	CANCELED MOTION - HEARING (2:00 PM) (Judicial Officer: MILLER, MICHAEL E) REQUESTED BY ATTORNEY/PRO SE
10/25/2012	 MISC. EVENT DESIGNATION OF TRANSCRIPTS.
10/31/2012	 MOTION STEPHEN HOPPER'S AND LAURA WASSMER'S UNOPPOSED MOTION FOR SUBSTITUTION OF COUNSEL.
11/01/2012	 CORRESPONDENCE - LETTER TO FILE LETTER TO JUDGE MILLER (E-FILE)
11/02/2012	MOTION - HEARING (3:00 PM) (Judicial Officer: MILLER, MICHAEL E) Plaintiffs and Children Joint Motions to stay filed 8-30-12
11/02/2012	 MOTION - EMERGENCY EMERGENCY MOTION TO ENFORCE RULE 11 AGREEMENT AND FOR SANCATIONS
11/02/2012	 ORDER -ORDER GRANTING STEPHEN HOPPER'S AND LAURA WASSMER'S UNOPPOSED MOTION FOR SUBSTITUTION OF COUNSEL-CHRISTOPHER M. MCNEILL AND STEVEN R. BLOCK ARE HEREBY SUBSTITUTED AS COUNSEL OF RECORD FOR STEPHEN HOPPER AND LAURA WASSMER
11/02/2012	 MISC. EVENT NOTICE OF APPEAL AND CLERKS RECORD TRANSFERRED TO THE EIGHT COURT OF APPEALS IN EL PASO, TX. : DENISE PACHECO, CLERK EIGHT COURT OF APPEALS, 500 EAST SAN ANTONIO, SUITE 1203 EL PASO, TEXAS 79901-2421 PHONE # (915) 546-2240
11/02/2012	 CORRESPONDENCE - LETTER TO FILE
11/06/2012	 LETTER TO COURT LETTER BRIEF, AND, SUBMISSION OF WRITTEN ORDER TO VACATE SCHEDULING ORDER

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CASE NO. PR-11-03238-1


11/07/2012	 LETTER TO COURT FROM JOHN C.EICHMAN
11/07/2012	 LETTER TO COURT RESPONSE TO MR. EICHMAN LETTER OF NOVEMBER 7TH
11/07/2012	 LETTER TO COURT RESPONSE TO MR. JENNINGS' and MR. EICHMAN'S -LETTER
11/08/2012	 LETTER TO COURT RESPONSE TO MR. MCNEILL'S E-FILED LETTER NOVEMBER 7TH
11/09/2012	 ORDER VACATING THE LEVEL 3 SCHEDULING ORDER DATED JUNE 27, 2012
11/13/2012	 ORDER PLAINTIFF'S AND DEFENDANT CHILDREN'S (UNOPPOSED) JOINT MOTION TO STAY
11/13/2012	 ORDER FIFTH COURT OF APPEALS- (DENIED)
11/16/2012	 MISC. EVENT COURT OF APPEALS EIGHT DISTRICT OF TEXAS
11/26/2012	 CLERKS RECORDS SUPPLEMENTAL- TRANSFERRED TO THE EIGHT COURT OF APPEALS IN EL PASO
12/28/2012	 CORRESPONDENCE - LETTER TO FILE
01/16/2013	 VACATION LETTER TOM CANTRILL, ATTY
07/19/2013	 LETTER TO COURT -FROM HUNTON AND WILLIAMS (JOHN C. EICHMAN(A DISK IS INCLUDED IN ENVELOPE)
12/03/2014	 OPINION JUDGMENT- COURT OF APPEALS EIGHT DISTRICT OF TEXAS- EL PASO
12/10/2014	 OPINION -JUDGMENT ON OPINION FROM COURT OF APPEALS EIGHT DISTRICT OF TEXAS- EL PASO, TEXAS (COPY)
09/10/2015	 MOTION - SUBSTITUTION OF COUNSEL WITH PROPOSED ORDER ATTACHED
09/10/2015	 MISC. EVENT AMENDED CERTIFICATE OF SERVICE
09/14/2015	 CORRESPONDENCE - LETTER TO FILE PAYMENT FOR PROPOSED ORDER TO SUB COUNSEL


THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

09/21/2015	 ORDER -ORDER ON PLAINTIFFS UNOPPOSED MOTION FOR SUBSTITUTION OF COUNSEL
10/27/2015	 NOTICE OF HEARING
10/29/2015	 NOTICE - APPEARANCE - ANTHONY L. VITULLO
11/11/2015	 NOTICE OF HEARING AMENDED NOTICE OF HEARING
11/17/2015	CANCELED CONFERENCE (2:30 PM) (Judicial Officer: JOHNSON, MARGARET JONES) REQUESTED BY ATTORNEY/PRO SE
11/18/2015	 MOTION - CONSOLIDATE MOTION FOR CONSOLIDATION AND LIFT STAY
11/19/2015	 NOTICE OF HEARING
11/25/2015	 MOTION PLAINTIFF'S MOTION TO DETERMINE LENGTH OF DEPOSITION
11/30/2015	 NOTICE OF HEARING
11/30/2015	 MOTION AMENDED MOTION TO LIFT STAY
11/30/2015	 NOTICE OF HEARING
12/02/2015	 NOTICE - APPEARANCE - JAMES S. BELL
12/04/2015	 RESPONSE JPMORGAN CHASE BANK N.A.'S RESPONSE TO N. HOPPER'S MOTION TO DETERMINE LENGTH OF DEPOSITIONS
12/07/2015	 AMENDED PETITION PLAINTIFF'S SECOND AMENDED ORIGINAL PETITION FOR: DECLARATORY JUDGMENT, BREACH OF CONTRACT, BREACH OF FIDUCIARY DUTY, FRAUD, ET. AL, AND JURY DEMAND
12/08/2015	SCHEDULING CONFERENCE (2:30 PM) (Judicial Officer: JOHNSON, MARGARET JONES) Events: 11/25/2015 MOTION 11/30/2015 MOTION & MOTION TO LIFT STAY & MOTION TO DETERMINE LENGTH OF DEPOSITION
12/16/2015	 CORRESPONDENCE - LETTER TO FILE
12/16/2015	 CORRESPONDENCE - LETTER TO FILE LETTER TO HONORABLE MARGARET JONES-JOHNSON
01/04/2016	


THE PROBATE COURT
DOCKET SHEET
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 ORDER
-ORDER OF RECUSAL AND REFERRAL FOR ASSIGNMENT-IT IS FURTHERED ORDERED ADJUDGED AND DECREED THAT ALL MATTERS IN THIS CAUSE BY REFERRED TO THE HONORABLE GUY HERMAN, PRESIDING JUDGE, STATUTORY PROBATE COURTS OF THE STATE OF TEXAS ETC.


01/04/2016  APPLICATION
APPLICATION FOR DISTRIBUTION OF PROPERTY AND MOTION FOR PROTECTIVE ORDER


01/05/2016  ISSUE CITATION
Party: DEFENDANT QUAGMIRE, LLC
ISSUED ON 1/5/16


01/05/2016 ISSUE CITATION
QUAGMIRE, LLC
Served: 01/11/2016
RTN: 2/29/2016


01/08/2016  RULE 11 AGREEMENT


01/11/2016  AMENDED ANSWER
DEFENDANT JPMORGAN CHASE BANK, N.A.???S FIRST AMENDED ANSWER TO STEPHEN HOPPER???S AND LAURA WASSMER???S FIRST AMENDED CROSS CLAIM


01/11/2016  AMENDED ANSWER
DEFENDANT JPMORGAN CHASE BANK, N.A.???S SECOND AMENDED ANSWER, SPECIAL EXCEPTIONS, COUNTERCLAIM AND CROSS-CLAIM IN RESPONSE TO JO N. HOPPER???S SECOND AMENDED ORIGINAL PETITION

01/12/2016  ORDER
-MINUTE ORDER 2016-003-IT IS THEREFORE ORDERED THAT THE DALLAS COUNTY CLERK RANDOMLY REASSIGN THE ABOVE REFERENCED CASE TO A JUDGE OF ONE OF THE STATUTORY PROBATE COURTS LOCATED IN THE COUNTY, OTHER THAN THE JUDGE OF DALLAS COUNTY PROBATE COURT NO. 3 (ORDER FROM PRESIDING STATUTORY PROBATE JUDGE OF THE STATE OF TEXAS-JUDGE GUY S. HERMAN

















01/12/2016  ORDER
AMENDED MINUTE ORDER 2016-001-IT IS THEREFORE ORDERED THE APPOINTMENT OF THE HONORABLE JOE LOVING, A SENIOR STATUTORY PROBATE JUDGE ON JANUARY 6, 2016 IS SET ASIDE AND THAT THE ABOVE MATTERS ARE RANDOMLY REASSIGNED TO A JUDGE OF ONE OF THE OTHER STATUORY PROBATE COURTS LOCATED IN THE COUNTY, ETC. (THIS ORDER IS FROM JUDGE GUY S. HERMAN

01/21/2016  CORRESPONDENCE - LETTER TO FILE
FROM JUDGE GUY S. HERMAN-PRESIDING STATUTORY PROBATE JUDGE













01/21/2016  CORRESPONDENCE - LETTER TO FILE
FROM JUDGE GUY S. HERMAN, PRESIDING STATUTORY PROBATE JUDGE

01/21/2016  NOTICE OF HEARING
ON APPLICATION FOR DISTRIBUTION OF PROPERTY AND MOTION FOR PROTECTIVE ORDER
















THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

01/26/2016	 NOTICE - HEARING / FIAT
01/26/2016	 AMENDED CROSS CLAIM - AMENDED COUNTER PETITION <i>STEVEN HOOPER'S AND LAURA WASSMER'S SECOND AMENDED CROSS CLAIM</i>
01/27/2016	 MOTION - COMPEL <i>PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS RESPONSIVE TO REQUESTS FOR PRODUCTION SERVED ON JPMORGAN CHASE BANK, N.A.</i>
01/27/2016	 NOTICE OF HEARING <i>AMENDED NOTICE OF HEARING</i>
01/27/2016	 OBJECTION <i>JPMORGAN CHASE BANK, N.A. S OBJECTIONS TO JO HOPPER S NOTICE OF INTENT TO TAKE DEPOSITION OF CORPORATE REPRESENTATIVE AND MOTION FOR PROTECTIVE ORDER</i>
01/28/2016	 NOTICE OF HEARING
01/28/2016	 MOTION - DISMISS <i>DEFENDANT LAURA S. WASSMER S MOTION TO DISMISS</i>
01/28/2016	 MOTION - DISMISS <i>DEFENDANT STEPHEN B. HOOPER'S MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED PETITION PURSUANT TO CHAPTER 27 OF THE TEXAS CIVIL PRACITCE AND REMEDIES CODE</i>
01/29/2016	 MISC. EVENT <i>LAURA S. WASSMER AND STEPHEN B. HOPPER S JOINDER TO PLAINTIFF S MOTION TO COMPEL PRODUCTION OF DOCUMENTS RESPONSIVE TO REQUEST FOR PRODUCTION SERVED ON JP MORGAN CHASE BANK, N.A.</i>
02/01/2016	 NOTICE OF HEARING
02/02/2016	 MOTION <i>PLAINTIFF'S MOTION FOR RESETTNG OF HEARING ON MOTION TO DISMISS</i>
02/03/2016	 VACATION LETTER
02/03/2016	 NOTICE OF HEARING
02/03/2016	 RESPONSE <i>DEFENDANT LAURA S. WASSMER'S AND STEPHEN B. HOPPER'S RESPONSE TO PLAINTIFF'S MOTION FOR RESETTNG OF HEARING ON MOTIONS TO DISMISS</i>
02/03/2016	 RESPONSE <i>DEFENDANT LAURA S. WASSMER'S AND STEPHEN B. HOPPER'S RESPONSE TO PLAINTIFF'S MOTION TO COMPEL</i>
02/03/2016	 RESPONSE <i>DEFENDANT LAURA S. WASSMER'S AND STEPHEN B. HOPPER'S RESPONSE TO PLAINTIFF'S MOTION TO DETERMINE LENGTH OF DEPOSITIONS</i>















THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

02/05/2016	 APPLICATION - AMENDED <i>FIRST AMENDED APPLICATION FOR DISTRIBUTION OF PROPERTY AND MOTION FOR PROTECTIVE ORDER</i>
02/05/2016	 RESPONSE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO DEFENDANTS APPLICATION FOR DISTRIBUTION OF PROPERTY AND MOTION FOR PROTECTIVE ORDER</i>
02/08/2016	 MOTION <i>Party: DEFENDANT JP MORGAN CHASE, N.A. DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION TO EXTEND TIME TO SERVE AFFIDAVIT IN SUPPORT OF DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION TO COMPEL OR TO CONTINUE HEARING AND MOTION TO SHORTEN TIME FOR NOTICE OF HEARING</i>
02/08/2016	 RESPONSE <i>Party: DEFENDANT JP MORGAN CHASE, N.A. DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS RESPONSIVE TO REQUEST FOR PRODUCTION</i>
02/10/2016	CONFERENCE (2:00 PM) (Judicial Officer: THOMPSON, BRENDA H)
02/10/2016	 RESPONSE <i>DEFENDANT LAURA S. WASSMER S AND STEPHEN B. HOPPER S SUPPLEMENTED RESPONSE TO PLAINTIFF S MOTION FOR RESETTING OF HEARING ON MOTIONS TO DISMISS</i>
02/10/2016	 ORIGINAL ANSWER - GENERAL DENIAL <i>DEFENDANTS LAURA S. WASSMER'S AND STEPHEN B. HOPPER'S GENERAL DENIAL TO PLAINTIFF'S SECOND AMENDED ORIGINAL PETITION</i>
02/16/2016	 RULE 11 AGREEMENT
02/17/2016	 MOTION <i>MOTION FOR SUBSTITUED SERVICE</i>
02/23/2016	 MOTION - QUASH <i>JPMORGAN CHASE BANK, N.A.'S MOTION TO QUASH DEPOSITION, OBJECTIONS TO JO HOPPER'S NOTICE OF INTENT TO TAKE DEPOSITION OF CORPORATE REPRESENTATIVE, AND MOTION FOR PROTECTIVE ORDER</i>
02/25/2016	 MOTION - QUASH <i>DEFENDANTS MOTION TO QUASH NOTICE OF INTENT TO TAKE THE ORAL AND VIDEOTAPED DEPOSITION OF GARY STOLBACH AND MOTION FOR PROTECTIVE ORDER</i>
02/25/2016	 CORRESPONDENCE - LETTER TO FILE <i>REGARDING NOTICE OF HEARING - 04/04/2016 AT 3:00 P.M. - JPMC'S MOTION TO QUASH DEPOSITION, OBJECTIONS TO JO HOPPER'S NOTICE OF INTENT TO TAKE DEPOSITION OF CORPORATE REPRESENTATIVE, AND MOTION FOR PROTECTIVE ORDER</i>
02/26/2016	 NOTICE OF INTENT TO TAKE DEPOSITION <i>NOTICE OF INTENT TO TAKE ORAL DEPOSITION OF GARY STOLBACK</i>

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02/29/2016	 RETURN PERSONAL CITATION Party: DEFENDANT QUAGMIRE, LLC
03/01/2016	 MOTION PLAINTIFF JO N. HOPPER AND DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR ENTRY OF AMENDED SCHEDULING ORDER
03/03/2016	 RETURN OF SERVICE RETURN OF SERVICE - ACCEPTANCE OF SERVICE OF NON-PARTY GARY STOLBACH DEPOSITION SUBPOENA
03/04/2016	 NOTICE OF HEARING
03/09/2016	 VACATION LETTER - ALAN S. LOEWINSOHN
03/10/2016	 MOTION - COMPEL PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS RESPONSIVE TO FIRST AND SECOND REQUESTS FOR PRODUCTION SERVED ON STEPHEN B. HOPPER AND LAURA S. WASSMER
03/14/2016	 NOTICE OF HEARING - MARCH 25, 2016 @ 9:30AM
03/15/2016	 MOTION - DEFAULT JUDGMENT PLAINTIFF S MOTION FOR INTERLOCUTORY DEFAULT JUDGMENT
03/16/2016	 ORIGINAL ANSWER - GENERAL DENIAL
03/16/2016	 SUBPOENA SUBPOENA DUCES TECUM (W/O EXHIBIT 1) - LOCKE LORD LLP - MEMORANDUM OF ACCEPTANCE SIGNED MARCH 16, 2016
03/18/2016	 RESPONSE REPLY TO DEFENDANTS' RESPONSE TO FIRST AMENDED APPLICATION FOR DISTRIBUTION OF PROPERTY AND MOTION FOR PROTECTIVE ORDER
03/21/2016	 VACATION LETTER
03/22/2016	 RESPONSE PLAINTIFF'S RESPONSE TO STEPHEN B. HOPPER AND LAURA S. WASSMER'S APPLICATION FOR DISTRIBUTION OF PROPERTY AND MOTION FOR PROTECTIVE ORDER
03/22/2016	 RESPONSE DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO DEFENDANTS' FIRST AMENDED APPLICATION FOR DISTRIBUTION OF PROPERTY AND MOTION FOR PROTECTIVE ORDER
03/22/2016	 MISC. EVENT DEFENDANTS LAURA WASSMER, STEPHEN HOPPER, AND QUAGMIRE, LLC'S PRIVILEGE LOG

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03/22/2016	 CORRESPONDENCE - LETTER TO FILE
03/22/2016	 RESPONSE <i>DEFENDANTS STEPHEN B. HOPPER AND LAURA S. WASSMER'S RESPONSE TO PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS RESPONSIVE TO FIRST AND SECOND REQUESTS FOR PRODUCTION SERVED ON STEPHEN B. HOPPER AND LAURA S. WASSMER</i>
03/24/2016	 CORRESPONDENCE - LETTER TO FILE <i>LETTER TO THE JUDGE</i>
03/25/2016	SPECIAL SETTINGS (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>(2) Motions to Dismiss- F 1/28/16; Application for Distribution of Property and Motion for Protective Order- F 1/4/2016; (2) Motions to Compel- F 4/6/12 & 3/10/16; Plaintiff's Motion to Determine Length of Deposition- F 11/25/15; Plaintiff's Amended Motion to Lift Stay- F 11/30/15</i>
03/25/2016	 ORDER <i>-ORDER-ON DEFENDANTS STEPHEN B. HOPPER AND LAURA S. WASSMER'S FIRST AMENDED APPLICATION FOR DISTRIBUTION OF PROPERTY AND MOTION FOR PROTECTIVE ORDER ETC.</i>
03/25/2016	 ORDER <i>-ORDER ON MOTION TO LIFT STAY</i>
03/28/2016	 NOTICE OF HEARING <i>- AMENDED NOTICE - APRIL 4, 2016 @ 3:00PM</i>
03/29/2016	 CORRESPONDENCE - LETTER TO FILE
03/29/2016	 ORDER - SCHEDULING <i>AMENDED SCHEDULING ORDER</i>
04/01/2016	 NOTICE OF HEARING <i>SECOND AMENDED NOTICE OF HEARING</i>
04/01/2016	 CORRESPONDENCE - LETTER TO FILE
04/04/2016	CANCELED MOTION - QUASH (3:00 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>REQUESTED BY ATTORNEY/PRO SE F 2/23/16</i>
04/04/2016	 NOTICE OF INTENT TO TAKE DEPOSITION <i>W/SUBPOENA</i>
04/04/2016	 MOTION - LEAVE <i>DEFENDANTS STEPHEN B. HOPPER AND LAURA S. WASSMER'S MOTION FOR LEAVE TO AMEND PETITION</i>
04/06/2016	 MOTION <i>SECOND AMENDED MOTION</i>
04/07/2016	 NOTICE OF HEARING

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- APRIL 18, 2016 @ 3:00PM

04/08/2016	 MOTION - MODIFY <i>DEFENDANTS STEPHEN B. HOPPER AND LAURA S. WASSMER'S MOTION TO MODIFY CERTAIN PRETRIAL DEADLINES</i>
04/13/2016	 OBJECTION <i>PLAINTIFF'S OBJECTION TO STEPHEN B. HOPPER AND LAURA S. WASSMER'S AMENDED MOTION FOR LEAVE TO AMEND PETITION</i>
04/13/2016	 MOTION <i>DEFENDANTS STEPHEN B. HOPPER AND LAURA S. WASSMER'S SECOND AMENDED MOTION FOR LEAVE TO AMEND PETITION</i>
04/18/2016	CANCELED MOTION - DISMISS (3:00 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>REQUESTED BY ATTORNEY/PRO SE</i> <i>(2)- F 1/28/2016</i>
04/18/2016	MOTION - COMPEL (3:00 PM) (Judicial Officer: PEYTON, JOHN B) <i>F 4/6/12</i>
04/19/2016	 VACATION LETTER <i>- ALAN S. LOEWINSOHN</i>
04/20/2016	 NOTICE OF HEARING
04/21/2016	 MOTION - COMPEL <i>PLAINTIFF'S MOTION TO COMPEL ADDITIONAL DEPOSITION OF A CORPORATE REPRESENTATIVE OF JPMORGAN CHASE BANK, N.A.</i>
04/22/2016	 ORDER - COMPEL <i>ORDER GRANTING PLAINTIFF JOHN HOPPER'S MOTION TO COMPEL</i>
04/25/2016	 NOTICE OF INTENT TO TAKE DEPOSITION <i>CROSS-NOTICE OF INTENT TO TAKE ORAL DEPOSITION OF CELIA DORIS KING</i>
04/27/2016	 RESPONSE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO DEFENDANTS STEPHEN HOPPER AND LAURA WASSMER'S MOTION TO MODIFY CERTAIN PRETRIAL DEADLINES</i>
05/02/2016	MOTION - HEARING (3:00 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>Defendants Stephen B. Hopper and Laura S. Wassmer's Motion to Modify Certain Pre-Trial Deadlines- F 4/8/16</i>
05/03/2016	 MISC. EVENT <i>DEFENDANTS/CROSS- CLAIMANTS STEPHEN H. HOPPER AND LAURA S. WASSMER'S REQUEST DE NOVO HEARING</i>
05/06/2016	 NOTICE OF HEARING
05/09/2016	 NOTICE OF INTENT TO TAKE DEPOSITION <i>AMENDED NOTICE OF INTENT TO TAKE ORAL DEPOSITION OF GARY STOLBACH</i>
05/09/2016	















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	 NOTICE OF INTENT TO TAKE DEPOSITION <i>AMENDED CROSS-NOTICE OF INTENT TO TAKE ORAL DEPOSITION OF CELIA DORIS KING</i>
05/12/2016	 CORRESPONDENCE - LETTER TO FILE <i>W/PROPOSED AGREED ORDER APPOINTING MEDIATOR</i>
05/12/2016	 ORDER <i>-AGREED ORDER APPOINTING MEDIATOR</i>
05/16/2016	 NOTICE OF HEARING <i>AMENDED NOTICE OF HEARING</i>
05/23/2016	 MOTION - COMPEL <i>PLAINTIFF'S MOTION TO COMPEL ADDITIONAL DEPOSITION OF SUSAN NOVAK AND FOR COSTS</i>
05/25/2016	 CERTIFICATE - DEPOSITION <i>ORAL & VIDEOTAPED DEPOSITION - ALAN S. LOEWINSOHN \$2,338.70</i>
05/25/2016	 CERTIFICATE - DEPOSITION <i>ORAL & VIDEOTAPED DEPOSITION- ALAN S. LOEWINSOHN- \$777.60</i>
05/25/2016	 CERTIFICATE - DEPOSITION <i>STEPHEN B. HOPPER - \$973.75</i>
05/25/2016	 CERTIFICATE - DEPOSITION <i>REPORTER'S CERTIFICATE OF STEPHEN B. HOPPER - \$2395.90</i>
05/25/2016	 CERTIFICATE - DEPOSITION <i>LAURA WASSMER-VOL 1</i>
05/25/2016	 CERTIFICATE - DEPOSITION <i>LAURA WASSMER-VOLUME 2</i>
05/27/2016	 NOTICE OF HEARING
05/31/2016	 AMENDED ANSWER <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S SUPPLEMENT TO ITS SECOND AMENDED ANSWER TO JO N. HOPPER'S SECOND AMENDED PETITION</i>
05/31/2016	 AMENDED ANSWER <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S SUPPLEMENT TO ITS FIRST AMENDED ANSWER TO HEIRS' FIRST AMENDED CROSS CLAIM</i>
05/31/2016	 APPLICATION -AMENDED <i>STEVEN HOPPER'S AND LAURA WASSMER'S THIRD AMENDED CROSS CLAIM AND COUNTER CLAIM</i>
05/31/2016	 ORIGINAL ANSWER <i>STEVEN HOPPER'S AND LAURA WASSMER'S AMENDED ANSWER AND AFFIRMATIVE DEFENSES</i>

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06/07/2016	 MOTION - COMPEL <i>DEFENDANTS STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S MOTION TO COMPEL CONTINUATION OF THE DEPOSITION OF TOM CANTRILL</i>
06/09/2016	 RESPONSE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO PLAINTIFF'S MOTION TO COMPEL ADDITIONAL DEPOSITION OF SUSAN NOVAK AND FOR COSTS</i>
06/14/2016	 NOTICE <i>NON-PARTY NOTICE OF INTENT TO ISSUE SUBPOENA FOR PRODUCTION OF DOCUMENTS TO MICHAEL L. GRAHAM, P.C.</i>
06/14/2016	 NOTICE <i>NON-PARTY NOTICE OF INTENT TO ISSUE SUBPOENA FOR PRODUCTION OF DOCUMENTS TO BAKER STREET ADVISORS, LLC</i>
06/15/2016	 NOTICE OF HEARING <i>AUGUST 9, 2016</i>
06/15/2016	 NOTICE <i>NOTICE OF INTENT TO TAKE ORAL DEPOSITION OF SARAH WILLIAMSON (NON-PARTY)</i>
06/16/2016	 NOTICE OF HEARING
06/17/2016	 NOTICE - APPEARANCE
06/20/2016	 CERTIFICATE - DEPOSITION <i>-JO N. HOPPER'S ORAL DEPOSITION VOL 1-\$1522.05</i>
06/20/2016	 CERTIFICATE - DEPOSITION <i>-JO N. HOPPER'S ORAL DEPOSITION VOL 2- \$1175.75</i>
06/20/2016	 MOTION - QUASH <i>MOTION TO QUASH THE ORAL DEPOSITION OF LAURA S. WASSMER</i>
06/20/2016	 MOTION - QUASH <i>MOTION TO QUASH THE ORAL DEPOSITION OF STEPHEN B. HOPPER</i>
06/21/2016	 CERTIFICATE - DEPOSITION <i>-THOMAS H. CANTRILL'S ORAL DEPOSITION-\$2956.90</i>
06/21/2016	 CERTIFICATE - DEPOSITION <i>-SUSAN H. NOVAK'S ORAL DEPOSITION VOL 1-\$2271.55</i>
06/21/2016	 CERTIFICATE - DEPOSITION <i>-SUSAN H. NOVAK'S ORAL DEPOSITION VOL 2-\$1726.40</i>
06/21/2016	 MOTION - COMPEL <i>PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS FROM STEPHEN B. HOPPER AND LAURA S. WASSMER AND FOR SANCTIONS</i>

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06/21/2016	 MOTION - COMPEL <i>PLAINTIFF'S MOTION TO COMPEL ADDITIONAL DEPOSITION OF STEPHEN B. HOPPER AND LAURA S. WASSMER</i>
06/22/2016	 MOTION <i>JPMORGAN CHASE BANK, N.A.'S MOTION TO QUASH DEPOSITION OF JOHN C. EICHMAN, OBJECTIONS AND MOTION FOR PROTECTIVE ORDER</i>
06/23/2016	 NOTICE OF HEARING
06/24/2016	 CORRESPONDENCE - LETTER TO FILE
06/28/2016	STATUS CONFERENCE (4:30 PM) (Judicial Officer: THOMPSON, BRENDA H)
06/28/2016	 NOTICE OF HEARING <i>HEARING SET AUGUST 1, 2016 AT 3:00PM</i>
06/28/2016	 ORDER - SCHEDULING <i>AGREED SECOND AMENDED SCHEDULING ORDER</i>
07/01/2016	 ORIGINAL ANSWER <i>SECOND AMENDED ANSWER AND AFFIRMATIVE DEFENSES</i>
07/05/2016	 CORRESPONDENCE - LETTER TO FILE <i>W/ PROPOSED ORDER</i>
07/05/2016	 MOTION - SUBSTITUTION OF COUNSEL
07/08/2016	 ORIGINAL ANSWER <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S THIRD AMENDED ANSWER, SPECIAL EXCEPTIONS, COUNTERCLAIM AND CROSS-CLAIM IN RESPONSE TO JO N. HOPPER'S SECOND AMENDED ORIGINAL PETITION</i>
07/08/2016	 ORIGINAL ANSWER <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S ANSWER TO STEPHEN HOPPER'S AND LAURA WASSMER'S THIRD AMENDED CROSS CLAIM</i>
07/11/2016	CANCELED MOTION - COMPEL (1:30 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>REQUESTED BY ATTORNEY/PRO SE</i> <i>Plaintiff's Motion to Compel Additional Deposition of a Corporate Representation of JPMorgan Chase Bank, N.A. - F 4/21/16</i>
07/19/2016	 NOTICE <i>NOTICE OF INTENT TO TAKE ORAL DEPOSITION OF MICHAEL L. GRAHAM (NON-PARTY)</i>
07/19/2016	 ORDER - SUBSTITUTION OF COUNSEL <i>Party: ATTORNEY LOEWINSOHN, ALAN S</i> <i>IT IS, THEREFORE, FURTHER ORDERED THAT THE LAW FIRM OF LOEWINSOHN FLEGLE DEARY LLP ARE PERMITTED TO WITHDRAW AND ARE HEREBY DISCHARGED AS ATTORNEYS OF RECORD FOR PLAINTIFF</i>
07/19/2016	 MOTION - COMPEL <i>-DEFENDANT JPMORGAN CHASE BANK MOTION TO COMPEL THE PRODUCTION</i>


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OF DOCUMENTS


07/20/2016	 MOTION - PARTIAL SUMMARY JUDGMENT <i>-STEPHEN HOPPERD AND LAURA WASSMER'S MOTION FOR PARTIAL SUMMARY JUDGEMENT</i>
07/20/2016	 MOTION <i>-JPMORGAN CHASE BANK, N.A.'S MOTION FOR LEAVE TO DESIGNATE RESPONSIBLE THIRD PARTIES</i>
07/21/2016	 OBJECTION <i>NON-PARTY J.P. MORGAN SECURITIES, LLC???S OBJECTIONS TO SUBPOENA AND MOTION FOR PROTECTIVE ORDER</i>
07/21/2016	 MOTION <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'???S JOINDER IN NON-PARTY J.P. MORGAN SECURITIES, LLC???S MOTION FOR PROTECTIVE ORDER</i>
07/22/2016	 MOTION - PARTIAL SUMMARY JUDGMENT <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING ATTORNEYS' FEES AS DAMAGES</i>
07/25/2016	 MOTION - PARTIAL SUMMARY JUDGMENT <i>DEFENDANT JPMORGAN CHASE BANK'S TRADITIONAL AND NO-EVIDENCE MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING JO HOPPER'S MENTAL ANGUISH DAMAGES</i>
07/27/2016	 NOTICE OF HEARING <i>2016-08-09 HEARING NOTICE FOR JPMC'S MOTION FOR LEAVE TO DESIGNATE RESPONSIBLE THIRD PARTIES AND JPMC'S MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS</i>
07/27/2016	 NOTICE OF HEARING <i>SEPTEMBER 14, 2016 @ 2:00 P.M.</i>
07/28/2016	 MOTION <i>PLAINTIFF'S MOTION FOR LEAVE TO SERVE PLAINTIFF'S FOURTH SET OF INTERROGATORIES TO DEFENDANT STEPHEN B. HOPPER AND LAURA S. WASSMER</i>
08/01/2016	MOTION - COMPEL (3:00 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>Plaintiff Jo N. Hopper's Motion to Compel Production of Documents from Stephen B. Hopper and Laura S. Wassmer and for Sanctions- F 6/21/16</i>
08/01/2016	 NOTICE OF HEARING
08/02/2016	 RESPONSE <i>PLAINTIFF'S RESPONSE TO DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS</i>
08/03/2016	 MOTION - COMPEL RESPONSE TO <i>DEFENDANT JPMORGAN CHASE MOTION TO COMPEL RESPONSE TO REQUEST FOR DISCLOSURE</i>
08/03/2016	 NOTICE OF HEARING <i>HEARING SET SEPTEMBER 14, 2016</i>


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08/03/2016  **OBJECTION**
STEPHEN HOPPER'S AND LAURA WASSMER'S OBJECTION TO JPMORGAN CHASE BANK, N.A.'S MOTION TO LEAVE TO DESIGNATE RESPONSIBLE THIRD PARTIES


08/04/2016  **CERTIFICATE - DEPOSITION**
REPORTER'S CERTIFICATION - GARY STOLBACH (AMOUNT \$1255.70)


08/04/2016  **RESPONSE**
DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO DEFENDANTS STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION TO COMPEL THE CONTINUATION OF THE DEPOSITION OF TOM CONTRILL


08/05/2016  **MOTION - SUMMARY JUDGMENT**
DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR SUMMARY JUDGMENT REGARDING TEMPORARY ADMINISTRATION CLAIMS

08/08/2016  **RESPONSE**
N.A.'S REPLY TO DEFENDANTS' OBJECTION


08/08/2016  **NOTICE OF HEARING**
HEARING SET SEPTEMBER 1, 2016 AT 1:30 PM


08/08/2016  **NOTICE OF HEARING**
HEARING NOTICES FOR SEPTEMBER 1, 2016 (3-5 P.M.) AND SEPTEMBER 14, 2016 (2-4 PM)


08/08/2016  **NOTICE**
HEARING REMOVE FROM COURT'S DOCKET


08/08/2016  **NOTICE OF HEARING**
AMENDED NOTICE HEARING


08/09/2016 **MOTION - COMPEL (2:00 PM)** (Judicial Officer: THOMPSON, BRENDA H)
Defendants Stephen B. Hopper's and Laura S. Wassmer's Motion to Compel Continuation of the Deposition of Tom Contrill- F 6/7/16; Defendant JPMorgan Chase Bank, N.A.'s Motion to Compel the Production of Documents- F 7/19/16; JPMorgan Chase Bank, N.A.'s Motion for Leave to Designate Responsible Third Parties- F 7/20/16; Plaintiff's Motion for Leave to Serve Plaintiff's Fourth Set of Interrogatories to Defendants Stephen B. Hopper and Laura S. Wassmers- F 7/28/16 (only if time allows)

08/09/2016  **NOTICE OF HEARING**
HEARING RE-SET SEPTEMBER 1, 2016 AT 3:00 P.M.

08/12/2016  **NOTICE OF HEARING**
JPMORGAN MULTIPLE HEARING NOTICE FOR 9/14/2016 & 9/26/2016

















08/12/2016  **CORRESPONDENCE - LETTER TO FILE**

08/12/2016  **MOTION - STRIKE**
PLAINTIFF'S MOTION TO STRIKE STEVEN HOPPER AND LAURA WESSMER'S SECOND AMENDED ANSWER AND AFFIRMATIVE DEFENSES

08/16/2016  **NOTICE OF HEARING**

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-NOTICE OF HEARING ON 9/14/2016 @2PM

08/16/2016	 NOTICE OF HEARING <i>2016-10-04 JPMORGAN'S AMENDED HEARING NOTICE (MOVING 3 HEARINGS SET FOR 9/26 TO 10/4 PER PLAINTIFF'S REQUEST AND AGREEMENT OF THE PARTIES)</i>
08/18/2016	 NOTICE <i>NOTICE OF INTENT TO ISSUE SUBPOENA FOR PRODUCTION OF DOCUMENTS</i>
08/18/2016	 NOTICE <i>NOTICE OF INTENT TO TAKE DEPOSITION ON WRITTEN QUESTIONS OF CORPORATE REPRESENTATIVE OF GT NEXUS, INC.</i>
08/24/2016	 CERTIFICATE - DEPOSITION <i>TODD A. BAIRD-\$1801.00</i>
08/24/2016	 CERTIFICATE - DEPOSITION <i>JOHN K. ROUND-\$1431.10</i>
08/24/2016	 CERTIFICATE - DEPOSITION <i>KAL GRANT-\$1882.60</i>
08/24/2016	 MOTION - PARTIAL SUMMARY JUDGMENT
08/25/2016	 NOTICE <i>NOTICE OF FILING OF SUBSTITUTE EXHIBIT 9 TO JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING TEMPORARY ADMINISTRATION CLAIMS</i>
08/25/2016	 NOTICE OF HEARING
08/26/2016	 MOTION - COMPEL <i>PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND INTERROGATORY RESPONSES FROM STEPHEN B. HOPPER AND LAURA S. WASSMER AND ADDITIONAL DEPOSITION OF GARY STOLBACH</i>
08/29/2016	 NOTICE OF HEARING <i>-NOTICE OF HEARING ON SEPTEMBER 14, 2016 @1:30PM</i>
08/29/2016	 AMENDED ANSWER <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S FOURTH AMENDED ANSWER, SPECIAL EXCEPTIONS, COUNTERCLAIM AND CROSS-CLAIM IN RESPONSE TO JO N. HOPPER'S SECOND AMENDED ORIGINAL PETITION</i>
08/30/2016	 JURY TRIAL DEMAND
08/30/2016	 NOTICE OF HEARING <i>-NOTICE OF HEARING ON SEPTEMBER 14, 2016 @2PM</i>
08/30/2016	 NOTICE OF HEARING
08/30/2016	 NOTICE OF HEARING <i>HEARING NOTICE UPDATE RE: 9/14/2016 HEARING ON JPMC'S SPECIAL</i>












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EXCEPTIONS (AS FILED 8/29/2016)















09/01/2016	 MOTION - COMPEL DEFENDANTS STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S MOTION TO COMPEL AGAINST PLAINTIFF JO N. HOPPER
09/07/2016	 NOTICE OF HEARING HEARING NOTICE - JPMORGAN'S FIRST AMENDED MOTION FOR SUMMARY JUDGMENT REGARDING TEMPORARY ADMINISTRATION CLAIMS - 10/4/2016 at 9:30 a.m.
09/07/2016	 MOTION - SUMMARY JUDGMENT DEFENDANT JPMORGAN CHASE BANK, N.A.'S FIRST AMENDED MOTION FOR SUMMARY JUDGMENT REGARDING TEMPORARY ADMINISTRATION CLAIMS
09/07/2016	 RESPONSE PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT
09/07/2016	 RESPONSE DEFENDANTS STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S RESPONSE TO DEFENDANT JPMORGAN CHASE BANK
09/07/2016	 ORIGINAL ANSWER -PLAINTIFF'S RESPONSE IN OPPOSITION TO STEPHEN HOPPER AND LAURA WASSMER'S MOTION FOR PARTIAL SUMMARY JUDGMENT
09/08/2016	 AMENDED PETITION PLAINTIFF'S THIRD AMENDED PETITION FOR: DECLARATORY JUDGMENT, BREACH OF CONTRACT, BREACH OF FIDUCIARY DUTY, FRAUD, ET AL, AND, JURY DEMAND
09/08/2016	 RESPONSE DEFENDANTS' STEPHEN HOPPER AND LAURA WASSMER'S CONTINUATION OF THEIR RESPONSE TO JPMORGAN CHASE BANK, N.A., PART 3 EXHIBITS P; PART 4 THROUGH EXHIBIT Y
09/08/2016	 RESPONSE -Def SH and LW resp to JPMC MSJ on atty fees Part 3
09/08/2016	 CORRESPONDENCE - LETTER TO FILE W/ PART TWO OF PLAINTIFF JO HOPPER'S RESPONSE IN OPPOSITION TO STEPHEN HOPPER AND LAURA WASSMER'S
09/08/2016	 MOTION - SUMMARY JUDGMENT DEFENDANT JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTION FOR SUMMARY JUDGMENT ON STEPHEN HOPPER AND LAURA WASSMER'S CLAIMS FOR ATTORNEYS' FEES
09/08/2016	 MOTION - SUMMARY JUDGMENT DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING JO HOPPER'S CLAIMS FOR REIMBURSEMENT OF PROPERTY TAXES OR FOR REPAIRS
09/08/2016	 MOTION - SUMMARY JUDGMENT

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DEFENDANT JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE
MOTION FOR SUMMARY JUDGMENT ON MRS. HOPPER'S CLAIM FOR BREACH OF
CONTRACT REGARDING THE DISTRIBUTION OF ROBLEDO

09/08/2016	 RESPONSE -DEFENDANTS' STEPHEN HOPPER AND LAURA WASSMER'S CONTINUATION OF THE RESPONSE TO JPMORGAN CHASE BANK, N.A. PART 2 EXHIBITS E-O
09/09/2016	 RESPONSE DEFENDANT JPMORGAN CHASE BANK
09/12/2016	 MOTION -DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON ATTORNEYS FEES INCURRED BY PLAINTIFF MRS. HOPPER REGARDING DECLARATORY JUDGMENTS IN THE SEVERED SUIT
09/12/2016	 RESPONSE RESPONSE TO PLAINTIFF JO HOPPER'S MOTION TO STRIKE THEIR SECOND AMENDED ANSWER AND AFFIRMATIVE DEFENSES
09/12/2016	 MOTION - SUMMARY JUDGMENT DEFENDANT JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTIONS FOR PARTIAL SUMMARY JUDGMENT REGARDING STEPHEN HOPPER'S AND LAURA WASSMER'S CLAIMS FOR FRAUD, FRAUDULENT INDUCEMENT, AND FRAUD BY NONDISCLOSURE
09/12/2016	 MOTION DEFENDANT JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTIONS FOR PARTIAL SUMMARY JUDGMENT REGARDING JO HOPPER'S FRAUD AND DTPA CLAIMS
09/12/2016	 MOTION DEFENDANTS LAURA S. WASSMER AND STEPHEN B. HOPPER'S NO EVIDENCE MOTION FOR SUMMARY JUDGMENT
09/13/2016	 RULE 11 AGREEMENT NOTICE OF RULE 11 AGREEMENT
09/14/2016	SPECIAL SETTINGS (1:30 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>Defendants/Cross-Claimants Stephen H. Hopper and Laura S. Wassmer's Request for De Novo Hearing on Jo Hopper's Motion to Compel- F 5/3/16; Stephen Hopper and Laura Wassmer's Motion for Partial Summary Judgment- F 7/20/16; Defendant JPMorgan Chase Bank, N.A.'s Motion for Partial Summary Judgment Regarding Attorney's Fees as Damages- F 7/22/2016; JPMorgan Chase Bank, N.A.'s Special Exceptions- F 7/8/16; Plaintiff's Motion for Leave to Serve Plaintiff's Fourth Set of Interrogatories to Defendants Stephen B. Hopper and Laura S. Wassmers- F 7/28/16 (only if time allows); Plaintiff's Motion to Strike Steven Hopper and Laura Wassmer's Second Amended Answer and Affirmative Defenses- F 8/12/16 (only if time allows)</i>
09/14/2016	 NOTICE OF HEARING
09/14/2016	 DESIGNATION - EXPERT WITNESS -FIRST AMENDED DESIGNATION
09/15/2016	 NOTICE OF HEARING -FIRST AMENDED NOTICE OF HEARING ON 9/20/16 @9:30

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

09/15/2016	 CORRESPONDENCE - LETTER TO FILE <i>-W/ PROPOSED ORDERS GRANTING JPMORGAN'S SPECIAL EXCEPTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING ATTORNEY'S FEES AS DAMAGES</i>
09/15/2016	 CORRESPONDENCE - LETTER TO FILE <i>-W/PROPOSED ORDER</i>
09/16/2016	 NOTICE <i>NOTICE OF HEARING - SEPTEMBER 20, 2016 AT 9:30AM</i>
09/16/2016	 CORRESPONDENCE - LETTER TO FILE
09/16/2016	 MOTION - COMPEL <i>DEFENDANT JPMORGAN CHASE BANK, N.A. S MOTION TO COMPEL THE HEIRS TO ANSWER INTERROGATORIES</i>
09/16/2016	 MOTION - COMPEL <i>DEFENDANT JPMORGAN CHASE BANK, N.A. S MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS BY MRS. HOPPER</i>
09/16/2016	 RESPONSE <i>PLAINTIFF'S RESPONSE TO DEFENDANTS</i>
09/16/2016	 NOTICE <i>NOTICE OF FILING OF AMENDED AFFIDAVIT</i>
09/19/2016	 CERTIFICATE - DEPOSITION <i>JPMORGAN CHASE BANK- \$1339.55</i>
09/19/2016	 RESPONSE <i>-RESPONSE TO JPMC'S MOTION TO COMPEL</i>
09/19/2016	 CERTIFICATE - DEPOSITION <i>MICHAEL L. GRAHAM-\$1,474.85</i>
09/20/2016	MOTION - COMPEL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>Defendant JPMorgan Chase Bank, N.A.'s Motion to Compel the Production of Documents- F 7/19/16; Plaintiff's Motion to Compel Production of Documents and Interrogatory Responses from Stephen B. Hopper and Laura S. Wassmer and Additional Deposition of Gary Stolbach- F 8/26/16; Defendants Stephen B. Hopper's and Laura S. Wassmer's Motion to Compel Against Plaintiff Jo N. Hopper- F 9/1/16</i>
09/21/2016	 MOTION <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION TO EXCLUDE TESTIMONY OF JOHN T. COX III, JERRY JONES, AND ANTHONY L VITULLO</i>
09/22/2016	 MISC. EVENT <i>STIPULATION</i>
09/22/2016	 NOTICE OF INTENT TO TAKE DEPOSITION <i>REPORTER'S CERTIFICATION - DEPOSITION ON WRITTEN QUESTIONS OF KEVIN J. TAYLOR</i>

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

09/27/2016	 AFFIDAVIT -PLAINTIFF'S RESPONSE IN OPPOSITION TO JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING JO HOPPER'S MENTAL HEALTH ANGUISH DAMAGES
09/27/2016	 AMENDED PETITION PLAINTIFF'S FOURTH AMENDED PETITION
09/27/2016	 RESPONSE PLAINTIFF'S RESPONSE IN OPPOSITION TO JPMORGAN CHASE BANK, N.A.'S FIRST AMENDED MOTION FOR SUMMARY JUDGMENT REGARDING TEMPORARY ADMINISTRATION CLAIMS
09/27/2016	 CORRESPONDENCE - LETTER TO FILE -LETTER TO THE COURT
09/27/2016	 RESPONSE -DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
09/27/2016	 RESPONSE -RESPONSE TO JPMC'S TRADITIONAL AND NO EVIDENCE MSJ ON FRAUD CLAIMS I
09/27/2016	 RESPONSE -RESPONSE TO JPMC'S TRADITIONAL AND NO EVIDENCE MSJ ON FRAUD CLAIMS PART 2
09/27/2016	 RESPONSE -RESPONSE TO JPMC'S TRADITIONAL AND NO EVIDENCE MSJ ON FRAUD CLAIMS W COVERS PART 3
09/27/2016	 RESPONSE 2016-09-27 D'S RESP TO JPMC MSJ TEMP ADMIN CLAIM
09/28/2016	 RESPONSE -PLAINTIFF'S RESPONSE IN OPPOSITION TO JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTIONS FOR PARTIAL SUMMARY JUDGMENT REGARDING JO HOPPER'S FRAUD AND DTPA CLAIMS
09/28/2016	 RESPONSE PLAINTIFF'S RESPONSE TO DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON ATTORNEYS' FEES REGARDING DECLARATORY JUDGMENTS
09/28/2016	 RESPONSE
09/28/2016	 RESPONSE PLAINTIFF'S RESPONSE IN OPPOSITION TO JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTION FOR SUMMARY JUDGMENT OF BREACH OF CONTRACT CLAIM REGARDING DISTRIBUTION OF ROBLEDO
09/28/2016	 RESPONSE -STEPHEN B. HOPPER AND LAURA WASSMER'S RESPONSE TO DEFENDANT JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTION FOR

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

SUMMARY JUDGEMENT TO CLAIMS FOR ATTORNEY'S FEES

09/28/2016	 ORIGINAL ANSWER <i>PLAINTIFF'S RESPONSE IN OPPOSITION TO JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING JO HOPPER'S CLAIMS FOR REIMBURSEMENT OF PROPERTY TAXES OR FOR REPAIRS</i>
09/29/2016	 CERTIFICATE - DEPOSITION <i>ORAL DEPOSITION - ATTORNEY ALAN LOEWINSOHN FOR \$1147.75</i>
09/29/2016	 CERTIFICATE - DEPOSITION
09/29/2016	 APPLICATION - AMENDED <i>STEPHEN HOPPER'S AND LAURA WASSMER'S FOURTH AMENDED CROSS CLAIM AGAINST JP MORGAN CHASE BANK, N.A.</i>
09/29/2016	 RESPONSE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S REPLY IN SUPPORT OF ITS TRADITIONAL AND NO EVIDENCE MOTIONS FOR PARTIAL SUMMARY JUDGMENT REGARDING THE HEIRS' CLAIMS FOR FRAUD, FRAUDULENT INDUCEMENT, AND FRAUD BY NONDISCLOSURE</i>
09/29/2016	 RESPONSE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S REPLY IN SUPPORT OF ITS TRADITIONAL AND NO-EVIDENCE MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING JO HOPPER???S MENTAL ANGUISH DAMAGES</i>
09/30/2016	 MOTION <i>PLAINTIFF'S 1ST MOTION IN LIMINE</i>
09/30/2016	 MOTION - IN LIMINE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION IN LIMINE</i>
09/30/2016	 RESPONSE <i>PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT</i>
09/30/2016	 MOTION <i>-PLAINTIFF'S MOTION FOR LEAVE OF COURT TO SUPPLEMENT PLAINTIFF'S SUMMARY JUDGMENT EVIDENCE</i>
10/03/2016	 RESPONSE <i>PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION TO EXCLUDE TESTIMONY OF JOHN T. COX, III, JERRY JONES, AND ANTHONY L. VITULLO</i>
10/03/2016	 RESPONSE <i>DEFENDANTS RESPONSE TO JPMORGAN CHASE BANK, N.A.'S MOTION TO EXCLUDE TESTIMONY OF JERRY JONES AND ANTHONY L. VITULLO</i>
10/03/2016	 AFFIDAVIT AS TO LEGAL SERVICES AND FEES <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S NOTICE OF FILING OF BUSINESS RECORDS AFFIDAVITS AND RECORDS</i>
10/03/2016	 ORDER - SPECIAL EXCEPTIONS

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

OVER OVERRULING JPMORGAN CHASE BANK, N.A.'S SPECIAL EXCEPTION NO 2

10/03/2016



ORDER

ACCORDINGLY, DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR LEAVE TO DESIGNATE RESPONSIBLE THIRD PARTIES IS HEREBY GRANTED

10/04/2016

SPECIAL SETTINGS (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)

Defendant JPMorgan Chase Bank, N.A.'s Traditional and No-Evidence Motion for Partial Summary Judgment Regarding Jo Hopper's Mental Anguish Damages- F 7/25/16; Defendant JPMorgan Chase Bank, N.A.'s Motion for Summary Judgment Regarding Temporary Administration Claims- F 8/5/16; Plaintiff's Motion for Partial Summary Judgment- F 8/24/16; Defendant JPMorgan Chase Bank, N.A.'s Motion for Partial Summary Judgment Regarding Jo Hopper's Claims for Reimbursement of Property Taxes or for Repairs- F 9/8/16; Defendant JPMorgan Chase Bank, N.A.'s Motion for Partial Summary Judgment on Attorneys' Fees Incurred by Plaintiff Mrs. Hopper Regarding Declaratory Judgments in the Severed Suit- F 9/12/16

10/04/2016



CERTIFICATE - DEPOSITION

JOHN T. COX, III-\$1656.00

10/04/2016



OBJECTION

DEFENDANT JPMORGAN CHASE BANK, N.A.'S OBJECTION TO STEPHEN HOPPER'S AND LAURA WASSMER'S SUMMARY JUDGMENT EVIDENCE

10/04/2016



OBJECTION

DEFENDANTS STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S OBJECTIONS TO JPMORGAN'S TRIAL EXHIBIT LIST

10/05/2016

SPECIAL SETTINGS (10:00 AM) (Judicial Officer: THOMPSON, BRENDA H)

Defendant JPMorgan Chase Bank, N.A.'s Traditional and No-Evidence Motion for Summary Judgment on Mrs. Hopper's Claim for Breach of Contract Regarding the Distribution of Robledo- F 9/8/16; Defendant JPMorgan Chase Bank, N.A.'s Traditional and No-Evidence Motion for Summary Judgment on Stephen Hopper and Laura Wassmer's Claims for Attorneys' Fees- F 9/8/16; Defendant JPMorgan Chase Bank, N.A.'s Traditional and No-Evidence Motions for Partial Summary Judgment Regarding Jo Hopper's Fraud and DTPA Claims- F 9/12/16; Defendant JPMorgan Chase Bank, N.A.'s Traditional and No-Evidence Motions for Partial Summary Judgment Regarding Stephen Hopper's and Laura Wassmer's Claims for Fraud, Fraudulent Inducement, and Fraud by Nondisclosure- F 9/12/16; Defendants Laura S. Wassmer and Stephen B. Hopper's No Evidence Motion for Summary Judgment- F 9/12/16; Defendant JPMorgan Chase Bank, N.A.'s Motion to Exclude Testimony of John T. Cox III, Jerry Jones, and Anthony L. Vitullo- F 9/21/16

10/05/2016

SPECIAL SETTINGS (1:30 PM) (Judicial Officer: THOMPSON, BRENDA H)

Continuation from Morning Docket

10/06/2016

PRE-TRIAL HEARING (1:30 PM) (Judicial Officer: THOMPSON, BRENDA H)

10/07/2016



CORRESPONDENCE - LETTER TO FILE

REVISED PROPOSED ORDER GRANTING MOTION TO EXCLUDE TESTIMONY OF JERRY JONES

10/11/2016

SPECIAL SETTINGS (4:15 PM) (Judicial Officer: THOMPSON, BRENDA H)

10/11/2016



CERTIFICATE - DEPOSITION

LOIS A. STANTON-\$4,962.45










10/11/2016



CERTIFICATE - DEPOSITION















MARK K. SALES-\$3,279.50

THE PROBATE COURT
DOCKET SHEET
CASE No. PR-11-03238-1
















10/11/2016	 CERTIFICATE - DEPOSITION <i>MICHAEL V. BOURLAND-\$1,769.65</i>
10/13/2016	 CERTIFICATE - DEPOSITION <i>JERRY JONES-\$1345.85</i>
10/17/2016	CANCELED JURY TRIAL (1:30 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/18/2016	CANCELED JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/19/2016	CANCELED JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/20/2016	CANCELED JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/21/2016	CANCELED JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/24/2016	CANCELED JURY TRIAL (1:30 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/25/2016	CANCELED JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/26/2016	CANCELED JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/27/2016	CANCELED JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
10/28/2016	CANCELED JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i>
11/15/2016	 CERTIFICATE - DEPOSITION <i>STEPHEN B. HOPPER-\$597.15</i>
11/15/2016	 NOTICE OF HEARING
11/22/2016	 NOTICE OF HEARING <i>AMENDED NOTICE OF HEARING</i>
11/29/2016	 CERTIFICATE - DEPOSITION <i>ORAL DEPOSITION OF ANTHONY L. VITULLO- \$1147.85</i>
11/30/2016	TELEPHONE CONFERENCE (10:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
12/06/2016	 VACATION LETTER <i>-TAYLOR A. HORTON</i>
12/19/2016	 RULE 11 AGREEMENT <i>NOTICE OF RULE 11 AGREEMENT</i>
01/05/2017	 VACATION LETTER

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

VACATION LETTER - ATTORNEY ALAN LOEWINSOHN

01/05/2017	 MOTION - STRIKE
01/05/2017	 NOTICE OF HEARING
01/06/2017	 NOTICE OF HEARING -NOTICE OF HEARING ON 2/15/17 @3PM
01/09/2017	TELEPHONE CONFERENCE (2:00 PM) (Judicial Officer: THOMPSON, BRENDA H)
01/13/2017	 NOTICE -NOTICE OF SETTLEMENTS AND INTENT TO SEEK SETTLEMENT CREDIT
01/23/2017	 NOTICE OF HEARING -NOTICE OF HEARING ON 1/31/17 @1:30PM
01/31/2017	TELEPHONE CONFERENCE (1:30 PM) (Judicial Officer: THOMPSON, BRENDA H)
02/10/2017	 RESPONSE DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO PLAINTIFF'S MOTION TO STRIKE THE DESIGNATION OF GLAST, PHILLIPS & MURRAY AND GARY STOLBACH AS RESPONSIBLE THIRD PARTIES AS TO PLAINTIFF'S DAMAGES
02/10/2017	 RESPONSE RESTRICTED-CONTAINS SENSITIVE/CONF DATA - APPENDIX TO DEFENDANT JPMORGAN CHASE BANK, N.A.'S RESPONSE TO PLAINTIFF'S MOTION TO STRIKE THE DESIGNATION OF GLAST, PHILLIPS & MURRAY AND GARY STOLBACH AS RESPONSIBLE THIRD PARTIES AS TO PLAINTIFF'S DAMAGES
02/13/2017	 PLEA TO JURISDICTION DEFENDANT JPMORGAN CHASE BANK, N.A.'S PLEA TO THE JURISDICTION
02/14/2017	 NOTICE OF HEARING NOTICE OF HEARING - PLEA TO THE JURISDICTION 2/20/2017 @ 1:30 P.M.
02/14/2017	 RESPONSE -REPLY IN SUPPORT OF MOTION TO STRIKE
02/15/2017	MOTION - STRIKE (3:00 PM) (Judicial Officer: THOMPSON, BRENDA H) Plaintiff's Motion to Strike the Designation of Glast, Phillips & Murray and Gary Stolbach as Responsible Third Parties as to Plaintiff's Damages- F 1/5/17
02/15/2017	 AFFIDAVIT - CHRIS MCNEILL
02/15/2017	 AFFIDAVIT - CINDY FERTITTA
02/15/2017	 AFFIDAVIT - MORRISA COSTANZO
02/17/2017	 RESPONSE -PLAINTIFF'S RESPONSE TO THE BANK'S PLEA TO THE JURISDICTION

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

02/20/2017	PRE-TRIAL HEARING (1:30 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>Defendant JPMorgan Chase Bank, N.A. s Plea to the Jurisdiction- F 2/13/17 (only if time allows)</i>
02/20/2017	 RESPONSE <i>DEF STEPHEN HOPPER & LAURA WASSMER RESPONSE</i>
02/20/2017	 CORRESPONDENCE - LETTER TO FILE <i>W/ PROPOSED ORDER</i>
02/20/2017	 NOTICE OF HEARING <i>-NOTICE OF HEARING ON 2/22/17 @1PM</i>
02/22/2017	 NOTICE OF HEARING <i>HEARING SET FEBRUARY 24, 2017 AT 11:00 AM</i>
02/27/2017	 NOTICE OF HEARING
03/13/2017	 VACATION LETTER
03/31/2017	 ORDER - SUMMARY JUDGMENT <i>ORDER ON PLAINTIFF JO HOPPER'S MOTION FOR SUMMARY JUDGMENT</i>
03/31/2017	 MOTION - PARTIAL SUMMARY JUDGMENT <i>ORDER ON DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING ATTORNEYS' FEES AS DAMAGES</i>
03/31/2017	 ORDER <i>-ON PLAINTIFF JO HOPPER'S MOTION TO STRIKE THE DESIGNATION OF GLAST, PHILLIPS & MURRAY AND GARY STOLBACH AS RESPONSIBLE THIRD PARTIES AS TO PLAINTIFF'S DAMAGES</i>
03/31/2017	 ORDER <i>-ON DEFENDANT JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTION FOR SUMMARY JUDGMENT ON MRS. HOPPER'S CLAIM FOR BREACH OF CONTRACT REGARDING THE DISTRUBUTION OF ROBLEDO</i>
03/31/2017	 ORDER <i>-ON DESIGNATION OF RESPONSIBLE THIRD PARTY</i>
03/31/2017	 ORDER <i>-ON PLEA TO JURISDICTION</i>
03/31/2017	 ORDER <i>- ON PLAINTIFF JO HOPPER'S REQUEST FOR LEAVE TO SERVE FOURTH SET OF INTERROGATORIES ON STEPHEN B. HOPPER AND LAURA S. WASSMER</i>
03/31/2017	 ORDER <i>-ON PLAINTIFF JO HOPPER'S MOTION FOR ADDITIONAL DEPOSITION OF GARY STOLBACH</i>
03/31/2017	 ORDER

THE PROBATE COURT
DOCKET SHEET
CASE No. PR-11-03238-1

- ON DEFENDANT JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE PARTIAL SUMMARY JUDGMENT REGARDING STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S CLAIMS FOR FRAUD, FRAUDULENT INDUCEMENT, AND FRAUD BY NONDISCLOSURE

03/31/2017

 ORDER

-ON DEFENDANT JPMORGAN CHASE BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTION FOR SUMMARY JUDGMENT REGARDING JO HOPPER'S MENTAL ANGUISH DAMAGES

03/31/2017

 ORDER

-ON REQUEST FOR FOR DE NOVO HEARING

03/31/2017

 ORDER

-ON DEFENDANT JPMORGAN BANK, N.A.'S TRADITIONAL AND NO-EVIDENCE MOTION FOR UMMARY JUDGMENT ON STEPHEN HOPPER'S AND LAURA WASSMER'S CLAIMS FOR ATTORNEYS' FEES

03/31/2017

 ORDER

-ON DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT REGARDING JO HOPPER'S CLAIMS FOR REIMBURSEMENT ON PROPERTY TAXES OR FOR REPAIRS

03/31/2017

 ORDER

-ON DEFENDANT JBMORGAN CHASE BANK, N.A.'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON ATTORNEYS' FEES INCURRED BY PLAINTIFF MRS. HOPPER REGARDING DECLARATORY JUDGMENTS IN THE SEVERED SUIT

03/31/2017

 ORDER

-ON DEFENDANT JPMORGAN CHASE BANK, N.A.'S MOTION TO EXCLUDE TESTIMONY OF JOHN T. COX, III, JERRY JONES AND ANTHONY L. VITULLO

03/31/2017

 ORDER - COMPEL

-ON DEFENDANT JPMPRGAN CHASE BANK, N. A. 'S MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS

04/04/2017

 ORDER - COMPEL

ORDER ON DEFENDANTS STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S MOTION TO COMPEL CONTINUATON OF THE DEPOSITION OF TOM CANTRILL

04/06/2017

 MOTION

JOINT MOTION FOR PRE-ADMISSION OF CERTAIN EXHIBITS

04/06/2017

 CORRESPONDENCE - LETTER TO FILE

04/18/2017

 VACATION LETTER

-JAMES S. BELL

05/17/2017

 CORRESPONDENCE - LETTER TO FILE















W/ PROPOSED ORDER

06/06/2017














 LETTER TO COURT

FILING OF LETTER HAND DELIVERED TO JUDGE THOMPSON 5/16/2017 FROM JOHN EICHMAN











THE PROBATE COURT
DOCKET SHEET
CASE No. PR-11-03238-1

06/06/2017	 NOTICE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S NOTICE OF FILING OF BUSINESS RECORDS AFFIDAVIT AND RECORDS OF D.W. SKELTON & ASSOCIATES</i>
06/08/2017	 CORRESPONDENCE - LETTER TO FILE <i>-WITH AMENDED TRIAL SETTING ORDER</i>
07/12/2017	 PLEA TO JURISDICTION <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S PLEA TO THE JURISDICTION REGARDING THE HEIRS' INDIVIDUAL CLAIMS, AND, IN THE ALTERNATIVE, SPECIAL EXCEPTION TO THE HEIRS' FOURTH AMENDED CROSS CLAIM</i>
07/12/2017	 NOTICE OF HEARING <i>HEARING NOTICE - 7/25/17 AT 9:30 A.M. - DEFENDANT JPMORGAN CHASE BANK, N.A.'S PLEA TO THE JURISDICTION REGARDING THE HEIRS' INDIVIDUAL CLAIMS, AND, IN THE ALTERNATIVE, SPECIAL EXCEPTIONS TO THE HEIRS' FOURTH AMENDED CROSS CLAIM, FILED JULY 12, 2017</i>
07/18/2017	 MISC. EVENT <i>RULE 166 - JOINT PRE TRIAL REPORT</i>
07/19/2017	 ORIGINAL ANSWER
07/21/2017	 RESPONSE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S REPLY IN SUPPORT OF ITS PLEA TO THE JURISDICTION AND SPECIAL EXCEPTION</i>
07/21/2017	 NOTICE <i>DEFENDANTS' AMENDED NOTICE OF FILING AFFIDAVIT</i>
07/21/2017	 NOTICE <i>DEFENDANTS' AMENDED NOTICE OF FILING AFFIDAVIT</i>
07/21/2017	 NOTICE <i>AMENDED NOTICE OF FILING</i>
07/25/2017	PRE-TRIAL HEARING (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>& Defendant JPMorgan Chase Bank, N.A.'s Plea to the Jurisdiction Regarding the Heirs' Individual Claims, and, in the Alternative, Special Exception to the Heirs' Fourth Amended Cross Claim- F 7/12/17</i>
07/26/2017	 CORRESPONDENCE - LETTER TO FILE <i>W/ PROPOSED ORDERS</i>
08/01/2017	 NOTICE OF HEARING
08/03/2017	 MOTION <i>JP MORGAN CHASE BANK, N.A.'S MOTION TO EXCLUDE EVIDENCE AND STRIKE STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S FIFTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCLOSURE</i>
08/04/2017	 NOTICE OF HEARING <i>NOTICE OF HEARING - JPMC'S MOTION TO EXCLUDE EVIDENCE, ET AL. SET FOR 8/9/17 AT 9:30 A.M.</i>

THE PROBATE COURT
DOCKET SHEET
CASE No. PR-11-03238-1














08/07/2017	 MOTION <i>DEFENDANTS LAURA S. WASSMER AND STEPHEN B. HOPPER'S MOTION FOR CLARIFICATION OF THE COURT'S RULING AND REQUEST FOR LEAVE TO REPLEAD</i>
08/08/2017	 RESPONSE <i>RESPONSE TO JP MORGAN CHASE BANK, N.A. S MOTION TO EXCLUDE EVIDENCE AND STRIKE</i>
08/09/2017	 NOTICE OF HEARING <i>NOTICE OF RE-SET HEARING - 8/16/17 at 10:30 a.m. - ALL PARTIES MOTIONS IN LIMINE and JPMC'S MOTION TO EXCLUDE EVIDENCE</i>
08/16/2017	MOTION - HEARING (10:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>Plaintiff's First Motion in Limine- F 9/30/16; Defendant JPMorgan Chase Bank, N.A.'s Motion in Limine- F 9/30/16; Stephen B. Hopper and Laura S. Wassmer's Motion in Limine JPMorgan Chase Bank, N.A.'s Motion to Exclude Evidence and Strike Stephen B. Hopper's and Laura S. Wassmer's Fifth Supplemental Response to Request for Disclosure- F 8/3/17; Defendants Laura s. Wassmer and Stephen B. Hopper's Motion for Clarification of the Court's Ruling and Request for Leave to Replead- F 8/7/17</i>
08/18/2017	 MOTION - IN LIMINE <i>PLAINTIFF'S AMENDED MOTIONIN LIMINE NO.7</i>
08/18/2017	 AMENDED CROSS CLAIM - AMENDED COUNTER PETITION <i>S HOPPER AND L WASSMER FIFTH AMENDED CROSS CLAIM AGAINST JPMC</i>
08/18/2017	 DEPUTY REPORTER STATEMENT
08/21/2017	 ORDER <i>- ON DEFENDANT JPMORGAN CHASE BANK, N.A. 'S MOTION TO EXCLUDE EVIDENCE AND STRIKE STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S FIFTH SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCLOSURE</i>
08/21/2017	 ORDER <i>- ON DEFEBDANTS LAURA S. WASSMER AND STEPHEN B. HOPPER'S MOTION FOR CLARIFICATION OF THE COURT'S RULING AND REQUEST FOR LEAVE TO REPLEAD</i>
08/22/2017	 EXHIBIT LIST <i>DEFENDANT STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S THIRD SUPPLEMENTAL EXHIBIT LIST</i>
08/23/2017	 MOTION - STRIKE <i>JP MORGAN CHASE BANK, N.A.'S MOTION TO STRIKE STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S FIFTH AMENDED CROSS CLAIM, AND IN THE ALTERNATIVE, SPECIAL EXCEPTION</i>
08/24/2017	 LETTER TO COURT
08/28/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
08/28/2017	 NOTICE <i>-DEFENDANTS' NOTICE OF AMENDED CROSS DEPOSITION DESIGNATIONS</i>
08/28/2017	 BRIEF FILED

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08/29/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
08/30/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
08/30/2017	 MOTION - IN LIMINE <i>PLAINTIFF'S SUPPLEMENTAL MOTION IN LIMINE</i>
08/31/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/01/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/01/2017	 MOTION - IN LIMINE <i>PLAINTIFF'S SUPPLEMENTAL MOTION IN LIMINE</i>
09/05/2017	JURY TRIAL (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/05/2017	 OBJECTION <i>STEPHEN HOPPER AND LAURA WASSMER'S OBJECTIONS TO JP MORGAN CHASE BANK, N.A.'S SEVENTH SUPPLEMENTAL TRIAL EXHIBIT LIST</i>
09/06/2017	JURY TRIAL (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/06/2017	 BRIEF FILED <i>PLAINTIFF'S TRIAL BRIEF ON THE ADMISSIBILITY OF THE GARTNER STOCK</i>
09/07/2017	JURY TRIAL (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/08/2017	JURY TRIAL (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/11/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/11/2017	 MOTION <i>MOTION FOR LEAVE TO SUBSTITUTE ONE OF PLAINTIFF'S TRIAL</i>
09/11/2017	 AMENDED PETITION <i>PLAINTIFF'S AMENDED DRAFT PROPOSED JURY CHARGE</i>
09/11/2017	 MISC. EVENT
09/11/2017	 MOTION <i>PMORGAN CHASE BANK, N.A.'S MOTION FOR RELIEF FROM RULING ON PLAINTIFF'S MOTION IN LIMINE NUMBER 24</i>
09/12/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/13/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/13/2017	 MOTION <i>JP MORGAN CHASE BANK, N.A.'S MOTION FOR DIRECTED VERDICT ON PLAINTIFF'S CLAIMS</i>
09/14/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/14/2017	 JURY TRIAL DEMAND

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PLAINTIFF'S SECOND AMENDED DRAFT PROPOSED JURY CHARGE
















09/14/2017	 MISC. EVENT <i>DEFENDANTS STEPHEN B. HOPPER'S AND LAURA WASSMER'S FIRST AMENDED PROPOSED JURY CHARGE</i>
09/14/2017	 MISC. EVENT <i>-PLAINTIFF'S THIR AMENDED DRAFT PROPOSED JURY CHARGE</i>
09/15/2017	JURY TRIAL (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/18/2017	JURY TRIAL (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/18/2017	 MOTION <i>PLAINTIFF'S MOTION TO ENFORCE TRIAL SUBPOENA</i>
09/18/2017	 RESPONSE <i>NON-PARTY HUNTON AND WILLIAMS, LLP'S RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION TO ENFORCE TRIAL SUBPOENA</i>
09/18/2017	 CORRESPONDENCE - LETTER TO FILE <i>PROPOSED DOCUMENTS</i>
09/19/2017	JURY TRIAL (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H)
09/20/2017	 MISC. EVENT <i>DEFENDANTS STEPHEN B. HOPPER'S AND LAURA WASSMER'S SECOND AMENDED POPOSED JURY CHARGE</i>
09/20/2017	 BRIEF FILED <i>PLAINTIFF'S BENCH BRIEF ON JURY CHARGE</i>
09/20/2017	 CORRESPONDENCE - LETTER TO FILE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S FIRST AMENDED PROPOSED JURY CHARGE</i>
09/20/2017	 CORRESPONDENCE - LETTER TO FILE <i>PLAINTIFF'S FIFTH AMENDED DRAFT PROPOSED JURY CHARGE</i>
09/20/2017	 BRIEF FILED <i>JPMORGAN CHASE BANK, N.A.'S BENCH BRIEF RE: CHAPTER 33 AND ESTATES CODE ??? 404.0037 AND 352.051</i>
09/21/2017	 MISC. EVENT <i>THIRD AMENDED PROPOSED JURY CHARGE</i>
09/21/2017	 BRIEF FILED <i>LAURA S. WASSMER AND STEPHEN B. HOPPER'S TRIAL BRIEF ON JPMORGAN CHASE BANK, N.A.'S SELF-DEALING</i>
09/22/2017	 MISC. EVENT <i>DEFENDANTS STEPHEN B. HOPPER AND LAURA WASSMER'S SUPPLEMENTAL QUESTION AND INSTRUCTION TO THE HEIRS' THIRD AMENDED PROPOSED JURY CHARGE</i>

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09/22/2017	 MOTION <i>JPMORGAN CHASE BANK, N.A.'S MOTION FOR DIRECTED VERDICT ON STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S CLAIMS</i>
09/25/2017	 MISC. EVENT <i>JPMORGAN CHASE BANK, N.A.'S ADDITIONAL REQUESTED JURY INSTRUCTIONS REGARDING (1) ESTATES CODE 404.0037 AND (2) RESIGNATION OF A PERSONAL REPRESENTATIVE</i>
09/25/2017	 MOTION <i>JPMORGAN CHASE BANK, N.A.'S FIRST AMENDED MOTION FOR DIRECTED VERDICT ON PLAINTIFF'S CLAIMS</i>
09/25/2017	 MOTION <i>JPMORGAN CHASE BANK, N.A.'S FIRST AMENDED MOTION FOR DIRECTED VERDICT ON STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S CLAIM</i>
09/25/2017	 MOTION <i>STEPHEN B. HOPPER AND LAURA WASSMER'S MOTION FOR DIRECTED VERDICT</i>
09/25/2017	 RESPONSE <i>PLAINTIFF'S OPPOSITION TO DEFENDANTN JPMORGAN CHASE BANK, N.A.'S MOTION FOR DIRECTED VERDICT ON PLAINTIFF'S CLAIMS</i>
09/25/2017	 MOTION - IN LIMINE <i>DEFENDANT JPMORGAN CHASE BANK, N.A.'S SUPPLEMENTAL MOTION IN LIMINE REGARDING CLOSING ARGUMENTS</i>
09/25/2017	 MISC. EVENT <i>DEFENDANTS STEPHEN B. HOPPER'S AND LAURA WASSMENR'S SECOND SUPPLEMENTAL QUESTIONS AND INSTRUCTIONS TO THE GEIRS' THIRD AMENDED PROPOSED JURY CHARGE</i>
09/25/2017	 MOTION <i>HEIRS' SUPPLEMENTAL MOTION FOR INSTRUCTED /DIRECTED VERDICT</i>
09/25/2017	 RESPONSE <i>DEFENDANTS STEPHEN B. HOPPERS' AND LAURA S. WASSMERS' OPPOSITION TO DEFENDENT JPMORGAN CHASE BANK, N.A.'S FIRST AMENDED MOTION FOR DIRECTED VERDICT</i>
09/25/2017	 MISC. EVENT <i>DEFENDANTS STEPHEN B. HOPPER'S AND LAURA WASSMER'S THIRD SUPPLEMENTAL QUESTIONS AND INSTRUCTIONS TO THE HEIRS' THIRD AMENDED PROPOSED JURY CHARGE</i>
09/25/2017	 CHARGE OF COURT
09/25/2017	 ORDER <i>PLAINTIFF'S TENDERED JURY CHARGE QUESTION</i>
09/25/2017	 ORDER <i>DEFENDANTS STEPHEN B. HOPPER AND LAURA WASSMER SUBMIT THE</i>

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FOLLOWING REQUESTED INSTRUCTIONS AND OUST

09/27/2017	 CORRESPONDENCE - LETTER TO FILE <i>LETTER TO THE JUDGE</i>
10/06/2017	 RESPONSE <i>DEFENDANTS/CROSS CLAIMANTS LAURA WASSMER AND STEPHEN HOPPER'S MOTION FOR ENTRY OF FINAL JUDGMENT</i>
10/06/2017	 RESPONSE <i>CROSS CLAIMANTS BRIEF IN SUPPORT OF MOTION FOR ENTRY OF FINAL JUDGMENT</i>
10/09/2017	 MOTION <i>PLAINTIFF'S MOTION FOR LEGAL RULINGS RE ATTORNEY'S FEES</i>
10/20/2017	 MOTION <i>LAURA'S AGREED MOTION TO WITHDRAW</i>
10/20/2017	 MOTION <i>STEPHEN'S AGREED MOTION TO WITHDRAW</i>
10/26/2017	 ORDER - GRANTING MOTION TO WITHDRAW <i>Party: ATTORNEY BELL, JAMES S; DEFENDANT HOPPER, STEPHEN B. IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT JAMES S. BELL, ESQ. OF THE LAW FIRM JAMES S. BELL, P.C. IS PERMITTED TO WITHDRAW AS COUNSEL OF RECORD FOR THE HEIRS AND IS RELIEVED FROM ANY ALL RESPONSIBILITY IN THIS CASE. AGREED: STEPHEN B. HOPPER</i>
10/26/2017	 ORDER - GRANTING MOTION TO WITHDRAW <i>Party: ATTORNEY BELL, JAMES S; DEFENDANT WASSMER, LAURA S. IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT JAMES S. BELL, ESQ. OF THE LAW FIRM JAMES S. BELL, P.C. IS PERMITTED TO WITHDRAW AS COUNSEL OF RECORD FOR THE HEIRS AND IS RELIEVED FROM ANY ALL RESPONSIBILITY IN THIS CASE. AGREED: LAURA S. WASSMER</i>
10/30/2017	 NOTICE - APPEARANCE
11/02/2017	 NOTICE OF HEARING
11/02/2017	 NOTICE OF HEARING
11/02/2017	 NOTICE OF HEARING
11/03/2017	 NOTICE OF HEARING
11/09/2017	 MOTION <i>JPMORGAN CHASE BANK, N.A.'S MOTION FOR JNOV AND, ALTERNATIVELY, MOTION TO DISREGARD JURY FINDINGS OR SUGGESTION OF REMITTITUR</i>
11/10/2017	 CORRESPONDENCE - LETTER TO FILE <i>LETTER TO JUDGE THOMPSON RE UPCOMING 11/13/17 TELEPHONIC CONFERENCE TO DISCUSS SCHEDULING OF THE PARTIES' POST-TRIAL MOTIONS</i>













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11/13/2017	TELEPHONE CONFERENCE (3:00 PM) (Judicial Officer: THOMPSON, BRENDA H)
11/13/2017	 NOTICE - APPEARANCE
11/15/2017	 NOTICE OF HEARING
12/06/2017	 MOTION <i>JOINT MOTION FOR ADMISSION OF SUPPLEMENTAL TRIAL EXHIBITS & PROPOSED ORDER</i>
12/06/2017	 LETTER TO COURT <i>LETTER TO COURT REPORTER REQUESTING RECORD OF TRIAL</i>
12/11/2017	 ORDER <i>GRANTING JOINT MOTION FOR ADMISSION OF SUPPLEMENT TRAIL EXHIBITS</i>
12/18/2017	 RESPONSE <i>JPMORGAN CHASE BANK, N.A.'S RESPONSE TO JO HOPPER'S MOTION FOR LEGAL RULINGS REGARDING ATTORNEYS' FEES FOR DECLARATORY JUDGMENT CLAIMS</i>
12/29/2017	 MOTION <i>JOINT MOTION FOR ADMISSION OF SUPPLEMENTAL TRIAL EVIDENCE AND EXHIBIT</i>
12/29/2017	 CORRESPONDENCE - LETTER TO FILE <i>-LETTER TO THE JUDGE</i>
01/03/2018	 MISC. EVENT <i>JPMORGANS' OPPOSITION TO JOINT MOTION FOR ADMISSION OF SUPPLEMENTAL TRIAL EVIDENCE AND EXHIBIT</i>
01/04/2018	SPECIAL SETTINGS (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>Plaintiff's Motion for Legal Rulings Regarding Attorneys' Fees for Declaratory Judgment Claims- F 10/9/17</i>
01/05/2018	CANCELED SPECIAL SETTINGS (9:30 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>OTHER REASONS</i> <i>Continuation Hearing from 1/4/18</i>
01/08/2018	 CORRESPONDENCE - LETTER TO FILE <i>W/ EXHIBIT</i>
01/09/2018	 LETTER TO COURT
01/16/2018	 CORRESPONDENCE - LETTER TO FILE <i>LETTER TO THE JUDGE</i>
01/16/2018	 BRIEF FILED <i>LETTER BRIEF TO JUDGE THOMPSON</i>
01/19/2018	 CORRESPONDENCE - LETTER TO FILE <i>LETTER TO JUDGE THOMPSON</i>


















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01/29/2018	 LETTER TO COURT <i>W/ EXHIBITS</i>
02/01/2018	 CORRESPONDENCE - LETTER TO FILE <i>LETTER TO THE JUDGE</i>
02/23/2018	 MOTION <i>JPMORGAN CHASE BANK, N.A.'S MOTION TO RESET THE MARCH 7-8, 2018 HEARING TO MAY 23-24, 2018 AND REQUEST FOR SCHEDULING CONFERENCE</i>
02/27/2018	TELEPHONE CONFERENCE (2:00 PM) (Judicial Officer: THOMPSON, BRENDA H)
02/27/2018	 NOTICE OF HEARING <i>REVISED NOTICE OF HEARINGS FOR APRIL 5-6, 2018</i>
03/14/2018	 OBJECTION <i>JPMORGAN CHASE BANK, N.A.'S OBJECTIONS TO PROPOSED ORDER GRANTING PLAINTIFF'S MOTION FOR LEGAL RULINGS REGARDING ATTORNEYS' FEES FOR DECLARATORY JUDGMENT CLAIMS</i>
03/14/2018	 REQUEST FOR FINDING OF FACT / CONCLUSIONS OF LAW <i>REQUEST FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW</i>
03/14/2018	 CORRESPONDENCE - LETTER TO FILE <i>-W/PROPOSED ORDER</i>
03/19/2018	 RESPONSE <i>HEIRS' OBJECTIONS TO PROPOSED ORDER GRANTING PLAINTIFF'S MOTION FOR LEGAL RULINGS RE ATTORNEYS' FEES FOR DECLARATORY JUDGMENT CLAIMS</i>
03/27/2018	 MOTION - EMERGENCY <i>JPMORGAN CHASE BANK N.A.'S EMERGENCY MOTION TO SET BRIEFING SCHEDULE</i>
03/27/2018	 CORRESPONDENCE - LETTER TO FILE <i>W/PROPOSED DOCUMENTS</i>
03/28/2018	 ORDER <i>ORDER GRANTING PLAINTIFF'S MOTION FOR LEGAL RULINGS REGARDING ATTORNEYS' FEES FOR DECLARATORY JUDGMENT CLAIMS</i>
03/30/2018	 MOTION <i>MOTION FOR ENTRY OF FINAL JUDGEMENT</i>
04/02/2018	 RESPONSE <i>HOPPER AND WASSMER'S RESPONSE TO JPMORGAN CHASE'S MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT</i>
04/02/2018	 SUPPLEMENTAL: MOTION <i>JPMORGAN CHASE BANK, N.A.'S AMENDED MOTION FOR JNOV AND, ALTERNATIVELY, MOTION TO DISREGARD JURY FINDINGS OR SUGGESTION OF REMITTITUR</i>

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04/02/2018	 MOTION <i>JPMORGAN CHASE BANK N.A.'S JNOV BRIEF RELATING TO LIABILITY</i>
04/02/2018	 MOTION <i>JPMORGAN CHASE BANK N.A.'S JNOV BRIEF RELATING TO PUNITIVE DAMAGE</i>
04/04/2018	 RULE 11 AGREEMENT
04/05/2018	SPECIAL SETTINGS (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>Defendants/Cross Claimants Laura Wassmer and Stephen Hopper's Motion for Entry of Final Judgment- F 10/6/17; Plaintiff's Motion for Entry of Final Judgment; JPMorgan Chase Bank, N.A.'s Motion for JNOV and, Alternatively, Motion to Disregard Jury Findings or Suggestion of Remittitur- F 11/9/17</i>
04/06/2018	SPECIAL SETTINGS (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>Continuation Hearing from 4/5/18</i>
04/06/2018	 MOTION - WITHDRAW ATTORNEY <i>MOTION FOR WITHDRAWAL OF COUNSEL OF RECORD</i>
04/06/2018	 COUNTER CLAIM <i>COUNTER CLAIM/CROSS ACTION/INTERPLEADER/INTERVENTION/THIRD PARTY/CONTEST</i>
04/06/2018	 MISC. EVENT <i>ORDER ON MOTION FOR WITHDRAWAL OF COUNSEL</i>
04/06/2018	 ORDER - WITHDRAW ATTORNEY <i>Party: ATTORNEY VITULLO, ANTHONY LEONARD ORDER ON MOTION FOR WITHDRAWAL OF COUNSEL-ANTHONY L. VITULLO OF THE LAW FIRM FEE, SMITH, SHARP & VITULLO IS PERMITTED TO WITHDRAW AS COUNSEL OF RECORD FOR THE HEIRS AND IS RELIEVED FROM ANY AND ALL RESPONSIBILITY IN THIS CASE</i>
04/06/2018	 ADVERSE ACTIONS <i>FEE, SMITH, SHARP & VITULLO, LLP'S PETITION IN INTERVENTION, APPLICATION FOR DECLARATORY RELIEF, REQUEST FOR TRO AND TEMPORARY INJUNCTION</i>
04/09/2018	TRO HEARING (4:00 PM) (Judicial Officer: THOMPSON, BRENDA H)
04/09/2018	 RESPONSE <i>OBJECTION TO PETITIONS</i>
04/09/2018	 AMENDED PETITION <i>JOHN L. MALESOVAS, D/B/A MALESOVAS LAW FIRM AND FEE, SMITH SHARP & VITULLO, LLP'S CONSOLIDATED FIRST AMENDED JOINT PETITION IN INTERVENTION AND PETITION FOR DECLARATORY JUDGMENT; APPLICATION FOR TEMPORARY RESTRAINING ORDER, FOR TEMPORARY INJUNCTION, AND MOTION TO DEPOSIT FUNDS IN THE REGISTRY</i>
04/10/2018	 LETTER TO COURT
04/10/2018	 ORDER - TEMPORARY RESTRAINING ORDER <i>---TEMPORARY RESTRAINING ORDER</i>

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04/11/2018	RETURN OF SERVICE <i>TEST</i>
04/11/2018	 MOTION - COMPEL <i>MOTION TO COMPEL ARBITRATION</i>
04/11/2018	 LETTER TO COURT
04/11/2018	 NOTICE <i>JPMORGAN CHASE BANK, N.A.'S NOTICE OF RECEIPT OF TEMPORARY RESTRAINING ORDER</i>
04/12/2018	 LETTER TO COURT
04/13/2018	 NOTICE OF HEARING
04/13/2018	 LETTER TO COURT <i>W/PROPOSED DOCUMENTS</i>
04/13/2018	 CORRESPONDENCE - LETTER TO FILE <i>LETTER TO THE JUDGE</i>
04/16/2018	 MOTION - QUASH <i>MOTION TO QUASH AND FOR PROTECTIVE ORDER AND OBJECTION TO SUBPOENA DUCES TECUM</i>
04/18/2018	 RETURN OF SERVICE <i>RETURN OF SERVICE</i>
04/18/2018	 RETURN OF SERVICE <i>RETURN OF SERVICE</i>
04/18/2018	 RETURN OF SERVICE <i>RETURN OF SERVICE</i>
04/20/2018	 RESPONSE <i>OBJECTION & RESPONSE TO HOPPER AND WASSMER'S MOTION TO COMPEL</i>
04/20/2018	 SUPPLEMENTAL MOTION <i>SUPPLEMENT TO MOTION TO COMPEL ARBITRATION</i>
04/20/2018	 RESPONSE <i>JPMORGAN CHASE BANK, N.A.'S RESPONSE LETTER BRIEF</i>
04/20/2018	 LETTER TO COURT <i>LETTER TO JUDGE</i>
04/20/2018	 MOTION - SUMMARY JUDGMENT <i>INTERVENOR'S MOTION FOR SUMMARY JUDGMENT</i>
04/23/2018	 MOTION - QUASH <i>MOTION TO QUASH AND FOR PROTECTIVE ORDER AND OBJECTION TO HEARING</i>

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SUBPOENAS DUCES TECUM




04/24/2018	TEMPORARY INJUNCTION (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>& Defendants' Motion to Compel Arbitration- F 4/11/18</i>
04/24/2018	 NOTICE TO CREDITORS
04/24/2018	 ORDER - TEMPORARY INJUNCTION (OCA) <i>TEMPORARY INJUNCTION ORDER</i>
04/25/2018	 NOTICE OF HEARING <i>SECOND AMENDED NOTICE OF HEARING</i>
04/26/2018	 FINDINGS OF FACT / CONCLUSIONS OF LAW <i>NOTICE OF PAST DUE FINDINGS OF FACT AND CONCLUSIONS OF LAW</i>
04/26/2018	 NOTICE OF HEARING <i>NOTICE OF HEARING ON INTERVENORS' MOTION FOR SUMMARY JUDGMENT</i>
04/30/2018	 WRIT Party: DEFENDANT HOPPER, STEPHEN B. <i>WRIT OF TEMPORARY INJUNCTION - ON HOLD</i>
04/30/2018	ISSUE CITATION HOPPER, STEPHEN B. Unserved RTN:
04/30/2018	 WRIT Party: DEFENDANT WASSMER, LAURA S. <i>WRIT OF TEMPORARY INJUNCTION - ON HOLD</i>
04/30/2018	ISSUE CITATION WASSMER, LAURA S. Unserved RTN:
04/30/2018	 WRIT Party: DEFENDANT JP MORGAN CHASE, N.A. <i>WRIT OF TMEPORARY INJUNCTION - ON HOLD</i>
04/30/2018	ISSUE CITATION JP MORGAN CHASE, N.A. Unserved RTN:
04/30/2018	 NOTICE - CHANGE OF ADDRESS <i>NOTICE OF CHANGE OF FIRM NAME</i>
05/01/2018	 APPLICATION -AMENDED <i>SECOND AMENDED PETITION IN INTERVENTION, APPLICATION FOR DECLARATORY JUDGMENT, TEMPORARY & PERMANENT INJUNCTION</i>
05/04/2018	 NOTICE <i>JPMORGANCHASE BANK, N.A.'S NOTICE REGARDING APRIL 24, 2018, TEMPORARY</i>

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IMJUNCTION ORDER

05/04/2018	 MOTION - COMPEL <i>REPLY IN SUPPORT OF MOTION TO COMPEL ARBITRATION</i>
05/08/2018	MOTION - COMPEL (4:00 PM) (Judicial Officer: THOMPSON, BRENDA H) <i>Defendants' Motion to Compel Arbitration- F 4/11/18</i>
05/09/2018	 CORRESPONDENCE - LETTER TO FILE
05/09/2018	 MOTION - WITHDRAW ATTORNEY
05/09/2018	 NOTICE OF HEARING <i>AMENDED NOTICE OF HEARING ON INTERVENORS' CONSOLIDATED TRADITIONAL RULE 166a(c) MOTION FOR SUMMARY JUDGMENT</i>
05/09/2018	 MOTION <i>PLAINTIFF'S UNOPPOSED MOTION TO SEVER HEIRS' CLAIMS AND INTERVENTION CLAIMS</i>
05/09/2018	 CORRESPONDENCE - LETTER TO FILE
05/10/2018	 ORDER <i>ORDER GRANTING INTERVENTION DEFENDANTS' MOTION TO COMPEL ARBITRATION</i>
05/11/2018	 RESPONSE <i>PLAINTIFFS RESPONSE TO DEFENDANT JPMORGAN CHASE BANK, N.A.'S REQUEST FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW</i>
05/14/2018	 CERTIFICATE - DEPOSITION <i>FURTHER CERTIFICATION OF THE ORAL AND VIDEOTAPED DEPOSITION OF LAURA WASSMER</i>
05/14/2018	 CORRESPONDENCE - LETTER TO FILE <i>FURTHER CERTIFICATION OF THE ORAL AND VIDEOTAPED DEPOSITION OF LAURA WASSMER</i>
05/14/2018	 NOTICE - APPEAL <i>INTERVENTION DEFENDANTS' NOTICE OF ACCELERATED APPEAL</i>
05/14/2018	 REQUEST FOR CLERK PREPARED RECORD <i>REQUEST FOR PREPARATION OF CLERK'S RECORD IN AN ACCELERATED APPEAL</i>
05/14/2018	 REQUEST REPORTER RECORD <i>REQUEST FOR PREPARATION OF REPORTER'S RECORD IN AN ACCELERATED APPEAL</i>
05/15/2018	 RULING <i>RULING ON DEFENDANT JPMORGAN CHASE BANK, N.A.'S REQUEST FOR FINDING OF FACT AND CONCLUSIONS OF LAW</i>
05/17/2018	 CERTIFICATE - DEPOSITION

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	<i>FURTHER CERTIFICATION OF ORAL AND VIDEOTAPED DEPOSITION OF STEPHEN HOPPER</i>
05/17/2018	 CORRESPONDENCE - LETTER TO FILE
05/21/2018	 NOTICE <i>NOTICE OF CANCELLING INTERVENOR'S MSJ</i>
05/22/2018	 VACATION LETTER
06/11/2018	CANCELED MOTION - SUMMARY JUDGMENT (9:00 AM) (Judicial Officer: THOMPSON, BRENDA H) <i>REQUESTED BY ATTORNEY/PRO SE</i> <i>Intervenors' (Lawyers) Consolidated Traditional Rule 166a(c) Motion for Summary Judgment (MSJ) on Their Secured and Fully Vested Property and Ownership Rights to the Disputed Funds, Application for Attorney's Fees, and Brief in Support- F 4/20/18</i>

DATE	FINANCIAL INFORMATION
	ATTORNEY LOEWINSOHN, ALAN S
	Total Charges 338.00
	Total Payments and Credits 0.00
	Balance Due as of 5/25/2018 338.00
	DECEDENT HOPPER, MAX D.
	Total Charges 997.00
	Total Payments and Credits 997.00
	Balance Due as of 5/25/2018 0.00
	DEFENDANT HOPPER, STEPHEN B.
	Total Charges 66.00
	Total Payments and Credits 66.00
	Balance Due as of 5/25/2018 0.00
	DEFENDANT JP MORGAN CHASE, N.A.
	Total Charges 68.00
	Total Payments and Credits 68.00
	Balance Due as of 5/25/2018 0.00
	DEFENDANT WASSMER, LAURA S.
	Total Charges 6.00
	Total Payments and Credits 6.00
	Balance Due as of 5/25/2018 0.00
	INTERVENOR Fee, Smith, Sharp & Vitullo, LLP
	Total Charges 116.00
	Total Payments and Credits 116.00
	Balance Due as of 5/25/2018 0.00
	INTERVENOR Malesovas, John L
	Total Charges 85.00
	Total Payments and Credits 85.00
	Balance Due as of 5/25/2018 0.00
	PLAINTIFF HOPPER, JO N.
	Total Charges 367.00
	Total Payments and Credits 367.00
	Balance Due as of 5/25/2018 0.00
	ATTORNEY VITULLO, ANTHONY LEONARD
	PROBATE RESTRICTED DESPOSIT Balance as of 5/25/2018 10,000.00

THE PROBATE COURT
DOCKET SHEET
CASE NO. PR-11-03238-1

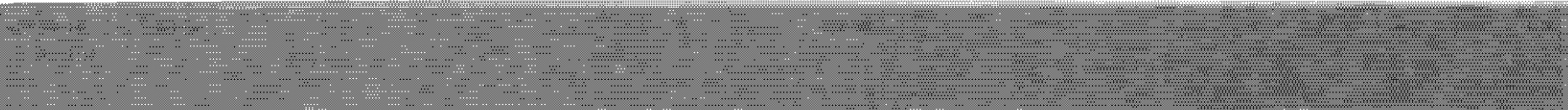
Transaction Detail for LOEWINSOHN, ALAN S on Case# PR-11-03238-1

TXDALLASPROD

Recipients :

Report Options : Incl. Trans. w/o Recipients

IN THE MATTER OF

Date	Reference	Payor	Charges	Payments	Credits	Balance	Disbursed	Escrow
								
Grand Total :			338.00	0.00	0.00	338.00	0.00	0.00

CLERK'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF DALLAS

§
§

I, JOHN F. WARREN,

Clerk of the County Court of Dallas County, Texas do hereby certify that the documents contained in this record to which this certification is attached are all of the documents specified by Texas Rule of Appellant procedure 34.5 (a) and all other documents timely requested by a party to this proceeding under Texas Rule of Appellate Procedure 34.5 (b). In the cause of PR-11-03238-1.

GIVEN UNDER MY HAND AND SEAL at my office in Dallas County, Texas this 31st day of May, 2018.



JOHN F. WARREN,
Clerk County Court
Dallas County, Texas

TRINIDAD PIMENTEL, Deputy Clerk