

CAUSE NO. DC-18-06835

FEE, SMITH, SHARP & VITULLO, LLP,	§	
ANTHONY VITULLO	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	
v.	§	OF DALLAS COUNTY, TEXAS
	§	
BLOCK GARDEN & McNeill, LLP, f/k/a	§	
BLOCK & GARDEN, LLP	§	
CHRISTOPHER McNEILL and	§	
STEVEN BLOCK	§	95TH JUDICIAL DISTRICT
	§	
Defendants.	§	

**PLAINTIFFS' RESPONSE TO DEFENDANTS'  
TRADITIONAL MOTION FOR SUMMARY JUDGMENT**

**PART 4 of 4**

1 JAMS ARBITRATION TRIBUNAL  
2 BLOCK, GARDEN & MCNEILL, )  
LLP f/k/a BLOCK & GARDEN, )  
3 LLP, )  
4 Claimant, )  
VS. ) ARBITRATION NO.  
5 ) 1310023697  
6 LAURA WASSMER, DR. STEPHEN )  
HOPPER, FEE, SMITH, SHARP )  
7 & VITULLO, LLP and ANTHONY )  
L. VITULLO, )

8 Respondents.  
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ORAL AND VIDEOTAPED DEPOSITION OF  
STEVEN BLOCK  
OCTOBER 17, 2018  
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15 ORAL AND VIDEOTAPED DEPOSITION OF STEVEN BLOCK,  
16 produced as a witness at the instance of the  
17 RESPONDENTS, and duly sworn, was taken in the  
18 above-styled and numbered cause on October 17, 2018,  
19 from 9:43 a.m. to 3:08 p.m., before Claudia White, CSR  
20 in and for the State of Texas, reported by machine  
21 shorthand, at the law offices of Johnston Tobey Baruch,  
22 PC, 3308 Oak Grove Avenue, Dallas, Texas, pursuant to  
23 the Texas Rules of Civil Procedure.

24  
25 Job No. 3034022

1 Hopper, Cause Number 13-09969, in the 44th District  
2 Court for Dallas, Texas? Can we have that agreement?

3 A. Yes.

4 Q. On the Engagement Agreement that's the subject  
5 of this lawsuit, the sty -- I mean the name of the firm  
6 is Block & Garden, LLP; is that correct?

7 A. I believe so.

8 Q. Okay. Has the -- has the firm since changed  
9 names?

10 A. Yes.

11 Q. Okay. What's the firm's legal name today?

12 A. Block, Garden & McNeill, LLP.

13 Q. Can we have the agreement that when I'm saying  
14 your firm, you'll understand that I'm referring to  
15 Block, Garden & McNeill, LLP, and any predecessor it may  
16 have had under a similar name, unless you tell me  
17 otherwise?

18 A. Yes.

19 Q. Okay. Are you seeking money damages from Lenny  
20 Vitullo?

21 A. Yes.

22 Q. What are -- what's the number of damages that  
23 you're seeking from Lenny Vitullo?

24 A. I don't have a number today.

25 Q. Well, what's the approximate number?

1 A. Probably about a million dollars.

2 Q. A million dollars. And how is that calculated?

3 A. It's 10 percent of the -- the court award in  
4 the Chase litigation, plus my expenses and collection.

5 Q. Okay. So you're seeking \$1 million from Lenny  
6 Vitullo, which is calculated by 10 percent of what  
7 number?

8 A. Well, the \$9.1 million settlement number.

9 Q. Okay.

10 A. And our expenses of collection.

11 Q. Okay. So you're -- you're seeking 10 percent  
12 of the settlement number in JPMorgan -- in the Chase  
13 lawsuit from Mr. Vitullo; is that correct?

14 A. Yes.

15 Q. Are you seeking damages from Fee, Smith, Sharp  
16 & Vitullo, LLP?

17 A. Yes.

18 Q. And what is that number?

19 A. The same number.

20 Q. Okay. The same --

21 A. But they're not compounded. They're not.

22 Q. I understand. I'm just trying to make sure I  
23 understand.

24 And are you seeking the same number from  
25 John Malesovas?

1 A. No.

2 Q. Okay. Are you seeking any damages from John  
3 Malesovas?

4 A. No.

5 Q. Are you seeking damages from Hopper and  
6 Wassmer?

7 A. Yes.

8 Q. And what is that amount?

9 A. The same number, a million dollars.

10 Q. Okay. Do you have a written contract signed by  
11 Mr. Vitullo on the Chase lawsuit?

12 A. No.

13 Q. Do you have a written contract signed by Fee  
14 Smith, Sharp & Vitullo on the Chase lawsuit?

15 A. No.

16 Q. Same question for John Malesovas.

17 A. No.

18 Q. Okay. I want to talk about the agreement  
19 between your firm, on the one hand --

20 A. Can I go back and correct a previous answer?

21 Q. Sure.

22 A. The Hopper, we would be seeking a  
23 million-eight, a 20 percent fee that was in our  
24 Engagement Agreement with them on the -- the Hopper and  
25 Wassmer.



1 terms of that agreement?

2 A. Yeah.

3 Q. In person?

4 A. Well, I don't know if it was in person, but we  
5 did discuss it.

6 Q. Okay. And did you explain to the clients how  
7 the contingency component was going to work in the  
8 agreement?

9 A. Yes.

10 Q. Did they ask you questions about that?

11 A. Yes.

12 Q. Did you answer questions about that?

13 A. Yes.

14 Q. And did Mr. Vitullo participate in those  
15 conversations in any way?

16 A. Yes.

17 Q. Was he at the meet -- was there a meeting in  
18 person?

19 A. I don't recall.

20 Q. Are you claiming that Mr. Vitullo sat in a  
21 meeting with you and the clients when they signed your  
22 Engagement Agreement that's Exhibit 1?

23 A. No.

24 Q. Okay. All right. Let me show you what I'll  
25 mark as Exhibit 3 to your deposition.

1 (Exhibit 3 marked.)

2 Q. (BY MR. LAUTEN) Mr. Block, I'm showing you --  
3 showing you what I've premarked for identification as  
4 Exhibit 3 to your deposition. This is an email dated  
5 November 10, 2015, from Mr. Vitullo to the clients, with  
6 copy to a couple of other people, not you.

7 Have you ever seen this email before?

8 A. No.

9 Q. All right. If you'll look down to the second  
10 to last paragraph.

11 A. On the first page?

12 Q. Yes, sir. Of Exhibit 3. The paragraph that  
13 starts, "You have both informed me." Do you see that?

14 A. Yes.

15 Q. Quote, "You have both informed me in the past  
16 that you do not want to continue to use Chris McNeill to  
17 litigate this matter and that you feel that certain  
18 things should have been performed by Chris in the  
19 litigation that were not performed." Do you see that?

20 A. Yes.

21 Q. At any point in time, did anyone express, to  
22 you or your firm, dissatisfaction that the clients had  
23 as of November 10, 2015, with you, your firm, or Mr.  
24 McNeill?

25 A. No.

1 Q. All right.

2 A. And to the contrary, I believe they hired Chris  
3 on another matter after that date.

4 MR. LAUTEN: Let me -- let me object to  
5 everything after "no" as nonresponsive.

6 Q. (BY MR. LAUTEN) Let me show you what I'll mark  
7 for identification Exhibit 4.

8 (Exhibit 4 marked.)

9 Q. (BY MR. LAUTEN) Did Chris McNeill ever tell  
10 you that your firm had been terminated from representing  
11 the clients?

12 A. No.

13 Q. I'm going to show you what I've premarked for  
14 identification as Exhibit 4 to your deposition.

15 You'll notice, Mr. Block, that Exhibit 4 is  
16 dated November 11, 2015. Do you see that?

17 A. Yes.

18 Q. You would agree with me that this is the next  
19 day after, in timeline order, of Exhibit 3. Exhibit 3  
20 is dated the day before, correct?

21 A. Yes.

22 Q. All right. And this is an email from Kelly  
23 Stewart, correct -- I mean -- sorry.

24 This is an email from Mr. McNeill to Kelly  
25 Stewart, correct?



1 A. Yes.

2 Q. Have you ever seen this email before?

3 A. No.

4 Q. Do you see in the second par -- I mean the  
5 second sentence, quote, "With respect of the rest of the  
6 litigation (which you haven't been involved with), I  
7 will most likely be stepping out which is probably a  
8 good thing because our clients are difficult to please  
9 and are ultimately going to end up on the losing end, at  
10 least in part." Do you see that?

11 A. Yes.

12 Q. Did Mr. McNeill step out of the Chase lawsuit  
13 in November of 2015?

14 A. Not to my knowledge.

15 Q. Did Mr. McNeill ever step out of the Chase  
16 lawsuit at any point in time?

17 A. No, not to my knowledge.

18 Q. Did you ever have any conversations with Mr.  
19 McNeill about stepping out of the litigation in November  
20 of 2015?

21 A. Not -- no.

22 Q. At any point in time, did you have that  
23 conversation?

24 A. I had that conversation probably in the last  
25 several months.

1 Q. Okay. Is it possible that Mr. McNeill -- is it  
2 possible the clients terminated the agreement with your  
3 firm without you knowing about it?

4 A. I guess it's possible.

5 Q. Okay. Is it possible that the clients made it  
6 clear to Chris McNeill that they were terminating the  
7 agreement with your firm and you not know about it?

8 A. No.

9 Q. Did Mr. McNeill ever tell you that he was  
10 considering getting out of the Chase lawsuit --

11 A. No.

12 Q. -- in November of 2015?

13 A. Not on his -- not voluntarily.

14 Q. Well, involuntarily, did he tell you that the  
15 clients were interested in getting out of the case  
16 involuntarily?

17 A. No.

18 Q. All right. So your testimony, under oath, is  
19 you were aware of no dissatisfaction the clients may  
20 have had with your firm, correct?

21 A. Correct.

22 Q. And you're not aware of any conversations that  
23 may have occurred, did occur, or didn't occur between  
24 Chris McNeill, on the one hand, and the clients on the  
25 other hand, with respect to Mr. McNeill stepping out of

1 the Chase lawsuit?

2 MR. TOBEY: Objection, form.

3 A. I'm not aware of any conversations.

4 Q. (BY MR. LAUTEN) All right. Mr. McNeill, in  
5 2015, what was his legal relationship to your firm?

6 A. He was a partner.

7 Q. Okay. He was a partner in 2015?

8 A. Yeah -- yes.

9 Q. Okay. When he was representing the clients in  
10 any capacity in 2015, would he have been within the  
11 course and scope of his partnership role with your firm?

12 A. Well, I -- I don't know what you mean by  
13 partnership role. He's a lawyer in the firm. I mean,  
14 that's -- he practices law, so, yes, he's --

15 Q. Okay. Well --

16 A. It doesn't matter whether he was a partner or  
17 associate for what he did.

18 Q. Well, it matters to me. Let me ask it this  
19 way.

20 Is there any service that Mr. McNeill  
21 provided to the clients on any matter that he was not  
22 authorized to do on behalf of your firm?

23 A. Not that I'm aware of.

24 Q. All right. Let me show you what I'll mark for  
25 identification as Exhibit 5.

1 (Exhibit 5 marked.)

2 Q. (BY MR. LAUTEN) Are there any emails -- while  
3 I get to Exhibit 5, are there any emails between you, on  
4 the one hand, and Mr. McNeill on the other hand, in the  
5 representation of the clients, that have not been  
6 produced in this lawsuit?

7 A. Not to my knowledge.

8 Q. All right. I've marked Exhibit 5, which is an  
9 email from Mr. Vitullo to the clients, copy to Mr.  
10 McNeill. Do you see that?

11 A. Yes.

12 Q. And this is dated November 14, 2015, correct?

13 A. Yes.

14 Q. This is three days on the timeline after  
15 Exhibit 4, correct?

16 A. No. Four days.

17 Q. Four days. Excuse me. I stand corrected.

18 This is four days later than Exhibit 4,  
19 correct?

20 A. Correct.

21 Q. All right. Have you seen this before?

22 A. No.

23 Q. All right. Did Mr. McNeill attend a meeting on  
24 November --

25 A. Well, let me correct that. I hadn't seen it



1 until the last week.

2 Q. Okay. Fair enough.

3 A. I hadn't seen it contemporaneously or any time  
4 around this time.

5 Q. All right. As of the time that you demanded a  
6 fee on this case in any form, had you seen this document  
7 that is marked as Exhibit 5?

8 A. No.

9 Q. All right. Did Mr. McNeill attend a meeting  
10 with the clients and Lenny Vitullo on November 13, 2015?

11 A. I don't know.

12 Q. Okay. If you'll look at Exhibit 5, this email,  
13 dated November 14, 2015, says, "As we discussed  
14 yesterday, the strategy moving forward is as follows:"  
15 Number "1. McNeill is going to attempt to resolve the  
16 Partition lawsuit and reduce your legal fee exposure.  
17 The remaining issues are the division of the wine, golf  
18 clubs, personal belongings, and storage costs. You both  
19 will continue to use McNeill to finalize the Partition  
20 lawsuit." Do you see that?

21 A. Yes.

22 Q. Number 3, "My firm and my lawyers will  
23 represent you on your claims against Chase Bank on a  
24 contingency fee basis. I will send you a final bill for  
25 my hourly work through the mediation on Monday. I will



1 also send you a contingency fee agreement." Do you see  
2 that?

3 A. Yes.

4 Q. All right. Do you know if there was a meeting  
5 on November 13th, 2015, where your clients -- I'm sorry  
6 -- where the clients terminated the agreement with your  
7 firm and the clients with respect to the continued  
8 representation of your firm and the clients on the Chase  
9 lawsuit?

10 A. Start -- repeat the --

11 Q. Sure.

12 A. -- first part of the question.

13 Q. Do you know if the clients, in a meeting with  
14 your partner, Mr. McNeill, on November 13th, 2015,  
15 terminated your firm insofar as its continued  
16 representation of the clients on the Chase lawsuit?

17 A. No. I don't know.

18 Q. You don't know.

19 Have you ever spoken to Mr. McNeill about  
20 what was spoken at the meeting on November 13, 2015,  
21 which is referenced in this exhibit?

22 A. Well, recently.

23 Q. Okay. With -- with your lawyer present? I  
24 mean, in the confidential privileged setting?

25 A. Both, in -- with and without him there.

1 those services in those years?

2 A. Because Lenny, who was also under the contract  
3 to provide the services under that agreement, told us  
4 that he didn't want us to do anything on the trial.

5 Q. Okay. So your testimony, under oath, is you  
6 had no obligation to perform any services in 2017 or  
7 2018 because Lenny told you you didn't have to?

8 A. That's correct.

9 Q. All right. You have no written contract with  
10 Mr. Vitullo, correct?

11 A. No.

12 Q. All right. You have no contract with Fee,  
13 Smith, Sharp & Vitullo, correct?

14 A. A contract? Well, we have an engagement letter  
15 where they're named in it.

16 Q. Yeah. They didn't sign your agreement, did  
17 they, sir?

18 A. They didn't sign it, no.

19 Q. Did you ask them to sign it?

20 A. No.

21 Q. Did you show it to them when you were showing  
22 it to the clients?

23 A. Yes.

24 Q. Well, where is the written document where they  
25 were copied in 2012, when you sent the engagement

1 Q. Did he tell you he told Mr. Vitullo, I will be  
2 stepping out of the probate cases?

3 A. He told me he was stepping out at Vitullo's  
4 requirement.

5 Q. Sir, it doesn't say that, does it?

6 A. That's what he told me.

7 Q. Okay. So Mr. Vitullo -- your testimony is that  
8 Mr. Vitullo told Mr. McNeill to step out of the probate  
9 cases?

10 A. Yes.

11 Q. Which he did?

12 A. Yes.

13 Q. And did no work whatsoever after --

14 A. I don't know what work he did.

15 Q. -- 2015?

16 A. Well, I think that he did work in 2016.

17 Q. Did you actually see anyone at your firm do any  
18 work on the Chase lawsuit after November of 2015?

19 A. No.

20 Q. Okay. Sir, would you agree with me that if, in  
21 fact, the clients terminated your firm in November  
22 of 2015, that your firm would be entitled to zero  
23 contingent fee in this case?

24 A. I don't know.

25 Q. All right. Did you read paragraph 3 of your

1 your firm provided, at any point in time, in any year,  
2 that caused the jury to award 3.6 million in Question  
3 No. 21?

4 A. Yes.

5 Q. What legal -- what legal service did your firm  
6 provide that caused the jury to enter 3.6 million in  
7 that blank?

8 A. I don't know.

9 Q. Okay. Can you identify any service that you're  
10 aware of, whatsoever, in any year, at any point in time,  
11 that caused the jury to award that number in Question  
12 21?

13 A. Well, you'll have to ask Chris McNeill; he did  
14 most of the work on this case.

15 Q. Okay. You -- can you tell me one legal service  
16 that your firm provided that caused the jury to answer  
17 these questions the way they did?

18 A. I don't know how -- I don't know what questions  
19 they were given, how they answered them. All I know is  
20 that the legal services we provided were on the early  
21 stages of the trial.

22 Q. All right. So the answer to my question is, as  
23 you sit here under oath today you cannot identify a  
24 single legal service that your firm provided that caused  
25 the jury to award the money they awarded at trial,



1 had in our agreement. I never knew there was a second  
2 agreement until the last few months.

3 Q. Okay.

4 A. I wasn't aware of any of this until this whole  
5 thing opened up, this whole dispute. I always thought  
6 our agreement was the agreement that the trial was held  
7 under.

8 Q. Okay. And that was true up until the point  
9 that Mr. McNeill told you that he believed that y'all  
10 were under Mr. Vitullo's contract; is that correct?

11 A. I don't know if -- I don't know if McNeill knew  
12 that Lenny had a signed contract with the client. He  
13 told me that Lenny was going to seek a full contingency  
14 fee engagement with the client, and he assumed that we  
15 would be in that contract, as we were in the original  
16 contract.

17 Q. He -- Mr. McNeill told you that he assumed that  
18 y'all were a part of the new contract that Mr. Vitullo  
19 got from the clients, correct?

20 A. Correct.

21 Q. And you believed that to be true, correct?

22 A. Today. This is what I now know.

23 Q. Okay. But you believed it to be true that Mr.  
24 -- that you're entitled to a fee under the new agreement  
25 for a full contingency Mr. Vitullo got, correct?



1 A. Well, I don't -- I don't know about anyone.

2 Q. Okay. But you're telling me as you sit here  
3 today, you don't know whether anybody in your firm  
4 reviewed Exhibit 9?

5 A. I don't know.

6 Q. Okay. All right. Well, let's look at it. In  
7 -- in any event, let's go to page 5 of Exhibit 9. Do  
8 you see paragraph 12?

9 A. Yes.

10 Q. It says -- it says, Subsequent -- "Subsequently  
11 without the knowledge or consent of B&G, Vitullo and Fee  
12 Smith entered into a separate contingent fee agreement  
13 with Dr. Hopper and Ms. Wassmer." Do you see that?

14 A. Yes.

15 Q. You've seen documents today that certainly show  
16 that is not true, correct?

17 MR. TOBEY: Objection, form.

18 A. No. I haven't seen anything.

19 Q. (BY MR. CULPEPPER) Well, let's look at some of  
20 the exhibits that we went through.

21 Are you saying that you and your law  
22 firm -- well, not you personally, but at least Mr.  
23 McNeill with your law firm, wasn't aware that Mr.  
24 Vitullo and his firm were going to enter into a  
25 contingency fee agreement on their own with Ms. Wassmer

1 and Mr. Hopper?

2 A. I think that he was aware that Vitullo was  
3 going to attempt to get them. I don't -- but I don't  
4 think he knew that it was ever executed.

5 Q. Okay. Whether he actually knew, you're saying  
6 without knowledge, you knew he was trying to enter into  
7 -- Mr. Vitullo was -- a contingency fee agreement on his  
8 own, correct?

9 A. Well, that's not what this sentence says.

10 Q. All right. So you're saying you just didn't  
11 know he actually did it?

12 A. Well, he didn't know that it was entered into.

13 Q. Okay. You knew he wanted to, you knew he was  
14 trying to, you didn't know whether he did it?

15 A. Right.

16 Q. All right. And is it your testimony that as  
17 counsel for Mr. Hopper and Ms. Wassmer, you never  
18 inquired whether they entered into a contingency fee  
19 agreement with Mr. Vitullo and his law firm?

20 A. Well, he was also counsel for them.

21 Q. Sir, I understand that he was also counsel.

22 That --

23 A. Yeah, so --

24 Q. -- is not responsive. That's not my question.

25 My question is, you were counsel of record

1 about Mr. Vitullo or his firm.

2 Q. And fair enough. You're -- you're not aware of  
3 any complaints Mr. Hopper -- excuse me -- yeah, Mr.  
4 Hopper or Ms. Wassmer ever had with entering -- entering  
5 into a contingency fee agreement with Lenny Vitullo and  
6 his firm?

7 A. I never knew about that agreement.

8 Q. And as you sit here today, is it your  
9 understanding that no one in your firm ever had any  
10 discussions about the contingency fee agreement?

11 A. I don't know.

12 Q. You don't even know today?

13 A. I don't know today.

14 Q. All right. I'm going to hand you another  
15 exhibit, 28.

16 MR. TOBEY: What's the number?

17 THE WITNESS: 10.

18 MR. CULPEPPER: No. It's 10. I'm sorry.

19 (Chatter)

20 (Exhibit 10 marked.)

21 MR. CULPEPPER: All right. Exhibit 10.

22 MR. PENNINGTON: What is that, Tom? Just

23 --

24 MR. CULPEPPER: I'm going to hand you --

25 MR. PENNINGTON: Oh.

1 MR. CULPEPPER: I think I've got multiple  
2 ones of this one.

3 MR. PENNINGTON: Thank you.

4 MR. CULPEPPER: Robert, I think I've got  
5 another one for you.

6 MR. TOBEY: Thanks.

7 Q. (BY MR. CULPEPPER) Take a look at Exhibit 10,  
8 sir. Have you got it? Have you had a chance to look at  
9 it?

10 A. Oh, yeah.

11 Q. All right. All right. So Exhibit 10 -- is  
12 Exhibit 10 an email from Mr. McNeill to you dated  
13 November 28, 2017?

14 A. Yes.

15 Q. All right. And is this -- is it your  
16 understanding that this e -- in this email Mr. McNeill  
17 was explaining to you his recollection of events so that  
18 you can proceed with your case against Wassmer and  
19 Hopper and Vitullo?

20 A. Yes.

21 Q. All right. In the second paragraph he says, We  
22 provided services under the engagement letter from  
23 October '12 until shortly after the mediation of the  
24 matter was held on November 9th, 2015. Do you see that?

25 A. I see that.



1 Q. And is that your understanding that that's  
2 accurate?

3 A. I don't think that's accurate.

4 Q. Okay. So you think -- what -- what have you  
5 done to determine that's not accurate?

6 A. Well, Chris McNeill has told me that he did  
7 work for them in '16.

8 Q. Well, he didn't tell you that in November 28th,  
9 2017, right?

10 A. Oh, I see. Well -- I think what Chris meant  
11 here was under the engagement letter as a -- the initial  
12 engagement. And then there was a second engagement, but  
13 there wasn't a second Engagement Agreement, and that was  
14 what he did in 2016.

15 Q. You totally confused me. The only agreement  
16 I've ever seen is Exhibit 1.

17 A. Yeah. Well, what I'm saying is there were two  
18 different things they had us do.

19 Q. The partition lawsuit and the other lawsuit?

20 A. Yeah.

21 Q. Okay. So there's a Chase lawsuit --

22 A. And the partition --

23 Q. -- and there's a partition lawsuit.

24 A. Right. The partition lawsuit went into '16, I  
25 believe.



1 Q. All right. Fair enough.

2 But as far as the Chase lawsuit went, that  
3 sentence is accurate, you --

4 A. I believe -- I mean, I -- I take him at his  
5 word, let me say it that way.

6 Q. All right. All I'm interested in right now is  
7 the Chase lawsuit.

8 A. Okay.

9 Q. But you understood there were two separate  
10 matters to be handled separately, true?

11 A. Yes.

12 Q. And as a lawyer, your obligation was to  
13 document what you did separately on your billing  
14 statements for the Chase lawsuit and for the partition  
15 lawsuit?

16 A. Yes.

17 Q. And, in fact, I'll represent to you, sir, I've  
18 seen emails -- we can look at them -- where you kind of  
19 got after Mr. McNeill for making sure the clients  
20 understood that you were billing them separately --

21 A. On the partition?

22 Q. -- on the partition lawsuit.

23 A. Yes.

24 Q. Have you seen those emails?

25 A. Well, I haven't seen them recently, no.

1 Q. Right. And after November '15, according to  
2 Mr. McNeill's email, you really weren't involved in the  
3 Chase case any longer, correct?

4 A. No, I don't -- I understand the opposite.

5 Q. Sir, didn't we just look at Mr. McNeill's email  
6 and that's exactly what he said?

7 A. Well, when you talk to Mr. McNeill, I think  
8 you'll find that he did things after that date on this  
9 trial --

10 Q. Okay. So --

11 A. -- okay?

12 Q. So Mr. McNeill, when he said -- when he's  
13 telling you and y'all are preparing to get your story  
14 straight for this lawsuit, that he was out after --  
15 shortly after mediation in November of -- 9th, 2015, is  
16 it your testimony that's incorrect?

17 A. I don't know. You -- what -- what was your  
18 question?

19 Q. Exhibit 10, sir. The second paragraph, when he  
20 says y'all were out after November 9th, 2015, did you  
21 understand that to be true?

22 A. Where does it say he was out?

23 Q. It says, We provided services under the  
24 engagement letter from October '12 until shortly after  
25 the mediation was held --

1 A. I think that's untrue.

2 Q. -- on September 9th.

3 All right. Fair enough. So you don't  
4 believe he was true.

5 What services did you -- are you telling us  
6 that you provided in the Chase lawsuit after November  
7 2015?

8 A. I did not provide any service.

9 Q. All right. What services did the law firm  
10 provide after November 9th, 2015?

11 A. You'll have to ask McNeill.

12 Q. All right. Well, McNeill, I don't need to ask  
13 him. He's already told me in this email that he didn't  
14 provide any services on -- after November 9th.

15 A. Well, I heard -- I know -- I know differently.

16 Q. All right. So the billing statements for the  
17 Chase matter reflect the services that you provided  
18 after November 9th, true?

19 A. I don't know.

20 Q. Well, should they, sir?

21 A. No.

22 Q. Okay. So your bills do not need to reflect the  
23 work you did on the Chase lawsuit after November 9th --

24 A. No.

25 Q. -- 2015?

1 Q. It's not --

2 A. -- with Vitullo.

3 Q. -- Mr. Vitullo's contract?

4 A. Sure, it is.

5 Q. Mr. Vitullo is not a signatory to this  
6 agreement, is he?

7 A. Well, that doesn't make it not his.

8 Q. Okay. In your --

9 A. In my --

10 Q. -- that's your position?

11 A. Absolutely.

12 Q. Fine. But let's look at the terms, sir. This  
13 -- since you wrote this contract up, correct?

14 A. Not Exhibit A.

15 Q. Sir, whether you, yourself, drafted this, this  
16 is your agreement that you presented to Hopper and  
17 Wassmer to sign, true?

18 A. It's our joint agreement of the firm and  
19 Vitullo.

20 Q. Okay. Vitullo -- we already went through it.  
21 He didn't sign this agreement, correct?

22 A. Well, he didn't sign it, but he brought the  
23 client in.

24 Q. Okay. Let's look at that. Let's look at the  
25 agreement. The agreement says you will retain him,



1 correct?

2 A. Yes.

3 Q. Okay. And let's go to -- let's go to  
4 exhibit -- excuse me, it's the -- they're not page --  
5 the pages aren't numbered. But see where it says Legal  
6 Services Agreement?

7 A. Yes.

8 Q. All right. Do you see the third page of that  
9 where it says Attorney/Client Relationship?

10 A. Yes.

11 Q. Okay. The first sentence says, "This Legal  
12 Services Agreement creates an attorney/client  
13 relationship only between the Firm and you." Correct?

14 A. Yes.

15 Q. All right. And, once again, you've got this  
16 word "Firm" with a capital F, right?

17 A. Yes.

18 Q. And how is firm defined in the agreement, sir,  
19 in page 1?

20 A. Block & Garden.

21 Q. Not Vitullo, correct?

22 A. Correct.

23 Q. All right. And so do you agree with your own  
24 contract that says this agreement only creates an  
25 attorney/client relationship between the Firm and Hopper



1 and Wassmer?

2 A. No.

3 Q. Okay. So as you sit here today, is it your  
4 testimony to Judge Martin that this agreement created an  
5 attorney/client relationship between Mr. Vitullo and his  
6 firm and Hopper and Wassmer?

7 A. Either this, or his own agreement.

8 Q. Have you seen --

9 MR. LAUTEN: Objection, nonresponsive.

10 Q. (BY MR. CULPEPPER) -- his own agreement?

11 A. Huh?

12 Q. Have you seen his own agreement?

13 A. No.

14 Q. All right. Do you know whether he even had his  
15 own agreement in 2012?

16 A. I don't know.

17 Q. All right. So you don't know that either?

18 A. I don't know.

19 Q. All right. Did you ever ask him?

20 A. No.

21 Q. All right. What the agreement actually says is  
22 that you're authorized to hire Mr. Vitullo, correct?

23 A. Yes.

24 Q. All right. And you did not send any agreement  
25 to Mr. Vitullo to indicate you had hired him on the

1 clients' behalf for the Chase case, true?

2 A. I don't know that.

3 Q. Have you seen any document that you have  
4 provided to Mr. Vitullo or his firm setting out the  
5 terms of which you've hired him?

6 A. I think -- I believe he saw this agreement.

7 MR. LAUTEN: Object. Object,  
8 nonresponsive.

9 MR. CULPEPPER: And I've got to make that  
10 same objection; it's nonresponsive.

11 Q. (BY MR. CULPEPPER) That's not my question.  
12 Have you seen --

13 A. I have not seen any document.

14 Q. All right. And you're certainly not aware of  
15 any such document?

16 A. I'm not aware of any document.

17 Q. But in your partition case, you did hire other  
18 lawyers, correct?

19 A. Not that I'm aware of.

20 Q. So you're not aware that you hired other  
21 counsel to assist on the partition lawsuit?

22 A. Well, I'm not sure what you mean by that. I  
23 mean, I think there might have been -- I don't remember  
24 if there was an appeal of that case. I can't recall.  
25 There was some -- one case, one of the matters involved

1 I, STEVEN BLOCK, have read the foregoing  
2 deposition and hereby affix my signature that same is  
3 true and correct, except as noted above.  
4

5 \_\_\_\_\_  
6 STEVEN BLOCK

7 THE STATE OF \_\_\_\_\_)  
8 COUNTY OF \_\_\_\_\_)  
9

10 Before me, \_\_\_\_\_, on this day  
11 personally appeared STEVEN BLOCK, known to me (or proved  
12 to me under oath or through \_\_\_\_\_)  
13 (description of identity card or other document) to be  
14 the person whose name is subscribed to the foregoing  
15 instrument and acknowledged to me that they executed the  
16 same for the purposes and consideration therein  
17 expressed.

18 Given under my hand and seal of office this  
19 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

20  
21  
22 \_\_\_\_\_  
23 NOTARY PUBLIC IN AND FOR  
24 THE STATE OF \_\_\_\_\_  
25 COMMISSION EXPIRES: \_\_\_\_\_

1 JAMS ARBITRATION TRIBUNAL  
2 BLOCK, GARDEN & MCNEILL, )  
LLP f/k/a BLOCK & GARDEN, )  
3 LLP, )  
4 Claimant, )  
VS. ) ARBITRATION NO.  
5 ) 1310023697  
6 LAURA WASSMER, DR. STEPHEN )  
HOPPER, FEE, SMITH, SHARP )  
7 & VITULLO, LLP and ANTHONY )  
L. VITULLO, )  
8 Respondents. )

9  
10 REPORTER'S CERTIFICATION  
DEPOSITION OF STEVEN BLOCK  
OCTOBER 17, 2018

11 I, Claudia White, Certified Shorthand Reporter in  
12 and for the State of Texas, hereby certify to the  
13 following:

14 That the witness, STEVEN BLOCK, was duly sworn by  
15 the officer and that the transcript of the oral  
16 deposition is a true record of the testimony given by  
17 the witness;

18 That the deposition transcript was submitted on  
19 October 25, 2018, to the witness or to the attorney for the  
20 witness for examination, signature and return to  
21 VERITEXT LEGAL SOLUTIONS by November 19, 2018;

22 That the amount of time used by each party at the  
23 deposition is as follows:

24 Mr. Robert L. Tobey, Esq. - 00 HOURS:00 MINUTE(S)  
Mr. James E. Pennington - 01 HOURS:44 MINUTE(S)  
25 Mr. Brian P. Lauten, Esq. - 01 HOURS:05 MINUTE(S)

Mr. Thomas A. Culpepper, Esq. - 01 HOURS:05

202

1 MINUTE(S)

Mr. Daniel Tostrud, Esq. - 00 HOURS:00 MINUTE(S)

2 That pursuant to information given to the  
3 Deposition officer at the time said testimony was taken,  
4 the following includes counsel for all parties of  
5 record:

6 Mr. Robert L. Tobey, Esq., Attorney for Claimant

Mr. James E. Pennington, Attorney for Respondent

7 Wassmer and Hopper

Mr. Brian P. Lauten, Esq., Attorney for Respondent

8 Fee Smith and Anthony Vitullo

Mr. Thomas A. Culpepper, Esq., Attorney for

9 Respondent Fee Smith and Anthony Vitullo

Mr. Daniel Tostrud, Esq., Attorney for Respondent

10 John Malesovas

11 I further certify that I am neither counsel for,  
12 related to, nor employed by any of the parties or  
13 attorneys in the action in which this proceeding was  
14 taken, and further that I am not financially or  
15 otherwise interested in the outcome of the action.

16 Further certification requirements pursuant to Rule  
17 203 of TRCP will be certified to after they have  
18 occurred.

19 Certified to by me this 22nd day of October, 2018.

20  
21 

22 Claudia White, Texas CSR #8242

Expiration Date: 12/31/18

23 VERITEXT LEGAL SOLUTIONS

Veritext Registration No.571

24 300 Throckmorton, Suite 1600

Fort Worth, Texas 76102

25 Phone: 817-336-3042

Page 202



Fax: 817-335-1203

203

FURTHER CERTIFICATION

The original deposition was/was not returned to the deposition officer on \_\_\_\_\_;

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to Mr. Thomas Culpepper, Custodial Attorney;

That \$\_\_\_\_\_ is the deposition officer's charges to the Respondents for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on and filed with the Clerk.

Certified to by me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.



Claudia White

Texas CSR #8242

Expiration Date: 12/31/18

VERITEXT LEGAL SOLUTIONS

Veritext Registration No. 571

300 Throckmorton, Suite 1600

Fort Worth, Texas 76102

(800)336-3042 (800)336-4000

**From:** Christopher McNeill  
**Sent:** Tuesday, November 28, 2017 11:42 AM  
**To:** Steven Block  
**Subject:** Hopper/Wassmer engagement  
**Attachments:** Re Engagement.htm; BG Engagement Letter.pdf



See narrative below and feel free to edit.

We were engaged by Stephen Hopper and Laura Wassmer in October 2012 pursuant to the attached engagement letter. Based on the attached email from Ms. Wassmer, Lenny Vitullo was familiar with the proposed terms of our engagement. Those terms were in fact based upon our discussions with Mr. Vitullo, as he was the one who referred the client to us. Mr. Vitullo desired for Block & Garden, LLP to handle the probate issues until the appeal from the probate court was resolved and the clients' claims against JP Morgan Chase were ready to proceed. We had previously worked with Mr. Vitullo and his firm on several occasions in a similar fashion where we would handle the case and then he would step in and try the case if it was not resolved by settlement prior to trial.

We provided services under the engagement letter from October 2012 until shortly after the mediation of the matter was held on November 9, 2015. During that approximately three year period, we provided hundreds of hours of services including review of documents, attendance at hearings, and consultations with the clients. We did not keep accurate or complete records of our time given the hybrid contingency nature of the engagement. Of the \$100,000 payable to us for our pre-trial services, we only received approximately \$50,000. We also handled, as a separate matter on an hourly basis because it was not part of the original scope of engagement, the defense of the clients in a partition lawsuit brought in Dallas County district court by Jo Hopper (the surviving spouse).

Shortly after the November 2015 mediation, after it became clear that the dispute would not settle, Lenny Vitullo took over the prosecution of the claims against JP Morgan Chase. He also facilitated the clients' retention of James Bell, an experienced solo litigator, to assist with the defense of counterclaims against the clients. The clients instructed me at that time to let Mr. Vitullo and Mr. Bell proceed with the management of the case, but have never terminated our engagement. To this date Christopher McNeill remains counsel of record in the lawsuit. We did not learn that Mr. Vitullo and his firm had executed a new engagement letter with the clients until after a verdict was rendered in the lawsuit.

Christopher M. McNeill

Block Garden & McNeill, LLP  
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5949 Sherry Lane, Suite 900  
Dallas, TX 75225  
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Main: 214-866-0990  
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Email: [mcneill@bgvllp.com](mailto:mcneill@bgvllp.com)

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