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08-12-00331-CV(4)

DEC 3 2012

NO. 08-12-00331-CV

DENISE PACHECO, CLERK
EIGHTH COURT OF APPEALS

IN THE COURT OF APPEALS
EIGHTH JUDICIAL DISTRICT OF TEXAS
EL PASO, TEXAS

IN RE: ESTATE OF
MAX D. HOPPER, DECEASED

STEPHEN B. HOPPER and LAURA S. WASSMER,
Defendants – Appellants/Cross-Appellees

JO N. HOPPER,
Plaintiff – Appellee/Cross-Appellant

JPMORGAN CHASE BANK, N.A.,
Defendant – Appellee/Cross-Appellee

FILED IN
COURT OF APPEALS
DEC 3 2012
DENISE PACHECO
CLERK 8th DISTRICT

On Appeal from Probate Court No. 3
Dallas County, Texas
Trial Court Cause No. PR-11-3238-3

**APPELLEE'S RESPONSE TO JO N. HOPPER'S
FIRST MOTION FOR EXTENSION
OF TIME TO FILE BRIEF**

Appellee/Cross-Appellee JPMORGAN CHASE BANK, N.A., as Independent Administrator of the Estate of Max D. Hopper, Deceased, (the "Administrator") files this Response to Jo N. Hopper's First Motion for Extension of Time to File Brief, as follows:

1. The Administrator opposes the requested forty-six day extension of time as unwarranted and excessive. As a professional courtesy to Mr. Yanof, who is one of

several lawyers representing Mrs. Hopper in this appeal, the Administrator has communicated that it does not oppose a thirty day extension of time. The administrator opposes any longer extension of time for the following reasons.

2. First, a mere sixteen days ago Mrs. Hopper filed her motion asking this Court to adopt the briefing schedule of Fifth Court of Appeals Local Rule 10. That local rule required Mrs. Hopper to file her brief as appellee and cross-appellant within thirty days after the Appellants filed their brief. The Court granted that unopposed motion. Mrs. Hopper made no mention in that motion of a desire to have seventy-six days from the time Appellants filed their brief to file her brief.

3. Second, although Mr. Yanof is obviously busy, he is only one of several lawyers representing Mrs. Hopper. He is not Mrs. Hopper's lead lawyer in this appeal. Instead, James Albert Jennings has represented himself to be Mrs. Hopper's lead lawyer in this appeal. Until the filing of this motion, Mr. Jennings was the first attorney listed on papers previously filed in this court by Mrs. Hopper. See, e.g., Mrs. Hopper's Unopposed Motion to Adopt Briefing Schedule of Fifth Court of Appeals Local Rule 10 filed November 14, 2012 (listing five lawyers for Mrs. Hopper in the following order: James Albert Jennings and Kenneth B. Tomlinson of Erhard & Jennings, P.C., Michael L. Graham and Janet P. Strong of The Graham Law Firm, P.C. and, lastly, Michael A. Yanof of Thompson, Coe, Cousins & Irons, L.L.P.).

4. Third, the core legal issues the Appellants raised in their brief have been exhaustively briefed in the trial court. Indeed, Mrs. Hopper filed hundreds of pages of briefing in connection with the matters that are the subject of the appeal. Further,

Mrs. Hopper filed her notice of appeal on September 10, 2012, so her attorneys have had months to prepare her brief as cross-appellant.

5. Fourth, because of Mrs. Hopper's insistence that she be treated as a cross-appellant rather than an appellant, she is already injecting delay into the briefing process. *See* Jo N. Hopper's Unopposed Motion to Realign Parties on Appeal filed October 12, 2012. After she files her brief as appellee and cross-appellant, a minimum of an additional fifty days will elapse before the briefing is completed – thirty days for the filing of the Appellants' reply brief and the Cross-Appellee's brief (the Administrator is a cross-appellee) and an additional twenty days for Mrs. Hopper to file her reply brief as cross-appellant. So if Mrs. Hopper's requested extension is granted, the briefing will take in excess of five months from the filing of the record, and that assumes no further extensions.

6. Fifth, the underlying estate administration has been ongoing since June 2010 and the litigation from which this appeal arose has been pending since September 2011. The trial court, in response to a motion filed by Mrs. Hopper, stayed the remainder of the litigation after it severed the claims that are now the subject of this appeal. The trial court stayed the remaining litigation after Mrs. Hopper argued to the court that the chance of the appeal taking as long as two years was "farfetched." Now, Mrs. Hopper wants a total of seventy-six days just to file her opening brief. Any delays in this appellate process and the underlying litigation will unnecessarily delay the conclusion of the estate administration.

For the foregoing reasons, JPMorgan Chase Bank, N.A., as Independent

Administrator for the estate of Max Hopper, deceased, respectfully prays that any extension granted to Mrs. Hopper to file her brief be limited to at most thirty days.

Respectfully submitted,

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IN ITS CAPACITY AS INDEPENDENT
ADMINISTRATOR OF THE ESTATE
OF MAX D. HOPPER, DECEASED**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been served by facsimile on the following counsel of record on the 30th day of November, 2012:

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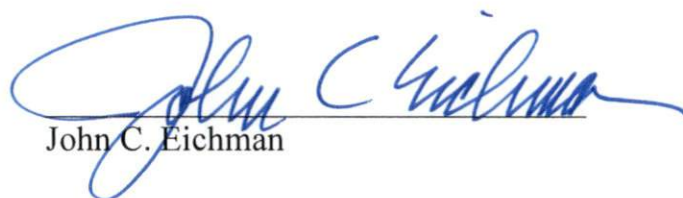
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