

CAUSE NO. DC-13-09969

JO N. HOPPER	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	44th JUDICIAL DISTRICT
LAURA S. WASSMER and	§	
STEPHEN B. HOPPER,	§	
	§	
Defendants.	§	DALLAS COUNTY, TEXAS

AGREED MOTION FOR CONTINUANCE

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Plaintiff Jo N. Hopper (“Plaintiff”) and Defendants Laura S. Wassmer and Stephen B. Hopper (“Defendants”), by and through their attorneys of record, and agree and consent to a continuance of the trial of this matter until (at least) **February 8, 2016** and would respectfully show the Court as follows:

I.

This case is currently set for Trial on June 29, 2015.

II.

A.

This case has currently been, for months, informally¹ abated by the agreement of the parties, for the following reasons and as the following information will show. The reason for this agreed abatement was (as set forth below) both sides believed and agreed a pending appeal in another matter, could affect the partition issues before this Court. These concerns have just now been

¹Without seeking a Court ordered abatement - - but per binding Rule 11 Agreements.

resolved by the Appellate Court's recent decision.

B.

For further background, in September, 2012, Plaintiff and Defendants respectively filed their *Notices of Appeal* in Cause No. PR-11-3238-3 in Probate Court No. 3, Dallas County, Texas and styled *In Re: Estate of Max D. Hopper, Deceased/Jo N. Hopper v. JPMorgan Chase Bank, N.A., Stephen B. Hopper and Laura S. Wassmer*.

This Appeal to the Fifth Circuit Court of Appeals, Appeal No. 05-12-01247-CV was transferred on November 2, 2012 to the Eighth Court of Appeals in El Paso, Texas and given Appeal No. 08-12-00331-CV (the "Appeal").

Oral argument was conducted on October 24, 2013 in El Paso, Texas.

The Eighth Court of Appeals in El Paso, Texas issued both its Opinion and Judgment on December 3, 2014, in favor of Plaintiff herein, Jo N. Hopper.

On December 18, 2014, an Appellee, also in that Appeal, JPMorgan Chase Bank, N.A. filed a *Motion for Rehearing* and the Appellate Court requested the Parties to respond to the pending *Motion for Rehearing* by March 19, 2015.

On March 9, 2015, Appellants Stephen Hopper's and Laura Wassmer's attorneys of record, Mark C. Enoch and Lawrence Fischman of Glast, Phillips & Murray, P.C., filed their *Motion of Counsel to Withdraw and For Extension of Time to Respond*.

On March 12, 2015, Appellee Jo N. Hopper's filed a *Unopposed Motion For Extension of Time To Respond To IA's Motion For Rehearing*. The Court granted Appellee's Extension to April 3, 2015, and likewise ordered all Parties' response due that same date.

On April 2, 2015, Appellee filed her *Response to JPMorgan Chase Bank, N.A.'s Motion For*

Rehearing.

On April 3, 2015, Appellants, Laura S. Wassmer and Stephen B. Hopper filed their Response to the *Motion for Rehearing*.

Indeed all Parties have the same view that the *Motion for Rehearing* should be denied - so on that point the Parties hereto are aligned in the Appeal.

No decision has been issued by the Appellant Court to date as to the *Motion for Rehearing*.

C.

Plaintiff and Defendants contend that good cause exists to seek a continuance of the trial date in this cause due to the fact that legal issues in the Appeal which could have affected the assets to be partitioned, in this cause, were only finally determined, (as noted in the prior paragraph), by the Court of Appeals in December, 2014, per both its Opinion and Judgment of that date. Indeed, the mandate regarding that Judgment of the Court of Appeals has yet to issue in that another party to the Appeal (“JPMorgan”), moved for rehearing only on non-substantive points as to the Opinion (but not as to the Judgment) - - which topics have no bearing on the partition issue before the Court in this matter.

D.

Furthermore, due to the current trial setting (June 29, 2015), there are deadlines fast approaching, which cannot be met, given the parties’ mutually abating this matter while waiting for the Court of Appeals’ decision (which weighed on issues before this Court).² Further, the Parties

²Effectively, neither side has moved forward with this cause in any substantive way, to date, by their mutual agreement per Rule 11, in the interests of efficiency.

recently mutually further extended Expert Designations and Discovery Closure, as the Parties were attempting to reach some form of a settlement during this same period. Settlement efforts were just unsuccessful (in the last few days) and therefore the Parties will proceed to full discovery and Trial. Plaintiff and Defendants still will need to proceed with Expert Designations and the completion of all discovery (none of which has occurred to date, pending the Appellate ruling). Thus all this is further evidence of and reason for the agreed need for a continuance and for a new trial date in this cause.

III.

Plaintiff and Defendants assert that additional time is needed, in the interest of justice, to allow sufficient time for expert designation, to complete discovery and to complete all other usual pretrial preparations required before Trial. No Party hereto is harmed or adversely affected by this *Agreed Motion*.

IV.

For the reasons set out herein and good cause shown, a continuance of the trial date to (at least) February 8, 2016 and the vacating of all pre-trial deadlines and resetting them, are all appropriate and in the interest of justice.

V.

WHEREFORE PREMISES CONSIDERED, Plaintiff and Defendants pray that the Court grant this *Agreed Motion For Continuance*, vacating the current *Level 3 Scheduling Order* and resetting the Trial date to (at least) February 8, 2016 and extending all deadlines to the dates. and for any other general relief, to which Plaintiff and Defendants may be justly entitled.

Respectfully submitted,

/s/James Albert Jennings

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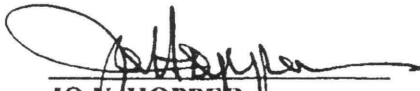
Suite 900

Dallas, Texas 75225

Attorneys for Laura S. Wassmer and

Stephen B. Hopper

AGREED:



JOHN HOPPER
Plaintiff
Date: 4/17/15

AGREED:

LAURA S. WASSMER
Defendant
Date: _____

AGREED:

STEPHEN B. HOPPER
Defendant
Date: _____

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was delivered by electronic mail to all counsel of record on this the 21st day of April, 2015

/s/James Albert Jennings

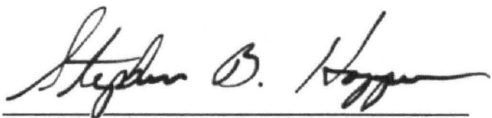
AGREED:

JO N. HOPPER
Plaintiff
Date: _____

AGREED:

LAURA S. WASSMER
Defendant
Date: _____

AGREED:



STEPHEN B. HOPPER
Defendant
Date: _____ 04/17/2015

CERTIFICATE OF SERVICE

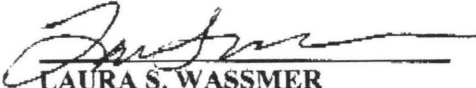
I hereby certify that a true and correct copy of the foregoing document was delivered by electronic mail to all counsel of record on this the 21st day of April, 2014.5

/s/James Albert Jennings

AGREED:

JO N. HOPPER
Plaintiff
Date: _____

AGREED:



LAURA S. WASSMER
Defendant
Date: 4/20/15

AGREED:

STEPHEN B. HOPPER
Defendant
Date: _____

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was delivered by electronic mail to all counsel of record on this the 21st day of April, 20165

/s/James Albert Jennings