

08-12-00331-CV

No. 08-12-00331-CV

RECEIVED

MAY 24 2013

IN THE COURT OF APPEALS
FOR THE EIGHTH DISTRICT OF TEXAS

DENISE PACHECO, CLERK
EIGHTH COURT OF APPEALS

Laura S. WASSMER AND STEPHEN B. HOPPER,
Appellants,

v.

JO N. HOPPER,
Appellee/Cross-Appellant

v.

JPMORGAN CHASE BANK, N.A.,
Appellee.

FILED IN
COURT OF APPEALS

MAY 24 2013

DENISE PACHECO
CLERK 8th DISTRICT

On Appeal from Cause No. PR-11-3238-3
In the Probate Court No. 3, Dallas County, Texas
Honorable Michael E. Miller, Presiding Judge

**APPELLEE/CROSS-APPELLANT JO N. HOPPER'S
FIRST UNOPPOSED MOTION FOR EXTENSION
OF TIME TO FILE REPLY BRIEF AS CROSS-APPELLANT**

TO THE HONORABLE EL PASO COURT OF APPEALS:

Appellee/Cross-Appellant Jo N. Hopper ("Appellee/Cross-Appellant" or "Mrs. Hopper"), files this First Unopposed Motion for Extension of Time to File Reply Brief as Cross-Appellant (in reply to Appellants Laura S. Wassmer and Stephen B. Hopper's Response Brief filed on or about May 17, 2013) (hereinafter "Appellee/Cross-Appellant's Reply Brief") and would

respectfully show:

1. This Motion seeks a 13-day extension of time for Appellee/Cross-Appellant Mrs. Hopper to file her Reply Brief. The current deadline to file Appellee/Cross-Appellant's Brief is June 6, 2013. Consequently, Appellee/Cross-Appellant seeks an extended deadline to June 19, 2013. *See* Tex. Rs. App. P. 38.6(d); 10.5 (b).

2. This is Appellee/Cross-Appellant's first request for an extension of time to file her Reply Brief.

3. This extension of time is necessary due to the schedule of Appellee/Cross-Appellant's appellate counsel, Mike Yanof, and the schedule of Appellee/Cross-Appellant's lead trial counsel and co-appellate counsel, James A. Jennings, who has a significant role in the appeal.

4. Specifically, as to Mr. Yanof, his schedule prevents him from preparing Appellee/Cross-Appellant's Reply Brief by the current deadline, and will prevent him from preparing and filing Appellee/Cross-Appellant's Reply Brief earlier than 13 days after the current deadline, for the following reasons:

- a.) Drafting and preparing an Appellee's Brief, in *Rosalynn R. Coleman v. Patrick Calvano*, No. 05-12-00740-CV, in the Fifth District Court of Appeals, due on May 23, 2013;

- b.) Drafting and filing an Appellee's Response Brief in *Kelly Spurlock v. Beacon Lloyds Insurance Company and Grantham-Adkins Insurance Agency*, No. 11-12-00357-CV, in the Eleventh District Court of Appeals, due on May 27, 2013;
- c.) Preparing for a post-verdict hearing, including drafting post-verdict motions, on behalf of the defendants in *Meas v. Lawrence*, No. DC-11-05112-H, in the 160th Judicial District Court, Dallas County, Texas, which hearing is scheduled for May 29, 2013;
- d.) Drafting and filing a Petition for Writ of Mandamus in *In re National Interstate Insurance Company*, No. _____ [to be assigned], in the Sixth District Court of Appeals, in the next two weeks; and
- e.) Drafting and preparing an Appellant's Brief, in *Dalworth Restoration, Inc. v. Angie Rife-Marshall*, No. 02-12-00381-CV, in the Second District Court of Appeals, due on June 14, 2013.

[Mr. Yanof is lead appellate counsel for the parties noted in the above-referenced cases]. This schedule has left inadequate time for appellate counsel to prepare and file Appellee/Cross-Appellant's Reply Brief in this appeal. And the scheduling conflicts above prevent appellate counsel for Appellee/Cross-Appellant from doing so until 13 days after the current deadline. Hence, Appellee/Cross-Appellant seeks a 13-day extension, to June 19, 2013, to file Appellee/Cross-Appellant's Reply Brief.

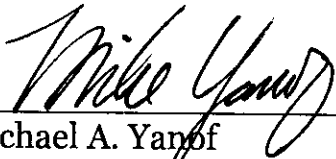
5. This schedule is further complicated by the schedule of lead trial counsel and co-appellate counsel, James A. Jennings. Specifically, Mr. Jennings previously filed a vacation letter with the Court, on or about January 24, 2013, indicating plans to be out of the country for his daughter's wedding between May 20, 2013 and June 10, 2013. As travel plans have materialized, Mr. Jennings will be unavailable from approximately May 20, 2013 through June 3, 2013.¹ Given Mr. Jennings' significant role in this appeal, this too serves as an independent basis justifying an extension to June 19, 2013 to file Appellee/Cross-Appellant's Reply Brief.

6. Counsel for Appellee/Cross-Appellant Jo N. Hopper has conferenced with counsel for Appellants Laura Wassmer and Stephen Hopper and Appellee JPMorgan Chase Bank, N.A. regarding this Motion and the relief sought. Counsel for Appellants Laura Wassmer and Stephen Hopper, and counsel for Appellee JPMorgan Chase Bank, N.A., are unopposed to the Motion and the relief sought.

¹ In fact, Mr. Jennings is already out of the country at the time of the filing of this Motion, and it is filed with his permission.

For these reasons, Appellee/Cross-Appellant Mrs. Hopper respectfully requests that the Court grant this Motion and extend the deadline to file Appellee/Cross-Appellant Mrs. Hopper's Reply Brief until June 19, 2013, and grant any other relief to which she is justly entitled.

Respectfully submitted,

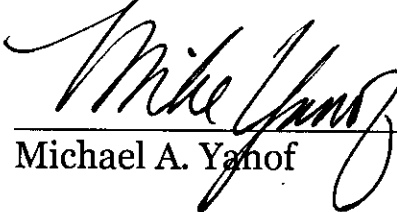
By: 
Michael A. Yanof
State Bar No. 24003215
Thompson, Coe, Cousins & Irons, L.L.P.
700 North Pearl St., 25th Floor
Dallas, Texas 75201
(214) 871-8200 – Telephone
(214) 871-8209 – Facsimile
Email: myanof@thompsoncoe.com

James Albert Jennings
State Bar No. 10632900
Kenneth B. Tomlinson
State Bar No. 20123100
Erhard & Jennings, P.C.
1601 Elm Street
Suite 4242
Dallas, Texas 75201-3509
(214) 720-4001 – Telephone
(214) 871-1655 – Facsimile

ATTORNEYS FOR APPELLEE/
CROSS-APPELLANT JO N. HOPPER

CERTIFICATE OF CONFERENCE

I certify that counsel for Appellee/Cross-Appellant Jo N. Hopper has conferred with counsel for Appellants Laura Wassmer and Stephen Hopper and Appellee JPMorgan Chase Bank, N.A. regarding this Motion and the relief sought. Counsel for Appellants Laura Wassmer and Stephen Hopper, and counsel for Appellee JPMorgan Chase Bank, N.A., are unopposed to the Motion and the relief sought.



Michael A. Yanof

CERTIFICATE OF SERVICE

I certify that I have transmitted a true and correct copy of the foregoing document to the counsel listed below this 23rd day of May, 2013 as follows.

Via Facsimile

John Eichman
Thomas H. Cantrill
HUNTON & WILLIAMS
1445 Ross Avenue
Suite 3700
Dallas, TX 75202
Counsel for Appellee JPMorgan Chase Bank, N.A.

Via Facsimile

Lawrence Fishman
Mark Enoch
GLAST, PHILLIPS & MURRAY, P.C.
14801 Quorum Drive, Suite 500
Dallas, TX 75254
Counsel for Appellants Laura Wassmer and Stephen Hopper



Michael A. Yanof