No. 08-12-00331-CV

In The

COURT OF APPEALS

EIGHTH DISTRICT OF TEXAS
El Paso, Texas

LAURA S. WASSMER AND STEPHEN B. HOPPER,
Appellants/Cross-appellees,

v.

JO N. HOPPER,
Appellee/Cross-appellant,

v.

JPMORGAN CHASE BANK, N.A.,
Appellee.

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

APPELLEE/CROSS-APPELLANT JO N. HOPPER'S RESPONSE TO JPMORGAN CHASE BANK, N.A.'S MOTION FOR REHEARING

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

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

TABLE OF CONTENTS

INDEX OF AUTHORITIES

CASES

CONSTITUTIONAL PROVISIONS

STATUTES

RULES

Appellee/Cross-Appellee Jo N. Hopper ("Mrs. Hopper") files this Response "("Response") to the IA's Motion for Rehearing, as follows:

PREAMBLE

The IA's Motion for Rehearing (the "Motion") is self-described as a non-substantive effort[1] to "clarify" two topics in the Court's December 3rd Opinion ("Opinion"). *See Wassmer v. Hopper*, No. 08-12-00331-CV, 2014 WL 6865445 (Tex. App.—El Paso Dec. 3, 2014, n.p.h.).[2] The IA asserts that if these topics are left "unclarified," they have the potential to cause unwarranted inferences and conclusions (allegedly not intended by the Court) to be drawn from the Opinion—which perforce the IA believes are adverse to it. The IA's requested relief is extremely limited, and it does not seek in any way to alter the Court's actual rulings set forth in the Opinion. Indeed, no mention is made of any substantive alteration[3] required as to those holdings, nor does the IA make any request to alter the Court's Judgment of December 3, 2014 ("Judgment"), whatsoever. Implicitly by

---

[1] "The Administrator ["IA"] does not ask the Court to revisit its substantive rulings. . . ." (Motion at p. 2.) Again, at p. 7 of the Motion, the IA confirms that even if the "clarifications" it seeks are all granted, "the Court's substantive rulings remain unchanged. . . ."

[2] The Opinion is attached as Appendix Tab A. For convenience, citation to it herein is by "Opinion at p.[ ]" to cite the slip opinion.

[3] It is not surprising that the IA would file this Motion on admittedly non-substantive matters, given that from the beginning the IA has been far more interested in advancing and protecting its own interests over (and rather than) Mrs. Hopper's—to whom it owes fiduciary duties.

the IA's denial that its requests could affect any "substantive" rulings in the Opinion,[4] the IA has waived any attack on the core substantive holdings of the Opinion, which themselves form the basis of the Court's Judgment.

In fact, the "clarifications" sought are not only unwarranted and inappropriate; they are themselves entirely disingenuous in nature. When analyzed carefully, as set forth below, and despite the IA's disclaimer,[5] the IA by the subterfuge of "clarification" seeks to undercut not only the legal effect of the Opinion, but also its proper scope and reach. In fact and wholly contrary to its stated intent, the IA plainly strains to inject ambiguity and uncertainty into the otherwise seamless flow of logic (and supporting law) embodied in the Court's Opinion. The IA's Motion, by clever word re-formulation, as if its newly invented phrases were the same ones that had appeared in the Opinion—when they in fact did not – sets up strawmen to be knocked down by its proffered "logic" supporting the modifications it suggests. But again, they are only strawmen and are not reflective of the underlying and internally cohesive nature of the Court's crisp analysis and Opinion, supported fully by both the Texas Constitution and Texas Probate Code.

---

[4] *See supra* note 1.

[5] The IA claims its proposed changes are to "eliminate future (incorrect) argument." (Motion at p. 3). This facially laudable-sounding goal, in essence, invites a prohibited advisory opinion. As this Response demonstrates, no such foray is required or necessary, as the Opinion is already crystal clear and correct.

Furthermore, the IA's implied (if not stated) relief it seeks can be generally summarized thusly: *while it is certainly clear to the IA exactly what the Court's Opinion states and means (inasmuch as the IA can and does critique what it claims the Court states), the IA nonetheless expects the Court to explain it anew and even more "clearly" to everyone else—and in the process "explain it" more to the IA's liking. Otherwise third parties could draw the "wrong" conclusions about it*. This patronizing request is an improper use of a motion for rehearing, and is certainly inappropriate.

Simply put, the Opinion should not be modified, as the IA suggests, because it is correct in all particulars.

I. The Court Need Not Clarify Its Terminology

A. The Court was absolutely clear in the distinction between Robledo and the Constitutional Homestead

The Court's Opinion held that there were two sets of interests, with distinct terms defining them: (1) the community "estate" held pre-death, versus the decedent's "estate" upon his death and (2) the *res*, Robledo, versus the Constitutional Homestead. As the Court noted,

> the community estate approached $26,000,000.00. We caution here that the community "estate" is not the same thing as the decedent's "estate," which would be half of that amount, or $13,000,000. While the issues presented are voluminous, the dispute may be drilled down to whether the heirs can force their stepmother to "buy out" their interest in Robledo to avoid being "unfairly burdened" by Jo's constitutional homestead.

Opinion at pp. 1-2.

The first distinction sets the stage for the Court's holding that Mrs. Hopper's one-half of the (former) community property vested in her *instantly* at Mr. Hopper's death. Opinion at pp. 13-14; Tex. Const. art. XVI, § 52; Tex. Prob. Code §§ 37, 45(b) (West 2015). The second distinction is exactly what the IA redundantly asks the Court to make clear in its first rehearing topic. But the Court already made this clear at the Opinion's outset, and no further "clarification" is necessary. The IA's real motive for the requested "rehearing" and "clarification" is that the IA doesn't like where the already-clear Opinion leaves it.

In fact, the Court's Opinion was correct in all respects and set forth with clarity and precision, not only the Issues but also the proper legal rulings in respect thereto. By contrast, the IA's Motion pretends that the Court's Opinion is either confused, or somehow invites confusion later for the Probate Court and parties, when in fact there is none and it does not.

The Motion also effectively seeks a backdoor "declaration" in favor of certain other of the IA's long-cherished positions,[6] and all aimed at shielding it from later criticism, under this same guise of "clarification." But as Mrs. Hopper's various prior briefs on file have pointed out,[7] and as the Court noted in at least four separate places in the Opinion (pp. 3, 22, 23,

---

[6] Having nothing to do with the only two topic areas it purports to address. (Motion at p. 2.); *see also infra* beginning at p. 16.

[7] *See, e.g.*, Mrs. Hopper's March 1, 2013 Brief at p. 66.

24): the IA never filed a motion for summary judgment and thus is not entitled to affirmative declarations. *See, e.g.,* Opinion at p. 23 ("There was no motion for summary judgment seeking relief for Chase [the IA]."). The IA's palpable regret over this strategic choice and decision, changes nothing.

Notwithstanding that reality, the IA seeks to confuse and inject ambiguity rather than to seek mere claimed "clarification" by way of its first topic. That first topic relates to the request that the Court "distinguish" between Mrs. Hopper's "homestead right" and the respective fee interests of the various parties in the residence, for the alleged purpose of clarifying what should/could have been "administered." (Motion at p. 2.)

Particularly, the IA has complained previously about this same topic over and over. (*See, e.g.*, IA's Brief at pp. 62, 63.)[8] It has asserted that there was "confusion" in the various terms used by Mrs. Hopper in her Motion for Summary Judgment (the "MSJ") and her various prior briefings, including those filed in this Court.[9] (*Id*.) The IA expands that stale claim,

[8] For example, the IA attacked Mrs. Hopper's third summary judgment Issue because it used "significantly more confusing terms." (IA's Brief at p. 62.) This Court was plainly not confused, instead disagreeing with the IA and holding: "the trial court clearly erred in denying Jo's [Mrs. Hopper's] third summary judgment issue." Opinion at p. 17.

[9] Plainly the Court didn't find the IA's prior objections to Mrs. Hopper's language choices persuasive. Effectively, this same line of argument/attack by the IA has been previously overruled by this Court. Thus, its Motion effectively attempts to reverse the Court's prior conclusions.

stating specifically now that the Court's Opinion too, was confused and "got it wrong" in its use and choice of use of terms, regarding the Constitutional Homestead, and the use of the words "Robledo," "homestead" and "residence."[10]

An example of this is the Motion's claim that the Court's uses of the terms "homestead" and "Constitutional Homestead" are confusing. They are not. The term "homestead," as used throughout the Opinion, is of course the Constitutional Homestead. (*See, e.g.*, Mrs. Hopper's Brief at p. 31, note 18.) The aura of purported "confusion" that the IA tries to invoke is in fact an artifice/smokescreen created by the IA itself. Mrs. Hopper's prior briefing, the Court's resulting understanding of the factual situation before it, and the law as it should apply, were all and still are in harmony.

B. The IA goes beyond seeking clarification and instead proposes a rewrite of the Opinion

To buttress these weak claims of "confusion," the IA's Motion goes on to draw false distinctions between its favored term "homestead right" and the term "Constitutional Homestead," as that term is used in Mrs. Hopper's initial Brief to this Court and now in the Court's Opinion. But in fact, the Constitutional Homestead is a vested property interest/estate in land, not a

[10] *See, e.g.*, Motion at p. 5: "*However, the Opinion's sometimes interchangeable use of the terms "homestead," "constitutional homestead," and "Robledo" with respect to what is subject to administration may lead to (incorrect) argument that the community fee interest in the residence was not subject to administration*." (emphasis added).

mere "right" as the IA wishes to limit and mischaracterize it. From that vested property interest springs the right of exclusive use and possession of both the real property and residence upon it, to which the Constitutional Homestead attaches at the instant of the decedent spouse's death, when the community was dissolved. *See* Opinion at pp. 5-6, 16; Tex. Const. art. XVI, § 52; Tex. Prob. Code §§37, 45(b). This plain legal distinction is exactly why this Court repeatedly properly and interchangeably used the terms "Constitutional Homestead" or "homestead" (at least 30 times, in all) in the Opinion. The Court's Opinion did not "get it wrong," nor was it unclear. In fact, the Court's "Conclusion" provides even further clarity to its declarations and holdings. In this regard, the Court noted in its footnote accompanying the declarations that "*[t]hese declarations differ from those sought by Jo [Mrs. Hopper] by the addition of clarifying language to accurately describe the parties in accordance with this opinion*." Opinion at p. 25, note 21 (emphasis added).

No further "clarifying" is necessary, and certainly a re-write is neither required nor advisable.

The IA's further continued failure to grasp the fact that the community ends at death and there is no community property after death—just separate interests (in an intestate situation where the Decedent was married and the parties resided in a residence at the time of Decedent's

death)—informs the IA's entire ongoing and misguided effort to conjoin plainly different concepts. A precise example of the IA's continued misapprehension of the law on these facts is evidenced by the way the Motion misstates what existed, post-death. The IA's Motion makes the following assertion (which is demonstrably false for other reasons as well, which will also be dealt with specifically hereinbelow):

> The Court also declined to hold that the Administrator acted improperly in administering the *community fee interest*[11] in the residence.

(Motion at p. 4 [italic emphasis added].)

Of course, upon Mr. Hopper's death, there was no "community fee interest" in the residence/Robledo. Rather, there were two distinct separate property interests in the residence.[12] Upon Mr. Hopper's death on January 25, 2010, the two interests were (a) Mrs. Hopper's then instantly-vested personal separate property interest in one-half of Robledo (the residence), and (b) the Heirs' interest (thus the Estate's—to which Estate Mrs. Hopper was not an heir), collectively vested instantly in the other half.[13] The Heirs' one-half of Robledo/the residence was of course burdened by the

[11] That phrase, "community fee interest," appears yet again, twice, in the Motion at pp. 5 and 6.

[12] Herein Mrs. Hopper uses the terms "residence" and "Robledo," just as the Court's Opinion does, interchangeably.

[13] Before they later conveyed it all away to Quagmire, LLC, for substantial consideration.

Constitutional Homestead (indeed, the whole residence was subject thereto).

The Motion then again misstates these very interests, stating that "the Heirs one-half of the fee interest in the residence were subject to administration *because the residence was community property*." (Motion at p. 5 [emphasis added].) No. It was precisely not community property any longer when the Heirs received their one-half fee interest in Robledo at the moment of their father's (intestate) death.

The IA's Motion also engages in deceptive "quote compression." It takes parts of the Opinion (*see, e.g.*, Motion at p. 4) and conflates statements in different quoted sentences, turning them into "run-ons" when they are not in the Opinion itself. By doing so (all to buttress its argument), it ignores and leaves out the prior descriptive wording of Mrs. Hopper's original declarations, which themselves make clear that the term "Robledo" meant the physical house and property beneath it (i.e., also the "residence") that she and Mr. Hopper had originally bought together as their then-community property, while he was alive. The Court's Opinion further made it clear that Robledo was, in any event, removed/released from any possible administration by virtue of the IA's Deed of June 25, 2012 issued prior to the Probate Court's rulings which were appealed (the

August 15, 2012 Orders). Opinion at p. 15 (the IA's issuing of the Deed on June 25, 2012 "remov[ed] Robledo from administration").

To paraphrase Shakespeare: "the IA doth protest too much." The bottom line is whatever conceivably could have been administered regarding Robledo at one time was moot once the IA issued the Deed. In fact, nothing was ever "administered" by the IA regarding Robledo, at all, even before releasing it to the respective fee owners by Deed. (*See* Mrs. Hopper's Reply Brief to the IA at p. 6.) Given these realities, granting the IA the relief it seeks could itself create real confusion where none presently exists.

C. The Court's Opinion tracked the Texas Constitution and Texas probate law, is correct, and does not require (harmful) revisions

The crux of the relief/remedies sought in the IA's "first topic" as to "nomenclature" is laid out at pages 6-7 of the Motion. The IA's requested revisions to the Opinion, subparts "(a) – (d)," are entirely superfluous and flatly wrong.

Again, the Court specifically inserted footnote 21 that dealt expressly with its slight rewording of Mrs. Hopper's own declarations. But now, the IA thinks it knows far better. It has given the Court its own "alternate versions" with proposed changes in "brackets."

But let's examine closely some of these "suggested revisions." In the IA's sub-point "(b)" relating to the Opinion's declaration "(3)," the IA tries to water down the Texas Constitution. The Constitution doesn't say that the "homestead right" is not subject to partition: **it says the "homestead" is not subject to partition.** Texas Const., art. XVI, § 52; Tex. Prob. Code § 284. It is exactly the homestead/Constitutional Homestead that is not subject to partition, and the legal fact is that no party may be granted a partition of it, so long as it is maintained as a homestead, by the surviving spouse. The Court's sentence, as is, is a perfect summation of Texas Constitutional and probate law. Texas Const., art. XVI § 52; Texas Prob. Code § 284. This formulation in the Opinion uses the Constitution's own term, "homestead"; not the IA's non-Constitutional substitute.

The same kind of effort to water down the Constitution and law generally is implicit in the IA's sub-point "(c)." Again the IA makes exactly the same mistakes it did in its request in sub-point "(b)." The changes proposed are essentially the exact same and are wrong for the very same reasons. What's even more bizarre is that the "offending language" (in the IA's view) requiring modification at page 2 of the Opinion, is itself merely a *description* of the relief sought by Mrs. Hopper. It appears that even this Court-authored description is just too much for the IA.

The IA's sub-point "(d)" makes, yet again, the same error of substituting out the Constitution's term "homestead," in exchange for the IA's preferred phrase, "homestead right." There is no reason for such a change.

The IA also suggests further revisions in its sub-point "(d)," adding that ". . . *no party may be granted a partition* ***of Robledo*** *as long as she maintains her homestead right*" [the brackets in the section are left out for ease in reading and the term "of Robledo" is "bolded" for emphasis]. This is just a wholly wrong re-formulation by the IA. It is *exactly* the "Constitutional Homestead"/"homestead" that is <u>not</u> subject to administration—just as Mrs. Hopper urged and the Court held. It is not the (merely descriptive) term: "homestead right." *Further, it is the "Constitutional Homestead" which may not be partitioned*. Inserting the word "Robledo," as the IA would have it, is itself very confusing. A mere residence or "fee interest in the property" (as the IA expressly wants/urges the term "Robledo" be defined, in sub-point "(a) at page 6 of its Motion") <u>can</u> possibly be partitioned, under all sorts of scenarios.[14] <u>But a Constitutional Homestead, maintained as a homestead by a surviving spouse, may NOT be partitioned under the Texas Constitution</u>. *See* Tex. Const., art. XVI, § 52; *see also* Tex. Prob. Code § 284. That's explicitly why

[14] Indeed real property is partitioned all the time by Texas courts.

the terms "Constitutional Homestead" or "homestead" are correct exactly as the Court has used and written them, and why the IA's proposed substitution for the term "Robledo" instead, is not. Indeed, the Court's Opinion at pages 2 and 17 had it exactly right not to use the word "Robledo" (or residence) at all in the supposedly (according to the IA) "offending" paragraphs' language.

As set forth above, it is the IA's tortured logic, twisted syntax and questionable motives that are the real danger here – not the Court's clear, crisp rulings and holdings.

II. The Court Need Not "More Completely" Quote the Record

The alleged "second" (in fact there are others as well—*see* below) non-substantive topic raised by the IA has to do with its upset over the Court's "incomplete" quotation of remarks by the IA's counsel. (Motion at pp. 1, 7-9.)

Expressly, the IA's second rehearing topic asks the Court to delete the following sentence from the Court's Opinion: "[a]t the [summary judgment] hearing, counsel for Chase [the IA] stated, 'I'm not sure we need to be here on the issues that are before the Court, but we're here anyway." Opinion at p.3.

The basis for deleting the statement? *Not* because it's wrongly quoted from the Record—the statement quotes the Record excerpt word-for-word.

Instead, the basis is it "could" create a so-called "misimpression" because the IA also made other, unquoted statements at this hearing.

In fact the Opinion quite fairly noted (at page 3) counsel for the IA's remarks. That quote, as it stands, sums up exactly the truth of the very next sentence in the Opinion:

> The heirs' counsel pointed out that Chase [the Bank] did not have a summary judgment motion pending before the Court.

Opinion at p. 3 (bracketed material added for clarity).

Neither did Chase/Bank file one in its capacity as the IA. Those are the unchallengeable facts. Indeed, later in the Opinion, the Court remarked again on that very point several more times, including: "There was no motion for summary judgment seeking relief for Chase [the IA]." Opinion at p. 23. This observation by the Court is exactly true regarding every capacity in which Chase/the IA/Bank has appeared. That the IA doesn't like to be reminded of this studied failure of prosecution, really is not a matter worthy of requesting the Court to modify its Opinion.

But in fact, too, the issue of the IA's "capacity" (whether acting primarily as IA, or as the Bank/Chase, or both) has absolutely *nothing* to do with the gravamen of the Opinion. The reasoning of the Opinion is not about anything other than what, demonstrably on the record, did or did not occur. Even the IA's Motion does not claim the Court "got it wrong" on

whether the IA/Bank/Chase filed an MSJ. Of course it did not. The IA's (and apparently its counsel's) further complaint as to this Court's Opinion is the alleged "conveyance" of ". . . *a serious misimpression*" and which also allegedly "*trivializes*" the IA's obligations. (Motion at p. 8.) To state it bluntly: this is a ridiculous, absurd and farcical charge, based on nothing. Certainly it can't be based on the alleged "incomplete" quotation. Nor did the Court, as the IA's Motion alleges, somehow ". . . *create a contextual misimpression that the Administrator [IA] should not have responded to motions for summary judgment against it in the Probate Court. . . .*" (Motion at p. 9 [emphasis added].) This too is nonsense and a complete red herring. The Court neither said nor did any such thing. No such statement or implication appears anywhere in the Court's Opinion.

What the IA is really doing is making a rule of optional completeness objection—as if it were sitting in a deposition. *Cf.* Tex. R. Evid. 107. The rule of optional completeness may be proper for testimony, but Courts of Appeals, in writing an opinion, obviously are not constrained in their quote selection. For all these reasons, the IA's second rehearing topic arguments are an insufficient basis to revise the Opinion.

III. Additional Matters the IA Apparently Wants Revisited, But Which Were Likewise Either Correctly Decided or Which the Court Declined to Decide

Although having nothing to do with the (alleged) "first" topic of "nomenclature confusion" (much less the "second" topic), the IA determines to reach still further and to twist for yet another purpose, the Court's Opinion to its liking—to try and slide in and make an unrelated point, near and dear to its own financial interests. (Motion at p. 4: "The Court also declined to hold that the [IA] acted improperly in administering the community fee interests in the residence. . . .") This additional overreach[15] relates to this Court's ruling that Mrs. Hopper's Issue No. 4 was wrongfully decided against her in the Probate Court, and that that she should instead prevail on Issue No. 4.[16] Normally, Mrs. Hopper would let this stray observation by the IA, having nothing to do with the stated purpose of its Motion, pass unremarked. But here, given the IA's pattern of both reading into and trying to make later use of innocuous statements, in ways never intended, for other purposes, Mrs. Hopper feels compelled to respond.

---

[15] This point by the IA is not even conceivably related to the "first" and "second" topics delineated on page 1 of its Motion.

[16] When the Opinion's paragraph (at p. 21) setting out the Court's declination to rule is examined in its entirety, this statement jumps out: "As no justiciable controversy existed and the declaration could have no legal effect. . . ." This same precept of not deciding an issue not *required* to be decided, informs this whole paragraph.

The Court's Opinion, granting Mrs. Hopper's Issue No. 4, stated the Court declined to go further and address directly the matter raised by Mrs. Hopper of the IA's improper conduct. The Court thus stated: "*Having already addressed the merits of Issue Four, we decline to do so.*" Opinion at p. 21 (emphasis added).[17]

But the IA cleverly twists the Court's announced abstention from deciding that point. Quite to the contrary of the Court's plain intention, the IA's Motion claims boldly (at page 4, and as also quoted above), that the Court actually "declined to hold" that the Administrator/IA acted improperly in administering the residence. (Motion at p. 4.) This carefully parsed phraseology falsely implies that the Court discreetly examined the topic and then after due consideration *expressly decided to decline to hold as Mrs. Hopper had urged; that is, instead the Court actually affirmatively ruled against her position*. But, as quoted above, the Opinion's actual wording (at p. 21) simply states that, inasmuch as the merits of Issue 4 were already determined (now in favor of Mrs. Hopper and against the Probate Court's prior ruling), that there was no need for the

[17] Certainly Mrs. Hopper would have liked the Court to review the merits of that point and make such a ruling, but the Court chose to leave that issue for another day.

Court to go further and address moot sub-issues.[18] Thus, the IA's assertion that the Court declined to hold that the "Administrator" acted improperly is wrong. The Court did not so hold, state or imply this. Rather, the Court merely declined to hold whether the Administrator/IA acted properly or improperly.

Mootness is of course why the Court "decline[d] to do so." Opinion at p. 21. Mrs. Hopper's merely preferring the Court to go that extra step and rule, and the Court politely declining to then-presently make any ruling—given the fact that the overall issue had been already decided in her favor—hardly amounts to any obverse and affirmative declaration that the IA had somehow acted "properly" in stalling for 2½ years and not doing what could have been done easily, virtually on "Day One."

In summary, the IA's claim that the Court, by deliberately declining to review a matter, has somehow *actually decided it affirmatively in the IA's favor*, is both deceptive and wrong—as proved by the nature and context of the wording of the Court's ruling.

[18] Here, the exact sub-issue being raised by Mrs. Hopper was that the IA *could have and should have* issued the Deed forthwith after Mr. Hopper's death rather than waiting/wasting nearly 2½ years to do so (with no practical need for any administration of any part of Robledo). Indeed, the IA never "administered" it at all. (Mrs. Hopper's Reply Brief to IA at p. 6.)

CONCLUSION

The IA's requested changes to the Court's Opinion's declarations and elsewhere in the body of the Opinion, are not only unnecessary—they are harmful and would distort the Court's rulings. The Court's uses of the words "Constitutional Homestead," "homestead" and "Robledo" are correct, and there is no confusion that could possibly result from the Court's Opinion and word choice. The other complaints are likewise wholly inapposite. Perhaps most troubling, some of the IA's points are simply deceptive and would constitute a trap for the unwary.

The IA has misspent its time, and now the Court's time and the parties' time and money, with its specious complaints.

PRAYER

Mrs. Hopper requests the IA's Motion be Denied.

Respectfully submitted,

By: /s/ Michael A. Yanof
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

By: /s/ James A. Jennings
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 COMPLIANCE

I certify that this Response to Motion for Rehearing contains 4,476 words, not including the parts excluded by Tex. R. App. P. 9.4(i)(1). Accordingly, it complies with Rule 9.4(i)(2)(D).

/s/ Michael A. Yanof
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 2nd day of April, 2015 as follows:

Lawrence Fischman ***Via E-filing and Email***
Mark Enoch
GLAST, PHILLIPS & MURRAY, P.C.
14801 Quorum Drive, Suite 500
Dallas, TX 75254
Counsel for Appellants Laura S. Wassmer and Stephen B. Hopper

John Eichman ***Via E-filing and Email***
Thomas H. Cantrill
HUNTON & WILLIAMS
1445 Ross Avenue
Suite 3700
Dallas, TX 75202
Counsel for Appellee JPMorgan Chase Bank, N.A.

/s/ Michael A. Yanof
Michael A. Yanof