

CAUSE NO. DC-13-09969

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

DEFENDANTS LAURA S. WASSMER’S AND STEPHEN B. HOPPER’S
MOTION TO QUASH AND FOR PROTECTIVE ORDER WITH RESPECT TO
JO N. HOPPER’S NOTICE OF INTENT TO TAKE
ORAL DEPOSITION OF CHRISTOPHER M. MCNEILL

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW LAURA S. WASSMER and STEPHEN B. HOPPER (“Defendants”), defendants in the above referenced lawsuit, and ask the Court to protect them and their lead counsel of record from compliance with Plaintiff Jo N. Hopper’s (“Plaintiff”) Notice of Intent to Take Oral Deposition of Christopher M. McNeill.

A. INTRODUCTION

1. Plaintiff is Jo N. Hopper. Defendants are Laura S. Wassmer and Stephen B. Hopper. Defendants are represented in this matter by Christopher M. McNeill, Esq. of Block Garden & McNeill, LLP.

2. Plaintiff has sued Defendants seeking partition or, in the alternative, sale of certain personal property located in Dallas County. Defendants have asserted a counterclaim against Plaintiff seeking partition or, in the alternative, sale of certain additional personal property located in Dallas County. Plaintiff has also alleged a breach of contract claim and an unjust enrichment claim against Defendants.

3. Discovery in this suit is governed by a Second Agreed Amended Scheduling Order entered by the Court on December 10, 2015. Pursuant to the Second Agreed Amended Scheduling Order, the discovery period is currently set to close on February 28, 2016, and the deadline to file dispositive motions expired on February 8, 2016.

4. Pursuant to the Second Agreed Amended Scheduling Order, this case is set for non-jury trial on March 28, 2016.

5. On February 17, 2016, Plaintiff served Defendants (through the undersigned counsel) with an oral deposition notice for Christopher M. McNeill, Esq., the undersigned counsel and lead counsel of record for Defendants in this lawsuit, to occur on February 19, 2016. A copy of this notice is attached to this motion as Exhibit A.

B. FACTS

6. This case is an offshoot from a dispute between the parties to this lawsuit and JPMorgan Chase Bank, N.A., in its capacity as independent administrator, regarding the estate of Max D. Hopper that has been pending before the Dallas County Probate Court No. 3 (and recently transferred to Dallas County Probate Court No. 1) for five years or more. Plaintiff is Max D. Hopper's surviving spouse, and the Defendants are Max D. Hopper's only children from a prior marriage. To say that the legal proceedings between the parties have been extremely litigious is unfortunately a gross understatement.

7. Plaintiff's notice of the deposition for Defendants' lead counsel of record in this matter is perhaps one of the most egregious actions taken in this litigation to date. Any such deposition would be abusive and unduly burdensome on Defendants, largely if not entirely irrelevant as to any admissible evidence regarding this dispute, and subject Defendants to

unnecessary expense. Furthermore, any such deposition would impugn upon Defendants' privileges and personal and property rights, including without limitation their attorney-client communication and attorney work product privileges.

C. ARGUMENT AND AUTHORITIES

8. Defendants object to the Plaintiff's attempt to depose their lead counsel of record in this lawsuit.

9. Plaintiff served the deposition notice on February 17, 2016. Because this motion is filed within three business days of the date the notice was served, this motion objecting to the date and time of the deposition stays the deposition until this motion can be determined by this Court. TEX.R.CIV.P. 199.4.

10. A trial court may issue an order protecting a person from whom discovery is sought from undue burden, unnecessary expense, harassment, annoyance, or invasion of personal, constitutional, or property rights. TEX.R.CIV.P. 192.6(b).

D. PRAYER

11. For these reasons, the Defendants asks the Court to set this motion for hearing and, after the hearing, to quash Plaintiff's deposition notice, to issue an order protecting Defendants' lead counsel of record from submitting to deposition by Plaintiff in this lawsuit, and for such further relief to which Defendants may be entitled.

Respectfully submitted,

BLOCK GARDEN & MCNEILL, LLP

/s/ Christopher M. McNeill

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ATTORNEYS FOR DEFENDANTS

LAURA S. WASSMER AND STEPHEN B. HOPPER

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served upon all counsel of record in this matter in accordance with the Texas Rules of Civil Procedure on this the 18th day of February 2016.

/s/ Christopher M. McNeill

CHRISTOPHER M. MCNEILL

CERTIFICATE OF CONFERENCE

Counsel for movant and counsel for respondent have personally conducted a conference at which there was a substantive discussion of every item presented to the Court in this motion and despite best efforts the counsel have not been able to revolve those matters presented.

Certified to the 18th day of February 2016 by

/s/ Christopher M. McNeill

CHRISTOPHER M. MCNEILL

EXHIBIT A
Deposition Notice

CAUSE NO. DC-13-09969

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

JO N. HOPPER'S NOTICE OF INTENT
TO TAKE ORAL DEPOSITION OF CHRISTOPHER M. MCNEILL

TO: Christopher M. McNeill, of Block & Garden, LLP, 5949 Sherry Lane, Suite 900, Dallas, TX 75225.

Please take notice that pursuant to Rule 199 of the Texas Rules of Civil Procedure, Jo N. Hopper will take the oral deposition of Christopher M. McNeill. The deposition will be taken at the office of Block & Garden, 5949 Sherry Lane, Suite 900, Dallas, TX 75225 beginning at **2:00 p.m. on February 19, 2016**. The deposition will continue from day to day until completed and will be stenographically recorded and will be taken before a person authorized to administer oaths in the place where the deposition is taken. Pursuant to Rule 199.1(c) of the Texas Rules of Civil Procedure this is notice that the deposition will be recorded by other than stenographic means in addition to a stenographic recording which will also be made. The method of recording other than stenographic means will be videotape, as well as through such means as to provide the instant display of testimony.

Dated February 17, 2016.

Respectfully submitted;

LOEWINSOHN FLEGLE DEARY, LLP

By: /s/ Alan S. Loewinsohn

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served upon the following counsel of record this 17th day of February, 2016 via e-service.

Christopher M. McNeill
BLOCK & GARDEN, LLP
Sterling Plaza
5949 Sherry Lane, Suite 900
Dallas, Texas 75225

/s/ Alan S. Loewinsohn
ALAN S. LOEWINSOHN