

- (1) Expenses for administering the claims management program;
- (2) Expenses of establishing this Trust and the Trust Fund;
- (3) Legal expenses;
- (4) Actuarial expenses;
- (5) Costs relating to the acquisition for the Hospital of excess insurance coverage, if purchased by the Trustee;
- (6) Expenses involved with the maintenance of this Trust and the trust property by the Trustee;
- (7) Cost of administering any risk management program of the Hospital, if risk management is performed by the Trustee; provided, however, that this subparagraph shall not be construed to impose upon the Trustee any duty or obligation to administer any risk management program of the Hospital.

(b) Payment for any of the foregoing purposes shall be deemed proper payment to be paid from the trust property. It is intended that all payments from the trust property shall be in accordance with the Medicare regulations, but the Trustee shall not be liable in any way for the Hospital's failure to comply therewith.

5.04 Accounts. The Trustee shall keep accurate and detailed accounts of all receipts, investments and disbursements with respect to the trust property. Such person or persons as the Hospital shall from time to time designate, including such persons as may be required by the Medicare regulations, shall be allowed to review, inspect and audit the books of account relating to the trust property upon request at any reasonable time during business hours of the Trustee.

Within 60 days after the close of each 12-month period ending on September 30 of each year, the Trustee shall deliver a financial statement and accounting containing such information as the Hospital shall from time to time reasonably request, including but not

limited to, the following information:

- (a) The balance of the trust property at the beginning of that Plan Year;
- (b) Current period contributions;
- (c) The amount and nature of final payments, including a separate accounting for claims management, legal expenses, claims paid, and other similar items; and
- (d) The trust property balance at the end of the Plan Year.

Notwithstanding any obligation to report within 60 days after the close of each 12-month period, Trustee shall render such reports regarding the trust fund and containing such information as Hospital shall reasonably request from time to time.

If this agreement shall be terminated for any reason during a Plan Year, or if the Trustee shall resign or be removed, the Trustee shall, within 45 days of such termination, resignation or removal date, submit its final statement and account for the period from the last previous accounting to the date of such termination, resignation or removal.

5.05 Resignation of Trustee. The Trustee may resign from this trust at any time by giving 60 days' written notice to the Board. Upon such resignation becoming effective, the Trustee shall render to the Hospital an account of its administration of the Fund during the period following that covered by its last annual accounting and shall perform all acts necessary to transfer and deliver the assets of the Fund to its successor Trustee.

5.06 Removal of Trustee. The Board may remove the Trustee at any time upon the delivery of 60 days' written notice to the Trustee. In the event of such removal, the Trustee shall be under the same duty to account and transfer and deliver the assets of the Fund to its successor as provided in the case of the Trustee's resignation.

5.07 Original and Successor Trustee. Trustee herein named has been selected by the Board on the basis that Trustee is the best qualified and readily available financial institution whose

service to the Hospital in the past has proved beneficial. It is contemplated that Trustee and Hospital will continue this agreement indefinitely. However, in the event of a vacancy in the trusteeship of this Trust occurring at any time, the Board shall designate and appoint a qualified successor Trustee of this Trust. Any such successor Trustee shall have all the rights and powers herein conferred upon the original Trustee.

5.08 Liability. Neither any member of the Committee, the Board, the Hospital, the actuary nor the Trustee shall be liable for any breach of responsibility on the part of persons other than itself, but shall be liable for its own acts, omissions in bad faith or for which it is grossly negligent.

#### ARTICLE 6 - POWERS OF TRUSTEE

6.01 Enumerated Powers. The Trustee or any successor Trustee shall have the authority without order of or report to any court or officer to exercise the following powers in such reasonable manner as may be fair and equitable under the circumstances and is hereby given and granted said powers, authorities, privileges and immunities as provided in the laws of the United States and State of Texas for banks exercising trust functions and the regulations issued thereunder. The powers shall include, but not be limited to, the following, to wit:

(1) To retain, sell, invest or reinvest in any stocks, bonds, securities, options or other property, including common trust funds established by the Trustee, and stock in the Trustee, which is deemed proper, necessary or expedient without responsibility for the exercise of this discretion, except that of using ordinary care; provided, however, that no loans may be made from the trust property to the Hospital or to any person related to the Hospital within the meaning of the Medicare regulations.

(2) To sell, exchange, or otherwise dispose of any property at any time held or required hereunder at public or private sale, for cash or on terms, without the necessity of court approval

or advertisement.

(3) To register any stock, bond or other security in the name of a nominee, with or without disclosure of any fiduciary relationship, but accurate records shall be maintained showing that such property is a trust asset.

(4) To invest in certificates of deposit and accounts issued by Trustee.

(5) to vote in person or by proxy all stocks or other securities, to grant proxies, general or limited, and to agree or take any other action in regard to any reorganization, merger, consolidation, bankruptcy or other procedure or proceedings affecting any property of the Trust.

(6) To serve without making and filing inventory and appraisal, without filing any annual or other return to any court and without giving bond; but the Trustee shall furnish to the Hospital such financial statements as are otherwise required by this agreement.

(7) Trustee is relieved from any responsibility of diversifying investments of said trust fund. However, it is contemplated that Trustee agrees to seek the highest rate of return commensurate with a sound investment policy.

6.02 Compensation. The Hospital is authorized to pay the Trustee reasonable compensation for its services rendered. Said compensation shall be based on what is reasonably and customarily charged for services of a similar type or nature in the community and shall include an evaluation of the services rendered by the Trustee together with the experience of payments or disbursements under this Trust Agreement.

#### ARTICLE 7 - AMENDMENT AND TERMINATION

7.01. The Hospital, through its Board, shall have the right and power at any time and from time to time by instrument in writing delivered to the Trustee to amend, in whole or in part, any or all of the provisions of the Plan and trust agreement; provided, however,

that the duties, powers and liabilities of the Trustee hereunder shall not be substantially increased or decreased without its consent.

7.02. Termination. The Hospital expects this Plan to be continued indefinitely, but of necessity, it reserves the right to terminate the Plan at any time by action of the Board communicated in writing to the Trustee. If the Hospital revokes this agreement or terminates the Plan, then upon receipt of written notice thereof, the Trustee shall either:

(1) Retain and administer in accordance with this agreement such portion of the trust property as the Hospital shall certify to the Trustee has been determined by an actuary as required by the Medicare regulations as a necessary reserve fund for future payment of the Plan until such time as the Hospital shall certify to the Trustee that an independent actuary has determined that such payment has been met or reserves are no longer necessary, whereupon the Trustee shall deliver the balance of the trust property to the Hospital; or

(2) Upon certification to the Trustee by the Hospital that such payment is consistent with the Medicare regulations, the Trustee shall deliver the balance of the trust property to the Hospital.

#### ARTICLE 8 - MISCELLANEOUS

8.01. Headings. The headings and sub-headings in this agreement have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

8.02. Construction. This agreement shall be construed in accordance with the laws of the State of Texas. In the construction of this agreement, the masculine shall include the feminine and the singular the plural in all cases where such meanings would be appropriate.

8.03. Severability. Should any provision of this agreement be deemed in violation of any law, such provision shall be deemed void

to the extent required by law and all provisions of this agreement other than that held void shall remain in force and effect.

8.04 Counterparts. This agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized officers, to be effective on the date first above written.

FORT WORTH OSTEOPATHIC HOSPITAL, INC.  
D/B/A FORT WORTH OSTEOPATHIC MEDICAL  
CENTER

By:   
Jay Bandelin  
Chairman of the Board of Directors

ACCEPTED:

TEXAS AMERICAN BANK

By:   
Robert M. Lanford  
Senior Vice President and Trust Officer

EXECUTED IN MULTIPLE COPIES, EACH COPY OF WHICH SHALL BE DEEMED TO BE AN ORIGINAL.

EXHIBIT A

Contemporaneously with the execution and delivery of the foregoing Trust Agreement, the Hospital conveys and delivers to the Trustee pursuant to Section 2 hereof, the sum of One Million Dollars (\$1,000,000.00).

Cause No. C200100173

MILDRED FISHER

\*  
\*  
\*  
\*  
\*  
\*  
\*

IN THE DISTRICT COURT

JOHNSON COUNTY, TEXAS

VS.

JOHN B. PAYNE, D.O., OSTEOPATHIC  
MEDICAL CENTER OF TEXAS, et al.  
Defendants.

413th JUDICIAL DISTRICT

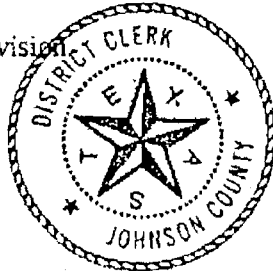
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DAVID LLOYD  
DISTRICT CLERK  
JOHNSON COUNTY TEXAS  
2007 JUN 7 AM 9:31  
BY [Signature] DEPUTY

AGREED JUDGMENT

On the 2 day of June, 2007, this cause came on to be heard. It was announced to the Court that an agreement had been reached between the parties. ACCORDINGLY, the Court finds that the following judgment is appropriate and should be made and entered:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Intervenor, Jackie Fisher, Individually and as Administratrix and Representative of the Estate of Johnny Fisher, Deceased, Houston Fisher and Johnny Fisher recover from the Defendant, Fort Worth Osteopathic Hospital, Inc., d/b/a Osteopathic Medical Center of Texas the sum of Nine Hundred Seventy-Five Thousand and no/100 Dollars (\$975,000.00).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this judgment may be enforced only in accordance with bankruptcy law, in Cause No. 05-41513-DML-7, styled "In Re: Fort Worth Osteopathic Hospital, Inc., Debtor", In the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division.



A CERTIFIED COPY 5 pgs  
DISTRICT COURT  
ATTEST: 6-7-2007  
DATES  
DAVID R. LLOYD  
District Clerk Johnson  
County Texas  
By [Signature]

JUDGMENT

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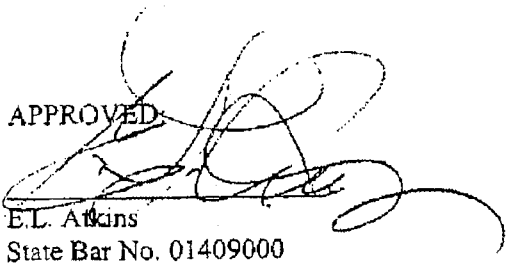
EX. 2

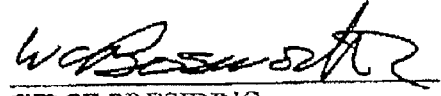


IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all costs of the Court are  
taxed against the party incurring same.

SIGNED this 7 day of June, 2007.

APPROVED:

  
E.L. Atkins  
State Bar No. 01409000  
*Atkins Law Firm*  
325 South Mesquite Street  
P.O. Box 157  
Arlington, TX 76010  
Telephone: 817-261-3346  
Telecopier: 817-261-3347  
Attorney for Intervenors, Jackie Fisher, Individually  
and as Administratrix and Representative  
of the Estate of Johnny Fisher, Deceased,  
Houston Fisher and Johnny Fisher

  
JUDGE PRESIDING

Wayne Clawater  
State Bar No. 04328500  
*Cruse, Scott, Henderson & Allen, L.L.P.*  
Attorneys at Law  
2777 Allen Parkway, 7<sup>th</sup> Floor  
Houston, Texas 77019-2133  
Attorney for Defendants, John Laurence, Sue Samuel, R.N.,  
Sharon Orr, R.N., and Karen Cox, R.N.,

JUDGMENT

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all costs of the Court are taxed against the party incurring same.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

APPROVED

E.L. Atkins  
 State Bar No. 01409000  
 Atkins Law Firm  
 325 South Mesquite Street  
 P.O. Box 157  
 Arlington, TX 76010  
 Telephone: 817-261-3346  
 Telecopier: 817-261-3347  
 Attorney for Intervenors, Jackie Fisher, Individually  
 and as Administratrix and Representative  
 of the Estate of Johnny Fisher, Deceased,  
 Houston Fisher and Johnny Fisher

JUDGE PRESIDING

Wayne Clawater  
 State Bar No. 04328500  
 Cruse, Scott, Henderson & Allen, L.L.P.  
 Attorneys at Law  
 2777 Allen Parkway, 7<sup>th</sup> Floor  
 Houston, Texas 77019-2133  
 Attorney for Defendants, John Laurence, Sue Samuel, R.N.,  
 Sharon Orr, R.N., and Karen Cox, R.N.,

JUDGMENT

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NO. C200100173

MILDRED FISHER, ET AL § IN THE DISTRICT COURT OF  
VS. § JOHNSON COUNTY, TEXAS  
JOHN B. PAYNE, D.O., OSTEOPATHIC §  
MEDICAL CENTER OF TEXAS, §  
N. P. CASH, R.N., SUE SAMUEL, R.N., §  
V. PATE, CRT, and SUZANNE SHENK, D.O. § 249<sup>TH</sup> JUDICIAL DISTRICT

DEFENDANT OSTEOPATHIC MEDICAL CENTER OF TEXAS' SECOND  
SUPPLEMENTAL RESPONSE TO INTERVENORS' JACKIE FISHER, INDIVIDUALLY AND AS  
ADMINISTRATRIX OF THE ESTATE OF JOHNNY FISHER, DEC'D.,  
JOHNNY FISHER AND HOUSTON FISHER'S REQUEST FOR DISCLOSURE

TO: Intervenors, by and through their attorney of record, E. L. Atkins, 325 S. Mesquite Street,  
Arlington, Texas 76010.

COMES NOW Osteopathic Medical Center of Texas, one of the Defendants herein, and  
files its Second Supplemental Response to Jackie Fisher, Individually and as Administratrix of the  
Estate of Johnny Fisher, Dec'd., Johnny Fisher and Houston Fisher's Request for Disclosure.

**REQUEST FOR DISCLOSURE A:** The correct names of the parties to the lawsuit.

RESPONSE: Defendant has no record of any registered nurse in its employ by the name  
of "N. P. Cash." Otherwise, the parties have been correctly named to  
Defendant's knowledge.

**REQUEST FOR DISCLOSURE B:** The name, address, and telephone number of any potential  
parties.

RESPONSE: None.

**REQUEST FOR DISCLOSURE C:** The legal theories and, in general, the factual bases of the  
responding party's claims or defenses (the responding party  
need not marshal all evidence that may be offered at trial).

RESPONSE: Defendant contends that neither it, nor any of its employees, breached the  
applicable standard of care with respect to their medical treatment of the  
Decedent, and that no act or omission on the part of Defendant, or any of  
its employees, was a proximate cause of the death of Decedent or any  
resulting damages to Plaintiffs.

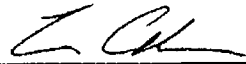
**REQUEST FOR DISCLOSURE D:** The amount and any method of calculating economic  
damages.

RESPONSE: Not applicable.

EX. 3.

Respectfully submitted,

GOODMAN, ODOM, LACY, FLOYD & BERRY, L.L.P.  
301 Commerce Street, Suite 3131  
Fort Worth, Texas 76107  
817/338-9400  
817/338-9494 (fax)

By:   
\_\_\_\_\_  
Lane Odom  
Texas Bar No. 15202600

ATTORNEYS FOR DEFENDANT OSTEOPATHIC MEDICAL  
CENTER OF TEXAS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon Intervenor's counsel by certified mail, return receipt requested, and upon all other counsel of record by regular U. S. Mail, on the 17<sup>th</sup> day of March, 2002.

  
\_\_\_\_\_

- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
  - (B) the expert's current resume and bibliography.

RESPONSE: No experts have been retained at this time.

**REQUEST FOR DISCLOSURE G:** Any indemnity and insuring agreements described in Rule 192.3(f).

RESPONSE: Defendant maintains a self-insured trust with limits of \$2,000,000.00 per occurrence, \$4,000,000.00 aggregate. Excess coverage is provided through Mutual Assurance with limits of \$20,000,000.00. A copy of this self-insured trust agreement and declarations page of the excess insurance policy are attached to this Response to Request for Disclosure.

**REQUEST FOR DISCLOSURE H:** Any settlement agreements described in Rule 192.3(g).

RESPONSE: None.

**REQUEST FOR DISCLOSURE I:** Any witness statements described in Rule 192.3(h).

RESPONSE: None, other than the patient's medical records may contain such "statements."

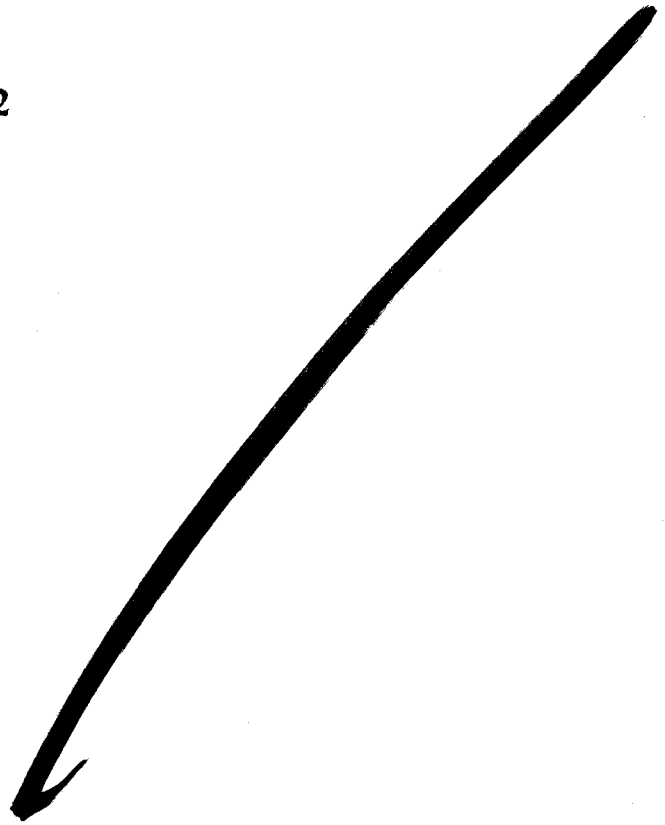
**REQUEST FOR DISCLOSURE J:** In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

RESPONSE: Not applicable.

**REQUEST FOR DISCLOSURE K:** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

RESPONSE: Defendant assumes that Plaintiffs are in possession of the Osteopathic Medical Center of Texas chart relating to the incident in question. If not, Defendant will make this hospital chart available for inspection and copying at a mutually agreeable time. As for other medical records that may be obtained by virtue of an authorization, this request will be supplemented, assuming that Defendant obtains any responsive information.

C-2



Cause No. P200017096

IN RE: \* IN THE PROBATE COURT  
 \*  
 \* COURT NO. 2  
 \*  
 ESTATE OF JOHNNY FISHER, DEC'D, \* JOHNSON COUNTY, TEXAS

#####

ESTATE OF JOHNNY FISHER, DEC'D, \* IN THE PROBATE COURT  
 Plaintiff \*  
 \*  
 VS. \* COURT NO. 2  
 \*  
 J P MORGAN CHASE BANK, N.A., GLENN \*  
 MILTON, JAY SANDLIN, LUCY \*  
 NORRIS, RN, and NANCY ARGO, RN, \*  
 Defendants \* JOHNSON COUNTY, TEXAS

5 (2008)  
 CURTIS H. DOUGLAS  
 COUNTY CLERK  
 JOHNSON COUNTY, TEXAS  
 2008 OCT -21 A 9:49  
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**PLAINTIFF, THE ESTATE OF JOHNNY FISHER, DEC'D' S, REQUEST FOR DISCLOSURE TO DEFENDANT, LUCY NORRIS, RN**

TO: **LUCY NORRIS, RN, Defendant**, to be served upon this Defendant contemporaneously with service of citation.

Pursuant to TEX. R. CIV. P. 194, you, **LUCY NORRIS, RN**, are requested to disclose, on or before 10:00 a.m. on the first Monday following fifty (50) days after service of this discovery request, the information or material described in the following subparts of Rule 194.2:

- REQUEST FOR DISCLOSURE (a):** The correct names of the parties to the lawsuit.
- REQUEST FOR DISCLOSURE (b):** The name, address and telephone number of any potential parties.
- REQUEST FOR DISCLOSURE (c):** The legal theories and, in general, the factual bases of your claims or defenses (the responding party need not marshal all evidence that may be offered at trial).
- REQUEST FOR DISCLOSURE (d):** The amount and any method of calculating economic damages.

**REQUEST FOR DISCLOSURE (e):** The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

**REQUEST FOR DISCLOSURE (f):** For any testifying experts:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
  - (B) the expert's current resume and bibliography.

**REQUEST FOR DISCLOSURE (g):** Any indemnity and insuring agreements described in Rule 192.3(f).

**REQUEST FOR DISCLOSURE (h):** Any settlement agreements described in Rule 192.3(g).

**REQUEST FOR DISCLOSURE (i):** Any witness statements described in Rule 192.3(h).

**REQUEST FOR DISCLOSURE (j):** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

**REQUEST FOR DISCLOSURE (k):** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the



case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

The written responses to these Requests for Disclosure should conform to Rule 194.3 and any materials, documents and/or copies of the same should be produced in compliance with Rule 194.4.

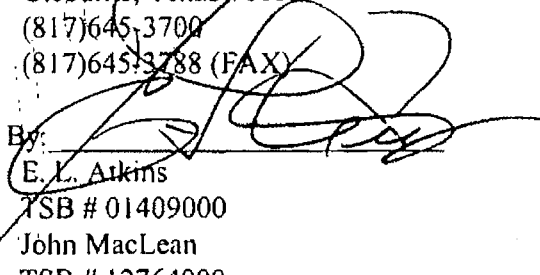
Respectfully submitted,

*LAW OFFICES OF E.L. ATKINS AND ASSOCIATES*  
325 South Mesquite Street  
P.O. Box 157  
Arlington, Texas 76010-0004  
(817) 261-3346 METRO  
(214) 354-8803 (Cell)  
(817) 261-3347 FAX  
Atkinslawfirm@sbcglobal.net

and

*MACLEAN & BOULWARE*  
Attorneys at Law  
11 Main Street  
Cleburne, Texas 76033  
(817) 645-3700  
(817) 645-3788 (FAX)

By:

  
E. L. Atkins  
TSB # 01409000  
John MacLean  
TSB # 12764000

C-3



Cause No. P200017096

IN RE: \* IN THE PROBATE COURT  
 \*  
 \* COURT NO. 2  
 \*  
 ESTATE OF JOHNNY FISHER, DEC'D, \* JOHNSON COUNTY, TEXAS

#####

ESTATE OF JOHNNY FISHER, DEC'D, \* IN THE PROBATE COURT  
 Plaintiff \*  
 VS. \* COURT NO. 2  
 \*  
 J P MORGAN CHASE BANK, N.A., GLENN \*  
 MILTON, JAY SANDLIN, LUCY \*  
 NORRIS, RN, and NANCY ARGO, RN, \*  
 Defendants \* JOHNSON COUNTY, TEXAS

FILED  
 CURTIS H. DOUGLAS  
 COUNTY CLERK  
 JOHNSON COUNTY, TEXAS  
 2008 OCT - 2 A.P. 5 P.M.  
 BY CL

**PLAINTIFF, THE ESTATE OF JOHNNY FISHER, DEC'D' S, REQUEST FOR DISCLOSURE TO DEFENDANT, NANCY ARGO, RN**

TO: **NANCY ARGO, RN, Defendant**, to be served upon this Defendant contemporaneously with service of citation.

Pursuant to TEX. R. CIV. P. 194, you, **NANCY ARGO, RN**, are requested to disclose, on or before 10:00 a.m. on the first Monday following fifty (50) days after service of this discovery request, the information or material described in the following subparts of Rule 194.2:

- REQUEST FOR DISCLOSURE (a):** The correct names of the parties to the lawsuit.
- REQUEST FOR DISCLOSURE (b):** The name, address and telephone number of any potential parties.
- REQUEST FOR DISCLOSURE (c):** The legal theories and, in general, the factual bases of your claims or defenses (the responding party need not marshal all evidence that may be offered at trial).
- REQUEST FOR DISCLOSURE (d):** The amount and any method of calculating economic damages.

**REQUEST FOR DISCLOSURE (e):** The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

**REQUEST FOR DISCLOSURE (f):** For any testifying experts:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
  - (B) the expert's current resume and bibliography.

**REQUEST FOR DISCLOSURE (g):** Any indemnity and insuring agreements described in Rule 192.3(f).

**REQUEST FOR DISCLOSURE (h):** Any settlement agreements described in Rule 192.3(g).

**REQUEST FOR DISCLOSURE (i):** Any witness statements described in Rule 192.3(h).

**REQUEST FOR DISCLOSURE (j):** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

**REQUEST FOR DISCLOSURE (k):** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the

case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

The written responses to these Requests for Disclosure should conform to Rule 194.3 and any materials, documents and/or copies of the same should be produced in compliance with Rule 194.4.

Respectfully submitted,

*LAW OFFICES OF E.L. ATKINS AND ASSOCIATES*

325 South Mesquite Street  
P.O. Box 157  
Arlington, Texas 76010-0004  
(817) 261-3346 METRO  
(214) 354-8803 (Cell)  
(817) 261-3347 FAX  
Atkinslawfirm@sbcglobal.net

and

*MACLEAN & BOULWARE*

Attorneys at Law  
11 Main Street  
Cleburne, Texas 76033  
(817) 645-3700  
(817) 645-3748 (FAX)

By 

E.L. Atkins  
TSB # 01409000  
John MacLean  
TSB # 12764000

C-4



Cause No. P200017096

IN RE: \* IN THE PROBATE COURT  
 \*  
 \* COURT NO. 2  
 \*  
 ESTATE OF JOHNNY FISHER, DEC'D, \* JOHNSON COUNTY, TEXAS

#####

ESTATE OF JOHNNY FISHER, DEC'D, \* IN THE PROBATE COURT  
 Plaintiff \*  
 VS. \* COURT NO. 2  
 \*  
 J P MORGAN CHASE BANK, N.A., GLENN \*  
 MILTON, JAY SANDLIN, LUCY \*  
 NORRIS, RN, and NANCY ARGO, RN, \*  
 Defendants \* JOHNSON COUNTY, TEXAS

FILED  
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 COUNTY CLERK  
 JOHNSON COUNTY, TEXAS  
 2008 OCT - 2 A 9:48

**PLAINTIFF, THE ESTATE OF JOHNNY FISHER, DEC'D' S, REQUEST FOR DISCLOSURE TO DEFENDANT, JAY SANDLIN**

TO: **JAY SANDLIN, Defendant**, to be served upon this Defendant contemporaneously with service of citation.

Pursuant to TEX. R. CIV. P. 194, you, **JAY SANDLIN**, are requested to disclose, on or before 10:00 a.m. on the first Monday following fifty (50) days after service of this discovery request, the information or material described in the following subparts of Rule 194.2:

- REQUEST FOR DISCLOSURE (a):** The correct names of the parties to the lawsuit.
- REQUEST FOR DISCLOSURE (b):** The name, address and telephone number of any potential parties.
- REQUEST FOR DISCLOSURE (c):** The legal theories and, in general, the factual bases of your claims or defenses (the responding party need not marshal all evidence that may be offered at trial).
- REQUEST FOR DISCLOSURE (d):** The amount and any method of calculating economic damages.

5

**REQUEST FOR DISCLOSURE (e):** The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

**REQUEST FOR DISCLOSURE (f):** For any testifying experts:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
  - (B) the expert's current resume and bibliography.

**REQUEST FOR DISCLOSURE (g):** Any indemnity and insuring agreements described in Rule 192.3(f).

**REQUEST FOR DISCLOSURE (h):** Any settlement agreements described in Rule 192.3(g).

**REQUEST FOR DISCLOSURE (i):** Any witness statements described in Rule 192.3(h).

**REQUEST FOR DISCLOSURE (j):** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

**REQUEST FOR DISCLOSURE (k):** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the



case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

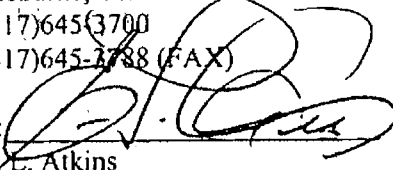
The written responses to these Requests for Disclosure should conform to Rule 194.3 and any materials, documents and/or copies of the same should be produced in compliance with Rule 194.4.

Respectfully submitted,

*LAW OFFICES OF E.L. ATKINS AND ASSOCIATES*  
325 South Mesquite Street  
P.O. Box 157  
Arlington, Texas 76010-0004  
(817) 261-3346 METRO  
(214) 354-8803 (Cell)  
(817) 261-3347 FAX  
Atkinslawfirm@sbcglobal.net

and

*MACLEAN & BOULWARE*  
Attorneys at Law  
11 Main Street  
Cleburne, Texas 76033  
(817)645-3700  
(817)645-3788 (FAX)

By:   
E.L. Atkins  
TSB # 01409000  
John MacLean  
TSB # 12764000

C-5



Cause No. P200017096

IN RE: \* IN THE PROBATE COURT  
 \*  
 \* COURT NO. 2  
 \*  
 ESTATE OF JOHNNY FISHER, DEC'D, \* JOHNSON COUNTY, TEXAS

#####

ESTATE OF JOHNNY FISHER, DEC'D, \* IN THE PROBATE COURT  
 Plaintiff \*  
 VS. \* COURT NO. 2  
 \*  
 J P MORGAN CHASE BANK, N.A., GLENN \*  
 MILTON, JAY SANDLIN, LUCY \*  
 NORRIS, RN, and NANCY ARGO, RN, \*  
 Defendants \* JOHNSON COUNTY, TEXAS

FILED  
 CURTIS H. DOUGLAS  
 COUNTY CLERK  
 JOHNSON COUNTY, TEXAS  
 2008 OCT -2 A 4:48  
 BY: [Signature]

**PLAINTIFF, THE ESTATE OF JOHNNY FISHER, DEC'D' S, REQUEST FOR DISCLOSURE TO DEFENDANT, GLENN MILTON**

TO: **GLENN MILTON, Defendant**, to be served upon this Defendant contemporaneously with service of citation.

Pursuant to TEX. R. CIV. P. 194, you, **GLENN MILTON**, are requested to disclose, on or before 10:00 a.m. on the first Monday following fifty (50) days after service of this discovery request, the information or material described in the following subparts of Rule 194.2:

- REQUEST FOR DISCLOSURE (a):** The correct names of the parties to the lawsuit.
- REQUEST FOR DISCLOSURE (b):** The name, address and telephone number of any potential parties.
- REQUEST FOR DISCLOSURE (c):** The legal theories and, in general, the factual bases of your claims or defenses (the responding party need not marshal all evidence that may be offered at trial).
- REQUEST FOR DISCLOSURE (d):** The amount and any method of calculating economic damages.

**REQUEST FOR DISCLOSURE (e):** The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

**REQUEST FOR DISCLOSURE (f):** For any testifying experts:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
  - (B) the expert's current resume and bibliography.

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**REQUEST FOR DISCLOSURE (h):** Any settlement agreements described in Rule 192.3(g).

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**REQUEST FOR DISCLOSURE (k):** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the

case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

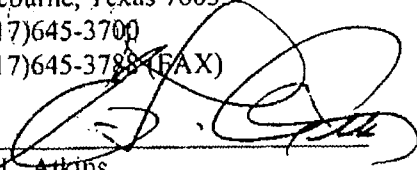
The written responses to these Requests for Disclosure should conform to Rule 194.3 and any materials, documents and/or copies of the same should be produced in compliance with Rule 194.4.

Respectfully submitted,

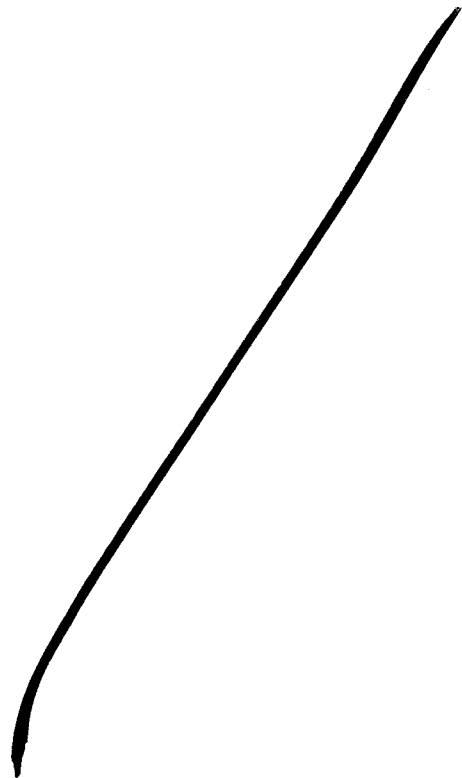
*LAW OFFICES OF E.L. ATKINS AND ASSOCIATES*  
325 South Mesquite Street  
P.O. Box 157  
Arlington, Texas 76010-0004  
(817) 261-3346 METRO  
(214) 354-8803 (Cell)  
(817) 261-3347 FAX  
Atkinslawfirm@sbcglobal.net

and

*MACLEAN & BOULWARE*  
Attorneys at Law  
11 Main Street  
Cleburne, Texas 76033  
(817)645-3700  
(817)645-3788 (FAX)

By:   
E. L. Atkins  
TSB # 01409000  
John MacLean  
TSB # 12764000

**C-6**



Cause No. P200017096

IN RE: \* IN THE PROBATE COURT  
 \*  
 \* COURT NO. 2  
 \*  
 ESTATE OF JOHNNY FISHER, DEC'D, \* JOHNSON COUNTY, TEXAS

#####

ESTATE OF JOHNNY FISHER, DEC'D, \* IN THE PROBATE COURT  
 Plaintiff \*  
 VS. \* COURT NO. 2  
 \*  
 J P MORGAN CHASE BANK, N.A., GLENN \*  
 MILTON, JAY SANDLIN, LUCY \*  
 NORRIS, RN, and NANCY ARGO, RN, \*  
 Defendants \* JOHNSON COUNTY, TEXAS

FILED  
 CURTIS H. DOUGLAS  
 COUNTY CLERK  
 JOHNSON COUNTY, TEXAS  
 2008 OCT -2 A 9:18

**PLAINTIFF, THE ESTATE OF JOHNNY FISHER, DEC'D'S, REQUEST FOR DISCLOSURE TO DEFENDANT, JP MORGAN CHASE BANK, N.A.**

TO: **JP MORGAN CHASE BANK, N.A., Defendant**, to be served upon this Defendant contemporaneously with service of citation.

Pursuant to TEX. R. CIV. P. 194, you, **JP MORGAN CHASE BANK, N.A.** are requested to disclose, on or before 10:00 a.m. on the first Monday following fifty (50) days after service of this discovery request, the information or material described in the following subparts of Rule 194.2:

- REQUEST FOR DISCLOSURE (a):** The correct names of the parties to the lawsuit.
- REQUEST FOR DISCLOSURE (b):** The name, address and telephone number of any potential parties.
- REQUEST FOR DISCLOSURE (c):** The legal theories and, in general, the factual bases of your claims or defenses (the responding party need not marshal all evidence that may be offered at trial).
- REQUEST FOR DISCLOSURE (d):** The amount and any method of calculating economic damages.

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  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
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**REQUEST FOR DISCLOSURE (k):** In a suit alleging physical and mental injury and damages from the occurrence that is the subject of the



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The written responses to these Requests for Disclosure should conform to Rule 194.3 and any materials, documents and/or copies of the same should be produced in compliance with Rule 194.4.

Respectfully submitted,

*LAW OFFICES OF E.L. ATKINS AND ASSOCIATES*

325 South Mesquite Street  
P.O. Box 157  
Arlington, Texas 76010-0004  
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(214) 354-8803 (Cell)  
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Atkinslawfirm@sbcglobal.net

and

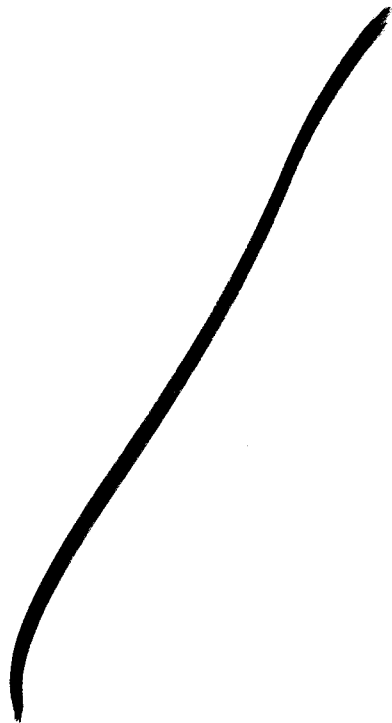
*MACLEAN & BOULWARE*

Attorneys at Law  
11 Main Street  
Cleburne, Texas 76033  
(817) 645-3700  
(817) 645-3788 (FAX)

By: 

E. L. Atkins  
TSB # 01409000  
John MacLean  
TSB # 12764000

C-7



Cause No. P200017096

IN RE:	*	IN THE PROBATE COURT
	*	
	*	COURT NO. 2
	*	
ESTATE OF JOHNNY FISHER, DEC'D,	*	JOHNSON COUNTY, TEXAS
#####		
ESTATE OF JOHNNY FISHER, DEC'D,	*	IN THE PROBATE COURT
Plaintiff	*	
	*	
VS.	*	COURT NO. 2
	*	
J P MORGAN CHASE BANK, N.A., GLENN	*	
MILTON, JAY SANDLIN, LUCY	*	
NORRIS, RN, and NANCY ARGO, RN,	*	
Defendants	*	JOHNSON COUNTY, TEXAS

FILED  
 CURTIS H. DOUGLAS  
 COUNTY CLERK  
 JOHNSON COUNTY, TEXAS  
 2008 OCT - 21 A 9:52

**MOTION TO TRANSFER**

TO THE HONORABLE PROBATE COURT:

COMES NOW THE ESTATE OF JOHNNY FISHER, DEC'D, ("THE ESTATE") Plaintiff in the above referenced claim regarding a matter appertaining to an estate or incident to an estate ("The Claim") filed in these probate proceedings by THE ESTATE, as Plaintiff, against JP MORGAN CHASE BANK, N.A., GLENN MILTON, JAY SANDLIN, LUCY NORRIS, RN and NANCY ARGO, RN, as Defendants, and moves and requests that this Probate Court transfer The Claim to the 413<sup>th</sup> Judicial District Court of Johnson County, Texas, pursuant to the provisions of Sections 5, 5A and 5B, Tex. Probate Code (Vernon).

ORIGINAL

PREMISES CONSIDERED, The Estate of Johnny Fisher, Dec'd prays that this motion  
be, in all things GRANTED and for any other order appropriate.

Respectfully submitted,

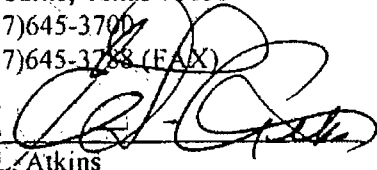
*LAW OFFICES OF E.L. ATKINS AND  
ASSOCIATES*

325 South Mesquite Street  
P.O. Box 157  
Arlington, Texas 76010-0004  
(817) 261-3346 METRO  
(214) 354-8803 (Cell)  
(817) 261-3347 FAX  
Atkinslawfirm@sbcglobal.net

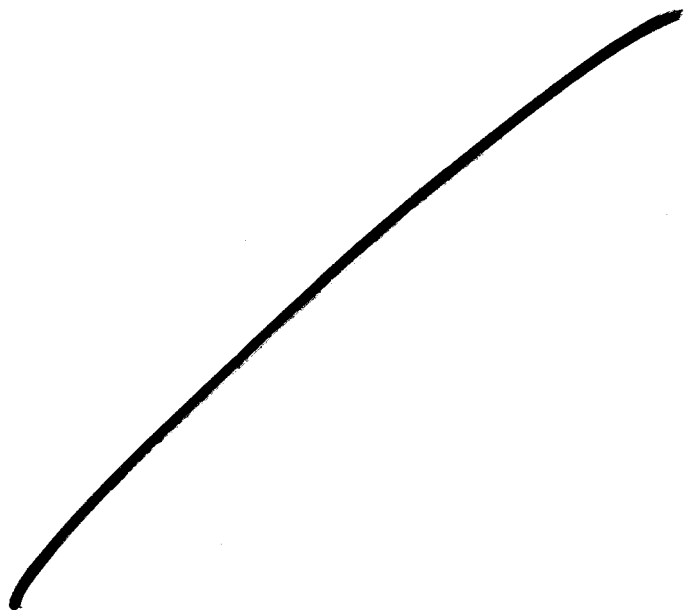
and

*MACLEAN & BOULWARE*

Attorneys at Law  
11 Main Street  
Cleburne, Texas 76033  
(817)645-3700  
(817)645-3788 (FAX)

By:   
E. L. Atkins  
TSB # 01409000  
John MacLean  
TSB # 12764000

C-8



Cause No. P200017096

IN RE: \* IN THE PROBATE COURT  
 \*  
 \* COURT NO. 2  
 \*  
 ESTATE OF JOHNNY FISHER, DEC'D, \* JOHNSON COUNTY, TEXAS

#####

ESTATE OF JOHNNY FISHER, DEC'D, \* IN THE PROBATE COURT  
 Plaintiff \*  
 VS. \* COURT NO. 2  
 \*  
 J P MORGAN CHASE BANK, N.A., GLENN \*  
 MILTON, JAY SANDLIN, LUCY \*  
 NORRIS, RN, and NANCY ARGO, RN, \*  
 Defendants \* JOHNSON COUNTY, TEXAS

FILED  
 CURTIS H. DOUGLAS  
 COUNTY CLERK  
 JOHNSON COUNTY, TEXAS  
 2008 OCT -6 A 2:25  
 BY Cl

**ORDER OF TRANSFER**

CAME ON THIS DATE the motion of The Estate of Johnny Fisher, Dec'd ("THE ESTATE") to transfer this claim asserted by THE ESTATE, as Plaintiff against JP MORGAN CHASE BANK, N.A., GLENN MILTON, JAY SANDLIN, LUCY NORRIS, RN and NANCY ARGO, RN, as Defendants in this probate case.

The Court finds that the claim asserted is a matter appertaining to the estate or incident to the estate, and is a claim by THE ESTATE to recover damages for breach of fiduciary duty and for civil conspiracy. The Court finds that the following order is appropriate:

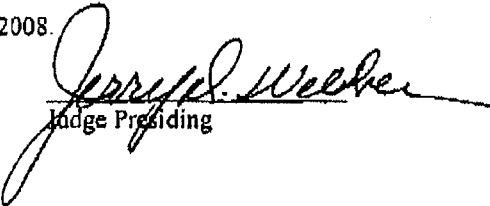
IT IS THEREFORE ORDERED that the claim asserted by THE ESTATE OF JOHNNY FISHER, DEC'D., as Plaintiff against JP MORGAN CHASE BANK, N.A., GLENN MILTON, JAY SANDLIN, LUCY NORRIS, RN and NANCY ARGO, RN, as Defendants, in these probate proceedings, be, and the same is HEREBY TRANSFERRED to the 413<sup>th</sup> Judicial District Court, Johnson County, Texas pursuant to the authority granted to this Probate Court, according to the

**ORIGINAL**

provisions of Sections 5, 5A and 5B, Tex. Probate Code. (Vernon).

IT IS FURTHER ORDERED that the Clerk of this Court prepare any and all necessary documents of transfer and deliver same, along with any and all papers and other documents now filed or later received in this case regarding the claim asserted by THE ESTATE, as Plaintiff against JP MORGAN CHASE BANK, N.A., GLENN MILTON, JAY SANDLIN, LUCY NORRIS, RN and NANCY ARGO, RN herein, forthwith, to the Clerk of the 413<sup>th</sup> Judicial District Court with instructions to file same and assign a separate docket number thereto upon the payment of any and all required filing fees which may be assessed by this Court or by the 413<sup>th</sup> Judicial District Court of Johnson County, Texas.

SIGNED THIS 3 DAY OF October 2008.

  
Judge Presiding

**EXHIBIT D**

Robert G. Richardson  
 Texas State Bar No. 16869300  
 Jeffrey G. Hamilton  
 Texas State Bar No. 00793886  
 Heather M. Forrest  
 Texas State Bar No. 24040918  
 Jackson Walker L.L.P.  
 901 Main Street, Suite 6000  
 Dallas, TX 75202  
 214/953-6000 – Telephone  
 214/953-5822 – Facsimile

ATTORNEYS FOR JPMORGAN CHASE BANK, N.A.

**IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE NORTHERN DISTRICT OF TEXAS  
 FORT WORTH DIVISION**

<b>IN RE:</b>	)	
	)	
<b>FORT WORTH OSTEOPATHIC          HOSPITAL, INC.</b>	)	<b>CASE NO. 05-41513-DML</b>
	)	
<b>Debtor</b>	)	<b>CHAPTER 7</b>
_____	)	
<b>ESTATE OF JOHNNY FISHER, DEC'D,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>ADVERSARY NO. _____</b>
	)	
<b>v.</b>	)	
	)	
<b>J P MORGAN CHASE BANK, N.A.,          GLENN MILTON, JAY SANDLIN, LUCY          NORRIS, RN and NANCY ARGO, RN,</b>	)	
	)	
<b>Defendants</b>	)	

**CERTIFICATE OF INTERESTED PARTIES**

Defendant JPMorgan Chase Bank, N.A. files this Certificate of Interested Persons, pursuant to Local Rule 81.1(a)(3)(D), and would respectfully show the Court as follows:



The following persons, association of persons, firms, partnerships, corporations, guarantors, insurers, affiliates, parent or subsidiary corporations, or other legal entities are financially interested in the outcome of this case:

- a. Estate of Johnny Fisher, Dec'd, Plaintiff;
- b. JPMorgan Chase Bank, N.A., Defendant;
- c. Glenn Milton, Defendant;
- d. Jay Sandelin, Defendant;
- e. Lucy Norris, RN, Defendant;
- f. Nancy C. Argo, RN, Defendant;
- g. Shawn K. Brown, Chapter 7 Trustee of Fort Worth Osteopathic Hospital, Inc.;
- h. E.L. Atkins, Atkins Law Firm, 325 South Mesquite Street, Suite A, Arlington, Texas 76010, Attorney for Plaintiff;
- i. Sean McCaffity, Rochelle Hutcheson & McCullough, LLP, 325 N. St. Paul St., Ste. 4500, Dallas, Texas 75201, Attorney for Shawn K. Brown; and
- j. Robert G. Richardson, Jeffrey G. Hamilton, and Heather M. Forrest, Jackson Walker L.L.P., 901 Main Street, Suite 6000, Dallas, Texas 75202, Attorneys for Defendant JPMorgan Chase Bank, N.A.

Dated: October 9th, 2008.

Respectfully submitted,

JACKSON WALKER L.L.P.  
901 Main Street, Suite 6000  
Dallas, TX 75202

By: /s/ Jeffrey G. Hamilton

Robert G. Richardson  
Texas State Bar No. 16869300  
214/ 953-6166 – Telephone  
214/ 661-6685 – Facsimile  
rrichardson@jw.com  
Jeffrey G. Hamilton  
Texas State Bar No. 00793886  
214/ 953-6034 – Telephone  
214/ 661-6637 – Facsimile  
jhamilton@jw.com  
Heather M. Forrest  
Texas State Bar No. 24040918  
hforrest@jw.com

ATTORNEYS FOR JPMORGAN CHASE  
BANK, N.A.

### CERTIFICATE OF SERVICE

I hereby certify that on this 9<sup>th</sup> day of October, 2008, a true and correct copy of the foregoing instrument was served electronically or has been sent via facsimile or certified mail, return receipt requested to the parties listed below:

Mr. E.L. Atkins  
Atkins Law Firm  
325 South Mesquite Street, Suite A  
Arlington, Texas 76010  
(817) 261-3347

Glenn Milton  
612 Merrill Drive  
Bedford, Texas 76022-7130

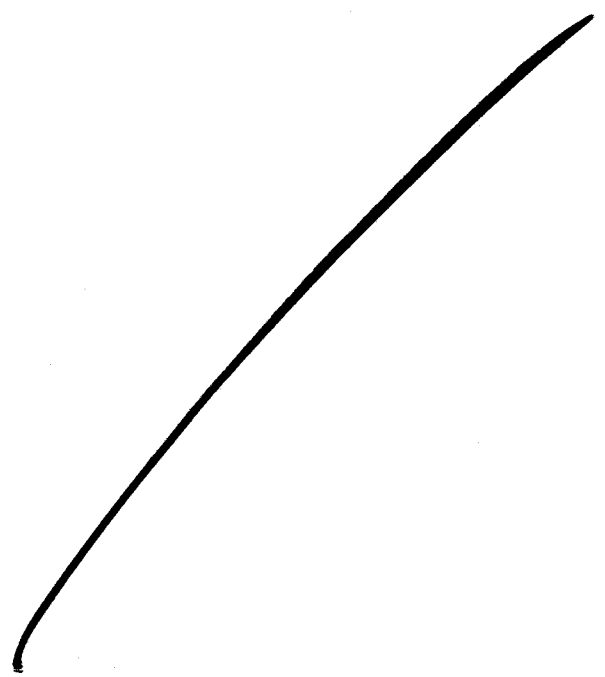
Jay Sandelin  
4708 Innisbrook Lane  
Fort Worth, Texas 76179

Lucy Norris, RN  
2101 Count Fleet Drive  
Unit 514  
Arlington, Texas 76011-2123

Nancy C. Argo, RN  
1190 Whispering Oaks Dr.  
DeSoto, TX 75115-7407

/s/ Heather M. Forrest  
Heather M. Forrest

**EXHIBIT E**



CAUSE NO. C200800560

ESTATE OF JOHNNY FISHER, DEC'D	§	IN THE DISTRICT COURT
Plaintiff	§	
	§	
v.	§	JOHNSON COUNTY, TEXAS
	§	
J P MORGAN CHASE BANK, N.A.,	§	
GLENN MILTON, JAY SANDLIN, LUCY	§	
NORRIS, RN, and NANCY ARGO, RN	§	
Defendants	§	413 <sup>th</sup> JUDICIAL DISTRICT COURT

**NOTICE TO STATE COURT OF NOTICE OF REMOVAL**

Defendant JPMorgan Chase Bank, N.A. ("JPMC") files this Notice of Removal to State Court, as follows:

Pursuant to 28 U.S.C. § 1446(d), notice is hereby given of the removal of the above-captioned action from this Court to the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division. A copy of the Notice of Removal filed in the United States Bankruptcy Court is attached hereto.

Respectfully submitted,

JACKSON WALKER L.L.P.  
901 Main Street, Suite 6000  
Dallas, Texas 75202  
(214) 953-6000 / FAX (214) 953-5822

By: Heather M. Forrest  
Jeffrey G. Hamilton  
State Bar No. 00793886  
Heather M. Forrest  
State Bar No. 24040918

ATTORNEYS FOR DEFENDANT JPMORGAN  
CHASE BANK, N.A.

**CERTIFICATE OF SERVICE**

This is to certify that on this 9<sup>th</sup> day of October, 2008, a true and correct copy of the foregoing document was forwarded via facsimile to the following counsel of record:

**Via Facsimile: (817) 261-3347**  
E.L. Atkins  
Atkins Law Firm  
325 South Mesquite Street, Suite A  
Arlington, Texas 76010

Heather M. Forrest  
Heather M. Forrest

5314608v.1