

RECEIVED

08-12-00331-CV

JUN 25 2013

DENISE PACHECO, CLERK
EIGHTH COURT OF APPEALS

ATTORNEYS AND
COUNSELORS

LAWRENCE FISCHMAN
(972) 419-8318
lfischman@gpm-law.com

GLAST, PHILLIPS & MURRAY
A PROFESSIONAL CORPORATION

14801 QUORUM DRIVE, SUITE 500
DALLAS, TEXAS 75254-1449
(972) 419-8300
FACSIMILE (469) 206-5025

HOUSTON
(713) 237-3111

June 24, 2013

VIA FEDERAL EXPRESS

Ms. Denise Pacheco
Clerk of the Court
Eighth Court of Appeals
500 East San Antonio Avenue
Suite 1203
El Paso, TX 79901-2408

FILED IN
COURT OF APPEALS

JUN 25 2013

DENISE PACHECO
CLERK 8th DISTRICT

Re: Eighth Circuit Court of Appeals Case No. 08-12-00331-CV;
*In re Estate of Max D. Hopper, Deceased/ Stephen B. Hopper
and Laura Wassmer v. Jo N. Hopper and JPMorgan Chase
Bank, N.A.*

Dear Ms. Pacheco:

Pursuant to T.R.App.P. Rule 9.6 this letter is addressed to you for referral to the Court. We request that the Court consider this letter as Appellants' response to the June 21, 2013 letter from counsel for Appellee/Cross-Appellant Mrs. Hopper suggesting that the standing issue should be determined prior to oral argument and to submission of the entire case as stated by the Court in its January 25, 2013 letter to the parties.

Counsel for Mrs. Hopper have used their June 21st letter as a vehicle to further argue their position. In fairness to Appellants, the Court is respectfully requested to consider the following response which is directed solely to the one case cited by Mrs. Hopper's counsel in their letter. Because this case was not cited in Mrs. Hopper's original motion, Appellants have not stated a position on whether *Singh v Duane Morris, LLP*, 338 S.W.3d 176 (Tex. App. – Houston [14th Dist.] 2011, pet. den.) is even relevant, much less dispositive, of the issue at hand.

Ms. Denise Pacheco

June 24, 2013

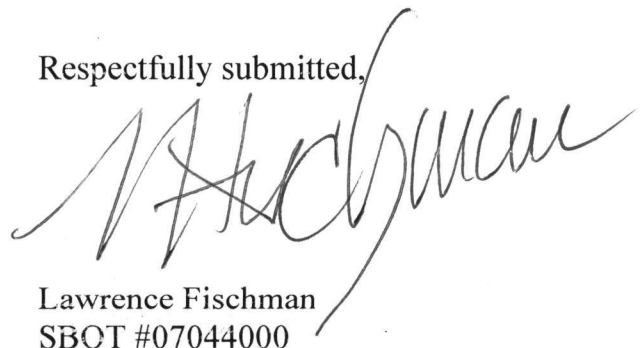
Page 2

Assuming the Court is willing to consider same, Appellants' view of *Singh* is this: *Singh* was a legal malpractice case brought by the sole shareholder of a corporation. A majority of the appeals court held that because the alleged damages were incurred by the corporation¹ the shareholder-plaintiff lacked standing to prosecute the claim. The dissent argued that whether the damages were incurred by the individual or by the corporation went to the merits of the case, not to standing. The dissent pointed out that the majority misplaced its reliance on a Texas Supreme Court case that held that a shareholder could not recover for injuries to a corporation, but did not dispose of the case on the basis of standing.²

Whichever position is correct, *Singh* does nothing to inform the Court's decision in the present case in which the issue is whether Appellants' *revocable* transfer of interests in real property destroys their standing to prosecute this appeal. Appellants were harmed because of the unwanted transfer of the property interests to them and that harm continues. Appellants remain ready, willing and able to re-transfer the property interests to the Bank.

If the Court determines to decide the standing issue prior to submission of the entire case, Appellants request that the Court allow telephonic oral argument on the issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lawrence Fischman", written in a cursive style.

Lawrence Fischman
SBOT #07044000

¹ 338 S.W. 3d at 181.

² *Id.* 338 S.W.3d at 183-84.

Ms. Denise Pacheco

June 24, 2013

Page 3

LF:mji

cc: Michael A. Yanof (via Fax)
James A. Jennings (via Fax)
Michael L. Graham (via Fax)
John C. Eichman (via Fax)