

CAUSE NO. DC-13-09969

JO N. HOPPER,

Plaintiff,

v.

LAURA S. WASSMER AND
STEPHEN B. HOPPER,

Defendants.

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS

44th JUDICIAL DISTRICT

PLAINTIFF'S EMERGENCY MOTION TO COMPEL DEPOSITIONS

Plaintiff Jo Hopper ("Plaintiff") files this Emergency Motion to Compel Depositions and in support thereof, the Parties would respectfully show this Court as follows:

1. This case involves a suit to partition personal property that is jointly owned by Plaintiff Hopper and the Defendants. Hopper was married to Max Hopper, who died intestate. Defendants are Max Hopper's surviving children from his marriage prior to Plaintiff.

2. A separate action involving the parties to this action, as well as JP Morgan Chase, has been filed in the probate court ("Probate Action"). The Probate Action is not currently set for trial although a late fall 2016 date has been proposed.

3. This lawsuit was filed on August 30, 2013. No depositions have been taken. By agreement this case was put on hold for several years to allow an appeal to be taken on an issue in the Probate Action.

4. The issues in this case are distinct and separate from those in the Probate Action. The Probate Action does not involve the issue of partitioning the personal property, which is the issue before this Court.

5. By agreed scheduling order, negotiated as recently as October of this year, there are

certain key deadlines that impact this motion:

- a. Deadline for Plaintiff to designate experts: December 14, 2015
- b. Deadline for completion of all discovery: January 29, 2016
- c. Deadline for dispositive motions: February 8, 2016
- d. Trial date: March 28, 2016

6. Plaintiff needs to take the depositions of the Defendants not only to prepare for trial and decide what dispositive motions to file, but also to decide whether experts are needed, and if so, on what subjects.

7. The proposal of the Defendants to consolidate the depositions in this action with the taking of the Defendants' depositions in the Probate Action in February 2016 is prejudicial to Plaintiff because it would necessitate a continuance of the trial.

8. It is prejudicial to Plaintiff to delay the current trial setting for many reasons, including that there are significant storage costs being incurred for the personal property that cannot be avoided until the partition issues in this case are decided.

9. Additionally, in the Probate Action, the Defendants are attempting to severely limit the length of the depositions in the Probate Action, which would only restrict further plaintiff's right to conduct discovery in this case if the depositions were consolidated. Also, as the issues in this action are distinct and separate from those in the Probate Action, the depositions should not be consolidated.

10. If the dates that Plaintiff noticed for the Defendants' depositions are not convenient, the Court should order other dates in the month of December prior to Plaintiff's deadline to designate experts.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Court order the

depositions of the Defendants to occur on or before December 11, 2015, and for such other and further relief to which they may show themselves justly entitled.

Dated: November 19, 2015.

Respectfully submitted,

LOEWINSOHN FLEGLE DEARY, L.L.P.

By: /s/ Alan S. Loewinsohn

ALAN S. LOEWINSOHN

State Bar No. 12481600

alanl@lfdlaw.com

JIM L. FLEGLE

State Bar No. 07118600

jimf@lfdlaw.com

KERRY F. SCHONWALD

State Bar No. 24051301

kerrys@lfdlaw.com

12377 Merit Drive, Suite 900

Dallas, TX 75251-2224

(214) 572-1700 - Telephone

(214) 572-1717 - Facsimile

COUNSEL FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I understand from my conversation with Counsel for the Defendants that Defendants oppose this request.

/s/ Alan S. Loewinsohn
ALAN S. LOEWINSOHN

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served upon the following counsel of record via e-filing this 19th day of November, 2015:

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

/s/ Alan S. Loewinsohn
ALAN S. LOEWINSOHN