

CAUSE NO. PR-10-1517-3

FILED

2012 MAY 16 PM 12:46

IN RE: ESTATE OF  
MAX D. HOPPER  
DECEASED

ORIGINAL

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§  
§

IN THE PROBATE COURT  
NO. 3  
DALLAS COUNTY, TEXAS

JOHN F. WARREN  
COUNTY CLERK  
DALLAS COUNTY

**ORIGINAL ANSWER TO INDEPENDENT ADMINISTRATOR'S PETITION  
REQUESTING INSTRUCTION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, LAURA S. WASSMER and STEPHEN B. HOPPER, the heirs (hereinafter "the heirs") and file this, their Original Answer to Independent Administrator's Petition Requesting Instruction and in support of such answer would respectfully show as follows:

1. The heirs deny, each and every, all and singular, the material allegations contained in the petition and demand strict proof thereof by a preponderance of the evidence.

2. For further answer if need be, the heirs plead the affirmative defense of estoppel. In this regard, the heirs would show that the bank has previously issued divided interests in the estate and during those distributions never brought it to the heirs attention that the administrator might later choose to divide Robledo, wine and putters in *undivided* interests. Had the heirs known of the administrator's plan, they would never have agreed and would have moved more quickly to protect their rights.

3. For further answer if need be, the heirs further allege that the bank is estopped for the reason that the administrator failed to fully disclose, as a fiduciary is bound to do, the "conundrum" that the administrator now claims. While the heirs deny that the administrator had the authority or right to distribute undivided interests, to the extent that it does, and the

administrator is correct, it owed a duty of full disclosure to the heirs and failed in disclosing, among other things, that it was offering free service to the plaintiff Jo Hopper and that by agreeing to it as an independent administrator, (rather than a dependent administrator) the heirs would be sacrificing substantial monetary rights.

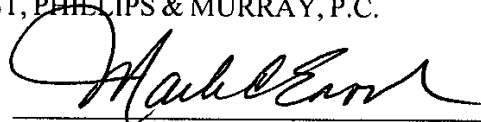
4. For further answer if need be, the heirs deny that the independent administrator is authorized by law to issue and distribute undivided interest and estate property of the beneficiaries.

WHEREFORE PREMESIS CONSIDERED, the heirs pray that the independent administrator's petition to distribute undivided interest be denied, that the court order the independent administrator to begin the partition process pursuant to §150 of the Texas Probate Code and the heirs pray for such other and further relief both general and special at law or in equity to which they may show themselves justly entitled and for which they will forever pray.

Respectfully submitted,

GLAST, PHILLIPS & MURRAY, P.C.

By:



MARK C. ENOCH  
State Bar No. 06630360  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 16th of May, 2012, a true and correct copy of the above and foregoing document was sent by certified mail, to the following:

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