

THE DISTRICT COURTS OF BEXAR COUNTY



BEXAR COUNTY COURTHOUSE
100 DOLOROSA
SAN ANTONIO, TEXAS 78205

FILED
DONNA KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY

13 JAN 30 PM 3:21

DEPUTY



January 29, 2013



VIA FAX (210) 227-0732

Mr. George Spencer, Jr.
CLEMENS & SPENCER, P.C.
112 E. Pecan St., Ste. 1300
San Antonio, Texas 78205

VIA FAX (210) 222-0586

Mr. James L. Drought
DROUGHT, DROUGHT & BOBBITT, LLP
112 E. Pecan, Ste. 2900
San Antonio, Texas 78205

VIA FAX (210) 225-6235

Mr. Richard Tinsman
TINSMAN & SCIANO, INC.
10107 McAllister Fwy.
San Antonio, Texas 78205

VIA FAX (612) 336-9100

Mr. John B. Massopust
Mr. Matthew J. Gollinger
Zelle Hoffman Voelbel & Mason, LLP
500 Washington Avenue South, Ste. 5000
Minneapolis, MN. 55415

VIA FAX (210) 271-1730

Mr. Patrick K. Sheehan
Mr. David Jed Williams
Hornberger, Sheehan, Fuller & Beiter, Inc.
7373 Broadway, Ste. 300
San Antonio, Texas 78209

VIA FAX (214) 880-0011

Mr. John Eichman
Ms. Amy Bowman
Hunton & Williams, LLP
1445 Ross Ave.
Dallas, Texas 75202

225th

VIA FAX (214) 760-8994

Mr. Steven J. Badger
Ms. Ashley Bennett Jones
Zelle Hoffman Voelbel &
Mason, LLP
901 Main Street, Ste. 4000
Dallas, Texas 75202

VIA FAX (214) 572-1717

Mr. David R. Dreary
Mr. Jim L. Flegle
Mr. Michael J. Donley
Loweinsohn Flegle Dreary,
LLP
12377 Merit Drive, Ste. 900
Dallas, Texas 75251

SS

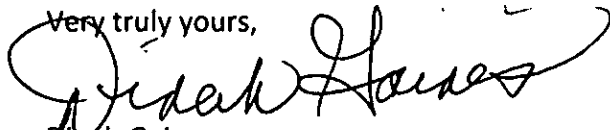
CRT

RE: Cause No. 2010-CI-10977
John K. Meyer vs. JP Morgan Chase Bank, N.A., et al.
Filed in the 225th District Court

Dear Counsel:

Judge Barbara Neller-moe has requested that I notify you that a hearing has been set for further argument on the Special Exceptions filed in the above styled and numbered cause on February 7, 2013 at 2:00 P.M. in the 45th District Court. The Judge requests that counsel for all parties including intervenors be present.

Very truly yours,

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

Dinah Gaines
Staff Attorney
Bexar County Civil District Court

DG/

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
John B. Massopust Matthew J. Gollinger	Dinah Gaines
COMPANY:	DATE:
Zelle Hofmann Voelbel & Mason LLP	1/29/13
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(612) 336-9100	3
PHONE NUMBER:	SEND-ER'S REFERENCE NUMBER:
RE:	YOUR REFERENCE NUMBER:
CAUSE NUMBER 2010-CI-10977; JOHN K MEYER vs JP MORGAN CHASE BANK N A ET AL; IN THE 225TH JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

*** TX Report ***

TRANSMISSION OK

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ST. TIME 01/29 17:49
TIME USE 01'36
PAGES SENT 3
RESULT OK

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

**Dinah Gaines
Tiffany Duong
Staff Attorney**

FACSIMILE TRANSMITTAL SHEET

TO: John B. Massopust
Matthew J. Gollinger

FROM: Dinah Gaines

COMPANY: Zelle Hofmann Voelbel & Mason LLP

DATE: 1/29/13

FAX NUMBER: (612) 336-9100

TOTAL NO. OF PAGES INCLUDING COVER: 3

PHONE NUMBER: SEND-ER'S REFERENCE NUMBER:

RE: CAUSE NUMBER 2010-CI-10977;
JOHN K MEYER vs JP MORGAN
CHASE BANK N A ET AL; IN THE
225TH JUDICIAL DISTRICT COURT
OF BEXAR COUNTY, TEXAS

YOUR REFERENCE NUMBER:

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO: Steven J. Badger Ashley Bennett Jones	FROM: Dinah Gaines
COMPANY: Zelle Hofmann Voelbel & Mason LLP	DATE: 1/29/13
FAX NUMBER: (214) 760-8994	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SEND-ER'S REFERENCE NUMBER:
RE: CAUSE NUMBER 2010-CI-10977; JOHN K MEYER vs JP MORGAN CHASE BANK N A ET AL; IN THE 225TH JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS	YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

*** TX Report ***

TRANSMISSION OK

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DESTINATION ID
ST. TIME 01/29 17:51
TIME USE 01'34
PAGES SENT 3
RESULT OK

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

**Dinah Gaines
Tiffany Duong
Staff Attorney**

FACSIMILE TRANSMITTAL SHEET

TO: Steven J. Badger
Ashley Bennett Jones

FROM: Dinah Gaines

COMPANY: Zelle Hofmann Voelbel & Mason LLP

DATE: 1/29/13

FAX NUMBER: (214) 760-8994

TOTAL NO. OF PAGES INCLUDING COVER: 3

PHONE NUMBER: SEND-ER'S REFERENCE NUMBER:

RE: CAUSE NUMBER 2010-CI-10977;
JOHN K MEYER vs JP MORGAN
CHASE BANK N A ET AL; IN THE
225TH JUDICIAL DISTRICT COURT
OF BEXAR COUNTY, TEXAS

YOUR REFERENCE NUMBER:

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

**Dinah Gaines
Tiffany Duong
Staff Attorney**

FACSIMILE TRANSMITTAL SHEET

TO: George Spencer, Jr.	FROM: Dinah Gaines
COMPANY: CLEMENS & SPENCER, P.C.	DATE: 1/29/13
FAX NUMBER: (210) 227-0732	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SEND-ER'S REFERENCE NUMBER:
RE: CAUSE NUMBER 2010-CI-10977; JOHN K MEYER vs JP MORGAN CHASE BANK N A ET AL; IN THE 225TH JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS	YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

*** TX Report ***

TRANSMISSION OK

TX/RX NO 1516
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DESTINATION ID
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TIME USE 01'35
PAGES SENT 3
RESULT OK

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO: George Spencer, Jr.	FROM: Dinah Gaines
COMPANY: CLEMENS & SPENCER, P.C.	DATE: 1/29/13
FAX NUMBER: (210) 227-0732	TOTAL NO. OF PAGES INCLUDING COVER: 3
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RE: CAUSE NUMBER 2010-CI-10977; JOHN K MEYER vs JP MORGAN CHASE BANK N A ET AL; IN THE 225TH JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS	YOUR REFERENCE NUMBER:
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URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO:
James L. Drought

FROM:
Dinah Gaines

COMPANY:
DROUGHT DROUGHT & BOBBITT,
LLP

DATE:
1/29/13

FAX NUMBER:
(210) 222-0586

TOTAL NO. OF PAGES INCLUDING COVER:
3

PHONE NUMBER:

SEND-ER'S REFERENCE NUMBER:

RE:
**CAUSE NUMBER 2010-CI-10977;
JOHN K MEYER vs JP MORGAN
CHASE BANK N A ET AL; IN THE
225TH JUDICIAL DISTRICT COURT
OF BEXAR COUNTY, TEXAS**

YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

*** TX Report ***

TRANSMISSION OK

TX/RX NO 1518
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DESTINATION ID
ST. TIME 01/29 17:57
TIME USE 01'35
PAGES SENT 3
RESULT OK

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO:
James L. Drought

FROM:
Dinah Gaines

COMPANY:
DROUGHT DROUGHT & BOBBITT,
LLP

DATE:
1/29/13

FAX NUMBER:
(210) 222-0586

TOTAL NO. OF PAGES INCLUDING COVER:
3

PHONE NUMBER:

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RE:
CAUSE NUMBER 2010-CI-10977;
JOHN K MEYER vs JP MORGAN
CHASE BANK N A ET AL; IN THE
225TH JUDICIAL DISTRICT COURT
OF BEXAR COUNTY, TEXAS

YOUR REFERENCE NUMBER:

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

**Dinah Gaines
Tiffany Duong
Staff Attorney**

FACSIMILE TRANSMITTAL SHEET

TO: Patrick K. Sheehan David Jed Williams	FROM: Dinah Gaines
COMPANY: HORNBERGER SHEEHAN FULLER & BEITER, INC.	DATE: 1/29/13
FAX NUMBER: (210) 271-1730	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SEND-ER'S REFERENCE NUMBER:
RE: CAUSE NUMBER 2010-CI-10977; JOHN K MEYER vs JP MORGAN CHASE BANK N A ET AL; IN THE 225TH JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS	YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

*** TX Report ***

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PAGES SENT 3
RESULT OK

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO:
Patrick K. Sheehan
David Jed Williams

FROM:
Dinah Gaines

COMPANY:
HORNBERGER SHEEHAN FULLER &
BEITER, INC.

DATE:
1/29/13

FAX NUMBER:
(210) 271-1730

TOTAL NO. OF PAGES INCLUDING COVER:
3

PHONE NUMBER:

SEND-ER'S REFERENCE NUMBER:

RE:
CAUSE NUMBER 2010-CI-10977;
JOHN K MEYER vs JP MORGAN
CHASE BANK N A ET AL; IN THE
225TH JUDICIAL DISTRICT COURT
OF BEXAR COUNTY, TEXAS

YOUR REFERENCE NUMBER:

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

**Dinah Gaines
Tiffany Duong
Staff Attorney**

FACSIMILE TRANSMITTAL SHEET

TO:
Richard Tinsman

FROM:
Dinah Gaines

COMPANY:
TINSMAN & SCIANO, INC.

DATE:
1/29/13

FAX NUMBER:
(210) 225-6235

TOTAL NO. OF PAGES INCLUDING COVER:
3

PHONE NUMBER:

SEND-ER'S REFERENCE NUMBER:

RE:
**CAUSE NUMBER 2010-CI-10977;
JOHN K MEYER vs JP MORGAN
CHASE BANK N A ET AL; IN THE
225TH JUDICIAL DISTRICT COURT
OF BEXAR COUNTY, TEXAS**

YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

*** TX Report ***

TRANSMISSION OK

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PAGES SENT 3
RESULT OK

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO: Richard Tinsman	FROM: Dinah Gaines
COMPANY: TINSMAN & SCIANO, INC.	DATE: 1/29/13
FAX NUMBER: (210) 225-6235	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SEND-ER'S REFERENCE NUMBER:
RE: CAUSE NUMBER 2010-CI-10977; JOHN K MEYER vs JP MORGAN CHASE BANK N A ET AL; IN THE 225TH JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS	YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO:
John Eichman
Amy Bowen

FROM:
Dinah Gaines

COMPANY:
Hunton & Williams, LLP

DATE:
1/29/13

FAX NUMBER:
(214) 880-0011

TOTAL NO. OF PAGES INCLUDING COVER:

3

PHONE NUMBER:

SEND-ER'S REFERENCE NUMBER:

RE:

**CAUSE NUMBER 2010-CI-10977;
JOHN K MEYER vs JP MORGAN
CHASE BANK N A ET AL; IN THE
225TH JUDICIAL DISTRICT COURT
OF BEXAR COUNTY, TEXAS**

YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

*** TX Report ***

TRANSMISSION OK

TX/RX NO 1521
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TIME USE 01'39
PAGES SENT 3
RESULT OK

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO:
John Eichman
Amy Bowen

FROM:
Dinah Gaines

COMPANY:
Hunton & Williams, LLP

DATE:
1/29/13

FAX NUMBER:
(214) 880-0011

TOTAL NO. OF PAGES INCLUDING COVER:
3

PHONE NUMBER:

SEND-ER'S REFERENCE NUMBER:

RE: CAUSE NUMBER 2010-CI-10977;
JOHN K MEYER vs JP MORGAN
CHASE BANK N A ET AL; IN THE
225TH JUDICIAL DISTRICT COURT
OF BEXAR COUNTY, TEXAS

YOUR REFERENCE NUMBER:

BEXAR COUNTY CIVIL DISTRICT COURT ADMINISTRATION

Dinah Gaines
Tiffany Duong
Staff Attorney

FACSIMILE TRANSMITTAL SHEET

TO: David R. Deary Jim L. Flegle Michael J. Donley	FROM: Dinah Gaines
COMPANY: LOEWINSOHN FLEGLE DEARY, L.L.P.	DATE: 1/29/13
FAX NUMBER: 55 (214) 572-1717	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SEND-ER'S REFERENCE NUMBER:
RE: CAUSE NUMBER 2010-CI-10977; JOHN K MEYER vs JP MORGAN CHASE BANK N A ET AL; IN THE 225TH JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS	YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

VanGheluwe, Brett

From: Janet Bailey <Janetb@lfdlaw.com>
Sent: Wednesday, January 30, 2013 9:24 AM
To: VanGheluwe, Brett
Subject: RE: Cause # 2010-CI-10977

Thanks for your help and diligence!

Janet Bailey
Loewinsohn Flegle Deary, L.L.P.
12377 Merit Drive, Suite 900
Dallas, TX 75251
(214) 572-1718 direct dial
(214) 572-1717 facsimile
www.LFDlaw.com

Confidentiality Note: This email is confidential and may be privileged. It is for the sole use of the named and intended recipient. Any review or distribution by others is strictly prohibited and may be illegal. If you are not the intended recipient, please delete all copies received and notify Loewinsohn Flegle Deary, L.L.P. at 214.572.1700. Thank you.

From: VanGheluwe, Brett [mailto:bvangheluwe@bexar.org]
Sent: Wednesday, January 30, 2013 9:17 AM
To: Janet Bailey
Subject: FW: Cause # 2010-CI-10977

Please see the attached letter. Thank you.

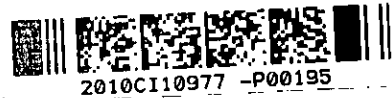
From: VanGheluwe, Brett
Sent: Wednesday, January 30, 2013 8:45 AM
To: 'davidd@LFDlaw.com'; 'jimf@LFDlaw.com'
Subject: Cause # 2010-CI-10977

Mr. Dreary and Mr. Flegle,

Please find attached a letter notifying you that the above referenced cause has been set for hearing on February 7, 2013 at 2:00P.M. in the 45th District Court of Bexar County, Texas. We have made multiple attempts to fax this notice to you on both fax numbers with no success.

Brett VanGheluwe
Attorney at Law
Senior Court Support Specialist
Staff Attorney's Office
Bexar County Civil District Courts
Office: (210) 335-0821
Fax: (210) 335-1108
bvangheluwe@bexar.org

Document scanned as filed.
Description: Numbered as is
Date: 1/31/13
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CLEMENS & SPENCER

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 1300

112 EAST PECAN STREET
SAN ANTONIO, TEXAS 78205-1531
(210) 227-7121 Telephone (210) 227-0732 Telecopier

ERNEST W. CLEMENS
(1897-1978)

GEORGE H. SPENCER
(RETIRED)

George H. Spencer, Jr.
spencer@clemens-spencer.com

February 25, 2013

Hon. Barbara Nellermoe
Judge, 45th District Court
Bexar County Courthouse
San Antonio, TX 78205

via Hand-Delivery

Re: Cause No. 2010-CI-10977, *John K. Meyer, et al v. JP Morgan Chase Bank, N.A., Individually/Corporately and as Trustee of the South Texas Syndicate Trust and Gary P. Aymes*, in the 225th District Court of Bexar County, Texas
(Our File No.: 2184-24286)

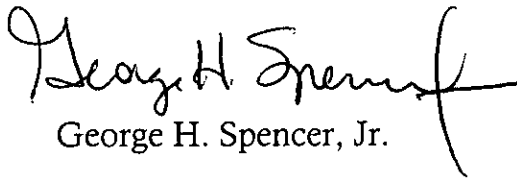
Dear Judge Nellermoe:

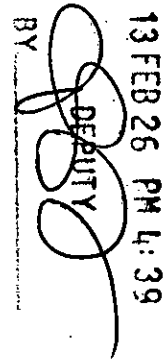
Following up on yesterday's hearing, enclosed is the revised draft letter to the "opt-ins".

Subject to your approval of the form of the letter, we intend to send it out promptly.

Respectfully,

CLEMENS & SPENCER


George H. Spencer, Jr.

BY 
DEPUTY

13 FEB 26 PM 4:39

FILED
DONNA KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY

GHSjr/jdm

Enclosure

cc (w/Enclosure):

Mr. Patrick K. Sheehan
HORNBERGER FULLER SHEEHAN BEITER
WITTENBERG & GARZA INCORPORATED
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, TX 78209
via Email: psheehan@hsfblaw.com

Hon. Barbara Neller
February 25, 2013
Page 2

Mr. John B. Massopust
ZELLE HOFFMANN VOELBEL & MASON LLP
500 Washington Ave. South, Suite 4000
Minneapolis, MN 55415
via Email: JMassopust@zelle.com

Mr. Jim L. Flegle
LOEWINSOHN FLEGLE DEARY, LLP
12377 Merit Dr., Suite 900
Dallas, TX 75251
via Email: jimf@LFDlaw.com

Mr. Richard Tinsman
TINSMAN & SCIANO, INC.
10107 McAllister Freeway
San Antonio, TX 78216
via Email: rtinsman@tsslawyers.com

Mr. James L. Drought
DROUGHT DROUGHT & BOBBITT, LLP
112 E. Pecan St., Suite 2900
San Antonio, TX 78205
via Email: jld@ddb-law.com

SOUTH TEXAS SYNDICATE LITIGATION

February __, 2013

David R. Deary, Esq.
Jim L. Flegle, Esq.
Loewinsohn Flegle Deary, LLP
12377 Merit Drive, Suite 900
Dallas, TX 75251
Office: 214.572.1700
davidd@LFDlaw.com
jimf@LFDlaw.com
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John B. Massopust, Esq.
Matthew Gollinger, Esq.
Zelle Hofmann Voelbel & Mason LLP
500 Washington Avenue S.
Suite 4000
Minneapolis, MN 55415
jmassopust@zelle.com
mgollinger@zelle.com
www.zelle.com

George Spencer, Esq.
Clemens & Spencer, P.C.
112 E. Pecan St. Suite 1300
San Antonio, TX 78205
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spencer@clemens-spencer.com
www.clemens-spencer.com

James L. Drought, Esq.
Drought, Drought & Bobbitt, LLP
2900 Weston Centre
112 East Pecan Street
San Antonio, TX 78205
Office: 210.225.4031
jld@ddb-law.com
www.ddb-law.com

Richard Tinsman, Esq.
Tinsman & Sciano, Inc.
10107 McAllister Freeway
San Antonio, TX 78216
Office: 210.225.3121
rtinsman@tsslawyers.com
www.tsslawyers.com

Name
Address
Address 2
City, State, Zip

Re: Cause No. 2010-CI-10977; *John K. Meyer, Plaintiff v. JP Morgan Chase Bank, N.A. Individually/Corporately and as Trustee of the South Texas Syndicate Trust and Gary P. Aymes, Defendants, in the 225th Judicial District Court, Bexar County, Texas*

Dear [Individual's name]:

You previously returned to us a form whereby you elected to "opt-in" in the above lawsuit.

The Election to Opt-In Notice informed you that you could hire your own attorney or you could hire the same lawyers that represent the Plaintiffs, Mr. Meyer and Mrs. Blaze.

Questions have arisen as to your exact status in this proceeding. In view of these questions, the Court has directed us to send you this letter and the Court requires you to select one of the following four options regarding your future involvement, if any, in the case.

Please put a check mark by your selection, sign the form, giving the requested information about yourself, and then return the form to us in the enclosed prepaid envelope by no later than Friday, March 15, 2013.

_____ I will represent myself in this case. I understand that this means I will need to file a pleading in this case and that I must do so by filing it with the Bexar County District Clerk, 100 Dolorosa, San Antonio, Texas 78205, by no later than Friday, March 15, 2013. I further understand that I will need to attend some hearings as well as the trial of the case (presently set for September 23, 2013) to protect my rights.

_____ I will retain the counsel that represents the Plaintiffs. I request a copy of the contingent fee agreement with counsel for the Plaintiffs for my review and approval.

_____ I will hire counsel who are not representing the Plaintiffs in this suit to represent me. I agree that such counsel will file a pleading on my behalf in the case by no later than Friday, March 15, 2013.

_____ I do not wish to become a party in this case. I understand that by making this election not to become a party, I will not be represented in regard to the matters which are now or may be in controversy in the future in the case and that orders and a final judgment will be entered by the Court without input from me.

If you do not make a selection from these options and return this letter by Friday March 15, 2013 you will be deemed to have elected the fourth option (that is, that you do not wish to become a party in this case).

Very truly yours,

Counsel for Plaintiffs

Date

Signed by

Printed Name: _____

Mailing Address: _____

Telephone Number: _____

Fax Number (if any): _____

Email Address (if any): _____

Number of shares/beneficial interests in STS Trust:



2010CI10977 -P00166

RAY MEKINNEY
DISTRICT CLERK
BEXAR COUNTY

12 DEC 11 PM 4:41

DEPUTY
BY *Dawna L. Guevara*

(Consolidated Under)
CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET AL.
Plaintiffs,

§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

vs.

JP MORGAN CHASE BANK, N.A.
INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH
TEXAS SYNDICATE TRUST
and GARY P. AYMES,
Defendants.

225TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

MOTION TO ENTER ORDER
(November 20, 2012 Hearing)

TO THE HONORABLE JUDGE OF SAID COURT:

Now come Plaintiffs and Plaintiff-Intervenors in the above-styled and numbered cause, and file this Motion to Enter Orders, and would respectfully show unto the Court the following:

1. On the 20th day of November, 2012, the Court heard Plaintiff-Intervenors' Motion to Compel Answers to Interrogatories and Production of Documents, JPMorgan's Motion for Protective Order, JPM, in Its Corporate Capacity's, Response to Plaintiff-Intervenors' Motion to Compel, Reliance Holding USA, Inc.'s Motion for Protective Order, and Pioneer Natural Resources USA, Inc.'s Motion for Protective Order.

2. The parties have been unable to reach an agreement regarding the form of the order. Wherefore, Plaintiffs and Plaintiff-Intervenors request that the Court enter the order attached as **Exhibit "A"**.

Respectfully submitted,

LOEWINSOHN, FLEGLE, DEARY,
L.L.P.
12377 Merit Drive, Suite 900
Dallas, Texas 75251
Telephone: (214) 572-1700
Telecopy: (214) 572-1717

ZELLE HOFMANN VOELBEL
& MASON LLP
500 Washington Avenue South
Suite 4000
Minneapolis, MN 55415-1152
Telephone: (612) 339-2020
Facsimile: (612) 336-9100

By: Jim Flegle w/ permission
David R. Deary *By JLD*
State Bar No. 05624900
Jim L. Flegle
State Bar No. 07118600
Michael J. Donley
State Bar No. 24045795

By: John Massopust w/ permission
John B. Massopust (*pro hac* *By JLD*
vice)
Matthew J. Gollinger (*pro hac*
vice)

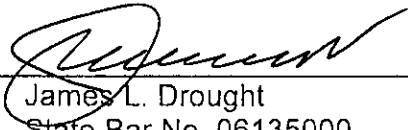
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By: 
James L. Drought
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ATTORNEYS FOR PLAINTIFFS,
JOHN K. MEYER, JOHN MEYER, JR.,
THEODORE MEYER

FIAT

You are hereby notified that a hearing has been scheduled on Motion to Enter Order (November 20, 2012 Hearing) in the above captioned cause, on the 19 day of DECEMBER, 2012 at 1:30 p.m. in the 37th District Court, Bexar County Courthouse, San Antonio, Texas.

Signed this _____ day of DEC 11 2012, 2012 **DAVID A. BERCHELMANN, JR.**
PRESIDING JUDGE
37th DISTRICT COURT
BEXAR COUNTY, TEXAS

Judge David Berchermann

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing has been sent by:

 U.S. Certified Mail, Return Receipt Requested to:
 ✓ Facsimile to:
 First Class Mail to:
 Hand Delivery to:

Mr. Patrick K. Sheehan
Mr. David Jed Williams
Hornberger Sheehan Fuller & Beiter, Inc.
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, TX 78209

Mr. John C. Eichman
Ms. Amy S. Bowen
Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202

on this the 11 day of December, 2012.



James L. Drought

(Consolidated Under)
2010-CI-10977

JOHN K. MEYER, ET AL.	§	IN THE DISTRICT COURT
	§	
vs.	§	
	§	
JP MORGAN CHASE BANK, N.A.,	§	225 TH JUDICIAL DISTRICT
INDIVIDUALLY/CORPORATELY	§	
AND AS TRUSTEE OF THE SOUTH	§	
TEXAS SYNDICATE TRUST and	§	
GARY P. AYMES	§	BEXAR COUNTY, TEXAS

ORDER REGARDING NOVEMBER 20, 2012 HEARING

On the 20th day of November, 2012, the Court heard Plaintiff-Intervenors' Motion to Compel Answers to Interrogatories and Production of Documents, JPMorgan's Motion for Protective Order, JPM, in Its Corporate Capacity's, Response to Plaintiff-Intervenors' Motion to Compel, Reliance Holding USA, Inc.'s Motion for Protective Order, and Pioneer Natural Resources USA, Inc.'s Motion for Protective Order.

After considering the pleadings, the papers on file, the evidence, and argument of counsel, the Court is of the opinion that JPMorgan's Motion for Protective Order be denied, that all of JPMorgan's objections to Plaintiff-Intervenors' Interrogatories and Requests for Production be overruled, that JPMorgan shall bear its costs related to discovery in this litigation, including any attorney's fees associated with discovery, and shall not charge such fees and expenses to the South Texas Syndicate Trust.

The Court further finds that JPMorgan has made frivolous objections and has not cooperated in discovery and that more severe sanctions will be levied against JPMorgan if it fails to engage in timely and proper discovery.

EXHIBIT A

It is, therefore, ORDERED that JPMorgan's Objections to Plaintiff-Intervenors' Interrogatories and Requests for Production are overruled in their entirety. It is further ORDERED that JPMorgan's Motion for Protective Order is denied. It is further ORDERED that JPMorgan not charge any fees or costs related to discovery in this case to the South Texas Syndicate Trust. It is also ORDERED that JPMorgan promptly respond to Plaintiff and Plaintiff-Intervenors' discovery requests and that failure to do so will result in sanctions being issued.

SIGNED this _____ day of December, 2012.

Honorable David Berchermann

APPROVED AS TO FORM ONLY:

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David Jed Williams
HORNBERGER SHEEHAN FULLER
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**ATTORNEYS FOR INTERVENOR
PLAINTIFFS**



Nellermoe, Judge Barbara

From: Nellermoe, Judge Barbara
Sent: Monday, February 04, 2013 1:48 PM
To: Gaines, Dinah
Subject: 2010CI10977 Meyer v. JP Morgan, Trustee

Dinah, Please forward this email to all counsel of record:

Counsel,

I thought it best to give you a little check list of issues I wanted to discuss with all of you at the hearing on Thursday. It seems to me that both sides brought up good points at the special exceptions hearing on January 25, 2013, and that clarification is needed to get this case ready for trial. So here are some of the points you raised earlier, and that prompted me to question further where this case is going.

1. The prior letter and opt-in form sent to the beneficiaries infers that to opt-in means that the beneficiary *wants* to join this litigation as a party. Are they a party by virtue of this affirmative act? Are they eligible for any recoveries if they do nothing more?
2. Are the opt-ins represented? By whom?
3. Are all the beneficiaries necessary parties or not?
4. Has the court acquired jurisdiction over the beneficiaries? Which ones?
5. Were the non-respondents told what happens here may (or may not) effect their rights?
6. Will any judgment in this litigation be interlocutory? Or final?

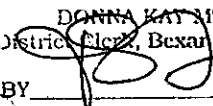
I am concerned about the adequacy of notice to these beneficiaries and whether some of them believe they are now represented by counsel when they have done nothing more to enter an appearance or hire counsel to do so, and as a result they get no service on any other filings. I appreciate counsel's sensitivity to the no-solicitation rule, and will entertain suggestions there as well.

Judge Barbara Hanson Nellermoe
45th District Court
Bexar County Courthouse
San Antonio, Texas 78205
210-335-2507
bnellermoe@bexar.org

FILED
O'CLOCK M

FEB - 4 2013

DONNA KAY MCKINNEY
District Clerk, Bexar County, Texas

BY  DEPUTY

CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET AL.,	§	IN THE DISTRICT COURT OF
	§	
Plaintiffs,	§	
	§	
JP MORGAN CHASE BANK, N.A.,	§	
INDIVIDUALLY/CORPORATELY AND	§	225 th JUDICIAL DISTRICT
AS TRUSTEE OF THE SOUTH TEXAS	§	
SYNDICATE TRUST AND GARY P.	§	
AYMES,	§	
	§	
Defendants.	§	BEXAR COUNTY, TEXAS

**PLAINTIFFS' MOTION TO COMPEL PRODUCTION
OF PIONEER LITIGATION FILE**

Plaintiffs John K. Meyer, John Meyer, Jr., Theodore Meyer, Emilie Blaze (“Meyer/Blaze Plaintiffs”) and Plaintiff Intervenors (collectively “Movants”) file this Motion to Compel Production of Pioneer Litigation File (Plaintiffs’ tenth¹ motion to compel in this case) and would show as follows:

I.

OVERVIEW

This lawsuit involves the administration of the South Texas Syndicate Trust (“STS Trust”). Plaintiffs, beneficiaries of the STS trust, have sued Defendants because of Defendants’ pattern of neglect, mismanagement and tortious behavior that has caused millions of dollars of damage to the STS Trust assets and estate. Plaintiffs also seek a statutory accounting, the removal of Defendants as Trustee and judicial reformation of the STS Trust instrument to protect the beneficiaries’ interests in the future, provide transparency, define the duties and

¹ Plaintiffs’ nine previous motions to compel were filed on July, 21, 2011; December 21, 2012; March 20, 2012; May 11, 2012; and September 13, 2012.

responsibilities of the trustee, and ensure the efficient and proper administration of the STS Trust.

In their Amended Petition, among many other violations, Plaintiffs specifically allege Defendants violated their fiduciary duties by actions taken and not taken in filing, litigating and settling an action against Pioneer Natural Resources USA, Inc. and EOG Resources, Inc., previously pending as Cause No. 09-04-00036-CVL; *JP Morgan Chase Bank, N.A., in its capacity as Trustee of the South Texas Syndicate Trust v. Pioneer Natural Resources USA, Inc. and EOG Resources, Inc.*; in the 218th Judicial District Court, LaSalle County, Texas (the “Pioneer/EOG Litigation”). Am. Pet. at 7, 9, 12.

In her First Set of Requests for Production, Plaintiff Blaze specifically requested the Pioneer/EOG Litigation file. *See* Blaze’s First Set of Requests for Production #84. Despite this request from a beneficiary of the STS Trust, Defendants refused to produce these documents that demonstrate how Defendants acted *on the beneficiaries’ behalf*. These documents are relevant to this case because they are the best evidence of the actions Defendants took, and did not take, in filing, litigating and settling the Pioneer/EOG Litigation. Plaintiffs are entitled to this information under the Texas Rules of Civil Procedure and Texas trust law. Though requested, Defendants have refused to produce these documents. Therefore, Plaintiffs request the Court to compel Defendants to produce these documents.

II.

BACKGROUND FACTS

A. Documents Requested

Plaintiffs have requested the Pioneer/EOG Litigation file. *See* Blaze’s Request for Production #84 (“Request #84”), attached as Exhibit A. That request reads as follows:

REQUEST FOR PRODUCTION NO. 84:

A copy of the complete litigation file, including but not limited to all work product and attorney-client communications, for the Pioneer/EOG dispute or litigation.

Defendants responded to Request #84 as follows:

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

Plaintiffs served additional requests for documents related to the Pioneer/EOG Litigation and the settlement thereof. See Blaze's Requests for Production #75-86, attached at Exhibit A.

III.

ARGUMENTS AND AUTHORITIES

A. The Court Should Compel Production of the Pioneer Litigation File Because These Documents Are Reasonably Calculated to Lead to the Discovery of Admissible Evidence.

Under Texas law, a party is entitled to obtain discovery on any matter that is not privileged, is relevant to the subject matter of the pending action, and/or appears to be reasonably calculated to lead to the discovery of admissible evidence. *See, e.g., In re K.L. & J. Ltd. P'ship*, 336 S.W.3d 286, 290 (Tex. App.—San Antonio 2010, no pet.); Rule 192.3, TEX. R. CIV. P. Plaintiffs requested the production of the Pioneer EOG/Litigation file and related documents on the ground that these documents are relevant and discoverable. *See* Blaze's Requests for Production #75-86, attached hereto as Exhibit B.

The Pioneer/EOG Litigation file and related documents are relevant because they are the best available evidence regarding how Defendants acted as fiduciaries on behalf of the STS Trust beneficiaries in the Pioneer/EOG Litigation.

The requested documents are not privileged as to the Trust beneficiaries. Under Texas law, the attorney-client privilege may be invoked between a trustee and a beneficiary. *See, e.g., Huie v. DeShazo*, 922 S.W.2d 920 (Tex. 1996). However, this rule does not throw the cloak of attorney-client privilege over every fiduciary action a trustee takes involving attorneys. And certainly, there can be no debate that the portions of the requested information that was shared with third parties—such as the communications between opposing counsel in the Pioneer/EOG Litigation—are discoverable by the beneficiaries of the trust.

Because the requested documents are not privileged, are relevant to the subject matter of this case, and are reasonably calculated to lead to the discovery of admissible evidence, this Court should order JP Morgan to produce the requested documents in their entirety.

B. The Court Should Compel Production of the Requested Pioneer/EOG Litigation Documents Because the Beneficiaries of the STS Trust Are Entitled to This Information Under Texas Trust Law.

As beneficiaries of the STS Trust, Plaintiffs are entitled to obtain information that demonstrates how their trust has been and is being administered. *See, e.g., Shannon v. Frost Nat. Bank of San Antonio*, 533 S.W.2d 389, 393 (Tex. Civ. App.—San Antonio 1975, writ ref'd n.r.e.); Bogert's Trusts and Trustees § 962 ("Generally, if a beneficiary of a trust requests information about the trust from the trustee, the trustee must promptly furnish it. . . . If a trustee unreasonably refuses to furnish information about a trust to a beneficiary who has requested it, the court will order the trustee to do so and may charge the trustee with the cost of the proceeding. A trustee's failure to provide information about the trust to beneficiaries may also be grounds for a claim for damages, removal of the trustee, reduction or denial of compensation, or other relief."); *see also* Restatement (Third) Trusts § 82(2); Restatement (Second) Trusts § 173.

Plaintiffs have requested discoverable documents related to the Pioneer/EOG Litigation. Plaintiffs request this information because it is material and necessary to assess how their trust has been administered. Proper trust administration of a trust under the Texas Trust Code requires that Defendants make the requested information available to STS beneficiaries, including the requested documents related to the Pioneer/EOG Litigation, *to determine how their trust has been administered.*

Therefore, because Plaintiffs have the right to access the requested information under Texas trust law, the Court should order Defendants to produce documents responsive to Blaze Request Nos. #75-86.

C. The Requested Documents Relating to the Pioneer/EOG Litigation—Which Is Information that Belongs to Plaintiffs—Can Be Protected Under the Agreed Protective Order in This Action.

Defendants' claim that disclosing the requested information related to the Pioneer/EOG Litigation will result in the disclosure of "confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust" is no reason to deny discovery. Plaintiffs in this action represent over 50% of the beneficial interests in the STS Trust. The Pioneer/EOG Litigation documents are *Plaintiffs' information*. Plaintiffs' trustee is again refusing to provide the STS Beneficiaries with the information necessary to assess how their trust has been managed. These actions by Defendants are further violations of their duties to the STS Trust beneficiaries. Further, a protective order has been entered in this cause to protect confidentiality. *See* Agreed Protective Order, signed November 14, 2011. Because the documents related to the Pioneer/EOG Litigation constitute Plaintiffs' information and because the documents can be protected by the Agreed Protective Order entered in this case, the Court should compel Defendants to produce the requested Pioneer/EOG Litigation documents in their entirety.

IV.

CONCLUSION

For the reasons described herein Movants request that the Court order Defendants to produce the requested documents relating to the Pioneer/EOG Litigation, overrule all objections asserted by Defendants, and grant such other relief to which Movants are entitled.

DATE: December 12, 2012.

Respectfully submitted,

CLEMENS & SPENCER



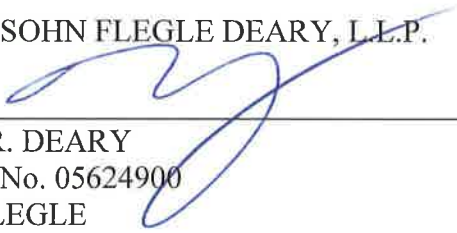
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**ATTORNEYS FOR PLAINTIFF-
INTERVENORS**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been served on the below listed counsel of record via email and Certified Mail, RRR, this 12th day of December 2012:

Patrick K. Sheehan
David Jed Williams
Mark A. Randolph
Kevin M. Beiter
Rudy Garza
Hornberger Sheehan Fuller Beiter
Wittenberg & Garza Inc.
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, TX 78209



Michael J. Donley

EXHIBIT A

REQUEST FOR PRODUCTION NO. 84:

A copy of the complete litigation file, including but not limited to all work product and attorney-client communications, for the Pioneer/EOG dispute or litigation.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

EXHIBIT B

REQUEST FOR PRODUCTION NO. 75:

The settlement agreement entered with Pioneer/EOG.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
2. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
3. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

REQUEST FOR PRODUCTION NO. 76:

All drafts, revisions, and/or versions of any proposed or final settlement agreement with Pioneer/EOG.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
2. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
3. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 77:

All documents regarding the settlement with Pioneer/EOO.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 78:

All documents regarding or reflecting communications and/or information exchanged by and/or between You and Pioneer/EOG concerning any aspect of the dispute or settlement of the dispute.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is vague, undefined, non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 79:

All documents regarding the dispute with Pioneer/EOG. This Request specifically includes but is not limited to all correspondence, pleadings, discovery, documents produced, or other documents related in any way to any aspect of the dispute or litigation with Pioneer/EOG.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is vague, undefined, non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 80:

All documents regarding or reflecting communications or information exchanged by and between You and counsel for the Trust in connection with the Pioneer/EOG dispute or litigation.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.

4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 81:

All documents regarding or reflecting invoices, bills, or statements received from the Trust counsel for services rendered in connection with the Pioneer/EOG dispute or litigation.

Defendant objects to this Request on the following bases:

1. This Request is vague, undefined, non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 82:

All documents regarding or reflecting the payment of all fees and expenses incurred by the counsel for the Trust in the Pioneer/EOG dispute or litigation.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 83:

All documents regarding or reflecting your internal communications or information exchanged regarding the Pioneer/EOG dispute or litigation.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.

4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 84:

A copy of the complete litigation file, including but not limited to all work product and attorney-client communications, for the Pioneer/EOG dispute or litigation.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted

information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 85:

All documents or communications regarding or reflecting any aspect of the Pioneer/EOG Settlement. This Request specifically includes, but is not limited to, documents or communications regarding or reflecting the reasons the Trustee made the decision to enter into the Pioneer/EOG Settlement.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

REQUEST FOR PRODUCTION NO. 86:

All documents or communications regarding or reflecting the choice of counsel and the payment of fees and expenses for the Pioneer/EOG Litigation. This Request specifically includes, but is not limited to, documents or communications regarding or reflecting any aspect of the process by which the Trustee chose trial counsel and determined the fee arrangement to enter into with trial counsel. This Request specifically includes but is not limited to documents or communications

regarding or reflecting the Trustee's analyses or other action to determine the propriety and/or reasonableness of the \$1,162,161.32 in fees and expenses generated by the Trustee in the Pioneer/EOG Litigation and Settlement. This Request specifically includes, but is not limited to, documents or communications regarding or reflecting the Trustees' analysis, action, or determination as to whether all or any portion of the \$1,162,161.32 justified an extraordinary fee under the Trust instrument. This Request specifically includes but is not limited to documents or communications regarding or reflecting any extraordinary fee taken by the trustee because of time "consumed" by the Pioneer/EOG Litigation and/or Settlement or any other basis or reason.

OBJECTIONS:

Defendant objects to this Request on the following bases:

1. This Request is vague, undefined, non-specific, overly broad, harassing, and unduly burdensome.
2. This Request seeks information that is not relevant to the subject matter of this case for discovery purposes and is beyond the scope of discovery as confined by the subject matter of this case. *See* TRCP 192 cmt. 1.
3. This Request seeks confidential, private, and/or proprietary information pertaining to the South Texas Syndicate Trust. Accordingly, J.P. Morgan has filed a Motion for Protective Order and objects to further responding to this discovery request until such Motion has been determined and protections granted as requested therein.
4. All necessary parties (in excess of 200 beneficiaries of the South Texas Syndicate Trust) have not been joined and J.P. Morgan objects to producing information that may be confidential (or otherwise objectionable) to the other beneficiaries before they are joined and have the opportunity to be heard regarding any objections that they may have to the release of the requested information to Plaintiff.

CLAIM OF PRIVILEGE:

Subject to the above-objections and the Court's determination as to the proper scope of this Request and J.P. Morgan's obligations (if any) to further respond and produce documents thereunder, J.P. Morgan anticipates that documents responsive to this Request (or redacted information in such documents) have been or will be withheld from production under attorney-client and work product privileges.

CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET. AL.	§	IN THE DISTRICT COURT
	§	
VS.	§	225 TH JUDICIAL DISTRICT
	§	
JPMORGAN CHASE BANK, N.A.	§	
INDIVIDUALLY/CORPORATELY	§	
AND AS TRUSTEE OF THE SOUTH	§	
TEXAS SYNDICATE TRUST	§	
and GARY P. AYMES	§	BEXAR COUNTY, TEXAS

DEFENDANTS' MOTION FOR JOINDER OF NECESSARY PARTIES

Defendants JPMorgan Chase Bank, N.A., Individually/Corporately and as Trustee of the South Texas Syndicate Trust (collectively “J.P. Morgan”) and Gary P. Aymes file this Motion for Joinder of Necessary Parties and would show the Court as follows:

I. SUMMARY OF MOTION

All beneficiaries of the South Texas Syndicate trust (the “Trust”) are necessary parties to this case under TEX. PROP. CODE §115.011(3), yet 156 of the Trust beneficiaries are not currently parties. Plaintiffs/Intervenors have not attempted to join the necessary parties and have not pled the reasons why these necessary parties have not been joined. As a result, Defendants ask for leave to join the absent STS beneficiaries as parties to this case under TEX. R. CIV. P. 39.

II. ARGUMENT AND AUTHORITIES

[A.] Historical background of this trust-related proceeding under TEX. PROP. CODE §115.001 to which all STS beneficiaries are necessary parties under §115.001(3).

1. The STS trust

J.P. Morgan is sole trustee of the Trust. The Trust’s primary assets are mineral interests in South Texas that produce substantial income for the Trust beneficiaries. The net income is distributed to the beneficiaries periodically. There are currently 259 beneficiaries receiving periodic income distributions from the Trust.

2. The Meyer lawsuit against J.P. Morgan and Gary Aymes and judicial admissions by Meyer that STS beneficiaries are necessary parties

Initially, two of the STS Trust beneficiaries sued J.P. Morgan and Gary P. Aymes (who is J.P. Morgan's fiduciary officer) in separate cases. The first of these cases was brought by John K. Meyer and filed in July 2010.

Defendants removed the Meyer case to federal court. In the federal court proceeding, Plaintiff Meyer and Defendants filed a Joint Advisory to the Court Regarding Scheduling Recommendations, which involved scheduling deadlines at variance with the court's proposed deadlines. Both parties stated to the court that the Meyer case was "a suit involving a trust with *numerous beneficiaries who will need to be joined.*" (emphasis added). The federal proceeding was eventually remanded to state court.

Following the remand of the action to state court, Meyer filed his First Amended Petition, where he pled that "[t]his is an action against a trustee and concerns a trust" and alleged that "this Court has jurisdiction over this matter pursuant to Texas Property Code § 115.001." Among other things, Meyer sought:

- (i) removal of J.P. Morgan as trustee of STS under Texas Property Code §§ 113.082 (a)(1) & (4) and 114.008(a)(7);
- (ii) appointment of a successor trustee under Texas Property Code § 113.083; and
- (iii) an order compelling J.P. Morgan to deliver an accounting "in compliance with Texas Trust Code sections 113.151 and 113.152 to all beneficiaries of the South Texas Syndicate Trust."

Meyer also alleged and judicially admitted that: "[t]here are a number of other beneficiaries of the Trust whose contact information is not known to the Plaintiff. . . . Such unknown persons are currently receiving distributions from the Trust estate and, as such, *are necessary parties to this case under Texas Property Code § 115.011(b)(3).*" (emphasis added).

Meyer asked the court in this case to order J.P. Morgan to answer an interrogatory requesting the identities and contact information for the other beneficiaries of STS. Meyer's motion recognized and affirmed that "under the provisions of the Texas Property (Trust) Code section 115.011(b)(3), *all current beneficiaries of a trust are 'necessary parties' to a case such as this.*" (emphasis added).

In April, 2011, the trial court ordered J.P. Morgan to answer the interrogatory and provide the Trust beneficiaries' names and addresses to Meyer. The court specified that the information would be used "for the purpose of notifying and/or joining the other beneficiaries of the South Texas Syndicate Trust in this case." J.P. Morgan complied with the order and provided the identities and addresses for the STS beneficiaries to Meyer in May 2011. All of the listed persons and entities were actually receiving trust distributions when this action was filed.

3. The Blaze lawsuit against J.P. Morgan and Gary Aymes and admissions that all STS beneficiaries are necessary parties

A second suit with similar allegations was filed in March, 2011 by another Trust beneficiary, Emilie Blaze. The Blaze suit was consolidated with the Meyer suit in June, 2011. Blaze's petition contained a Request for Disclosure asking Defendants to disclose "the names and addresses of all current beneficiaries of the South Texas Syndicate Trust, *as such beneficiaries are necessary parties to this action pursuant to Texas Property Code § 115.011(b)(3).*" (emphasis added).

4. The Meyer/Blaze consolidated lawsuit – all STS beneficiaries are necessary parties.

The Meyer/Blaze suits were consolidated into one proceeding, and Meyer/Blaze filed a consolidated petition where they affirmatively plead that §115.001 provides the basis for jurisdiction in the trial court.

Section 115.001(a)(1)-(10) is a non-exclusive list of trust-related proceedings, including

actions to:

- (3) appoint or remove a trustee;
- (4) determine the . . . liability of a trustee;
- (6) make determinations of fact affecting the administration . . . of a trust;
- (7) determine a question arising in the administration or distribution of a trust;
- (9) require an accounting by a trustee, review trustee fees, and settle interim or final accounts; or
- (10) surcharge a trustee.

TEX. PROP. CODE § 115.001(a). It is undisputed that Meyer’s and Blaze’s claims fall within the list of trust related proceedings provided in section 115.001(a)(1)-(10).

5. By statute, the STS Trust beneficiaries are necessary parties to this trust-related proceeding, yet Meyer and Blaze failed to join them as parties.

TEX. PROP. CODE §115.011(b) states who must be joined in a trust-related proceeding such as this one. Under subsection (b)(3), “a person who is actually receiving distributions from the trust estate at the time the action is filed” is a necessary party to an action under section 115.001. TEX. PROP. CODE § 115.011(b)(3). In other words, §115.011(b)(3) defines all STS Trust beneficiaries as necessary parties to the Meyer/Blaze suit because they all receive distributions from the trust. As noted *supra*, this issue is not in dispute; Meyer and Blaze have both alleged, pleaded, and judicially admitted that the STS Trust beneficiaries are necessary parties.

In sum, Meyer and Blaze brought multiple claims arising under TEX. PROP. CODE §115.001(a), including claims to remove J.P. Morgan as trustee, appoint a successor trustee, and obtain forfeiture of fees. All STS Trust beneficiaries are thus necessary parties under TEX. PROP. CODE §115.011(b)(3)—and also, admittedly so under both Meyer’s and Blaze’s pleadings and their oral and written representations to the courts. Yet, Meyer and Blaze never requested citations or otherwise moved forward in joining these necessary parties. Significantly, Meyer and

Blaze failed to plead pursuant to Tex. R. Civ. P. 39(c) the names of any necessary parties who are not joined and the reason why they are not joined.

[B.] The Plea in Abatement – “Opt-in” procedure did not solve the problems caused by the absence of necessary parties to this case

Because Meyer and Blaze were prosecuting this action (including pushing for boundless discovery) despite the lack of necessary parties, Defendants filed a plea in abatement asking the trial court to abate the case until all necessary parties (the STS beneficiaries) were joined. Defendants also moved to abate or stay all discovery (including motions to compel discovery) until all necessary parties were joined.

1. The August 2011 hearing and resulting order.

The abatement motion was heard in August, 2011. The court (Judge Berchermann) deferred ruling on the motions, but in September, 2011 signed an order requiring plaintiffs’ counsel to send a letter to all STS beneficiaries who were not parties to the action. The letter was to advise them that the action was pending, and it included copies of the live pleadings and instructed each beneficiary that “he/she has a right to ‘opt in’ (join as a party) or to ‘opt out’ (not join as a party).”

The order also stated that at the end of a 30-day notice period, the court would determine “what abatement terms, if any, should be ordered” and “consider the remaining motions that were pending as of August 18, 2011.” The court further ordered that “[n]o discovery shall occur until further order of this Court.”

2. The November 2011 hearing and resulting order.

The pending motions were reset for an early-November hearing before Judge Berchermann. The day before the hearing, plaintiffs filed a document entitled: “Update on the

Results of the Opt-In Process.” This filing reported that Plaintiffs had sent the letter to all beneficiaries and that 141 beneficiaries had “opted in.” None of these “opt in” beneficiaries, however, had appeared in the case as of that time.

Thus, after the end of the court-created “opt-in” period, nothing had changed. As of the November, 2011 hearing date, only four (4) STS beneficiaries were parties to this case. No citations had issued and no additional beneficiaries had been served or had appeared in the case. Thus, the remaining STS beneficiaries, who are required by statute to be parties to this case, continued to be absent from this case with no attempt to effectuate their joinder by plaintiffs.

At the November, 2011 hearing, J.P. Morgan re-urged its plea in abatement. After hearing additional argument, Judge Berchermann denied the plea and refused to abate the case despite the lack of necessary parties. J.P. Morgan filed a petition for writ of mandamus to the court of appeals which was denied, and a petition for writ of mandamus to the Texas Supreme Court, which was also denied (without opinion) on October 19, 2012.

3. Plaintiffs’ Consolidated Second Amended Petition

On November 15, 2011, the Meyer and Blaze plaintiffs filed a Combined Second Amended Petition, which is their current “live” pleading. The claims in this pleading include claims for a statutory accounting, the removal of J.P. Morgan as trustee, and judicial reformation of the STS trust. These claims fall squarely within Texas Property Code §115.001 and affect the interests of all STS Trust beneficiaries; consequently, joinder of the beneficiaries as parties is required.

In their consolidated petition, Meyer and Blaze purport to bring their claims “individually” and “*on behalf of the opt in parties identified on Exhibit A*” Meyer and Blaze provide no authority to purportedly bring their claims “on behalf of” the opt in parties, none of whom apparently retained Meyer’s or Blaze’s attorneys to represent them or to file appearances

on their behalf in this case. Accordingly, Defendants filed special exceptions regarding the status and legal representation of the “opt in” individuals.

4. Intervention by additional beneficiaries

Beginning on January 17, 2012, an additional ninety-nine (99) STS beneficiaries filed pleas in intervention, intervening into the case as plaintiffs and adopting most of the allegations contained in the Meyer/Blaze second amended petition, including causes of action specifically set forth in §115.001(a)(1)-(10) . Some of these Intervenors are beneficiaries who also returned the “opt in” forms but not all of the “opt in” beneficiaries joined in the Intervention.

5. Current status – necessity of joinder

Thus, despite the plea in abatement, the “opt-in” notice and procedure, and the interventions, there are still 156 STS beneficiaries who are necessary parties to this case but who are not currently parties. There is no authority under Texas law providing that necessary parties to this proceeding under the trust code can be joined and bound to the results of a judgment in this case by Plaintiffs sending to them a letter and opt in notice. Accordingly, Defendants assert that the STS beneficiaries who are not parties to this case must be joined.

[C.] The absent STS beneficiaries are “person(s) needed for just adjudication” who now must be joined under TRCP 39.

There is no debate that all STS beneficiaries are necessary parties to this case. While J.P. Morgan’s request for abatement was denied, no court (trial or appellate) has held that the STS beneficiaries are not “necessary parties” or that the absent beneficiaries should not be joined as parties. The resolution of Plaintiffs’/Intervenors’ claims in this case will affect the interests of all STS trust beneficiaries. Rule 39 requires that each absent beneficiary receive citation (or provide waiver of citation) and have the opportunity to enter an appearance and take part in this case.

Rule 39(a) of the Texas Rules of Civil Procedure provides for joinder of a person as a party to an action if that person

(2) claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest.

If such a person has not been joined, the Court “*shall order* that he be made a party ”

(emphasis added).

The subject matter of this case involves the STS trust and, among other claims, whether the trustee, J.P. Morgan, has appropriately managed the trust estate, disclosed material information pertaining to the trust, properly collected trustee fees, and should be removed and replaced with a successor trustee. The case also includes Plaintiffs’ request for a reformation or modification of the trust. All STS beneficiaries certainly claim an interest relating to this trust and their interests have been similarly affected by the actions of J.P. Morgan that are at issue in this case and will be affected by the resolution of this case.

Finally, if this action proceeds without joinder of the STS beneficiaries, Defendants may be exposed to multiple or inconsistent obligations. Defendants are entitled to have their potential liability to all STS beneficiaries determined in the same proceeding, rather than possibly facing multiple suits and perhaps inconsistent results. Where persons, such as the STS Trust beneficiaries, fall within the provisions of Rule 39, those parties must be joined. *Longoria v. Exxon Mobile Corp.*, 255 S.W. 3d 174, 184 (Tex. App. – San Antonio 2008, pet. denied). The Court should therefore grant this motion and grant Defendants leave to join all STS Trust beneficiaries who are not named parties to this trust related proceeding.

III. CONCLUSION AND PRAYER

It is undisputed that all STS Trust beneficiaries are necessary parties to this case. Because plaintiffs have failed to join all necessary parties, Defendants now ask the Court for leave to join all absent STS Trust beneficiaries as parties to this case under TEX. R. CIV. P. 39.

WHEREFORE, Defendants pray that the Court grant this motion and the relief requested herein and that the Court grant Defendants such other and further relief to which they may be entitled.

Respectfully submitted,

**HORNBERGER SHEEHAN FULLER BEITER
WITTENBERG & GARZA INCORPORATED**

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(210) 271-1700 Tel.; (210) 271-1740 Fax

By: *s/Patrick K. Sheehan*

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Rudy A. Garza
State Bar No. 07738200
David Jed Williams
State Bar No. 21518060

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served on the following, as indicated:

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VIA ELECTRONIC SERVICE AND/OR FAX

on this 8th day of February, 2013..

s/Patrick K. Sheehan
Patrick K. Sheehan



RUDY A. GARZA
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BOARD CERTIFIED-CIVIL TRIAL LAW
AND PERSONAL INJURY TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

December 13, 2012

FILED
DONNA KAY HEKINNEY
DISTRICT CLERK
BEXAR COUNTY
12 DEC 13 AM 11:50
DEPUTY
BY *[Signature]*

VIA HAND DELIVERY

Honorable David Berchelmann, Jr.
37th Judicial District Court
100 Dolorosa
San Antonio, Texas 78205

Re: Cause No. 2010-CI-10977; *John K. Meyer vs. JP Morgan Chase Bank, N.A. Individually/Corporately and as Trustee of the South Texas Syndicate Trust and Gary P. Aymes*; In the 225th District Court, Bexar County, Texas

Dear Judge Berchelmann:

As you are aware, on November 20, 2012, the Court heard the following matters:

1. Plaintiffs-Intervenors' Motion to Compel Answers to Interrogatories and to Production of Documents;
2. Defendant's Motion for Protective Order Against Plaintiff-Intervenors; Response of JPMorgan Chase Bank, N.A., in its Corporate Capacity to Plaintiff-Intervenors' Motion to Compel;
3. Motions for Protective Order filed by Reliance and Pioneer.

Plaintiffs/Intervenors have submitted a proposed order to the Court that Defendants do not believe reflects the intentions of the Court and the rulings made by the Court at the hearing. Defendants ordered the transcript of the hearing immediately following the hearing; however, the transcript has not yet been completed and provided to the parties by the Court's court reporter.

Defendants object to the form and content of the proposed order submitted by Plaintiffs/Intervenors and request that the Court not sign any order regarding the subject matter of the November 20, 2012 hearing prior to the hearing on the Motion to Enter Order currently set for December 19, 2012 at 1:30 p.m.



Honorable David Berchelmann, Jr.
December 13, 2012
Page 2

Very truly yours,

HORNBERGER SHEEHAN FULLER BEITER
WITTENBERG & GARZA INCORPORATED



Rudy A. Garza

RAG/arz
cc:

VIA FACSIMILE:

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7373 Broadway, Suite 300 • San Antonio, TX 78209

FILED
DONNA KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY

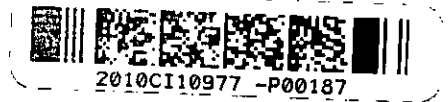
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DEPUTY

BY _____

Honorable David Berchelmann, Jr.
37th Judicial District Court
100 Dolorosa
San Antonio, Texas 78205

45 min
JUDGE'S NOTES



CAUSE NO.: 2010CI10977

COURT: 225

DATE/TIME: 01/25/2013 08:30AM

SETTING COURT: 109

STYLE: JOHN K MEYER

VS. JP MORGAN CHASE BANK N.A ET AL

DISCOVERY LEVEL: 2

ATTORNEY(S) FOR CASE:

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PATRICK SHEEHAN ✓
JIM FLEGLE
JOHN MASSOPUST ✓
RUDY GARZA ✓

MARK RANDOLPH
JAMES DROUGHT ✓
STEVEN BADGER
MATTHEW GOLLINGER
JOHN EICHMAN

FILED
DONNA KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY
13 JAN 25 AM 8:39
BY DEPUTY
RAG

THIS CASE HAS 15 OR MORE ATTORNEYS

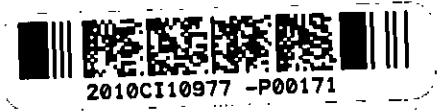
TYPE OF MOTION OR APPLICATION:
NON-JURY SETTING ON SPECIAL EXCEPTIONS

CONFERRING _____ ESTIMATE HEARING TIME _____
AGREED ORDER _____ ASSIGNED COURT 45th
DROP _____ RECORD TAKEN yes
INTERPRETER _____ RESET DATE 2/20/13 TIME 3:30

REPORTED BY
JUDY STEWART, C.S.F
(210) 335-0787

DATE OF NOTES 1-25-13

JUDGE INITIALS JM



FILED
DONNA KAY KINNEY
DISTRICT CLERK
BEXAR COUNTY
12 DEC 14 PM 4:36

DEPUTY
BY *Anna Swan*

(Consolidated Under)
CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET AL.
Plaintiffs,

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

vs.

JP MORGAN CHASE BANK, N.A.
INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH
TEXAS SYNDICATE TRUST
and GARY P. AYMES,
Defendants.

225TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

MOTION TO ENTER ORDER
(June 14, 2012 Hearing)

TO THE HONORABLE JUDGE OF SAID COURT:

Now come Plaintiffs and Plaintiff-Intervenors in the above-styled and numbered cause, and file this Motion to Enter Order, and would respectfully show unto the Court the following:

1. On the 14th day of June, 2012, the Court heard Plaintiffs' Motion to Compel Production of Electronically Stored Information; Plaintiffs' Motion to Compel Hardcopy Trust Administration Documents; and JP Morgan's Motions for Protective Order filed May 23, 2011; June 23, 2011; June 29, 2011 and July 13, 2011.

2. The parties have been unable to reach an agreement regarding the form of the order. Wherefore, Plaintiffs and Plaintiff-Intervenors request that the Court enter the order attached as **Exhibit "A"**.

Respectfully submitted,

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By: 

James L. Drought
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**ATTORNEYS FOR PLAINTIFF-
INTERVENORS**

FIAT

You are hereby notified that a hearing has been scheduled on Motion to Enter Order (June 14, 2012 Hearing) in the above captioned cause, on the 19th day of December, 2012 at 1:30 p.m. in the 37th District Court, Bexar County Courthouse, San Antonio, Texas. DEC 14 2012

Signed this _____ day of December, 2012.

**DAVID A. BERCHELMANN, JR.
PRESIDING JUDGE
37th DISTRICT COURT
BEXAR COUNTY, TEXAS**

Judge David Berchermann

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing has been sent by:

_____ U.S. Certified Mail, Return Receipt Requested to:
_____ Facsimile to:
_____ First Class Mail to:
_____ Hand Delivery to:

Mr. Patrick K. Sheehan
Mr. David Jed Williams
Hornberger Sheehan Fuller & Beiter, Inc.
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, TX 78209

Mr. John C. Eichman
Ms. Amy S. Bowen
Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202

on this the 14th day of December, 2012.



James L. Drought

(Consolidated Under)
2010-CI-10977

JOHN K. MEYER, ET AL.	§	IN THE DISTRICT COURT
	§	
V.	§	
	§	
JP MORGAN CHASE BANK, N.A., INDIVIDUALLY/CORPORATELY AND AS TRUSTEE OF THE SOUTH TEXAS SYNDICATE TRUST AND GARY P. AYMES	§ § § § § §	225 TH JUDICIAL DISTRICT BEXAR COUNTY, TEXAS

ORDER REGARDING JUNE 14, 2012 HEARING

On the 14th day of June, 2012, came on to be heard Plaintiffs' Motion to Compel Production of Electronically Stored Information; Plaintiffs' Motion to Compel Hardcopy Trust Administration Documents; and JP Morgan's Motions for Protective Order filed May 23, 2011; June 23, 2011; June 29, 2011 and July 13, 2011.

The Court, after considering the pleadings, the papers on file, the evidence and argument of counsel, is of the opinion that Plaintiffs' Motion to Compel Production of Electronically Stored Information and Plaintiffs' Motion to Compel Hardcopy Trust Administration Documents be GRANTED; that JP Morgan's Motions for Protective Order be DENIED.

The Court finds that the parties have agreed to an initial electronically stored information protocol using the following custodians, time periods and search terms:

EXHIBIT A

<u>Custodian</u>	<u>Time Periods</u>
Patricia Schultz-Ormond	10/1/2005 - 12/23/2009
Gary Aymes	6/1/2008 - 8/28/2012
Kevin Smith	9/1/2010 - 6/3/2011
Bertram Hayes-Davis	4/1/2008 - 7/31/2012
Aaron Reber	6/1/2011 - 8/28/2012
David Hereford	1/1/2005 - 4/30/2008
Jeremy Derrington	7/21/2007 - 10/1/2009
HL Tompkins	10/1/2009 - 8/28/2012

<u>Search Terms</u>
/south texas syndicate/ or sts
/bishop petroleum/
/common resources/
/dick stoneburner/
/extraordinary services/
/floyd wilson/
/h.p. ellsworth/
/harry bishop/
/held by production/
/john hayes/
/ordinary management/
/pnr usa/
/reliance industries limited/
/routine services/

activa
bishop
black a/0 brush*
blackbrush*
blaze
coddou
(cullen and lease)
cusack
eagleford* or (eagle a/0 ford*)
eog
finger
petrohawk* or (petro a/0 hawk*)
pioneer or pnr or /pnr usa/
routine
stoneburner
talisman
whittier

It is therefore ORDERED that JP Morgan produce the required ESI to Plaintiffs no later than **January 18, 2013**.

It is further ORDERED that Defendants shall bear the attorney's fees and costs associated with the production of ESI and shall not charge such costs to the South Texas Syndicate trust.

It is further ORDERED JP Morgan produce to Plaintiffs the hard copy trust administration documents.

It is further ordered that Defendants' Motions for Protective Order are DENIED.

SIGNED this _____ day of December, 2012.

Honorable David Berchermann

APPROVED AS TO FORM:

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BEITER WITTENBERG & GARZA
INCORPORATED
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By: _____
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David Jed Williams
State Bar No. 21518060

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AS TRUSTEE OF THE SOUTH TEXAS
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By: _____

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By: _____

John B. Massopust (*pro hac
vice*)

Matthew J. Gollinger (*pro hac
vice*)

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Facsimile: (214) 760-8994
**ATTORNEYS FOR PLAINTIFF-
INTERVENORS**



CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET AL.)	IN THE DISTRICT COURT
)	
VS.)	
)	
JP MORGAN CHASE BANK, N.A.)	BEXAR COUNTY, TEXAS
INDIVIDUALLY/CORPORATELY AND)	
AS TRUSTEE OF THE SOUTH)	
TEXAS SYNDICATE TRUST AND)	
GARY P. AYMES)	225 TH JUDICIAL DISTRICT

FILED
DONNA KAY NEKINNEY
DISTRICT CLERK
BEXAR COUNTY
13 FEB 15 PM 4:37
DEPUTY

RECEIPT OF EXHIBITS TO DISTRICT CLERK'S OFFICE
UNDER RULE 75(a) OF THE TEXAS RULES OF CIVIL PROCEDURE

I, Delcine M. Benavides, Court Reporter for the 37th District Court of Bexar County, Texas, certify and acknowledge that the following exhibits were given to the District Clerk's Office of Bexar County, Texas to the below named Deputy District Clerk:

Exhibit 12 (Affidavit) and Exhibit 13 (e-mails in binder)

May Ann Medina
Deputy District Clerk

Delcine M. Benavides
Court Reporter

2-15-13
Date

2-8-13
Date

EXHIBITS CHECKED OUT TO BE COPIED
BY: _____
RETURNED: _____

DATE: _____

EXHIBITS CHECKED OUT TO BE COPIED
BY: _____
RETURNED: _____

DATE: _____

HEARING DATE: 12-19-12

- Mr. George H. Spencer (PLT)
- Mr. James L. Drought (PLT)
- Mr. Michael J. Donley (PLT)
- Mr. Richard E. Tinsman (PLT)
- Mr. Matthew J. Gollinger (PLT)

- Mr. Rudy Garza (DFT)
- Mr. David J. Williams (DFT)
- Mr. Patrick K. Sheehan (DFT)
- Mr. John C. Eichman (DFT)
- Mr. Timothy H. Bannwolf (NONPARTY)

1 PLASTIC COVERING

(Consolidated Under)
CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET. AL.	§	IN THE DISTRICT COURT
	§	
VS.	§	
	§	
JPMORGAN CHASE BANK, N.A.	§	225 TH JUDICIAL DISTRICT
INDIVIDUALLY/CORPORATELY	§	
AND AS TRUSTEE OF THE SOUTH	§	
TEXAS SYNDICATE TRUST	§	
and GARY P. AYMES	§	BEXAR COUNTY, TEXAS

**DEFENDANTS' SPECIAL EXCEPTIONS TO PLAINTIFF-INTERVENOR
WELLS FARGO BANK, N.A.'S PLEA IN INTERVENTION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME, Defendants JPMorgan Chase Bank, N.A. in all capacities (“J.P. Morgan”) and Gary P. Aymes (collectively referred to herein as “Defendants”) and file Defendants’ Special Exceptions to Plaintiff-Intervenor Wells Fargo Bank, N.A.’s Plea in Intervention (and amendments thereto) requesting Plaintiff-Intervenor Wells Fargo Bank, N.A. to replead, pursuant to Texas Rules of Civil Procedure 91, for the following reasons:

1. Defendants specially except to ¶1 of Plaintiff-Intervenor Wells Fargo Bank, N.A.’s Plea in Intervention because it is impermissibly general, vague, and obscure in that it fails to set forth with particularity the parties that are allegedly intervening in this action.

Specifically, the paragraph purports to state that:

Plaintiff-Intervenor Wells Fargo Bank, N.A., is a national banking association and serves as trustee or co-trustee for twenty-four (24) trust entities (“Trusts”) which hold Certificates of Beneficial Interests in the South Texas Syndicate Trust (hereinafter the “STS Trust”). Plaintiff-Intervenor files this Plea in Intervention in its fiduciary capacities on behalf of such Trusts.

The paragraph does not identify the “twenty-four (24) trust entities” which are purportedly intervening in this action. Plaintiff-Intervenor Wells Fargo Bank, N.A. should be required to

plead the (i) identity of the “twenty-four (24) trust entities,” (ii) the identity of the co-trustees for any of the “twenty-four (24) trust entities” to which Plaintiff-Intervenor Wells Fargo Bank, N.A. serves as a co-trustee, (iii) the date on which each of the “twenty-four (24) trust entities” was established, and (iv) the current income beneficiaries of each of the “twenty-four (24) trust entities.”

WHEREFORE, PREMISES CONSIDERED, Defendants pray that the Court sustain Defendants’ Special Exceptions to Plaintiff-Intervenor Wells Fargo Bank, N.A.’s Plea in Intervention and the relief requested herein, order Plaintiff-Intervenor Wells Fargo Bank, N.A. to replead their case or in the alternative strike Plaintiff-Intervenor Wells Fargo Bank, N.A.’s Plea in Intervention, and grant such other and further relief to which Defendants may be entitled.

Respectfully submitted,

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By: /s/ Patrick K. Sheehan
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Kevin M. Beiter
State Bar No. 02059065
Rudy A. Garza
State Bar No. 07738200
David Jed Williams
State Bar No. 21518060
Eduardo L. Morales
State Bar No. 24027527

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing DEFENDANTS' SPECIAL EXCEPTIONS TO PLAINTIFF-INTERVENOR WELLS FARGO BANK, N.A.'S PLEA IN INTERVENTION was served on the following, as indicated, on this the 21st day of February 2013:

Mr. Steven J. Badger
Ms. Ashley Bennett Jones
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901 Main Street, Suite 4000
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VIA EMAIL OR FACSIMILE

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Mr. Jim L. Flegle
Mr. Jeven R. Sloan
Loewinsohn Flegle Deary, L.L.P.
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VIA EMAIL OR FACSIMILE

/s Patrick K. Sheehan

PATRICK K. SHEEHAN



HORNBERGER SHEEHAN FULLER BEITER

WITTENBERG & GARZA
INCORPORATED

David Jed Williams
jwilliams@hsfblaw.com



December 18, 2012

VIA HAND DELIVERY

The Honorable David Berchelmann, Jr.
37th Judicial District Court
100 Dolorosa
San Antonio, Texas 78205

FILED
O'CLOCK _____ M
DEC 18 2012
DONNA KAY MCKINNEY
District Clerk, Bexar County, Texas
BY *David Swain*
DEPUTY

Re: Cause No. 2010-CI-10977; *John K. Meyer vs. JP Morgan Chase Bank, N.A. Individually/Corporately and as Trustee of the South Texas Syndicate Trust and Gary P. Aymes*, in the District Court, 225th Judicial District, Bexar County, Texas

Dear Judge Berchelmann:

Plaintiffs and Plaintiff-Intervenors have set a hearing in your Court for tomorrow at 1:30 p.m. on a Motion to Enter Order concerning the motions that were heard by the Court on November 20, 2012. Defendants object to the form of Order tendered by Plaintiffs and Plaintiff-Intervenors with their Motion because we do not believe it accurately reflects the Court's rulings as reflected in the transcript from the November 20th proceedings.

Enclosed is a form of Order that we have prepared based upon our review of the transcript that we believe reflects the Court's rulings and intentions.

Also enclosed for the Court's review is a copy of the transcript from the November 20, 2012 hearing.

Very truly yours,

David Jed Williams

DJW/lrk
Enclosures

cc: **VIA EMAIL**
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Mr. Jeffrey J. Towers
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VIA EMAIL
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Mr. Jim L. Flegle
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The Honorable David Berchermann, Jr.
December 18, 2012
Page 2

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VIA EMAIL

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Minneapolis, MN 55415-1152



JOHN K. MEYER, ET. AL.

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

VS.

225TH JUDICIAL DISTRICT

JPMORGAN CHASE BANK, N.A.
INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH
TEXAS SYNDICATE TRUST
and GARY P. AYMES

BEXAR COUNTY, TEXAS

**ORDER REGARDING PLAINTIFF-INTERVENORS' MOTION TO COMPEL, JP
MORGAN'S MOTION FOR PROTECTIVE ORDER AND MOTIONS FOR PROTECTIVE
ORDER OF RELIANCE HOLDING USA, INC. AND
PIONEER NATURAL RESOURCES USA, INC.**

On November 20, 2012, the Court heard (1) Plaintiff-Intervenors' Motion to Compel Answers to Interrogatories and Requests for Production of Documents (pertaining to Plaintiff-Intervenors' First Set of Interrogatories and First Set of Requests for Production); (2) JPMorgan's Motion for Protective Order; (3) JPMorgan, in its Corporate Capacity's Response to Plaintiff-Intervenors' Motion to Compel; (4) Reliance Holding USA, Inc.'s Motion for Protective Order; and Pioneer Natural Resources USA, Inc.'s Motion for Protective Order.

After considering the motions, responses, and arguments of counsel, the Court rules as follows:

1. Plaintiff-Intervenors shall confer with counsel for Pioneer and Reliance regarding the information requested in the discovery requests about their business relationships with J.P. Morgan that Pioneer and Reliance are willing to provide to Plaintiff-Intervenors, and such information shall be provided to Plaintiff-Intervenors by Reliance and Pioneer.

2. After Plaintiff-Intervenors review such information and any document provided by Pioneer and Reliance, Plaintiff-Intervenors may request this Court to require the production of additional documents or information pertaining to Plaintiff-Intervenors' First Set of Interrogatories and

First Set of Requests for Production, which documents will be presented to the Court for an *in camera* inspection and addressed in accordance with TEX. FIN. CODE § 59.006.

3. Except as provided in this Order, J.P. Morgan's objections to the First Set of Interrogatories and First Set of Requests for Production are overruled at this time for purposes of this hearing, subject to being reasserted if an agreement is not reached as to the volume or nature of additional documents or information Plaintiff-Intervenors may request.

4. J.P. Morgan shall not charge its attorneys' fees and expenses to the South Texas Syndicate Trust incurred in connection with responding to motions and providing documents and information pertaining to Plaintiff-Intervenors' First Set of Interrogatories and First Set of Requests for Production; however, J.P. Morgan is not precluded by this Order from seeking reimbursement for its attorneys fees and expenses from the South Texas Syndicate Trust.

SIGNED ON this ____ day of December, 2012.

DAVID A. BERCHELMANN, JR.
Judge, 37th Judicial District Court

FILED
DONNA KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY

12 DEC 18 PH 3:22

DEPUTY

BY _____



**HORNBERGER SHEEHAN FULLER BEITER
WITTENBERG & GARZA**
INCORPORATED

7373 Broadway, Suite 300 • San Antonio, TX 78209

6439

To: The Honorable David Berchelmann, Jr.
37th Judicial District Court
100 Doloresa
San Antonio, Texas 78205

HAND DELIVERY

CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET. AL.	§	IN THE DISTRICT COURT
	§	
V.	§	
	§	
JPMORGAN CHASE BANK, N.A.	§	225 TH JUDICIAL DISTRICT
INDIVIDUALLY/CORPORATELY	§	
AND AS TRUSTEE OF THE SOUTH	§	
TEXAS SYNDICATE TRUST	§	
and GARY P. AYMES	§	BEXAR COUNTY, TEXAS

**MEMORANDUM OF AUTHORITIES IN SUPPORT OF DEFENDANTS' MOTION
FOR JOINDER OF PARTIES**

Defendants JPMorgan Chase Bank, N.A., Individually/Corporately and as Trustee of the South Texas Syndicate Trust (collectively "J.P. Morgan") and Gary P. Aymes file this Memorandum of Authorities in Support of Defendants' Motion for Joinder of Necessary Parties (filed on February 8, 2013) and would show the Court as follows:

ARGUMENT AND AUTHORITIES

I. THIS IS A TRUST-RELATED PROCEEDING

The Plaintiffs' Combined Second Amended Petition—which was adopted by the Intervenor—affirmatively pleads that TEX. PROP. CODE §115.001 (West) provides the basis for jurisdiction of this case in the trial court. The claims in this pleading include claims for a statutory accounting, the removal of J.P. Morgan as trustee, and judicial reformation of the Trust.

TEX. PROP. CODE §§115.001(a)(1)-(10) is a non-exclusive list of trust-related proceedings, including actions to:

- (3) appoint or remove a trustee;
- (4) determine the . . . liability of a trustee;
- (6) make determinations of fact affecting the administration . . . of a trust;
- (7) determine a question arising in the administration or distribution of a trust;

- (9) require an accounting by a trustee, review trustee fees, and settle interim or final accounts; or
- (10) surcharge a trustee.

TEX. PROP. CODE §115.001(a). It is undisputed that Plaintiffs' and Plaintiffs/Intervenors' claims fall within the list of trust-related proceedings provided in section TEX. PROP. CODE 115.001(a)(1)-(10), and affect the interests of all Trust beneficiaries.

II. ALL STS TRUST BENEFICIARIES ARE NECESSARY PARTIES

It is undisputed and affirmatively alleged by Plaintiffs that this proceeding is brought under TEX. PROP. CODE §115.001. Pursuant to TEX. PROP. CODE §115.011(b)(3), “a person who is actually receiving distributions from the trust estate at the time the action is filed” is a necessary party to an action under TEX. PROP. CODE §115.001.

The Trust's primary assets are mineral interests in South Texas that produce substantial income for the Trust beneficiaries. The net income is distributed to the beneficiaries periodically. Because all of the Trust's beneficiaries are currently receiving distributions from the Trust, all Trust beneficiaries are necessary parties to this suit. This issue is not in dispute. Plaintiffs Meyer and Blaze—and by express pleading adoption, the Intervenors— have pled and judicially admitted that all of the Trust beneficiaries are necessary parties to this case and as such, are estopped to deny the propriety of joinder of these beneficiaries.

III. “OPT-IN” PROCEDURE DID NOT PROPERLY JOIN PARTIES PURSUANT TO THE TEXAS RULES OF CIVIL PROCEDURE

Despite the plea in abatement, the “opt-in” notice and procedure, and the interventions, there are still over 150 Trust beneficiaries who are necessary parties to this case but who are not currently parties. There is no authority under Texas law providing that necessary parties to this proceeding under the Texas Trust Code can be joined and bound to the results of a judgment in this case simply by Plaintiffs sending to them a letter or by their return to Plaintiffs’ counsel a signed opt-in notice. Service of process provides the Court with proper personal jurisdiction over parties. *Texas Alcoholic Beverage Commission v. Top of the Strip, Inc.*, 993 S.W. 2d 242, 247 (Tex. App. – San Antonio 1999, pet. denied). Therefore, the Court has not acquired jurisdiction over any Trust beneficiaries that have not been joined through service of process. Accordingly, the Trust beneficiaries who are not parties (including the “opt-ins” who did not intervene) are necessary to the just and final adjudication of this case and must be joined.

IV. THE COURT SHOULD NOT PROCEED WITHOUT ORDERING THE JOINDER OF THE NON-PARTY BENEFICIARIES

[A.] RULE 39(a) PROVIDES THE STANDARD FOR PERSONS WHO “SHALL BE JOINED”

It cannot be disputed that the resolution of Plaintiffs’/Intervenors’ claims filed in this case will affect the interests of all Trust beneficiaries. The issue before the Court is whether Defendants should be allowed to join all of the necessary party Trust beneficiaries. To answer that question, the Court should look to TEX. PROP. CODE §115.011(b)(3) and to Tex. R. Civ. P. 39 which would require that each absent Trust beneficiary receive citation (or provide waiver of

citation) and have the opportunity to enter an appearance and take part in this case. *See Brooks v. Northglen Ass'n*, 141 S.W.3d 158, 162 (Tex. 2004) (“Rule 39(a)(1) requires the presence of all persons who have an interest in the litigation so that any relief awarded will effectively and completely adjudicate the dispute.”)(emphasis added).

[B.] BENEFICIARIES SHOULD BE JOINED UNDER RULE 39(A)

Tex. R. Civ. P. 39(a)(1) provides for joinder of a person as a party to an action when “in his absence complete relief cannot be accorded among those already parties.” As the Texas Supreme Court states in *Brooks*, “Rule 39(a)(1) requires the presence of all persons who have an interest in the litigation so that any relief awarded will effectively and completely adjudicate the dispute.” *Id.* at 162. This provision requires joinder of the Trust beneficiaries who certainly have a substantial interest in this litigation.

Tex. R. Civ. P. 39(a)(2) provides for joinder of a person who:

claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest.

If a person who should be joined under Rule 39(a) has not been joined, the Court “*shall order* that he be made a party ” (emphasis added); *See Longoria v. Exxon Mobil Corp.*, 255 S.W.3d 174, 180 (Tex. App.--San Antonio 2008, pet. denied) (“If the trial court determines an absent person falls within the provisions of the rule, the court has a duty to effect the person's joinder.”)(emphasis added). Defendants are attempting to effect the joinder of parties that fit squarely within the provisions of Rule 39(a).

In *Kodiak Resources Inc. v. Smith*, the Beaumont Court of Appeals considered whether non-party lessors should be joined—pursuant to Tex. R. Civ. P. 39(a)—to a declaratory judgment action brought by some (but not all) of the lessors to declare that a mineral lease had terminated. *See* 361 S.W.3d 246 (Tex. App.—Beaumont 2012, no pet.).¹ The defendant/lessees asked the trial court to allow them to join the non-party lessors, but the trial court denied the request. The trial court then granted summary judgment to the lessors declaring that the lease had terminated.

The Beaumont Court of Appeals reversed the judgment and remanded the case to the trial court, holding that the trial court should have allowed defendants to join the absent lessors. The court focused on the fact that the non-party lessors had a direct financial interest in the subject mineral lease and that their absence “deprived [the trial court] of their input regarding whether facts existed to extend the lease’s term...” *See id.* at 249.

In addition, referencing Rule 39(a), the court noted that “without the presence of the non-party lessors, the non-party lessors can reasonably argue that the trial court’s decision was not binding on them, and thereby subject the lessees to a substantial risk of double, multiple, or otherwise inconsistent obligations.” *See id.*

[C.] THE INTERESTS OF ALL TRUST BENEFICIARIES WILL BE AFFECTED BY THE RELIEF SOUGHT

Similar to the situation in *Kodiak*, all of the Trust’s beneficiaries are parties to the same Trust agreement whose interests may be affected by the results of this case. The subject matter of this case involves claims as to whether the Trustee, J.P. Morgan, has appropriately managed

¹ The Uniform Declaratory Judgments Act provides that “[w]hen declaratory relief is sought, all persons who have or claim any interest that would be affected by the declaration must be made parties.” TEX. CIV. PRAC. & REM. CODE §37.006(a). This provision is analogous to the Trust Code provision that “a person who is actually receiving distributions from the trust estate at the time the action is filed” is a necessary party to a trust-related proceeding such as the present case. *See* TEX. PROP. CODE §115.011(b)(3).

the trust estate and administered the Trust and whether J.P. Morgan should be removed and replaced with a successor trustee. This case also includes Plaintiffs' request for a reformation or modification of the Trust agreement. All non-party Trust beneficiaries certainly have interests that have been similarly affected by the alleged actions of J.P. Morgan and they will certainly be affected by the resolution of this case. Furthermore, the absence of Trust beneficiaries in this suit will deprive the trial court of their input regarding whether relevant facts exist concerning their interests, such as, for example, the issue of J.P. Morgan's removal and replacement with a successor trustee.

[D.] DEFENDANTS' INTERESTS ARE ALSO IMPACTED

Finally, if this action proceeds without joinder of all Trust beneficiaries, Defendants may be subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations. *See Kodiak*, 361 S.W. 3d at 249 (“Without the presence of the non-party lessors, the non-party lessors can reasonably argue that the trial court's decision was not binding on them, and thereby subject the lessees to a substantial risk of double, multiple, or otherwise inconsistent obligations.”). Defendants are entitled to have their potential liability to all STS beneficiaries determined in the same proceeding, rather than possibly facing multiple suits and perhaps inconsistent results. *See Longoria*, 255 S.W. 3d at 182-83 (discussing defendant's risk of incurring multiple or inconsistent obligations in concluding that the trial court did not err in its determination to require joinder of all royalty owners).

V. CONCLUSION AND PRAYER

It is undisputed that all STS Trust beneficiaries are necessary parties to this case. Where persons, such as the Trust beneficiaries, are necessary parties and fall within the provisions of Tex. R. Civ. P. 39, those parties must be joined. *Longoria*, 255 S.W. 3d at 184. Therefore,

Defendants ask that the Court grant this motion and grant Defendants leave to join all non-party Trust beneficiaries who are not named parties to this proceeding.

WHEREFORE, Defendants pray that the Court grant its motion and the relief requested therein and that the Court grant Defendants such other and further relief to which they may be entitled.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing was served on the following, as indicated, on this 21st day of February, 2013.

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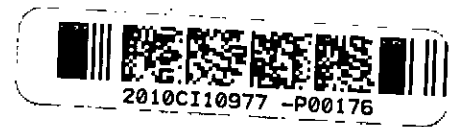
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Patrick K. Sheehan



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December 22, 2011

VIA HAND DELIVERY AND FACSIMILE:

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The Honorable David Berchelmann, Jr.
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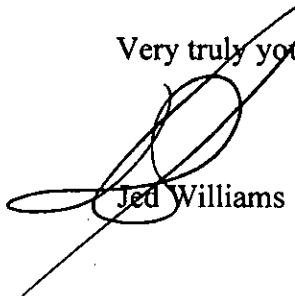
Mr. David R. Deary
Mr. Jim L. Flegle
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12377 Merit Drive, Suite 900
Dallas, Texas 75251

Re: Cause No. 2010-CI-10977; *John K. Meyer vs. JP Morgan Chase Bank, N.A. Individually/Corporately and as Trustee of the South Texas Syndicate Trust and Gary P. Aymes*, in the District Court, 225th Judicial District, Bexar County, Texas


Dear Judge Sakai, Judge Berchelmann and Counsel:

Enclosed is a copy of Relators' Motion for Temporary Relief which was filed today with the Fourth Court of Appeals.

Very truly yours,


Jed Williams

DJW/lrk

DEC 22 2011
FILED
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BEXAR CO. TEXAS
11 DEC 22 AM 8:16
BY  DEPUTY



No. _____

IN THE FOURTH DISTRICT COURT OF APPEALS
SAN ANTONIO, TEXAS

IN RE JPMORGAN CHASE BANK, N.A., INDIVIDUALLY/CORPORATELY AND
AS TRUSTEE OF THE SOUTH TEXAS SYNDICATE TRUST AND GARY P. AYMES

RELATORS' MOTION FOR TEMPORARY RELIEF

From the 225th Judicial District Court of
Bexar County, Texas

TO THE HONORABLE COURT OF APPEALS:

Relators ask the Court for an order staying the original proceeding in its entirety (including discovery) while the Court considers Relators' Petition for Writ of Mandamus, filed concurrently with this Motion.

I.

Summary of Requested Relief— Imminent Reasons for Stay

Petitioner has filed a Petition for Writ of Mandamus because the trial court refused to stay this case despite the absence of necessary parties under TEX. PROP. CODE §115.011. The trial court further refused to stay discovery

and multiple discovery-related matters are set for hearing in the trial court on December 29, 2011. Petitioner asks for a temporary stay of all proceedings, including discovery matters and matters set for the upcoming hearing, while the Court considers the merits of the Petition.

II.

Relators are J.P. Morgan, Trustee of the South Texas Syndicate trust ("J.P. Morgan"), and Gary P. Aymes, fiduciary officer for J. P. Morgan; Real Parties in Interest are John K. Meyer, John Meyer Jr., Theodore Meyer, and Emilie Baze; Respondent are The Honorable Peter Sakai, 225th Judicial District Court, Bexar County, Texas, and The Honorable David Berchermann, Jr., 37th Judicial District Court, Bexar County.¹

III.

Relators file their Petition for Writ of Mandamus concurrently with this Motion for Temporary Relief.

IV.

In its Petition for Writ of Mandamus, Relators ask the Court to vacate the trial court's Order Denying Defendants' Plea in Abatement and Motion to Abate/Strike, and to enter a new order granting these motions and staying

¹ The case is pending before The Honorable Peter Sakai, 225th Judicial District Court, Bexar County, Texas. The Honorable David Berchermann, Jr., 37th Judicial District Court, Bexar County, Texas heard the motions and signed the subject order on referral from the Bexar County Presiding Court.

this action and all proceedings herein in their entirety (including discovery). Abatement of this suit is required because all necessary parties to this trust-related action under TEX. PROP. CODE §115.011 have not been joined.

V.

If the case is abated as Relators assert that the law clearly requires, then all proceedings, including discovery, would be abated. *See Perminente Med. Ass'n v. Johnson*, 917 S.W. 2d 515, 517 (Tex. App. – Waco 1996, orig. proceeding); *Lumbermens Mutual Casualty Co. v. Garza*, 777 S.W.2d 198, 199 (Tex.App.—Corpus Christi 1989, orig. proceeding)(“The [abated] case is held in suspended animation and may be revived when the reason for abatement is removed”).

VI.

Plaintiffs, however, continue to aggressively pursue discovery in this cause and Relators have filed motions for protection from this intrusive, overly broad discovery that would require disclosure of confidential, personal, and private information regarding the STS and its beneficiaries. R. Exhs. 13, 14, 17, 26-29.² Many of these requests and Relators’ objections were heard and ruled upon by the trial court at a hearing on November 8, 2011 (after the trial court denied abatement). R. Exh. 23.

² This reference refers to the Mandamus Record, filed by Relators in connection with their Petition for Writ of Mandamus.

VII.

In addition, since the November 8, 2011 hearing, Plaintiffs have requested third parties to consent to J.P. Morgan's release of their private banking records and intend to compel J.P. Morgan's imminent production of these banking records if consent is not obtained. R. Exh. 13, p. 2; Exhs. 26-28 (Plaintiffs intend to compel production of third-parties bank records on or after December 20, 2011). According, J.P. Morgan filed its Motion to Set Objections to Request for Production No. 92 and Motion for Protective Order on December 16, 2011 seeking a ruling on its objections to Plaintiffs' request to produce the banking records for third parties and a protective order. R. Exh. 30. This motion is set for hearing on **December 29, 2011**. R. Exhs. 31.

VIII.

Additionally, on December 20, 2011, Plaintiffs continued their push for discovery by filing their Motion to Enter Orders pertaining to the November 8, 2011 discovery hearing, which they set for hearing also on **December 29, 2011**. R. Exh. 32.

IX.

On December 21, 2011, Plaintiffs filed and set for hearing on **December 29, 2011**, motions to compel Relators to produce deposition

transcripts from a prior lawsuit and a withholding statement pertaining to privileged documents. R. Exhs. 33-36.

X.

Also on December 21, 2011, Plaintiffs noticed the deposition of Patricia Schultz-Ormond, a former J.P. Morgan employee to take place on January 30, 2012. Ms. Schultz-Ormond will be a key witness in this case and it would greatly prejudice the absent parties for her deposition to take place without their joinder and opportunity to participate. R. Exh. 37.

XI.

On December 21, 2011, Plaintiffs filed their Motion to Set on the Jury Docket. R. Exh. 38. The Order attached to this motion indicates that this case is set for trial on **October 22, 2012**. *Id.*

XII.

The trial court denied Relators' motion to stay all proceedings (including discovery), which is now made the subject of their Petition for Writ of Mandamus. R. Ex. 23, pp. 14-19; Ex. 25. If Relators are forced to proceed with discovery and other matters in this case (including the pending motions set for hearing on December 29, 2011) while their Petition is pending, it would necessarily deprive this Court of its jurisdiction to consider the Petition and moot the relief requested in the Petition. That is because if the

case is abated, then all of this discovery and other activity prompted by Plaintiffs will stop while the absent parties are joined. Further, the trial court may make rulings that impact the rights of the absent parties at the hearing on December 29, 2011 as well as subsequent hearings that may take place while this Petition is pending and depositions of key witnesses (like Ms. Schultz-Ormond) will take place without the presence and participation of necessary parties. This would severely prejudice the rights of these absent, necessary parties.

XIII.

Therefore, in order for this Court to have ample opportunity to consider the Petition and relief requested without resulting prejudice to Relators and the absent necessary parties, Relators ask the Court to stay the original proceeding in its entirety, including discovery, the matters currently set for hearing on December 29, 2011, all depositions, and the trial setting for October 22, 2012. This stay is necessary to maintain the status quo of the parties and to preserve the Court's jurisdiction to consider the merits of the original proceeding. *In re Reed*, 901 S.W. 2d 604, 609 (Tex. App.—San Antonio 1995, orig. proceeding).

WHEREFORE, Relators pray that for the reasons stated in this Motion, the Court grant temporary relief in the form of a stay of the original

proceeding in its entirety (including discovery), and for such other relief to which they may be entitled.

Respectfully submitted,

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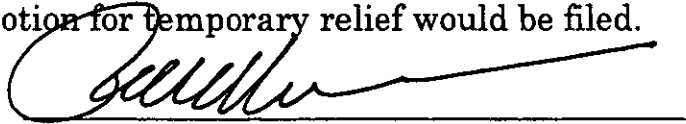
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(214) 780-5200 (fax)

ATTORNEYS FOR RELATORS

CERTIFICATE OF COMPLIANCE

Under Texas Rule of Appellate Procedure 52.10(a), I certify that on December 22, 2011, I notified counsel for Real Parties in Interest and Respondents by fax that a motion for temporary relief would be filed.

A handwritten signature in black ink, appearing to read 'Patrick K. Sheehan', written over a horizontal line.

Patrick K. Sheehan, Attorney for Relators

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this RELATORS' MOTION FOR TEMPORARY RELIEF was served upon the following in the manner indicated, on this 22nd day of December 2011:

VIA HAND DELIVERY AND FACSIMILE:

The Honorable Peter Sakai
225th Judicial District Court
100 Dolorosa
San Antonio, Texas 78205

The Honorable David Berchermann, Jr.
37th Judicial District Court
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San Antonio, Texas 78205

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Patrick K. Sheehan
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FILED
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BY _____



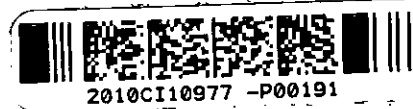
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To:

The Honorable David Berchelmann, Jr.
37th Judicial District Court
100 Dolorosa
San Antonio, Texas 78205

HAND DELIVERY



FILED
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DISTRICT CLERK
BEXAR COUNTY
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DEPUTY

(Consolidated Under)
NO. 2010-CI-10977

JOHN K. MEYER, ET AL §
§
vs. §
§
JP MORGAN CHASE BANK, N.A., §
INDIVIDUALLY/CORPORATELY §
AND AS TRUSTEE OF THE SOUTH §
TEXAS SYNDICATE TRUST §
and GARY P. AYMES §

IN THE DISTRICT COURT

225th JUDICIAL DISTRICT
Blanca Salinas

BEXAR COUNTY, TEXAS

PLAINTIFFS' RESPONSE TO DEFENDANTS' RULE 39 MOTION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs, John K. Meyer, et al, respond to Defendants' Motion for Joinder of Necessary Parties under the provisions of Texas Rule of Civil Procedure 39 as follows:

1. With all due respect to Defendants' able counsel, the issue raised by their Rule 39 motion is not whether the other trust beneficiaries are "necessary parties". Instead, the real questions are: 1) Whether the Defendants' delay and litigation tactics preclude them from seeking the joinder of these additional parties at this late date and, 2) Given the Defendants' easily documented and previously adjudicated history of delay in this litigation, whether this Court should reward them by extending the time they can continue to charge abusive fees to the Trust.

2. This case was originally filed in July 2010. It was immediately removed to federal court by the Defendants and was remanded to this Court by an order entered on March 16, 2011.

3. Throughout the time that the case lingered in federal court, the Defendants steadfastly refused to provide the identities of the persons they now seek to join as “necessary parties”. It was only after the case was remanded and the Plaintiffs were able to get a hearing on this issue before the Honorable Martha Tanner, that the Defendants, begrudgingly, provided identification concerning the other beneficiaries to the South Texas Syndicate Trust. See Plaintiffs’ Motion to Compel Defendant to Answer Written Interrogatory and for Sanctions and Order granting such motion entered on April 5, 2011. (Exhibit 1).

That is, it was not until almost a year after the case had been filed that the Defendants were even willing to share information regarding the identities of the persons they now contend must be joined in this case.

4. On July 11, 2011, the Defendants filed their Plea in Abatement. By that pleading, they sought to force the Plaintiffs to join all of the other trust beneficiaries as parties to the case—just as now, contending that they were “necessary parties” to the action. That request was denied by the district court. Efforts by the Defendants to obtain relief from the order denying their Plea in Abatement were rejected by the Court of Appeals and the Supreme Court.

5. Significantly, for purposes of the present motion, during the arguments on Defendants’ Plea in Abatement, which occurred on August 18, 2011, counsel for the Plaintiffs specifically pointed out that if the Defendants felt that it was important or “necessary” to join all of the beneficiaries as parties to the case, the way to do that

was for the Defendants to join them under Rule 39. See transcript of hearing of August 18, 2011 at pp. 30-31; p. 43. (Exhibit 2).

6. A year and a half later, and after the judge who had ruled against them on the Plea in Abatement has retired, the Defendants finally file their motion under Rule 39. They do so in the face of a trial setting of September 23, 2013 and a number of pre-trial deadlines which have already or soon will have expired. If the Defendants' motion to join the additional trust beneficiaries as involuntary parties is granted, it is reasonable to believe that at least some of those 150 unnamed beneficiaries will be difficult to serve with citation. Accordingly, it is highly likely that some of the beneficiaries would not be required to enter appearances in this case until early May, at the soonest. Beyond question, the appearance of those additional parties at that date would cause a delay of the trial of the case and will make its eventual resolution more difficult and time consuming—all to the advantage of the Defendants and the detriment of the Plaintiffs and Intervenors.

Texas Rule of Civil Procedure 37 directly provides that leave to join additional parties should not be granted if it will occasion delay in the proceedings.

7. As noted above, the Defendants have an easily documented history of improper and unnecessary delay in this case and they have been specifically sanctioned for it by this Court. See transcript of hearing of November 20, 2012 at pp. 39-40, 72-74; 76. (Exhibit 3).

8. The addition of the parties sought by the Defendants is simply their most recent effort to avoid a trial. They seek such delays both to continue to

charge excessive fees to the Trust and to postpone their just reckoning. The Court should not assist them in doing those things.

9. In addition to the inequity of the Defendants' position, their motion is also procedurally defective. Rule 39(c) specifically requires that a pleading seeking this type of relief "shall state the names, if known to the pleader, of the persons" sought to be joined. Defendants' motion fails to state any names and does not aver that the names are unknown to them.

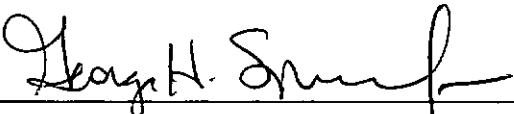
WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that Defendants' Motion under Rule 39 be denied in all things, further praying for such other and further relief as is just or appropriate in the circumstances.

Respectfully submitted,

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By: 
GEORGE H. SPENCER, JR.
State Bar No. 18921001

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

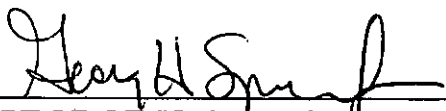
I hereby certify that a true and correct copy of the above and foregoing document has been sent *via Facsimile* on this the 25th day of February, 2013, to:

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Mr. David Jed Williams
Mr. Rudy A. Garza
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GEORGE H. SPENCER, JR.

FILED
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NO. 2010-CI-10977

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JOHN K. MEYER
DEPUTY

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

vs.

BY _____

JP MORGAN CHASE BANK, N.A.,
INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH
TEXAS SYNDICATE TRUST
and GARY P. AYMES

225th JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

PLAINTIFF'S MOTION TO COMPEL DEFENDANT TO
ANSWER WRITTEN INTERROGATORY AND FOR SANCTIONS

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff John K. Meyer files this his motion under the provisions of Texas Rule of Civil Procedure 193.4 and 215.1 to require Defendant JPMorgan Chase Bank, N.A. to respond to written discovery and for sanctions and shows as follows:

1. This case was originally filed in this Court, but was removed to the United States District Court for the Western District of Texas by the Defendants. It was remanded to this Court by an order entered on March 16, 2011.
2. During the time that this case was removed to federal court, the Plaintiff served written discovery on Defendant JPMorgan Chase Bank, N.A. Plaintiff was required to file a motion to compel proper responses to that discovery and for sanctions in the federal court, a copy of which is attached to this motion as Exhibit "1." The federal court did not rule on that motion prior to remanding the case back to this Court.



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3. Plaintiff adopts and incorporates all the contentions and claims set out in his motion to compel discovery and for sanctions filed in the federal court and requests this Court to rule on them. It is appropriate for the state court to rule on discovery-related issues which arise out of the proceedings in a case during the time it was removed, but before remand. *E.g., Atlantic Richfield Co. v. Long Tracts*, 860 S.W.2d 439, 449 (Tex. App. – Texarkana 1993, writ denied).

WHEREFORE, PREMISES CONSIDERED, Plaintiff John K. Meyer prays for an order compelling Defendant JPMorgan Chase Bank, N.A. to fully and completely respond to the written interrogatory previously served upon it and for the award of attorney's fees to be paid to Plaintiff out of such Defendant's corporate monies, further praying for such other and further relief to which Plaintiff may show himself to be entitled.

Respectfully submitted,

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By: 

GEORGE H. SPENCER, JR.
State Bar No. 18921001
JEFFREY J. JOWERS
State Bar No. 24012932

**ATTORNEYS FOR PLAINTIFF,
JOHN K. MEYER**

FIAT

It is hereby ORDERED that Plaintiff's Motion to Compel Defendant to Answer Written Interrogatory and for Sanctions is set for hearing on Tuesday, April 5, 2011 at 8:30 a.m., in the Presiding Civil District Court of Bexar County, Texas.

Signed this 25 day of March, 2011.

DAVID A. BERCHELMANN, JR.
37th DISTRICT COURT
BEXAR COUNTY, TEXAS

JUDGE PRESIDING

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document and its exhibit have been sent via *Facsimile* to:

Charles "Boxy" Hornberger
Mark A. Randolph
Patrick K. Sheehan
David Jed Williams
HORNBERGER FULLER SHEEHAN & BEITER, INC.
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, TX 78209
Facsimile (210) 271-1730

on this the 25th day of March, 2011.


GEORGE H. SPENCER, JR.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN K. MEYER

vs.

JP MORGAN CHASE BANK, N.A.,
INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH
TEXAS SYNDICATE TRUST
and GARY P. AYMES

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CASE NO. SA-10-CA-0639-FB

PLAINTIFF'S MOTION TO
COMPEL DISCOVERY AND FOR SANCTIONS

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Under the provisions of Federal Rule of Civil Procedure 37, Plaintiff John K. Meyer files this motion to compel Defendant JP Morgan Chase Bank, N.A. to respond to discovery and for sanctions and shows as follows:

Defendant JP Morgan Chase Bank, N.A., Individually/Corporately and as Trustee of the South Texas Syndicate Trust (hereinafter "Bank") is in possession of not merely "relevant" information, but critically relevant information, about this case which, without justification, it refuses to reveal in response to a proper discovery request. As such, Plaintiff seeks an order compelling the Bank to provide the information and the award of reasonable attorneys' fees incurred in preparing and presenting this motion, such fees to be paid to Plaintiff out of the Bank's corporate funds rather than trust funds.

Pending before this Court is Plaintiff's Motion to Remand the case to state court (D.E. 6). Plaintiff trusts that the motion will be granted, but whether granted or not, the other beneficiaries of the South Texas Syndicate Trust (hereinafter "Trust") are necessary parties to the case which seeks to remove the Bank as trustee, to recover tort damages against both the Defendants, and other relief.

Specifically, under the provisions of Texas Property (Trust) Code section 115.011(b)(3), all current beneficiaries of a trust are "necessary parties" to a case such as this. This requirement was directly acknowledged by the Bank when, on October 4th, it agreed in the parties' Joint Advisory to the Court Regarding Scheduling Recommendations that "[t]his is a suit involving a trust with numerous beneficiaries who will need to be joined." D.E. 10, paragraph 2.

Consistent with the agreed-upon need to join the other beneficiaries, four days later, on October 8th, Plaintiff served a single written interrogatory on the Bank requesting identifying information about the other beneficiaries. On November 8th, the Bank served its response to that interrogatory. A true and correct copy of the Bank's response is attached as Exhibit A to this motion.

As the Court's own review will confirm, the Bank provided no information whatsoever. Instead, it asserted two objections.

First, it objected that the information sought – the identities of persons it previously acknowledged as being "necessary parties to the case" – was "... information that is not relevant to this proceeding and is not calculated to lead to the discovery of admissible evidence." In making such a patently invalid objection,

the Bank has epitomized its long history of arrogant refusals to meaningfully respond to legitimate inquiries from the Plaintiff about the Trust and the Bank's management of it – the very conduct which has necessitated and justifies this suit.

The Bank's other objection is equally lacking in merit. The Bank asserts that the information sought is "confidential and private." Assuredly, the release of certain information regarding the identities of the other beneficiaries (for example, their Social Security numbers) could validly be resisted as an unnecessary intrusion, but the limited information sought by the interrogatory does not remotely inquire into such sensitive matters.

Requesting the names, addresses, and telephone numbers of these "necessary parties" so as to be able to notify them of the case seeks no more information about them than any party in any case is required to provide, without even being requested to do so, concerning fact witnesses. Federal Rule of Civil Procedure 26(a)(1)(A)(i).

The only other identifying information requested regarding the current beneficiaries – their email addresses – was sought because of the low-cost mechanism it provides for making contact with the approximately 250 beneficiaries who are believed to reside all across America. The identification of potential parties to a case as including their email addresses is not unusual and has been repeatedly ordered by other federal courts. E.g., *Achte/Neunte Boll Kino Beteiligungs GMBH & Co. Kg. v. Does 1-4,577*, 2010 WL 3522256 (D.D.C.) (court granted leave to plaintiff to serve "discovery ... to obtain the identity of each John Doe Defendant by serving a Rule 45 subpoena that seeks information sufficient to identify each Defendant, including

name, current (and permanent) addresses, telephone numbers, **email addresses**, and Media Access Control addresses.”) (emphasis added); *Bah v. Shoe Mania, Inc.*, 2009 WL 1357223 (S.D.N.Y.) (in class action suit for overtime pay, Defendant “... ordered to provide to Plaintiff the names, last known addresses, telephone numbers, and **private email addresses** of stock persons and warehousemen [belonging to the class]”) (emphasis added).

It is correct, as the Bank states in the final paragraph of its response to the interrogatory, that it previously provided a list of the names of the beneficiaries to Plaintiff. A true and correct copy of that list is attached as Exhibit B to this motion.

In a handful of instances, the Plaintiff recognizes and knows the individual’s name and with regard to one (Briscoe Ranch, Incorporated) can make an educated guess as to the identity, but as to the overwhelming majority, the names, standing alone, are both meaningless and worthless for purposes for contacting them with regard to their involvement as parties to this case.

With respect to its two objections, the Bank asserts that it “requests a protective order.” No protective order would be appropriate to prevent the disclosure of the information sought in any event, but Plaintiff notes that the Bank did not actually file or seek such protection from the Court and the time for doing so has now passed. *Drexel Heritage Furnishings, Inc. v. Furniture USA, Inc.*, 200 F.R.D. 255, 259 (M.D. N.Car. 2001) (“a motion for a protective order is timely if made prior to the date set for producing the discovery.”); *Brittain v. Stroh Brewery Co.*, 136 F.R.D. 408, 413 (M.D. N.Car. 1991).

In sum, the Bank has completely failed to provide clearly relevant and important information in response to a discovery request and it has done so without any legitimate justification. Under the provisions of Rule 37(a)(5)(A), the award of reasonable attorneys' fees is mandated. Plaintiff's counsel will submit evidence regarding the amount of those fees after this motion has been fully developed, including time spent on analyzing the Bank's response to this motion and preparing a reply. Whatever the amount of those fees turns out eventually to be, Plaintiff requests that the Court require the Bank to pay them to Plaintiff out of its corporate monies and not out of the Trust's monies. That is, the penalty for abusing the discovery process should be imposed on the offending party itself and the Bank should not be permitted to escape the "sting" of that penalty by paying it with other people's (the Trust beneficiaries') money.

WHEREFORE, PREMISES, ARGUMENTS, AND AUTHORITIES CONSIDERED, Plaintiff John K. Meyer prays for an order compelling Defendant Bank to fully and completely respond to the written interrogatory previously served upon it and for the award of attorneys' fees to be paid to Plaintiff out of the Bank's corporate monies, further praying for such other and further relief to which Plaintiff may show himself to be entitled.

Respectfully submitted,

CLEMENS & SPENCER
112 E. Pecan St., Suite 1300
San Antonio, Texas 78205-1512
(210) 227-7121 – Telephone
(210) 227-0732 – Facsimile

By: /s/ George H. Spencer, Jr.
GEORGE H. SPENCER, JR.
State Bar No. 18921001
JEFFREY J. JOWERS
State Bar No. 24012932

**ATTORNEYS FOR PLAINTIFF
JOHN K. MEYER**

CERTIFICATE OF CONFERENCE

I certify that prior to filing this motion, I conferred in good faith with the Bank's counsel, Mark Randolph, by telephone on November 11, 2010. We were unable to resolve the dispute and Court action is required.

/s/George H. Spencer, Jr.
GEORGE H. SPENCER, JR.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of November, 2010, I electronically filed the foregoing document and its exhibits with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Mark A. Randolph
Patrick K. Sheehan
David Jed Williams
HORNBERGER FULLER SHEEHAN & BEITER, INC.
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, TX 78209

/s/George H. Spencer, Jr.
GEORGE H. SPENCER, JR.

EXHIBIT

“A”

received
NOV -9 2010

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN K. MEYER

VS.

JPMORGAN CHASE BANK, N.A.
INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH
TEXAS SYNDICATE TRUST
and GARY P. AYMES

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Case No. SA-10-CA-0639-FB

**DEFENDANT JPMORGAN CHASE BANK, N.A., INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH TEXAS SYNDICATE TRUST'S
ANSWERS AND OBJECTIONS TO PLAINTIFF'S INTERROGATORY**

TO: John K. Meyer, Plaintiff
By and through his attorney of record
Mr. George H. Spencer, Jr.
Clemens & Spencer
112 East Pecan St., Suite 1300
San Antonio, Texas 78205

Now comes Defendant JPMorgan Chase Bank, N.A., Individually/Corporately and as
Trustee of the South Texas Syndicate Trust, Plaintiff in the above-styled and numbered cause
and submits these Answers and Objections to Plaintiff's Interrogatory.

Respectfully submitted,

**HORNBERGER FULLER SHEEHAN
& BEITER INCORPORATED.**

The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, Texas 78209
(210) 271-1700 Telephone
(210) 271-1730 Fax

BY: 

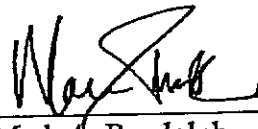
Patrick K. Sheehan
State Bar No. 18175500
Mark A. Randolph
State Bar No. 00791484
David Jed Williams
State Bar No. 21518060

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 8 day of November, 2010, I served the foregoing document via CM-RRR to the following counsel for Plaintiff:

Mr. George H. Spencer, Jr.
CLEMENS & SPENCER
112 East Pecan St., Suite 1300
San Antonio, Texas 78205


Mark A. Randolph

**DEFENDANT JPMORGAN CHASE BANK, N.A., INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH TEXAS SYNDICATE TRUST'S
ANSWERS AND OBJECTIONS TO PLAINTIFF'S INTERROGATORY**

1. Identify by name, address, telephone number, and email address each current beneficiary of the South Texas Syndicate Trust.

ANSWER:

Defendant objects to this Interrogatory as it seeks information that is not relevant to this proceeding and is not calculated to lead to the discovery of admissible evidence. Accordingly, Defendant requests a protective order protecting it from responding to this Interrogatory on this basis.

Defendant further objects to this Interrogatory as it seeks the disclosure of confidential and private information from Defendant and regarding persons/entities to whom Defendant owes a duty to protect such information. Accordingly, Defendant requests a protective order protecting it from responding to this Interrogatory on this basis.

Subject to the foregoing objections and without waiving same, Defendant responds that it has previously disclosed the names of the current beneficiaries of the South Texas Syndicate Trust to Plaintiff.

EXHIBIT

“B”

South Texas Syndicate Beneficiaries

Charles M. Aldrich IV
Linda Aldrich
Harry P Aldrich
Thomas C. Aldrich Rev. Trust
Robert Norris Trust
Daniel J Barrington
Edward P Barrington and Karla Barrington
John O Barrington or Judy A Barrington
Michael J. Barrington
Jack H Bartleson and Patrick R Bartleson
Grace Ruth Baughan Estate
Emilie Hilgartner Blaze
Sharon T. Blazek and Joseph Blazek
Bridget Bly
Mary Bly
Micah Bly
Noah Bly
Mark H Bouliane
Briscoe Ranch, Incorporated
Kathryn M Canwell
Bonnie Jean Card
Josephine H. Carney
Barbara A Carson
Mrs Alice P Cestari
Barbara Warner Collins
Mrs Margaret P. Cost
Catherine M Cowles
Bettye Q Cromwell Living Trust
Kent Erio Cromwell
Mrs Katherine P Crosby
Sally J. Crowley and Daniel E. Crowley IV
Sheila Ann Curfee
Mary S Curtiss
Alessandra Cutolo
Francesca M Cutolo
Sarah Ann Griffis Dees
Mrs Rosalie S Delehanty
Charles A. Doerr Rev. Trust
Katherine D. Doerr Rev. Trust
The Mary C. Doerr Managing Agency
Henry Doerr IV Trust
Cathy A. Duus
Mary R McLean Evans
Fred Fair
Sandra G. Faulkner and Douglas Faulkner
Esate of Ray Potter
Maude Douglas Trust
L H Piper Trust

William W Gage Trust
Estate of John M. Foran, Deceased
Elizabeth P. Forman
Susan A. Foster and Raymond L. Foster, Sr.
Charles Washburn-French & Mary C French
John D French, Co-Trustee or Kathleen M French
Alex D Gage
Danielle Gage
Karen M. Gallup
Patsy V Gartley
Jane M Gerry
Charles B Gertmenian
The Gertmenian Family Trust
Peter G Gertmenian
Sarah Gertmenian
Thomas G. Gertmenian Trust
Frank N Graham GST Non-Exempt Family Tr
Frank N Graham GST Exempt Family Tr
Donald W Griffis
Linda Merrill Haas
Mary Russell Harjo
Philip H. Heintz & Georgette V. Heintz Family Tr
Sallie Griffis Helms
Andrew Pennock Hilgartner
Kathleen M Kelly
Wendell Kelley
Sally Ann Kerr
Monte J Kestell Jr
Robert J Kestell
Janet G Macfarlane
Sheila M. MaGee and Kevin P. MaGee
Deirdre McCarthy
John J. McCarthy
Patrick McCarthy
Peter McCarthy
Timothy S McCarthy
Virginia C McGaffey
Brian M McGrath
Nancy E McGrath
Molly K McGrath
Thomas P McGrath or Laurie McGrath
Roger R McGrath, Jr
William L McGrath
Anthony A McLean
Christopher R McLean
David W McLean
Ellen McLean
Ian McLean
John H McLean
Laura T McLean
Lisa F McLean
Malcolm McLean Revocable

Mildred W McLean
Nancy W McLean
Robert F McLean
Sarah A McLean
Jamie McGrath Marx
Catherine Hilgartner Masucci
Nannette Mayber
Merfarm & Co
Merrill Lynch, Pierce, Fenner & Smith, Inc
James K. Warner
Kathryn F Mesaros & Robert R Mesaros
John K Meyer
Patricia Elizabeth Mirrer
Jeannette M Muirhead
Gwen S Myers
Caroline P Myhre
Marcia Lee Nelson
Shannon Marie Nelson and James Nelson
Roland Nickerson
William J Nickerson Jr
Mr or Mrs Roger B Noyes
Patricia M O'Connor
Alicia Gonzalez Pardo De Orbegoso
David A Orlady and
Mary Orlady & Lewis Orlady
Paine Webber Incorporated
Anne W Pennock
Charles F Pierson Jr
David R Pierson
James N Pierson
Jean S Pierson, Trustee U/A/D 8-10-92
Addison Piper
Andrew P Piper
Ann Piper
David L. Piper Rev Tr U/A
Edmund L Piper Revocable Trust
George F Piper, III
George F. Piper Tr FBO Alice P. Cestari
Geo F. Piper Tr FBO George F. Piper, Jr.
H.C. Piper Trust FBO Addison L. Piper
H.C. Piper Trust FBO David L. Piper
H.C. Piper Trust FBO Harry C. Piper III
Harry C. Piper FBO Margaret P. Cost
Harry C. Piper FBO Katherine P. Crosby
Harry C. Piper, Sr. FBO Harry Aldrich
Harry C. Piper, Sr. FBO Linda Aldrich
Harry C. Piper, Sr. FBO Thomas C Aldrich
Harry C Piper FBO Charles F Pierson Jr
Harry C. Piper, III
J. Carter Piper
James T. Piper
John Q Piper

Louise G. Piper Trust FBO Harry Aldrich
Louise G. Piper Trust FBO Linda Aldrich
Louise G. Piper FBO Margaret P. Cost
Louise G. Piper FBO Katherine P. Crosby
Louise G. Piper FBO Charles F Pierson Jr
Louise G. Piper FBO Addison L. Piper
Louise G. Piper Trust FBO David L. Piper
Louise G Piper Tr. FBO Harry C Piper III
Matthew B. Piper
Vincent G Pardo Piper
William Piper, Trustee
William G. Piper
Polly & Co
Mr David N Rasmussen
Mr Donald L Rasmussen
Gerry A. Rasmussen
Harriett Curry
Gordon T Ray
John H Ray, III, MD
Kathleen Richard or Richard Richard, Sr.
R J Thomas Company
Katherine A. Rozek
Carl E Rogers
James E Russell
Donald J Salisbury
Timothy Salisbury
Mary M Schwartz
Smith Barney
Dwight D Sholes
Mrs Martha W Sholes
Rebecca C Sholes
Brett E Sine
Michael C Sine
Doyle Ray Smith
Joyce Smoot
Susan G Snow Living Trust
Texas Christian University
William M. Thomsbury
Sandra J Wayland
Harry C Piper Tr U/A for Margaret P Cost
Samuel M Nickerson Res Tr U/A
W D Douglas II Res Tr U/A Natalie
W D Douglas II Res Tr U/A Ann
W D Douglas II Res Tr U/A Susan
W D Douglas II Res Tr U/A David
Georgia Ray Decoster Tr U/W
Francoise Latil Rev Tr UA 2/15/99
Francoise Latil Rev Tr UA 2/15/99
HC Piper Tr U/A Charles Pierson Jr
Annick Latil Rev Tr U/A
Harry C Piper Sr Tr fbo Katherine P Crosby
The Hertica-Wisener Family Trust

Elizabeth M Varrenti
Richard H & Shirley H Vaughn
Elizabeth Warner Verkade
Julie Mary Walker
Don A Warner III
Ellsworth A Warner Jr
Evelyn Sebby Warner Trust
Katherine B Warner Trust
H T Warner & S S Warner
Trustees of H David Warner Tr
Henry T Warner
Mrs Janice M Warner
Martha Ann Warner Trust
M A Warner Jr Revocable Trust
The Lee & Rose Warner Foundation
Thomas Livingston Warner
William Piper Warner Jr
Virginia Herd Warren Survivor's Trust
George Herd -Virginia Warren Trust
A. Michael Washburn
Daniel Washburn
Deborah Field Washburn
John L Washburn
Johnathan Lars Washburn
Julia Washburn
Susannah Laleh Washburn
Dixie Webb
Barbara K Welder Non-Exmpt Marital TR
Carol Brunner Trust FBO Clara
Carol Brunner Trust FBO Dylan
Carol Brunner Marital Trust
Jean W Whiting Family Trust
Emily Jordan Whittington
William Grant Whittington
Louise Windsor
Betsy McGrath Wright
Mary M Wright

J.P.Morgan

MEMORANDUM

January 14, 2010

To: Beneficiaries of the South Texas Syndicate Liquidating Trust

From: J.P. Morgan - Oil and Gas Management

Enclosed is a distribution payment in the amount of \$47.00 per unit, for income received during the period ending December, 2009. With respect to this distribution, total oil and gas sales income received during November and December increased dramatically. The Eagle Ford wells recently completed upon leases granted since 2008 contributed 85% of the income for this period. Income from sales of natural gas climbed as the production stream increased through the addition of four new Eagle Ford wells, Petrohawk - STS 2-H, Petrohawk - STS 3-H, Petrohawk - STS 4-H, Petrohawk - Wiese 786-1H. We will continue to observe these new wells and will report on their production when more data becomes available. We will continue to monitor the drilling activity as well.

Weighted average gas prices received for the period rose approximately 50% to \$5.34/mcf. Gas sales represent approximately 70% of your total production income and increased approximately 108% during the period. Total oil and condensate income rose approximately 210% this period over September and October. Average weighted oil prices climbed about 7.4% over last period, from \$67.11 in September/October to \$72.05. Oil sales represent approximately 30% of your total production income.

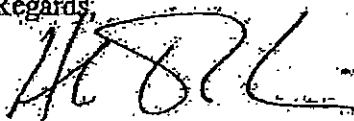
We have received a request from two beneficiaries for the contact information of each beneficial owner. If you choose to provide your contact information you may do so directly to the following:

J. Carter Piper
Bakersfield, California
jpiper2@bak.n.com
661-837-2235

John Q Piper
5608 23rd Street North
Arlington, Va 22205
(703) 534-0963
jqpiper@junio.com

Your JPMorgan management team is available to address your needs or requests. Immediately below is the contact information of the team, inclusive of names, phone numbers and email addresses. Please reach out should you have a question or require assistance.

Regards,



H.L. Tompkins, CPL
Vice President

Ms. Colleen W. Dean - Relationship Manager - (210) 841-5870 - Colleen.Dean@jpmorgan.com

Mr. Gary Aynes - Fiduciary Officer - (210) 841-7033 - Gary.P.Aynes@jpmorgan.com

Ms. Sherry Harrison - Sr. CSA - (210) 841-7030 - Sherry.Harrison@jpmorgan.com

Mr. H.L. Tompkins - Sr. Mineral Manager - (713) 216-4423 - H.L.Tompkins@jpmorgan.com

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**REPORTER'S RECORD
VOLUME 1 OF 1
TRIAL COURT CAUSE NO. 2010-CI-10977**

JOHN K. MEYER | IN THE DISTRICT COURT
VS. | BEXAR COUNTY, TEXAS
JP MORGAN CHASE BANK, N.A.
INDIVIDUALLY/CORPORATELY AND
AS TRUSTEE OF THE SOUTH TEXAS
SYNDICATE TRUST AND GARY P.
AYMES | 225TH JUDICIAL DISTRICT

HEARING ON MOTIONS

On the 18th day of August, 2011, the following proceedings
came on to be heard in the above-entitled and numbered cause
before the Honorable David A. Berchelmann, Jr., Judge presiding,
held in San Antonio, Bexar County, Texas:

Proceedings reported by computerized stenotype machine.

COPY



1 Instead the question usually is whether the trial court should
2 have proceeded with those who were present, another cite. And
3 then it goes back to the old case, it's about 30 years old. A
4 party's absence rarely will deprive a court of jurisdiction to
5 adjudicate the dispute between the parties before it. So Your
6 Honor has jurisdiction over this case. This isn't a dismissal
7 dispute.

8 The next paragraph, We review a trial court's
9 decision to proceed or not to proceed in the absence of necessary
10 parties. In the absence of necessary parties, what we've heard
11 about for the last hour. Under an abuse of discretion standard
12 which means contrary to the argument we just heard, it's not
13 mandatory, it's a call by this court. And that call by this
14 court in this case should be called in favor of not requiring the
15 Plaintiffs in this case to add or join the other beneficiaries.
16 If the Defendants want to do that, they may. Didn't hear about
17 Rule 37 of the Texas Rules of Civil Procedure just a minute ago.
18 Rule 37 provides that additional parties can be added. And the
19 rule says in its entirety, Before a case is called for trial
20 additional parties, necessary or proper parties to the suit, may
21 be brought in either by the Plaintiff or the Defendant upon such
22 terms as the court may prescribe.

23 The Defendants have raised this issue. Plea and
24 abatement is the right way to raise the issue. They raised the
25 issue, it's their problem. They ought to go out and join them as

1 voluntary Plaintiffs if that's what they want to do or to join
2 them as they wish. But it's not a burden that's necessarily put
3 on our clients.

4 Now that the evidentiary record is closed, Your
5 Honor, we further suggest that Rule 39 is the rule that controls
6 the Court's decision here. And Rule 39 requires several things.
7 If it's a Rule 39(a) decision that Your Honor makes, there needs
8 to be evidence that the absent parties are subject to service of
9 process. There is no evidence in this record by the trustee of
10 where these beneficiaries live, whether they are in Texas or
11 otherwise. Many of them are not in Texas. And whether or not
12 they are subject to service process in the state.

13 And if they go to 39(b) section of Rule 39, the
14 Court needs to look at factors of equity and good conscience.
15 Those factors include the extent a judgment might be prejudicial
16 to an absent party, whether or not the court can use a protective
17 provision by shape -- or shape relief or other measures to
18 protect the nonparties and the parties. Whether the judgment in
19 the person's absence is -- would be adequate and whether the
20 plaintiff has an adequate remedy if the action is dismissed.
21 There's no evidence of any of that in this case either. May be
22 some argument, but there's no evidence for Your Honor to exercise
23 your discretion.

24 Now, let me get kind of to what I think is really
25 the heart of this issue in the discretionary exercise. In

1 addresses but overwhelming, you know, outside of Texas.

2 THE COURT: Right, I saw it.

3 MR. SPENCER: It may be difficult to accomplish
4 service. We have not -- again, we feel that if -- if there is
5 a -- a desire to have them --

6 THE COURT: I was going to ask him that question.

7 MR. SPENCER: It's the bank's burden to do it. And
8 we frankly -- and speaking for me and not for everybody on my
9 side, I didn't want to spend that money needlessly.

10 THE COURT: Chip off the old block, George.

11 MR. SHEEHAN: His father would be proud.

12 THE COURT: Absolutely.

13 MR. SPENCER: No, you're right. That's the -- it's
14 a significant expense. And again, the bank is the one wants this
15 done. If they want it done, they can pay for it.

16 THE COURT: So that's what this is really boiling
17 down to.

18 MR. SPENCER: That and delay.

19 THE COURT: Of course.

20 MR. SPENCER: Delay is even more significant. We
21 don't want the bank to just continue to drag this out. We'll
22 speak to this more later in the morning, but the bank as a
23 fiduciary has just an unquestioned right to provide
24 the information we've been seeking, even if we didn't file the
25 suit. And then to further thwart us by refusing to answer

1 THE STATE OF TEXAS)

2 COUNTY OF BEXAR)

3 I, Bob L. Hogan, Official Court Reporter in and for the
 4 District Courts of Bexar County, State of Texas, do hereby
 5 certify that the above and foregoing contains a true and correct
 6 transcription of all portions of evidence and other proceedings
 7 requested in writing by counsel for the parties to be included in
 8 this volume of the Reporter's Record, in the above-styled and
 9 numbered cause, all of which occurred in open court or in
 10 chambers and were reported by me.

11 I further certify that the total cost for the preparation
 12 of this Reporter's Record is \$ _____ and was paid by

13 _____.

14 WITNESS MY OFFICIAL HAND this the ____ day of
 15 _____, 2011.

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COPY

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 BOB L. HOGAN, TEXAS CSR #421
 Official Court Reporter
 37th Judicial District Court
 Bexar County Courthouse
 San Antonio, Texas 78205
 (210) 335-2516
 C.S.R. Certification No. 421
 Expires: 12-31-2012

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2010-CI-10977

JOHN MEYER, ET AL. * IN THE JUDICIAL DISTRICT
V. * 225TH DISTRICT COURT
JP MORGAN, ET AL. * BEXAR COUNTY, TEXAS

REPORTER'S RECORD
HONORABLE DAVID BERCHELMANN
-NOVEMBER 20, 2012

On the 20th day of November, 2012, the
above-entitled cause came on to be heard before the
Honorable David Berchermann in the 37th District Court
of Bexar County, Texas, whereupon the following
proceedings were taken by machine shorthand.

EXHIBIT

3

tabbles

1 and that agreement is going to capture those to the
2 extent they exist. The boxes we've produced, 50,000
3 pages, will also capture those to the extent they exist.
4 And we've responded on behalf of the trust to that
5 extent, so it's disingenuous to say that those documents
6 are not forthcoming or we haven't been working together
7 to try to obtain those documents within that protocol.

8 These policies in place are clear, and
9 I'm going to let Mr. Eichman actually respond to those.
10 I did want the court to know that as to the STS Trust
11 documents, those have been or will be made available to
12 the plaintiffs pursuant to the ESI protocol and to the
13 documents that we have produced, Your Honor. I'll let
14 Mr. Eichman --

15 THE COURT: Before you speak, I mean, you
16 said four months y'all haven't done anything. I know
17 you're new to this case, Mr. Garza. I know Mr.
18 Sheehan -- I don't know where he is.

19 MR. GARZA: He's still with the firm,
20 Your Honor.

21 THE COURT: Unless he was fired. But
22 honestly, I mean, you're going to eventually have to
23 address the four months of no responses or lack of
24 specificity, I have no idea. I know you're talking
25 about the terms, and I remember that from previous

1 hearings, y'all have to come together on some kind of
2 terms so the programs can capture whatever it is that's
3 needed.

4 MR. GARZA: Exactly. And if I may,
5 Mr. Williams has been directly working with that issue,
6 and I'll let him address that specifically.

7 THE COURT: But, I mean, I'm assuming
8 it's happening, and I don't know if this side would deny
9 that they haven't been working.

10 MR. GARZA: Both sides have been working.
11 They have been working with us, your Honor, and those
12 documents are coming, and we've got 'em -- Mr. Williams,
13 go ahead and address that.

14 MR. WILLIAMS: Yes, sir. Ever since we
15 had our last hearing here, I personally have been
16 dealing with Mr. Gollinger, who's sitting there, and
17 Mr. Donley, who's sitting there, and the purpose of our
18 negotiation was to try to come up with a more focused
19 search, agreement on custodians, agreement on time
20 frame, agreement on search materials.

21 We were successful in doing that, and at
22 the same time we began the restoration, you know, 'cause
23 we have to go get those e-mails, get 'em off the backup
24 stapes, and all that takes a significant amount of time.
25 So we started that restoration process and communicated

1 parties.

2 THE COURT: I would presume, you know,
3 based on past history in this case that -- I don't know
4 what year you're -- September 14th, but I don't think
5 it's going to be in 2013. Under the circumstances with
6 all the objections and all the arguments, the sheer
7 volume of your work going into just the production of
8 this that is needed. My concern right now, two things.
9 One is giving 'em a chance to look to see. And the
10 other is you producing the information they're
11 requesting without a bunch of what I perceive to be
12 frivolous objections. I mean really and truly. I mean,
13 if I had the case and I was going to keep it, it
14 wouldn't be a problem.

15 MR. GARZA: The inside documents are
16 coming, Your Honor. That has been solved, so that's --

17 THE COURT: Well, I mean, unfortunately,
18 Mr. Garza, you haven't been here the whole time, and it
19 really has taken a long time to get it even to this
20 point. That's why I told Chase Bank they couldn't bill.
21 Those people have to pay for this out of their own
22 pocket.

23 This court or some future court sees some
24 good faith on their part to the reasons why they've done
25 whatever they have, rather than continuing to bill the

1 trust for this kind of work. That's the only way to
2 force your hand and your client's hand to actually do
3 something positive rather than slow down, fight. They
4 have every right to do those things, but not when these
5 people are having to pay for them to do it at the same
6 time.

7 MR. WILLIAMS: And, Judge, just so you're
8 clear, on the trust side they are going to have
9 everything. They have a lot already. They're going to
10 have more. We're going to provide them with image
11 documents. We're going to provide them with -- so
12 there's not -- I'm not aware of a trust related --
13 document related to the STS Trust that they are not
14 going to have. The objections to these documents really
15 more -- these are customer documents on the commercial
16 side.

17 THE COURT: Then here's what I'm going to
18 do then. Going to have to be in camera production so
19 somebody can look at this, me or somebody else in the
20 future, make a decision as to whether or not there's
21 actually something going on here. I don't know whether
22 there is or not. I think everybody in here -- I know
23 you. I'm not speaking to you, but you're all officers
24 of the court. The clients that are involved in this, I
25 mean, there's impropriety. There's the appearance of

1 impropriety, and I don't know what's going on. I have
2 no idea. But I think it deserves a look, and it
3 deserves these people getting a chance -- or the judge
4 first to see if there's some special relationship with
5 Pioneer and with Reliance and with JP Morgan that
6 involves this property that is being fought about right
7 now, so --

8 MR. GARZA: Judge, would it make more
9 sense to look at that after the e-mails have been
10 evaluated?

11 THE COURT: I agree. But I think you
12 better start getting it together is what I'm suggesting.

13 MR. GARZA: That's fine, Your Honor.

14 THE COURT: So you have it ready so
15 there's not more and more delays.

16 MR. MASSOPUST: Let me make, I hope, my
17 last response, I hope. Respond to what Mr. Garza just
18 said and what Jed Williams just said. Mr. Garza said,
19 but Your Honor, the ESI is taken care of. That's over.
20 That's been addressed. And then Jed stood up and said,
21 we've been talking about terms and everything, and
22 they're going to get what they're entitled to.

23 Let me use one example to illustrate why
24 I have to smile when I hear Mr. Garza say that we can
25 raise the flag, ESI is over, okay? As we have heard

1 preliminary agreement to start the flow of some very
2 limited subset of documents. We have not come to any
3 final agreement that's the entire scope of ESI that may
4 be produced at one point, but we are so desperate to get
5 document one that we are moving forward as expeditiously
6 as possible.

7 MR. WILLIAMS: My understanding with
8 Mr. Drought was we had an agreement on this ESI protocol
9 with these search terms. Now, the agreement's going to
10 be that they're not prevented from coming in and asking
11 for more. So if once they review these initial e-mails
12 they say, well, there's -- we'd like you to go run these
13 search terms, or there may be some other custodian we
14 have to look for, and so they're not going to be
15 foreclosed from that.

16 THE COURT: Don't you think --
17 Mr. Williams, don't you think this is just delay, delay,
18 delay?

19 MR. WILLIAMS: No, sir.

20 THE COURT: Well, I know you don't. I
21 guess I'm asking rhetorically. We already know the
22 answer, and I'm not suggesting you have any motives
23 other than the purest. But, I mean, somebody who's not
24 involved, being me, I'm telling you I get a different
25 impression, all right? And this is 32 years of doing

1 this job.

2 MR. WILLIAMS: Yes, sir, and I can tell
3 you sincerely as officer of the court --

4 THE COURT: I believe you. I don't want
5 you to get the impression that I don't think very highly
6 of you, just like every other attorney that's in this
7 court.

8 MR. WILLIAMS: Well, it's not -- I'm
9 speaking on behalf of the client, I mean --

10 THE COURT: But remember, you're
11 representing these people, and you have a legal and an
12 ethical responsibility that I already know that you
13 know, and I completely understand that. But I'm telling
14 you, reading between the lines indirectly, that I get
15 the impression it's stall, stall, stall.

16 MR. WILLIAMS: And --

17 THE COURT: And, you know --

18 MR. WILLIAMS: I understand that, and I'm
19 sorry you have that impression. But I can tell you
20 sincerely that I don't believe that's been the motive.
21 We've been counsel with Mr. Drought on other cases for
22 the bank. We went through the same protocol, and we
23 didn't have any problems, and he can tell you that.
24 This is just a massive amount of more information.

25 THE COURT: I understand that.

1 then compile that, and let's see where we are, and let's
2 go from there. I mean, that's all we can do. That's
3 all the court can do at this point.

4 MR. DROUGHT: May I request that the
5 objections they have made to their discovery -- will you
6 overrule them so we can at least move forward on that?

7 THE COURT: Yeah, they're overruled.
8 It's been way too long. They're overruled.

9 MR. MASSOPUST: Thank you. And then on
10 my second request is, because we scatter from this
11 courtroom, and until there's another courtroom it's hard
12 to get attention. Will you tell them that within the
13 next three -- in 2012 we have to get -- their objections
14 are overruled, then out, we have the responsibilities,
15 and between now and the end of the year, we'll meet with
16 JP Morgan and with each of these other two and see what
17 we can put together and see if we require further order.

18 MR. GARZA: Your Honor, overruling the
19 objection, that seems to me to be a bit broad to do.

20 THE COURT: No, it isn't, Mr. Garza,
21 because it's been way too long, and I have listened
22 forever, and the objections are overruled. That's it.

23 MR. GARZA: 59.006 objections to all the
24 specific objections?

25 THE COURT: What I said, as far as that



David Jed Williams
Direct Dial (210) 271-1731
jwilliams@hsfblaw.com

December 22, 2011

VIA HAND DELIVERY:

The Honorable Peter Sakai
225th Judicial District Court
100 Dolorosa
San Antonio, Texas 78205

The Honorable David Berchelmann, Jr.
37th Judicial District Court
100 Dolorosa
San Antonio, Texas 78205

Mr. George Spencer, Jr.
CLEMENS & SPENCER, P.C.
112 E. Pecan St., Suite 1300
San Antonio, Texas 78205

Mr. James L. Drought
DROUGHT DROUGHT & BOBBITT LLP
112 E. Pecan St., Suite 2900
San Antonio, Texas 78205

Mr. Richard Tinsman
TINSMAN & SCIANO, INC.
10107 McAllister Freeway
San Antonio, Texas 78205

VIA CERTIFIED MAIL:

Mr. David R. Deary
Mr. Jim L. Flegle
Mr. Michael J. Donley
LOEWINSOHN FLEGLE DEARY, L.L.P.
12377 Merit Drive, Suite 900
Dallas, Texas 75251

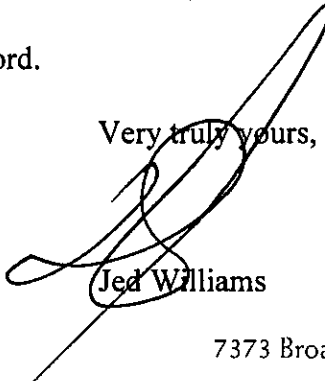
Re: Cause No. 2010-CI-10977; *John K. Meyer vs. JP Morgan Chase Bank, N.A. Individually/Corporately and as Trustee of the South Texas Syndicate Trust and Gary P. Aymes*, in the District Court, 225th Judicial District, Bexar County, Texas

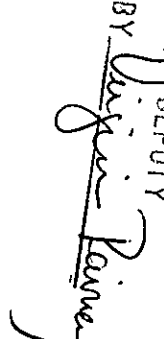
Dear Judge Sakai, Judge Berchelmann and Counsel:

Enclosed are copies of the following documents, which were filed today with the Fourth Court of Appeals:

- 1) Relators' Petition for Writ of Mandamus; and
- 2) Relators' Mandamus Record.

Very truly yours,


Jed Williams

FILED
DISTRICT CLERK
BEXAR CO. TEXAS
11 DEC 22 AM 8:17
DEPUTY
By 

DEC 22 2011

45 min
JUDGE'S NOTES



CAUSE NO.: 2010CI10977

COURT: 225

DATE/TIME: 01/25/2013 08:30AM

SETTING COURT: 109

STYLE: JOHN K MEYER
VS. JP MORGAN CHASE BANK N A ET AL

DISCOVERY LEVEL: 2

ATTORNEY(S) FOR CASE:

- GEORGE SPENCER JR ✓
- PATRICK SHEEHAN ✓
- JIM FLEGLE ✓
- JOHN MASSOPUST ✓
- RUDY GARZA ✓

- MARK RANDOLPH
- JAMES DROUGHT ✓
- STEVEN BADGER
- MATTHEW GOLLINGER
- JOHN EICHMAN

FILED
DONNA KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY

13 JAN 25 AM 8:39

BY *[Signature]* DEPUTY

RAG

THIS CASE HAS 15 OR MORE ATTORNEYS

TYPE OF MOTION OR APPLICATION:
NON-JURY SETTING ON SPECIAL EXCEPTIONS

CONFERRING _____ ESTIMATE HEARING TIME _____

AGREED ORDER _____ ASSIGNED COURT 45th

DROP _____ RECORD TAKEN yes

INTERPRETER _____ RESET DATE 2/20/13 TIME 3:30

REPORTED BY
JUDY STEWART, C.S.F.
(210) 335-0787

DATE OF NOTES 1-25-13

JUDGE INITIALS PM

Hearing: on 2/25/13

It will send revised letter to Optima

As M for Rule 39 finds is deferred

for the time = although fully

presented to day.



(Consolidated Under)
NO. 2010-CI-10977

JOHN K. MEYER, ET AL

vs.

JP MORGAN CHASE BANK, N.A.,
INDIVIDUALLY/CORPORATELY
AND AS TRUSTEE OF THE SOUTH
TEXAS SYNDICATE TRUST
and GARY P. AYMES

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IN THE DISTRICT COURT

225th JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

CRT

Stephanie Campes
DEPUTY CLERK

2010
JAN 22 PM 3:12

FILED
DONNA KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY

1122/13
DP

PLAINTIFF JOHN K. MEYER'S APPLICATION FOR TEMPORARY
INJUNCTION REGARDING STRUCTURAL/ORGANIZATIONAL CHANGES
TO OR SALE OF ASSETS FROM SOUTH TEXAS SYNDICATE TRUST

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, John K. Meyer, files this his Application for a Temporary Injunction Regarding Structural/Organizational Changes to or Sale of Assets from South Texas Syndicate Trust and for cause shows as follows:

1. The District Courts have broad statutorily conferred power to control the administration of trusts. This Court's jurisdiction over the South Texas Syndicate Trust and the Defendants is conferred by Texas Property (Trust) Code Section 115.001(a) and includes, in an explicitly non-exhaustive listing, the power to:

- "(4) determine the powers, responsibilities, duties, and liability of a trustee;
- (6) make determinations of fact affecting the administration, distribution, or duration of a trust; [and]
- (7) determine a question arising in the administration or distribution of a trust.

Section 115.001(b) provides that: "The district may exercise the powers of a court of equity in matters pertaining to trusts."

2. Additionally, Section 114.008(a) further specifies that: “[t]o remedy a breach of trust that has occurred or might occur, the court may:

(2) **enjoin** the trustee from committing a breach of trust; [and]

(10) order any other appropriate relief.” (emphasis added)

The relief requested in this Plaintiff’s Application for Temporary Injunction is within this statutorily conferred jurisdiction and, as a consequence, Plaintiff does not need to establish the usual common law injunctive requirements such as irreparable injury/lack of an adequate remedy at law. *E.g., Marauder Corp. v. Beall*, 301 S.W.3d 817, 820 (Tex. App.—Dallas 2009, no petition). Further, because the Defendants are fiduciaries and because this Plaintiff holds equitable title to the South Texas Syndicate Trust assets, Plaintiff is not required to prove (though he can, as set out below) that his remedy at law is inadequate. *183/620 Group Joint Venture v. SPF Joint Venture*, 765 S.W.2d 901 (Tex. App.—Austin 1989, writ dismiss’d w.o.j.).

Simply stated, the Texas Property (Trust) Code directly authorizes this Court to enter the temporary injunction which is being requested.

3. The Plaintiff requires injunctive relief to prevent the Defendants from continuing to violate or assisting in the violation of their fiduciary duties, including the Defendants’ duties and obligations to act in a fair and equitable manner as to the trust beneficiaries, place the interests of the trust beneficiaries before their own interests, not use the advantage of their position as fiduciaries to gain any benefits for themselves at the expense of the trust beneficiaries and not to place themselves in any position where their self interest conflicts or might conflict with their obligations as fiduciaries, and to

fully and fairly disclose all important information concerning the trust to the trust beneficiaries.

4. Plaintiff's counsel were recently advised by counsel for Defendants that Defendants had retained the law firm of Jackson Walker to "evaluate potential strategic alternatives with respect to the structure of the STS Trust." In their presentation to the Plaintiff and the other beneficiaries of the South Texas Syndicate Trust in October 2010, Defendants set out their analysis of these very issues and possibilities and their explicit conclusion that the best course of action was to: "Maintain status quo on Trust investments and simple Trust structure, and distribute income to beneficiaries for reinvestment pursuant to individual risk preferences and investment goals." It is inconceivable that the relevant considerations in reaching that conclusion have changed. What has changed is that this lawsuit has been filed. Accordingly, Defendants continued tenure as Trustee is very limited. The proposed changes are opposed by the Plaintiff and other beneficiaries and it would be enormously expensive to properly analyze the "strategic alternatives" for appropriate compliance with Defendants' fiduciary duties. The Defendants have no right or power to unilaterally alter the structure or organization of the STS Trust and any such alteration by them would be a breach of trust. The only possible explanation for the actions proposed by the Defendants is an effort, in utter violation of their fiduciary duties, to generate an event for which they will claim a huge fee and then force this Plaintiff and the other beneficiaries to get it back through costly and lengthy litigation.

5. The assets of the Trust are mineral interests/real property. As a direct and proximate result of the Defendants' threatened wrongful actions as set out in this

Application, the Plaintiff will suffer imminent injury that will be irreparable and for which no remedy at law exists without the protections of the requested injunctive relief. The Plaintiff is willing to post the necessary reasonable bond to facilitate the injunctive relief requested.

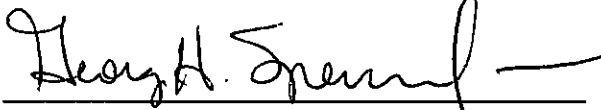
6. The only adequate, effective and complete relief to the Plaintiff is to restrain the Defendants from further engaging in certain proscribed activities as follows: In order to preserve the status quo during the pendency of this action, the Plaintiff seeks a temporary injunction ordering and immediately restraining the Defendants from selling or conveying any assets of the South Texas Syndicate Trust, from retaining any income of the South Texas Syndicate Trust to fund participation in oil and gas activities, and from restructuring or reorganizing the South Texas Syndicate Trust in any other manner, including, but not limited to, a Limited Liability Company, any form of corporation, and any form of partnership. Alternatively, Plaintiff seeks such other and further restraints as are just or equitable in the circumstances.

Respectfully submitted,

Richard Tinsman
State Bar No. 20064000
TINSMAN & SCIANO, INC.
10107 McAllister Freeway
San Antonio, Texas 78205
(210) 225-3121 – Telephone
(210) 225-6235 – Facsimile

James L. Drought
State Bar No. 06135000
DROUGHT DROUGHT & BOBBITT, LLP
112 E. Pecan St., Suite 2900
San Antonio, TX 78205
(210) 225-4031 – Telephone
(210) 222-0586 – Facsimile

CLEMENS & SPENCER
112 E. Pecan St., Suite 1300
San Antonio, Texas 78205-1531
(210) 227-7121 – Telephone
(210) 227-0732 – Facsimile

By: 

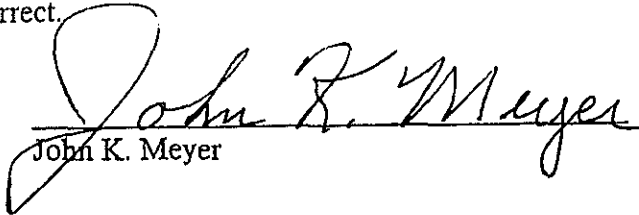
GEORGE H. SPENCER, JR.
State Bar No. 18921001

**ATTORNEYS FOR PLAINTIFF,
JOHN K. MEYER**

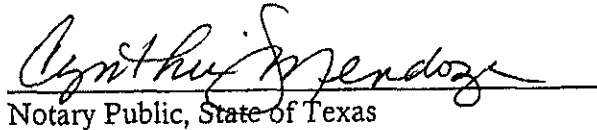
VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

Before me, the undersigned notary public, on this day personally appeared John K. Meyer, who being by me duly sworn deposed and said that he is a Plaintiff in the above-entitled and number cause, that he has read the above and foregoing Application for Temporary Injunction and that every statement of fact contained therein is within his personal knowledge and is true and correct.


John K. Meyer

SWORN AND SUBSCRIBED to before me this 18 day of January, 2013.


Notary Public, State of Texas



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been sent *via Facsimile* on this the 22nd day of January, 2013, to:

Mr. Patrick K. Sheehan
Mr. David Jed Williams
Mr. Rudy A. Garza
HORNBERGER SHEEHAN FULLER
BEITER WITTENBERG & GARZA, INC.
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, TX 78209
Facsimile No. (210) 271-1730

Mr. John C. Eichman
Ms. Amy S. Bowen
Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, TX 75202
Facsimile No. (214) 880-0011

Mr. John B. Massopust
ZELLE HOFMANN VOELBEL & MASON LLP
500 Washington Ave. South # 4000
Minneapolis, MN 55415-1152
Facsimile No. (612) 336-9100

Mr. David R. Deary
Mr. Jim L. Flegle
Mr. Michael J. Donley
LOEWINSOHN FLEGLE DEARY, LLP
12377 Merit Dr., Suite 900
Dallas, Texas 75251
Facsimile No. (214) 575-1717



GEORGE H. SPENCER, JR.

CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET AL.,

Plaintiffs,

JP MORGAN CHASE BANK, N.A.,
INDIVIDUALLY/CORPORATELY AND
AS TRUSTEE OF THE SOUTH TEXAS
SYNDICATE TRUST AND GARY P.
AYMES,

Defendants.

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IN THE DISTRICT COURT OF

225th JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

FILED
DONNA KAY MCKINNEY
DISTRICT CLERK
BEXAR COUNTY
2013 FEB 25 P 9:50
DEPUTY
Dianca Salina

PLAINTIFF BLAZE’S RESPONSE TO DEFENDANTS’ RULE 39 MOTION

Emilie Blaze (“Blaze”) files this Response to Defendants JP Morgan Chase Bank (“JP Morgan”) and Gary P. Aymes’ (collectively “Defendants”) Rule 39 Motion.

Blaze joins in the Response filed by John K. Meyer, *et al.* Defendants have failed to satisfy the requirements of Rule 39, TRCP, for involuntary joinder. Among other things, Defendants have failed to name the persons who are not joined and have failed to analyze whether joinder of any or all of the “non-party Trust beneficiaries” (as Defendants generally describe them) is feasible pursuant to Rule 39(b), TRCP.

Further, Plaintiffs/Intervenors have presented the Court with a more appropriate alternative to resolve any lingering issues by direct communication with the “opt-ins.” As the Court has been advised, all the beneficiaries have been on notice of this proceeding since 2011.

51% Request that JP Morgan Resign as Trustee of the South Texas Syndicate Trust

Moreover, a ruling on Defendants’ Rule 39 Motion is premature under the circumstances. The Court should postpone ruling on the Defendants’ Motion until Defendants’ status as Trustee of the South Texas Syndicate Trust is resolved.

By letter dated February 11, 2013, Defendants were notified that more than 51% of the beneficial interests have requested that JP Morgan resign as Trustee of the South Texas Syndicate Trust. Exhibit 1, attached. This request was made pursuant to the terms and conditions of the original appointment of Alamo National Bank as Successor Trustee. Those terms and conditions are found in the trust records maintained by Defendants and produced in discovery in this case.

JP Morgan did not timely respond to the February 11 request. On February 19, JP Morgan was again reminded of the request for its resignation as trustee. Exhibit 2, attached.

JP Morgan responded on February 20, with requests for information, but no description of JP Morgan's position regarding resignation. Exhibit 3, attached. The parties subsequently engaged in an email dialogue, which included Plaintiffs/Intervenors' appropriate request that the February 25 hearing on Defendants' Rule 39 request be continued while the parties properly focused "on the resignation issue." Exhibit 4.

The issue of trustee resignation and replacement should be determined before the Court authorizes JP Morgan to proceed in an undefined manner to add involuntary parties – who have yet to be named in the record – to this proceeding. The requested resignation of Defendant as Trustee of the South Texas Syndicate Trust should be first determined before the Rule 39 analysis is properly undertaken.

These considerations are heightened in importance in light of Defendants' obligations of fiduciary duties to the beneficiaries and their obligations to put the beneficiaries' interests above those of JP Morgan. As has been repeatedly shown in the record of this case, Defendants have consistently promoted their own interests to the detriment of the beneficiaries of the South Texas Syndicate Trust.

WHEREFORE, Plaintiff Blaze prays that the Court deny Defendants' Rule 39 Motion for Joinder of Parties and grant such further relief to which Plaintiff is entitled.

DATE: February 25, 2013.

Respectfully submitted,

LOEWINSOHN FLEGLE DEARY, L.L.P.

Jim L. Flegle

DAVID R. DEARY
State Bar No. 05624900
JIM L. FLEGLE
State Bar No. 07118600
MICHAEL J. DONLEY
State Bar No. 24045795
12377 Merit Drive, Suite 900
Dallas, Texas 75251
Telephone: (214) 572-1700
Facsimile: (214) 572-1717
ATTORNEYS FOR PLAINTIFF
EMILIE BLAZE

By Robert J. Korabul
w/permission
SBN 17266400

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been served on the below listed counsel of record via the method indicated, this 25th day of February 2013:

Patrick K. Sheehan
David Jed Williams
Mark A. Randolph
Kevin M. Beiter
Hornberger Sheehan Fuller
& Beiter Inc.
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, TX 78209

Via Facsimile

Michael J. Donley

Michael J. Donley
By Robert J. Korabul
w/permission
SBN 17266400



500 WASHINGTON AVENUE SOUTH - SUITE 4000
MINNEAPOLIS, MINNESOTA 55415
612-339-2020 MAIN 612-336-9100 FAX

JOHN MASSOPUST
JMassopust@zelle.com
(612) 336-9109

February 11, 2013

VIA FEDERAL EXPRESS

Mr. Gary Aymes
Executive Director
J.P. Morgan Chase Bank, N.A.
C/O Patrick Sheehan
Hornberger Sheehan Fuller Beiter Wittenberg & Garza, Inc.
7373 Broadway, Suite 300
San Antonio, TX 78209


RE: Notice of Resignation as Trustee of South Texas Syndicate Trust

Dear Mr. Aymes:

You are hereby advised that pursuant to the terms and conditions of the 1951 appointment of the Alamo National Bank as Successor Trustee of the South Texas Syndicate Trust, more than fifty-one percent (51%) of the beneficial interests have requested that J.P. Morgan Chase Bank, N.A. resign as Trustee of the South Texas Syndicate Trust. For your convenience, the written confirmations requesting the resignation are enclosed.

Please confirm that J. P. Morgan Chase Bank N.A. agrees to resign as Trustee of the South Texas Syndicate Trust. Also, please contact me at your earliest convenience to discuss an orderly transition in connection with the appointment of a Successor Trustee. Thank you for your prompt attention to this matter.

Kind regards,


John Massopust

Enclosures





500 WASHINGTON AVENUE SOUTH - SUITE 4000
MINNEAPOLIS, MINNESOTA 55415
612-339-2020 MAIN 612-336-9100 FAX

JOHN MASSOPUST
JMassopust@zelle.com
(612) 336-9109

February 19, 2013

VIA EMAIL

Patrick Sheehan
Hornberger Sheehan Fuller Beiter Wittenberg & Garza, Inc.
7373 Broadway, Suite 300
San Antonio, TX 78209

RE: Cause No. 2010-CI-10977, *John K. Meyer, et al. vs. JP Morgan Chase Bank, N.A., et al.*, in the 225th Judicial District Court of Bexar County, Texas

Dear Mr. Sheehan:

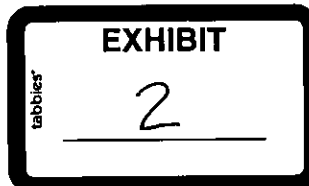
Last Tuesday, February 12, 2013, you and Gary Aymes received notice requesting the resignation of J.P. Morgan Chase N.A. as Trustee of the South Texas Syndicate Trust. We requested confirmation of the resignation so we could start an orderly transition to a successor Trustee. It has now been a week and we have not received a response of any nature from you or J.P. Morgan. In fact, even the February 15, 2013 distribution memo to beneficiaries neglected to mention receipt of the resignation notice.

As you know, your Special Exceptions/Rule 39 Motion is scheduled for a hearing on February 25, 2013. We do not believe it is appropriate to proceed with that hearing given the uncertain status of JP Morgan as Trustee resulting from its refusal to respond to the resignation notice. Once again, we request confirmation that J.P. Morgan intends to resign as Trustee of the South Texas Syndicate Trust. If we have not received confirmation by the close of business on Wednesday, February 20, 2013, we will assume that J.P. Morgan decided to further breach its contract and refuses to resign. We will then proceed as appropriate under the circumstances to confirm the resignation.

Thank you for your prompt attention to this matter.

Kind regards,


John Massopust





HORNBERGER SHEEHAN FULLER BEITER

WITTENBERG & GARZA

INCORPORATED

Patrick K. Sheehan
psheehan@hsfbllaw.com

February 20, 2013

VIA EMAIL

Mr. John B. Massopust
ZELLE HOFMANN VOELBEL & MASON
500 Washington Avenue South, Suite 4000
Minneapolis, MN 55415-1152

Re: Cause No. 2010-CI-10977, *John K. Meyer, et al. vs. JP Morgan Chase Bank, N.A., et al.*, in the 225th Judicial District Court of Bexar County, Texas

Dear Mr. Massopust:

J.P. Morgan is in receipt of your letter to Mr. Gary Aymes dated February 11, 2013 and I am in receipt of your letter dated February 19, 2013. In order to further respond, J.P. Morgan needs additional information from you.

In your February 11th letter you state that "pursuant to the terms and conditions of the 1951 appointment of the Alamo National Bank as Successor Trustee of the South Texas Syndicate Trust, more than fifty-one (51%) of the beneficial interests have requested that J. P. Morgan Chase Bank, N.A. resign as Trustee of the South Texas Syndicate Trust."

Please let us know what documents contain or reference the "terms and conditions" of appointment that you reference in your letter.

In your February 19th letter you refer to a contract. Please advise us as to what contract you refer and the reasons why you allege that J.P. Morgan is in breach of it.

Also, in your February 19th letter you mention an "orderly transition to a successor Trustee." Do you have a proposed successor Trustee? If so, please identify the proposed successor. Has the successor trustee you mentioned advised that it would accept the successor trustee position?

Please describe the "orderly transition" you refer to in your letters. Does it contemplate Court involvement in the process, or not?

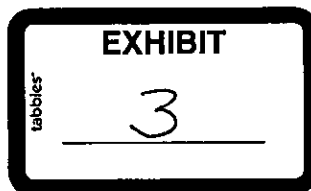
We await your prompt reply.

Sincerely,

Patrick K. Sheehan

PKS/lrk

7373 Broadway, Suite 300 • San Antonio, TX 78209
210.271.1700 • Fax 210.271.1740



Michael Donley

From: Pat Sheehan [psheehan@hsfblaw.com]
Sent: Thursday, February 21, 2013 4:29 PM
To: 'John Massopust'; Jed Williams
Cc: Rudy Garza; Jim Flegle; Michael Donley; 'George H. Spencer, Jr. (spencer@clemens-spencer.com)'; 'jld@ddb-law.com'; 'Robert J. Rosenbach' (ROSENBAR@clemens-spencer.com) (ROSENBAR@clemens-spencer.com); David Deary; 'Matt Gollinger'; 'rtinsman@tsslawyers.com'
Subject: RE: JP Morgan Notice of Resignation

John – we look forward to your response to the questions posed in my letter of yesterday, however, we do not believe nor agree that the resignation issue you raised suggests any reason to delay these hearings. Therefore, we intend to go forward on Monday. Pat



Patrick K. Sheehan
Hornberger Sheehan Fuller Beiter Wittenberg & Garza Incorporated
The Quarry Heights Building
7373 Broadway, Suite 300
San Antonio, Texas 78209
(210) 271-1700
Fax No. (210) 271-1730
psheehan@hsfblaw.com

From: John Massopust [<mailto:JMassopust@zelle.com>]
Sent: Thursday, February 21, 2013 10:02 AM
To: Jed Williams
Cc: Rudy Garza; 'jimf@lfdlaw.com'; 'Michael Donley'; 'George H. Spencer, Jr. (spencer@clemens-spencer.com)'; 'jld@ddb-law.com'; 'Robert J. Rosenbach' (ROSENBAR@clemens-spencer.com) (ROSENBAR@clemens-spencer.com); 'David Deary (davidd@lfdlaw.com)'; 'Matt Gollinger'; 'rtinsman@tsslawyers.com'; Pat Sheehan
Subject: RE: JP Morgan Notice of Resignation

Pat

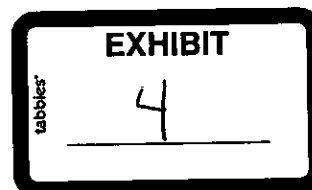
Thanks for the reply.

I will respond to your questions, but I am in meetings and up against deadlines in another case. As a result, it is unlikely that I will have the time to respond this week. Pending an opportunity to provide a response to you and your evaluation of same, I suggest that we continue the Special Exceptions/Rule 39 motion scheduled for Monday because it is no longer the most relevant issue to resolve. A continuance will permit us to stay focused on the resignation issue.

I look forward to your thoughts.

Kind regards, John

From: Jed Williams [<mailto:jwilliams@hsfblaw.com>]
Sent: Wednesday, February 20, 2013 1:26 PM



To: John Massopust

Cc: Rudy Garza; 'jimf@lfdlaw.com'; 'Michael Donley'; 'George H. Spencer, Jr. (spencer@clemens-spencer.com)'; 'jld@ddb-law.com'; 'Robert J. Rosenbach' (ROSENBAR@clemens-spencer.com) (ROSENBAR@clemens-spencer.com); 'David Deary (davidd@lfdlaw.com)'; Matt Gollinger; 'rtinsman@tsslawyers.com'; Pat Sheehan

Subject: RE: JP Morgan Notice of Resignation

Please see the attached letter.

From: John Massopust [mailto:JMassopust@zelle.com]

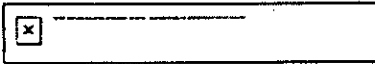
Sent: Tuesday, February 19, 2013 12:14 PM

To: Pat Sheehan

Cc: Rudy Garza; Jed Williams; 'jimf@lfdlaw.com'; Michael Donley; George H. Spencer, Jr. (spencer@clemens-spencer.com); 'jld@ddb-law.com'; 'Robert J. Rosenbach' (ROSENBAR@clemens-spencer.com) (ROSENBAR@clemens-spencer.com); David Deary (davidd@lfdlaw.com); Matt Gollinger; 'rtinsman@tsslawyers.com'

Subject: JP Morgan Notice of Resignation

Please see attached letter. Thank you.



John Massopust
Attorney at Law

[website](#) | [bio](#) | [vCard](#) | [map](#) | 

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