

RECEIVED

08-12-00331-CV (7)
NO. 08-12-00331-CV

JAN 22 2013

DENISE PACHECO, CLERK
EIGHTH COURT OF APPEALS

IN THE COURT OF APPEALS
EIGHTH JUDICIAL DISTRICT OF TEXAS

IN RE: ESTATE OF
MAX D. HOPPER, DECEASED

STEPHEN B. HOPPER and LAURA S. WASSMER,
Defendants - Appellants/Cross-Appellees

JO N. HOPPER,
Plaintiff - Appellee/Cross-Appellant

JPMORGAN CHASE BANK, N.A.,
Defendant - Appellee/Cross Appellee

FILED IN
COURT OF APPEALS

On Appeal from Probate Court No. 3
Dallas County, Texas
Trial Court Cause No. PR-11-3238-3

JAN 22 2013

DENISE PACHECO
CLERK 8th DISTRICT

**APPELLANT LAURA S. WASSMER AND
STEPHEN B. HOPPER'S RESPONSE
TO APPELLEE/CROSS-APPELLANT JO N. HOPPER'S
MOTION TO DISMISS FOR LACK OF STANDING**

Appellants Laura S. Wassmer and Stephen B. Hopper for their response to the motion by Appellee/Cross Appellant Jo N. Hopper to dismiss their appeal state:

SUMMARY OF RESPONSE

Appellee Hopper has moved to dismiss appellants' appeal for lack of standing or alternatively because appellants are estopped to complain of the judgment insofar as it forces appellants to accept undivided interests in the decedent's and Appellee Hopper's residential homestead. The factual basis of the motion is that appellants have transferred the undivided interests to a limited liability company wholly owned and controlled by them.

As Movant, Appellee Hopper bears the burden of persuasion on both motions. As will be seen she has carried neither burden.

In their appeal, appellants have raised three issues in this court: (1) whether the independent administrator can force appellants to accept the undivided interests; (2) whether the prior distributions made by the independent administrator could be made without compliance with the statutory partition and distribution process; and (3) whether appellants waived their right to complain of the prior distributions and undivided interest distribution.

The broad test for whether an appeal is moot is if the court's action on the merits cannot affect the rights of the parties. Here, if the court reverses on the basis of the first issue, the independent administrator can recover the undivided interests in the residence from appellants because, as shown in the attached affidavits, appellants have retained 100% control over these interests. In other words, appellants' transfer of the interests to an entity wholly owned and controlled by them has no effect on this appeal.

Issue number three is tied into issue number two as well as issue number one so that it remains viable as to the prior distributions as well as the undivided interests.

The "acceptance-of-benefits" doctrine does not preclude appellants from prosecuting their appeal. In the first place, the doctrine should not apply in this case because appellants did not seek the so-called "benefit;" so far as they are concerned, it is a net detriment. Second, transferring the undivided interests to a wholly-owned, single-asset entity to preserve the

asset and to protect appellants from unwanted liability¹ does not necessarily mean that appellants have accepted the benefits of the judgment. Third, reversal of the judgment will have practical consequences.

ARGUMENT AND AUTHORITIES

1. *No Justiciable Interest (Mootness)*

In *VE Corporation v Ernst & Young*, the Texas Supreme Court states the general rule:

“Generally, an appeal is moot when the court’s action on the merits cannot affect the rights of the parties.”

800 S.W.2d 83, 84 (Tex. 1993) (Court’s citation omitted.) This Court has stated a more expanded version of the rule:

“A case is rendered moot when: (1) it appears that a party seeks to obtain a judgment upon some

¹ Submitted herewith are appellants’ affidavits and documentation establishing the reasons for the transfer and the willingness and ability of appellants to convey back the interests at issue. The court has the right to consider this material de hors the trial court record in order to determine its own jurisdiction. See *Seals v. City of Dallas*, 249 S.W.3d 750, 754 (Tex. App. – Dallas 2008, no pet.)

controversy, when in reality none exists; or (2) a party seeks a judgment upon some matter which cannot have a practical legal effect upon a then existing controversy. That is to say, when an actual controversy no longer exists between the parties, "the decision of an appellate court would be a mere academic exercise."

Beltran v Beltran, 324 S.W.3d 107, 110 (Tex. App. – El Paso 2010, no pet.)

(Court's citations omitted.)

Applying these principles to the case at hand compels the conclusion that appellants still have juridical bones to pick *viz.-a-viz.* the Appellee Hopper and the Bank over the undivided interests.

This Court will either affirm or reverse the probate court on the issue of whether the independent administrator may force appellants to accept the undivided interests in the residence in lieu of other assets available to them pursuant to a statutorily-compliant partition. If this court affirms, appellants will be free to do with the interests what they will. If this Court reverses, then appellants will gladly return the interests to the Bank.

Appellants have taken precautions to assure that if the undivided interests are to be returned to the estate, this can be done. Appellee

Hopper bears the burden to establish the absence of standing. *See Lee v. El Paso County*, 965 S.W.2d 668, 671 (Tex. App. – El Paso 1998, no pet.) She has produced no evidence that appellants are unwilling or unable to re-transfer the undivided interests.

Both of the principal cases relied on by Appellee Hopper are factually distinguishable from the present case. *Hart v L.B. Foster Co.*, 2010 Tex. App. LEXIS 5191 (Tex. App. – Houston ([14th Dist.] 2010, no pet.) was a declaratory judgment action involving whether negotiated property-use restrictions ran with the land. The appellee sold the property in an arm's-length transaction so that it no longer owned the property, retaining only a leasehold interest. The appellee admitted that it was personally bound by the restrictions. The court held that the case should be dismissed because the appellee had no justiciable interest in whether the restrictions bound a subsequent owner.

That is not the case here. There was no arm's-length transfer. Unlike the appellee in *Hart*, appellants' continuing interest in the property is not

speculative.² Appellants still control the undivided interests. Thus they have a very real stake in what this Court does with those interests.

In the other case, *In The Matter of the Estate of Velasco*, 214 S.W.3d 213 (Tex. App. – El Paso 2007, no pet.), this Court held that the appellant, who had transferred his entire interest in the estate to a third party in an arm’s-length transaction, was no longer an “interested party” as that term is defined in Tex. Prob. Code §3(r) and therefore had no standing. In the present case whether appellants must accept the undivided interests in lieu of their fair share of the decedent’s estate still matters a great deal to them financially. Appellants are not in the same disinterested position as the appellant in *Velasco*. Velasco did not retain any ability to regain his interest from ONEOK and did not show that he could control ONEOK or its decision to retransfer Velasco’s interest. In the present case, Quagmire is not a distant unrelated third-party transferee over which appellants have

² The appellee in *Hart* retained a purchase-money mortgage which he might not ever have foreclosed. The court said this potential interest was too speculative to support standing. In the present case because appellants have retained total control over the interests through their 100% ownership of Quagmire, they have the ability at any time to reacquire title in their individual name and reconvey the interests to the administrator.

no control. To the contrary, they own and control 100% of Quagmire and thereby control its one and only asset; the undivided interests in Robledo.

In the present case the Bank transferred the interests to appellants over their objection even before there was a court order authorizing the transfer. Appellants have transferred their interests to a wholly-owned entity for the purpose of protecting the interests against claims that might interfere with appellants' ability to return the property to the estate. (That and protecting themselves from liability.) Appellants are trying to return the property to the estate. Legal title to the property belongs in the estate until the estate is equitably partitioned and distributed as provided by law. The independent administrator can have the property back, in its as-transferred condition, simply by agreeing to take it back³. The controversy between appellants on the one hand and Appellee Hopper and the Bank on the other is as much alive today as it was before appellants' transfer to Quagmire.

³ Indeed, if this Court holds that they must do so in order to continue prosecuting their appeal, appellants can and will immediately transfer the property back.

2. *Acceptance of Benefits (Estoppel)*

It is a universal rule that a litigant may not treat a judgment as both right and wrong. One who accepts the benefits of a judgment cannot complain of the judgment on appeal. See *Carle v Carle*, 234 S.W.2d 1002, 1004 (Tex. 1950); *Hanna v Godwin*, 876 S.W.2d 454, 458 (Tex. App. – El Paso 1994, no writ.)

Just as in the case of standing, Appellee Hopper bears the burden to establish estoppel. See *Waite v Waite*, 150 S.W.3d 797, 803 (Tex. App. – Houston [14th Dist.] 2004, pet. den.)

In the first place, the acceptance-of-benefits rule should not apply in this case. Appellants did not sue to recover the undivided interests. The interests were thrust upon them against their will; they are suing to give them back. In this respect the present case is unique. Research by appellants' counsel has found no Texas case⁴ in which the acceptance-of-benefit rule was applied with respect to a judgment that the appellant did not seek, but in fact actively resisted. Apparently Appellee Hopper's

⁴ Time constraints preclude surveying other jurisdictions.

counsel have been unable to find such a case either. The one case they cite, *San Antonio Savings Ass'n v Palmer*, 780 S.W.2d 803 (Tex. App. - San Antonio 1989, writ den.) has nothing whatsoever to do with the standing of a party to pursue an appeal. The case involved whether the appellees could claim that a property-transfer transaction was void while retaining the consideration they received for the transfer.

Second, appellants transferred the interests to a wholly-owned entity solely for the purpose of protecting themselves from possible liability arising from their involuntary ownership and in order to assure that the interests could be re-transferred if they prevail on appeal. Their action does not necessarily raise the inference that they voluntarily accepted the benefits of the judgment. Indeed the opposite inference is even more compelling. What appellants have done is functionally no different than their continuing to pay their portion of the casualty insurance, pay their portion of the mortgage principal payments (when they begin to come

due)⁵ or voluntarily contributing to making structural repairs to the house to protect it from deterioration during the appeal.

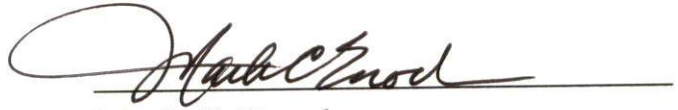
Reversal of the judgment will result in appellants being divested of legal title to the interests and the independent administrator re-vested with legal title. There will be consequences to Appellee Hopper as well: she will likely be forced to give back some of the other assets she received in order to balance the distribution equities.

CONCLUSION

Appellee Hopper has failed to sustain her burden to establish either lack of standing or estoppel. Her motion should be denied.

⁵ See Appellants' Laura Wassmer and Stephen B. Hopper Affidavits

Respectfully submitted,



Mark C. Enoch
State Bar No. 06630360
Lawrence Fischman
State Bar No. 07044000

Glast, Phillips & Murray, P.C.
14801 Quorum Drive, Suite 500
Dallas, Texas 75254-1449
(972) 419-8300
(972) 419-8329 - facsimile
fly63rc@verizon.net
lfischman@gpm-law.com

Counsel for Appellants

CERTIFICATE OF SERVICE

The undersigned certifies that on the 21st day of January, 2013, a true and correct copy of the above and foregoing was sent via fax and via certified mail, return-receipt-requested to the following counsel:

John C. Eichman (lead counsel)
jeichman@hunton.com
Hunton & Williams
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
Fax: 214-468-3300
COUNSEL FOR
JP MORGAN CHASE
BANK, N.A.

Michael A. Yanof
myanof@thompsoncoecoe.com
Thompson Coe Cousins & Irons
Plaza of the Americas
700 North Pearl Street, 25th Floor
Dallas, Texas 75201
Fax: 214-871-8209

James Albert Jennings
Erhard & Jennings, P.C.
1601 Elm Street
Suite 4242
Dallas, Texas 75201
Fax: 214-871-1655

COUNSEL FOR JO N. HOPPER



Mark Enoch

combined 50% undivided interest in the house on Robledo. Quagmire has never owned anything else and it is not Laura's and my intention that it ever own anything else. Rather it was and is Laura's and my intention to only temporarily hold this interest in Quagmire to protect ourselves from liability as discussed below, until such time as the appeal is resolved. If the appeal is successful, we intended then and still do intend to transfer each of the 25% interests back to the administrator or court for later partition and distribution. The main reason that we transferred these interests to Quagmire was to protect ourselves from liabilities that might arise from our objected-to-ownership of these undivided interests. Also, because I am a practicing psychiatrist, I am mindful that I may be subjected to potential professional liability claims. Mindful of this fact, I also wanted to protect the interest in Robledo from my own potential creditors so that I would be able to assure its re-conveyance to the administrator or the court when the appeal is resolved.

3. On June 5, 2012, I received a letter from the Administrator, JPMorgan Chase, advising that it intended to issue undivided interests in the house on Robledo Lane in Dallas to me on June 25, 2012. I had been resisting such a

transfer and insisting instead that the house be part of the overall partition process.

4. Nevertheless, JPMorgan Chase stated that it would issue the undivided interests on June 25, 2012. Our attorneys attempted to obtain a hearing objecting to such transfer, prior to June 25, but we were advised that the court did not have time available for the hearing before that date. Accordingly, on that date I received a 25% undivided interest in Robledo to which I had previously and strongly objected and to which I now continue to strongly object.

5. It became one of my top priorities after that to make sure that I was insured against liability arising from my disputed ownership in the house. For many weeks after the transfer, I attempted through my own insurance agent as well as others, including those suggested by our counsel in Dallas, to obtain insurance on the home to protect myself. I was eventually told that because there was only one house, there could only be one insurance policy and it was necessary for me to be named as an additional insured on the existing policy owned by Appellee, Jo N. Hopper.

6. Unfortunately, the Appellee refused to allow her insurance agent to add me on her policy as an additional insured unless I paid her for past insurance bills on the home before my disputed ownership. At all times, I communicated to her through counsel and her insurance agent, that I was willing and ready to pay my pro-rata portion of the cost of the homeowners policy from June 25, 2012 forward. When her insurance agent would no longer return my calls or those of my counsel, I sent a check for \$600.00, more than the pro-rata cost of the policy for my 25% and the 25% of my sister Laura Wassmer, and demanded that our names be added to the policy.

7. Within days, on July 20, 2012 Counsel for Appellee returned that check and refused to allow Laura or me to be insured until his financial demands were met. A true and correct copy of Mr. Jennings' letter of that date is attached hereto, marked as Exhibit A and is incorporated herein for all purposes.

8. On August 2, 2012 because of this intransigent and unreasonable position, I directed our attorneys to file and have heard on August 6, 2012 *Stephen Hopper's and Laura Wassmer's Motion to Order Plaintiff to Allow the Heirs to Insure their current Yet Disputed Undivided Interest in Robledo and to*

Prohibit Interference of Plaintiff with the Heir's Attempts to obtain Property and Liability Insurance. A true and correct copy of that Motion is attached hereto, marked as Exhibit B and is incorporated herein for all purposes.

9. Appellee then filed an Opposition to this Motion, and among other things confirmed that Appellee would not allow me to insure my interest unless I paid for past insurance before I was wrongly deeded this undivided interest. A true and correct copy of Appellee's Opposition is attached hereto, marked as Exhibit C and is incorporated herein for all purposes.

10. As a result of the trial court's order of August 15, 2012 that allowed Laura and me to pay for and be named an additional insured on the homeowner's policy, we later were added as of August 29, 2012.

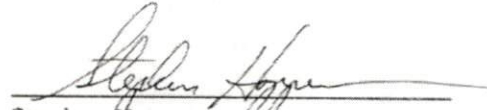
11. After reviewing the policy's liability section and discussing this with my own insurance agent, I became concerned that the low liability limits of the homeowner's policy could place my other assets at risk. The policy had only a \$500,000 limit and a limit of \$25,000 for medical payment claims, both of which I was very concerned were not sufficient to fully protect me. I thus sought the advice of Cynda Ottaway, an attorney with Crowe and Dunlevy law firm in Oklahoma City, Oklahoma. She advised Laura and me that given the

limitations of liability protection from the homeowner's insurance and my previously unforeseen need to protect 9 Robledo and the interests to reconvey from any potential creditors of my own, the best way to proceed would be for us to temporarily own the interests in Robledo in a LLC. We could then easily re-convey those interests after resolution of this appeal.

12. It was Ms. Ottaway who formed Quagmire and prepared the transfer papers. Our appellate counsel in this case was unaware of this transfer until it was brought to their attention by the filing of the Motion to Dismiss.

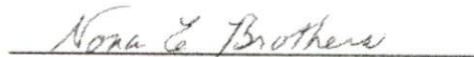
13. Since August 29, 2012, Laura and I have paid for our pro-rata share of the cost of the homeowner's insurance policy on two occasions totaling more than \$3,800. Because the mortgage note is an interest-only note until April 2013, we have not yet made mortgage principal payments but will start doing so in April. We have paid our part of the insurance and will pay our share of the principal payments in order to assure that our respective 25% interests can be re-conveyed intact.

Further Affiant saith not."


Stephen Hopper

SWORN TO and SUBSCRIBED before me by Stephen B. Hopper on January
18, 2013.




Notary Public in and for
The State of Oklahoma

My Commission Expires:

8/5/2014

ERHARD & JENNINGS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
THANKSGIVING TOWER
1601 ELM STREET, SUITE 4242
DALLAS, TEXAS 75201

TELEPHONE
(214) 720-4001

FACSIMILE
(214) 871-1655

JAMES ALBERT JENNINGS †

Email: jjennings@erhardjennings.com
OR jjennings@aol.com

July 20, 2012

Via Hand-Delivery

Mr. Mark Enoch
Ms. Melinda Sims
Mr. Gary Stolbach
Glast, Phillips & Murray
14801 Quorum Drive, Suite 500
Dallas, Texas 75254

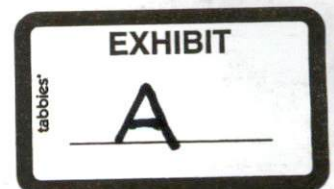
RE: *Estate of Max D. Hopper, Deceased: Jo N. Hopper v. JPMorgan Chase Bank, N.A., Stephen B. Hopper and Laura Wassmer; Cause No. PR-11-3238-3/Demand regarding Insurance premium payments owed on No. 9 Robledo, Dallas, Texas 75230, and, Return of Inadequate Payment [i.e., \$600.00]*

Dear Counsel:

Attached please find Stephen B. Hopper, M.D.'s original check #10273 in the amount of \$600.00, along with a copy of his note, both just received by Mrs. Jo Hopper. It is returned in care of your firm inasmuch as Mrs. Hopper wants there to be absolutely no confusion that she is not prepared to accept such a sum (in regard to the Homeowner's insurance on No. 9 Robledo) different from the insurance billing sent you previously. She is not. She neither has waived nor will waive her position in this regard. Mrs. Hopper's position on this matter is both principled and non-negotiable. Your clients' "free ride" is over.

Mrs. Hopper's position is that such insurance on Robledo (as to your clients' respective one-half portion of the insurance premium) is owed in full for all applicable policy periods since Mr. Hopper's death (see our prior email of July 9, 2012 with attachments, copy attached). As the Deed itself reflects and recites (and as is the law in Texas), both Dr. Stephen Hopper and Ms. Laura Wassmer have been owners of an undivided fee interest in Robledo since January 25, 2010. There

† BOARD CERTIFIED LABOR AND EMPLOYMENT LAW
TEXAS BOARD OF LEGAL SPECIALIZATION



July 20, 2012
Page 2

is/was no "magic" in the Deed's date of June 25, 2012, simply by virtue of the fact that is the date the Bank formalized a more-than-two-year "reality," by virtue of a filing Deed on that date.

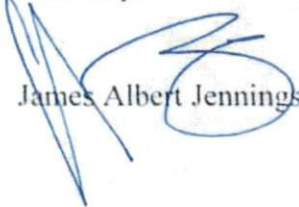
Please replace the attached check with a check for the correct amount actually due under the current policy, which billing you have previously been given as to that billing amount (see July 9th letter attached hereto).

Also, our client expects and DEMANDS your clients pay their pro-rata portion of all insurance premiums due from January 25, 2010 forward in time. You have ignored that same request, in writing, (June 28, 2012 – see attached) previously. Our client believes that this failure of payment creates a cause of action in her favor against your clients. Do you really want Mrs. Hopper to have to sue your clients for this failure to pay sums unquestionably owed.

We look forward to prompt remittance of all sums properly due from the date of Mr. Hopper's death, forward in time.

YOU ARE ON NOTICE.

Sincerely,



James Albert Jennings

JAJ:je
Enclosures

Cc: Mike Graham w/encls. (via email)
Mike Yanof w/encls. (via email)
Client w/encls. (via email)

NO. PR-11-3238-3

FILED

2012 AUG -2 AM 10:30

IN RE: ESTATE OF

§

IN THE PROBATE COURT

MAX D. HOPPER,

§

JOHN F. WARREN
COUNTY CLERK
DALLAS COUNTY

DECEASED

§

§

§

§

§

JO N. HOPPER,

§

NO. 3

Plaintiff,

§

§

§

v.

§

§

JPMORGAN CHASE, N.A., STEPHEN
B. HOPPER and LAURA WASSMER,

§

§

§

Defendants.

§

DALLAS COUNTY, TEXAS

**STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION TO ORDER PLAINTIFF
TO ALLOW THE HEIRS TO INSURE THEIR CURRENT YET DISPUTED
UNDIVIDED INTEREST IN ROBLEDO AND TO PROHIBIT INTERFERENCE OF
PLAINTIFF WITH THE HEIRS' ATTEMPTS TO OBTAIN PROPERTY AND
LIABILITY INSURANCE**

**PLAINTIFF HAS PROHIBITED THE HEIRS FROM INSURING THEMSELVES,
AT THEIR OWN COST, THUS REQUIRING THE COURT'S INTERVENTION.**

STEPHEN HOPPER and LAURA WASSMER (collectively the "Heirs") file this MOTION TO ORDER PLAINTIFF TO ALLOW THE HEIRS TO INSURE THEIR CURRENT YET DISPUTED UNDIVIDED INTEREST IN ROBLEDO AND TO PROHIBIT INTERFERENCE OF PLAINTIFF WITH THE HEIRS' ATTEMPTS TO OBTAIN



PROPERTY AND LIABILITY INSURANCE and in support therefore would respectfully show the Court as follows:

1. Over the strenuous objections of the Heirs, Defendant Bank issued undivided interests in the homestead on Robledo Drive to the Heirs on June 25, 2012. The Heirs had previously and consistently urged the partition of all of the Estate pursuant to Texas law and Section 150 of the Texas Probate Code.

2. Notwithstanding the Heir's objections, they now appear to be the owners of an undivided interest of a combined 50% of Robledo. While they object to such distribution without partition, they nevertheless wish to immediately obtain property and liability insurance related to their partial ownership and subjected liabilities.

3. Numerous attempts have been made by the Heirs and their counsel to obtain this insurance, yet Plaintiff Jo Hopper has interfered with and prohibited the Heirs from obtaining same by instructing her insurance agent to not cooperate with the Heirs or allow their names to be added as "additional insureds" on the Declarations page of the existing insurance policy previously obtained by Plaintiff.

4. Attached hereto marked as Exhibit A and incorporated herein for all purposes is a copy of the current Declarations page of the Robledo policy indicating that the only person with an insurable interest is the Plaintiff. The Heirs have been advised by insurance industry experts that they cannot obtain another policy on a property for which a policy has already been issued. Neither can they obtain "partial" insurance on an undivided interest ownership. Rather, they must be part of and insured under the existing policy.

5. Chubb will not add the Heirs as additional insureds without the Plaintiff's agreement and the Plaintiff will not agree to allow the Heirs to insure their interests unless the

Plaintiff's demands for additional compensation are first met. The amount demanded by the Plaintiff is disputed and Plaintiff is attempting to extort the disputed amount or withhold her "authority" to allow the Heirs to insure themselves.

6. After failing to be able to place insurance on their interests themselves, the Heirs tendered payment to the Plaintiff of more than their proportional expense for the insurance for the current term (Sept. 1, 2011 – Aug. 31, 2012). They sent a \$600.00 check to the Plaintiff to reimburse her for their percentage of the cost of the annual insurance starting as of June 25, 2012, the date on which they received (over their objection) formal deeds distributing these undivided ownership interests and the date on which the Bank filed them of record.

7. On July 20, 2012, Plaintiff's counsel returned the check and demanded that the Heirs pay Plaintiff an additional amount in the thousands, or they would not be allowed to insure their current disputed ownership. See Exhibit B attached hereto.

8. As it currently stands, the Heirs have no insurance policy to cover their property interest or liability. Should the dwelling burn or should someone be injured on the property, they have no formal coverage.¹

9. The current policy of insurance covers September 1, 2011 until August 31, 2012. The total cost of the policy was \$6,198. Dividing that amount by the 365 days of the year equals a daily insurance cost of \$16.98. The Heirs obtained the disputed distribution on June 25. There are 66 days left of the coverage including the 25th. The actual cost for the Heirs' coverage should be half of the remaining coverage. That amount should be calculated by multiplying 66 days times \$16.98 times 50% (to reflect their ½ ownership). That amount is \$560.37. The Heirs, in an

¹ The Heirs do claim, however, that after the Plaintiff's refusal to accept the check (which is more than the prorated percentage of cost attributable to the Heirs' 50% interest from June 25 to the expiration of the current policy on Sept. 1, 2012) and refusal to allow them to obtain formal insurance, the Plaintiff herself is liable to fully indemnify and hold harmless the Heirs from any and all casualty losses, as is the Bank for wrongfully distributing the interest and failing to assure the Heirs of the ability to insure.

abundance of caution sent Plaintiff \$600.00...*more than required*...but were still refused insurance by the Plaintiff who now withholds "permission" to her agent to allow the naming of the Heirs as "additional insureds" unless her personal demands for more money are met.

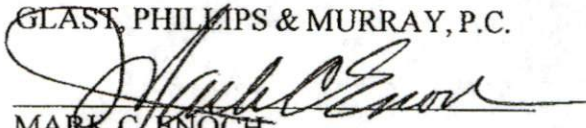
10. A dispute between co-tenants in common is not unusual. That THIS Plaintiff has used her unique position as customer of Chubb to withhold the ability of the Heirs to insure themselves...*at their own cost*...should come as no surprise to the Bank. They knew of the absolute certainty of this situation, yet ignored it in their distribution. Surely, this Court did not intend for the Plaintiff to be allowed **unilateral control** over whether or not, at their own cost, the Heirs are able to insure themselves. This Court must now intervene to allow the Heirs to protect their interests and not be held hostage by the Plaintiff.

WHEREFORE PREMISES CONSIDERED, The Heirs pray that the court ORDER the Plaintiff to immediately allow the Heirs to become "additional insureds" named on the Declarations page of the current insurance policy by directing the insurance agency to do so for the payment by the Heirs to the Plaintiff of \$560.37. The Heirs pray for such other relief, both general and special, to which they may show themselves justly entitled and for which they will ever pray.

Respectfully submitted,

GLAST, PHILLIPS & MURRAY, P.C.

By:


MARK C. ENOCH

State Bar No. 06630360

MELINDA H. SIMS

State Bar No. 24007388

GARY STOLBACH

State Bar No. 19277700

GLAST, PHILLIPS & MURRAY, P.C.

14801 Quorum Drive, Suite 500

Dallas, Texas 75254-1449

Tel: (972) 419-8323

Fax: (972) 419-8329

ATTORNEYS FOR STEPHEN HOPPER
AND LAURA WASSMER

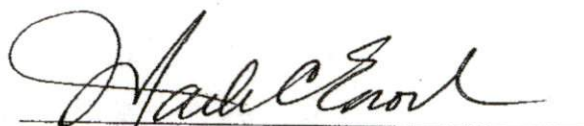
CERTIFICATE OF SERVICE

The undersigned certifies that on the 2nd day of August, 2012 a true and correct copy of the above and foregoing document was sent by certified mail, return receipt requested, to the following:

Mr. Thomas H. Cantrill
Mr. John C. Eichman
Hunton & Williams
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
Via Hand-Delivery

Mr. James Albert Jennings
Erhard & Jennings, P.C.
1601 Elm Street, Suite 4242
Dallas, Texas 75201
Via Hand-Delivery

Mr. Michael L. Graham
Ms. Janet P. Strong
The Graham Law Firm, P.C.
100 Highland Park Village, Suite 200
Dallas, Texas 75205
Via Hand-Delivery



Mark C. Enoch



Chubb & Son, a division of Federal Insurance Company
15 Mountain View Road, Warren, New Jersey 07080

**TEXAS STANDARD HOMEOWNERS POLICY
DECLARATIONS PAGE**

Name and Address of Insured

JO N. HOPPER
9 ROBLEDO DRIVE
DALLAS, TX 75230-3054

Policy Period

Effective Date: 09/01/11
Expiration Date: 09/01/12
at 12:01 a.m. standard time at the location of the residence premises/dwelling
9 ROBLEDO
DALLAS, TX 75230
COUNTY - DALLAS
Residence Premises/Dwelling
Lot Block Addition

Mortgagee

FIRST REPUBLIC BANK
ITS SUCCESSORS AND/OR ASSIGNS
P O BOX 1527
ORANGE, CA 92856-0527
Loan No. 22-063027-7

Policy No. 11395241-14

New Rewrite Renewal

Amended-Date 03/07/12

Texas Homeowners Policy Form HO-C
Company Name and Address
CHUBB LLOYD'S INSURANCE COMPANY OF TEXAS - A TEXAS LLOYD'S COMPANY
2001 BRYAN STREET, SUITE 3400
DALLAS, TX 75201-3068

Construction: BRICK
Protection Class: 2
Roof Type: TILE

Agent Name and Address

HIGGINBOTHAM & ASSOCIATES, INC.
500 W. 13TH STREET
FORT WORTH, TX 76102

Agent No. 41714 Sub Agent 999

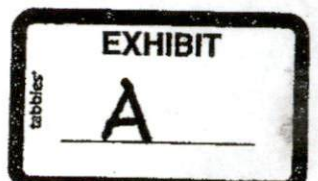
Coverages	Limits of Liability	Premium
Section I Property		
Coverage A. Dwelling	\$ 2,578,000	\$ 5,583
Other Structures	\$ 515,600	
Coverage B. Personal Property	\$ 1,546,800	Included
Personal Property Off Premises	Included	XXXXXXXXXXXX
Basic Premium	XXXXXXXXXXXX	\$ 5,583
Section II Liability		
Coverage C. Personal Liability(each occurrence)	\$ 500,000	Included
Coverage D. Medical Payments to Others(each person)	\$ 25,000	Included
Other Residential Premises - Location	XXXXXXXXXXXX	
Increased Liability Limits	XXXXXXXXXXXX	\$ 23
Loss of Use	Unlimited	XXXXXXXXXXXX
Other Coverages and Endorsements		
Endorsement Number and Title		
99-10-0299 07/92 POLICYHOLDER INFO. NOTICE		
02-10-0642 01/08 MOLD, FUNGI OR ... COV.	SEE PAGE 2	
02-02-0494 02/10 TX PLAT. PROG. FOR HOMEOWNERS		Included
02-02-0497 06/08 EXTENDED REPL. COST		\$ 5
02-02-0499 06/99 DAMAGED PROP. OF OTHERS	\$ 5,000	\$ 4
Deductibles (Section I only)	Amount of Deductible	Deductible Adjustment Premium
Deductible Clause 1 1% of Dwelling Limit	\$ 25,780	
Deductible Clause 2 1% of Dwelling Limit	\$ 25,780	
Deductible Clause 3		
Total Policy Premium	XXXXXXXXXXXX	\$ 6,198

Your premium will not change for this revision.

OTHER COVERAGES, LIMITS AND EXCLUSIONS APPLY - REFER TO YOUR POLICY

Paul N. Morrissette

Paul N. Morrissette, Authorized Signature



ERHARD & JENNINGS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
THANKSGIVING TOWER
1601 ELM STREET, SUITE 4242
DALLAS, TEXAS 75201

TELEPHONE
(214) 720-4001

FACSIMILE
(214) 871-1655

JAMES ALBERT JENNINGS †

Email: jjennings@erhardjennings.com
OR jajennings@aol.com

July 20, 2012

Via Hand-Delivery

Mr. Mark Enoch
Ms. Melinda Sims
Mr. Gary Stolbach
Glast, Phillips & Murray
14801 Quorum Drive, Suite 500
Dallas, Texas 75254

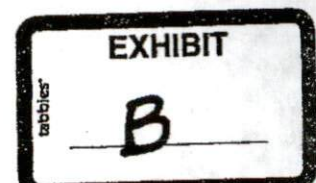
RE: *Estate of Max D. Hopper, Deceased: Jo N. Hopper v. JPMorgan Chase Bank, N.A., Stephen B. Hopper and Laura Wassmer; Cause No. PR-11-3238-3/Demand regarding Insurance premium payments owed on No. 9 Robledo, Dallas, Texas 75230, and, Return of Inadequate Payment [i.e., \$600.00]*

Dear Counsel:

Attached please find Stephen B. Hopper, M.D.'s original check #10273 in the amount of \$600.00, along with a copy of his note, both just received by Mrs. Jo Hopper. It is returned in care of your firm inasmuch as Mrs. Hopper wants there to be absolutely no confusion that she is not prepared to accept such a sum (in regard to the Homeowner's insurance on No. 9 Robledo) different from the insurance billing sent you previously. She is not. She neither has waived nor will waive her position in this regard. Mrs. Hopper's position on this matter is both principled and non-negotiable. Your clients' "free ride" is over.

Mrs. Hopper's position is that such insurance on Robledo (as to your clients' respective one-half portion of the insurance premium) is owed in full for all applicable policy periods since Mr. Hopper's death (see our prior email of July 9, 2012 with attachments, copy attached). As the Deed itself reflects and recites (and as is the law in Texas), both Dr. Stephen Hopper and Ms. Laura Wassmer have been owners of an undivided fee interest in Robledo since January 25, 2010. There

† BOARD CERTIFIED LABOR AND EMPLOYMENT LAW
TEXAS BOARD OF LEGAL SPECIALIZATION



July 20, 2012
Page 2

is/was no "magic" in the Deed's date of June 25, 2012, simply by virtue of the fact that is the date the Bank formalized a more-than-two-year "reality," by virtue of a filing Deed on that date.

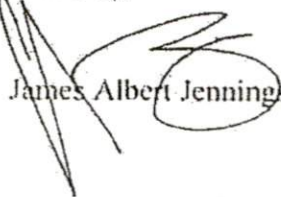
Please replace the attached check with a check for the correct amount actually due under the current policy, which billing you have previously been given as to that billing amount (see July 9th letter attached hereto).

Also, our client expects and DEMANDS your clients pay their pro-rata portion of all insurance premiums due from January 25, 2010 forward in time. You have ignored that same request, in writing, (June 28, 2012 – see attached) previously. Our client believes that this failure of payment creates a cause of action in her favor against your clients. Do you really want Mrs. Hopper to have to sue your clients for this failure to pay sums unquestionably owed.

We look forward to prompt remittance of all sums properly due from the date of Mr. Hopper's death, forward in time.

YOU ARE ON NOTICE.

Sincerely,



James Albert Jennings

JAJ:je
Enclosures

Cc: Mike Graham w/encls. (via email)
Mike Yanof w/encls. (via email)
Client w/encls. (via email)

FILED

2012 AUG -3 AM 11:19

IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

§
§
§
§
§

IN THE PROBATE COURT

JOHN E. WARREN
COUNTY CLERK
DALLAS COUNTY

JO N. HOPPER,

§
§
§
§
§
§
§
§
§
§

NO. 3

Plaintiff,

v.

JP MORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER,

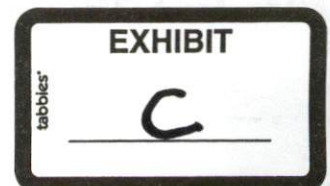
Defendants.

DALLAS COUNTY, TEXAS

PLAINTIFF JO N. HOPPER'S OPPOSITION TO: STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION TO ORDER PLAINTIFF TO ALLOW THE HEIRS TO INSURE THEIR CURRENT YET DISPUTED UNDIVIDED INTEREST IN ROBLEDO AND PROHIBIT INTERFERENCE OF PLAINTIFF WITH THE HEIRS' ATTEMPTS TO OBTAIN PROPERTY AND LIABILITY INSURANCE

Plaintiff Jo N. Hopper ("Plaintiff" or "Hopper") files this *Plaintiff Jo N. Hopper's Response in Opposition to Stephen Hopper's and Laura Wassmer's Motion to Order Plaintiff to Allow the Heirs to Insure Their Current Yet Disputed Undivided Interest in Robledo and Prohibit Interference of Plaintiff with the Heirs' Attempts to Obtain Property and Liability Insurance* (the "Response" to this "Motion"), and states as follows:

PLAINTIFF JO N. HOPPER'S OPPOSITION TO: STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S MOTION TO ORDER PLAINTIFF TO ALLOW THE HEIRS TO INSURE, ET AL.



I. Argument

A.

The Stepchildren's Motion is meritless and yet another waste of the parties' and Court's time. Stephen B. Hopper and Laura S. Wassmer (the "Stepchildren") act as if they are "aggrieved parties". **Far from it. The widow Plaintiff is the only aggrieved party and has carried the Stepchildren's insurance burden for well over two and a half years – without recompense.** Plaintiff's homestead, No. 9 Robledo Dr., is and has been continuously insured since her husband, Max D. Hopper (the "Decedent") died on January 25, 2010. It is also undisputed that the widow Plaintiff has shouldered and paid the entire insurance premiums due (tens of thousands of dollars) during that time, up to this very day. As reflected in the Deed issued by JP Morgan Chase Bank, N.A., as Independent Administrator (the "IA"), the Stepchildren have been owners of an undivided fee interest in Robledo since the Decedent's death. *See Stewart v. Hardie*, 978 S.W.2d 203, 207 (Tex. App. – Fort Worth 1998, pet. denied). As such, the Stepchildren were and are and always have been directly responsible for one-half of all insurance premiums from that date (January 25, 2010) forward.

B.

The Stepchildren's Motion is false and misleading in numerous respects – see especially paragraph "3" which is wholly false. In fact Plaintiff is happy, indeed thrilled, if the Stepchildren are

named insureds: **AS LONG AS THEY PAY THEIR OWN WAY.**¹

C.

The Stepchildren claim, however, that they are only “obligated” to pay insurance premiums from the date of the Deed (June 25, 2012) through the end of the current term of the existing insurance policy (August 31, 2012).² This position is absurd – the Stepchildren owned 50% of the fee from the date of the Decedent’s death (*see Stewart, supra*) regardless of the (wholly arbitrary) date of the Deed. Along with this ownership interest, came certain obligations, including the obligation to pay timely their share of the insurance premiums on Robledo. The Stepchildren cannot refuse to pay long past-due insurance premiums yet concurrently insist on Plaintiff adding them to the policy already obtained by Plaintiff. As they admit in/by their Motion, the Stepchildren owe money for insurance premiums, but they must pay all of the premiums that are owed – and are not allowed to “pick and choose” what and how much they prefer to pay. Plaintiff in solitary fashion has carried their burden for far too long. See Exhibits “A”, “B”, “C” and “D” hereto, incorporated by reference, making (polite) Demand for such payments. Such Demands, as the Stepchildren’s Motion admits, were rejected out of hand.

Accordingly, the Motion should be denied and the Stepchildren should be ordered to pay one-

¹ The Court is on notice per the Accounting just filed by the Bank/IA that each of the Stepchildren have actually received millions of dollars during this same time period in direct distributions from the Estate. Yet they’ve paid not a dime of the insurance cost on Robledo to date.

² The Stepchildren also allege that they cannot insure their interests independent of Plaintiff. They are wrong. There are insurance markets that will insure their interests. And of course they have millions of dollars with

half of all insurance premiums due on Robledo from January 25, 2010 forward in time, *instanter*.

II. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Motion be in all respects denied, that the Stepchildren be ordered to pay all insurance premiums due and paid by Plaintiff since Decedent's date of death, *instanter*, and that Plaintiff be granted such other relief to which she is justly entitled.

ERHARD & JENNINGS
a Professional Corporation
1601 Elm Street
Suite 4242
Dallas, Texas 75201-3509
(214) 720-4001
(214) 871-1655 (Facsimile)

By: _____

James Albert Jennings
State Bar No. 10632900
Kenneth B. Tomlinson
State Bar No. 20123100

GRAHAM LAW FIRM, P.C.
100 Highland Park Village, Suite 200
Dallas, Texas 75205
(214) 599-7000
FAX: (214) 599-7010

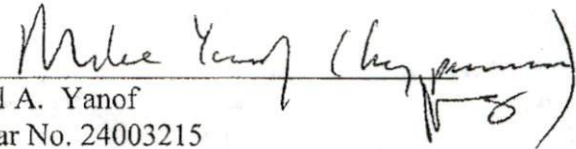
By: _____

Michael L. Graham
State Bar No. 08267500

which to pay (see footnote "1" above).

**PLAINTIFF JO N. HOPPER'S OPPOSITION TO: STEPHEN B. HOPPER'S
AND LAURA S. WASSMER'S MOTION TO ORDER PLAINTIFF TO ALLOW
THE HEIRS TO INSURE, ET AL.**

Janet P. Strong
State Bar No. 19415020

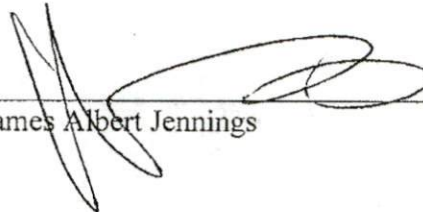
By: 

Michael A. Yanof
State Bar No. 24003215
THOMPSON, COE, COUSINS & IRONS,
LLP
Plaza of the Americas
700 North Pearl Street, 25th Floor
Dallas, Texas 75201
(214) 871-8200
FAX: (214) 871-8209

**ATTORNEYS FOR JO N. HOPPER,
PLAINTIFF**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served via hand delivery to: counsel for both the Independent Administrator and Bank, Thomas H. Cantrill and John Eichman, Hunton & Williams, 1445 Ross Avenue, Suite 3700, Dallas, Texas 75202, and to Defendants Stephen Hopper and Laura Wassmer, via their counsel of record, Mark Enoch, Gary Stolbach, and Melinda Sims, Glast, Phillips & Murray, P.C., 14801 Quorum Drive, Suite 500, Dallas, Texas 75254, on the 3rd day of August, 2012.


James Albert Jennings

Janet Elkins

From: Janet Elkins [janet@erhardjennings.com]
Sent: Thursday, June 28, 2012 3:51 PM
To: 'fly63rc@verizon.net'
Cc: 'jjennings@erhardjennings.com'; 'ktomlinson@erhardjennings.com'; 'mmaf13@aol.com'
Subject: FW: Cause No. PR-11-3238-3; In re Estate of Max D. Hopper, Deceased/Jo No. Hopper v. JPMorgan Chase, N.A., Stephen B. Hopper and Laura Wassmer; Probate Court No. 3, Dallas County, Texas [GPM-Interwoven.FID1467590]

Attachments: ltr to Jennings.2012-06-28.PDF

Dear Mark,

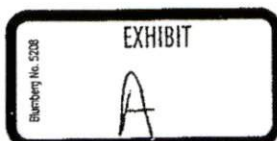
Apparently our two emails were both sent at exactly 3:11 p.m. I think mine addresses yours – even without my intending to do so when I wrote it.

The one thing that did trouble me about your letter was the first sentence on the top of page two. I don't know what "further discussion" we need to have about the cost – the policy costs simply need to be divided in half – as is the ownership of Robledo.

You can call the agent yourselves and check the cost of the policy. Once we get a check for half of it (which I am happy to hold temporarily in trust) from your clients, then of course, we can contact the agent and be sure all names are on the policy. Then Mrs. Hopper will cash your clients' check. This seems to be the simplest way to handle this very minor housekeeping issue.

Please advise.

Thanks.
Jim



Janet Elkins

From: Janet Elkins [janet@erhardjennings.com]
Sent: Thursday, June 28, 2012 4:41 PM
To: 'fly63rc@verizon.net'
Cc: 'jjennings@erhardjennings.com'; 'ktomlinson@erhardjennings.com'; 'mmaf13@aol.com'
Subject: FROM JAMES JENNINGS - Hopper - Follow up on cost of insurance

Dear Mark,

A further thought on the topic of insurance. Lest your clients forget, Mrs. Hopper (their Stepmother) has been insuring their half interest in Robledo, etc., at her expense since January 25, 2010. Mrs. Hopper has submitted those bills to the Independent Administrator (for payment of your clients' share) and we understand the Independent Administrator has claimed it did not pay (i.e., refused to pay) based upon pressure not to pay from your clients.

The Court's Order and certainly the law as reflected in the Deed itself, makes clear that the property (Robledo) has been owned all along jointly by our respective clients, in fee, since January 25, 2010. Your clients have no conceivable basis now for refusal to pay their proper portion of all insurance premiums from the date of death, forward in time, on Robledo. Indeed the law requires it.

Since their conduct has resulted (per the IA) in the IA essentially freezing these (legitimate) payments and thus refusing to pay Mrs. Hopper, your clients need to write a check forthwith for all those sums incurred to date, as well as another check for the premiums going forward. This is true whether your clients like or agree with the Court's Order of May 18th, or not.

Please advise when we can receive a check or checks for the full amount. Naturally, the check(s) representing retroactive payments do not need to be held in trust pending adding your clients' names to the policy -- as your clients have already had the benefit of that coverage for a long, long time.

We will need to discuss a fair rate of interest on such unpaid sums to date. We promise to be eminently reasonable in such regard.

Let me hear from you.

Thanks.
Jim

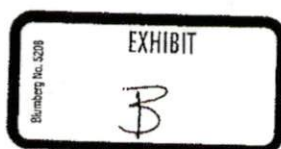
*Notice from Erhard & Jennings, a Professional Corporation

To comply with U.S. Treasury regulations, we advise you that any discussion of Federal tax issues in this communication was not intended or written to be used, and cannot be used, by any person (i) for the purpose of avoiding penalties that may be imposed by the Internal Revenue Service, or (ii) to promote, market or recommend to another party any matter addressed herein.

This Internet message may contain information that is privileged, confidential, and exempt from disclosure. It is intended for use only by the person to whom it is addressed. If you have received this in error, please (1) do not forward or use this information in any way; and (2) contact me immediately.

Neither this information block, the typed name of sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message.
Erhard & Jennings, a Professional Corporation

8/2/2012



Janet Elkins

From: Janet Elkins [janet@erhardjennings.com]
Sent: Monday, July 09, 2012 10:32 AM
To: 'fly63rc@verizon.net'
Cc: 'jjennings@erhardjennings.com'; 'ktomlinson@erhardjennings.com'; 'mmaf13@aol.com'; 'mgraham@thegrahamlawfirm.com'
Subject: FROM JAMES JENNINGS - Hopper Declarations Page
Attachments: Declarations Page - Hopper Ins Policy.pdf

Dear Mark,

Attached please find the bill for insurance on Robledo. Please forward me your clients' check(s) for one-half the premium reflected on the attached invoice. The check should be payable to "Jo N. Hopper". As soon as the check(s), for good funds, has/have been received and cleared, Mrs. Hopper will contact the insurance company and add both of your clients to the policy as additional insureds.

We await your clients' check(s).

Thanks.

Sincerely,
James Albert Jennings

*Notice from Erhard & Jennings, a Professional Corporation

To comply with U.S. Treasury regulations, we advise you that any discussion of Federal tax issues in this communication was not intended or written to be used, and cannot be used, by any person (i) for the purpose of avoiding penalties that may be imposed by the Internal Revenue Service, or (ii) to promote, market or recommend to another party any matter addressed herein.

This Internet message may contain information that is privileged, confidential, and exempt from disclosure. It is intended for use only by the person to whom it is addressed. If you have received this in error, please (1) do not forward or use this information in any way; and (2) contact me immediately.

Neither this information block, the typed name of sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message.
Erhard & Jennings, a Professional Corporation



8/2/2012



Chubb & Son, a division of Federal Insurance Company
15 Mountain View Road, Warren, New Jersey 07060

**TEXAS STANDARD HOMEOWNERS POLICY
DECLARATIONS PAGE**

Name and Address of Insured

JO N. HOPPER
9 ROBLEDO DRIVE
DALLAS, TX 75230-3054

Policy Period

Effective Date: 09/01/11
Expiration Date: 09/01/12
at 12:01 a.m. standard time at the location of the
residence premises/dwelling
9 ROBLEDO
DALLAS, TX 75230
COUNTY - DALLAS
Residence Premises/Dwelling
Lot Block Addition

Policy No. 11395241-14

New Rewrite Renewal

Amended-Date 03/07/12

Texas Homeowners Policy Form HO-C
Company Name and Address
CHUBB LLOYD'S INSURANCE COMPANY OF
TEXAS - A TEXAS LLOYD'S COMPANY
2001 BRYAN STREET, SUITE 3400
DALLAS, TX 75201-3068

Construction: BRICK
Protection Class: 2
Roof Type: TILE

Mortgagee

FIRST REPUBLIC BANK
ITS SUCCESSORS AND/OR ASSIGNS
P O BOX 1527
ORANGE, CA 92856-0527
Loan No. 22-063027-7

Agent Name and Address
HIGGINBOTHAM & ASSOCIATES, INC.
500 W. 13TH STREET
FORT WORTH, TX 76102

Agent No. 41714 Sub Agent 999

Coverages	Limits of Liability	Premium
Section I Property		
Coverage A. Dwelling	\$ 2,578,000	\$ 5,583
Other Structures	\$ 515,600	
Coverage B. Personal Property	\$ 1,546,800	Included
Personal Property Off Premises	Included	XXXXXXXXXXXX
Basic Premium	XXXXXXXXXXXX	\$ 5,583
Section II Liability		
Coverage C. Personal Liability(each occurrence)	\$ 500,000	Included
Coverage D. Medical Payments to Others(each person)	\$ 25,000	Included
Other Residential Premises - Location	XXXXXXXXXXXX	
Increased Liability Limits	XXXXXXXXXXXX	\$ 23
Loss of Use	Unlimited	XXXXXXXXXXXX
Other Coverages and Endorsements		
Endorsement Number and Title		
99-10-0299 07/92 POLICYHOLDER INFO. NOTICE		
02-10-0642 01/08 MOLD, FUNGI OR ... COV.	SEE PAGE 2	
02-02-0494 02/10 TX PLAT. PROG. FOR HOMEOWNERS		Included
02-02-0497 06/08 EXTENDED REPL. COST		\$ 5
02-02-0499 06/99 DAMAGED PROP. OF OTHERS	\$ 5,000	\$ 4
Deductibles (Section I only)	Amount of Deductible	Deductible Adjustment Premium
Deductible Clause 1 1% of Dwelling Limit	\$ 25,780	
Deductible Clause 2 1% of Dwelling Limit	\$ 25,780	
Deductible Clause 3		
Total Policy Premium	XXXXXXXXXXXX	\$ 6,198

Your premium will not change for this revision.

OTHER COVERAGES, LIMITS AND EXCLUSIONS APPLY - REFER TO YOUR POLICY



ERHARD & JENNINGS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
THANKSGIVING TOWER
1601 ELM STREET, SUITE 4242
DALLAS, TEXAS 75201

TELEPHONE
(214) 720-4001

FACSIMILE
(214) 871-1655

JAMES ALBERT JENNINGS †

Email: jjennings@erhardjennings.com
OR jjennings@aol.com

July 20, 2012

Via Hand-Delivery

Mr. Mark Enoch
Ms. Melinda Sims
Mr. Gary Stolbach
Glast, Phillips & Murray
14801 Quorum Drive, Suite 500
Dallas, Texas 75254

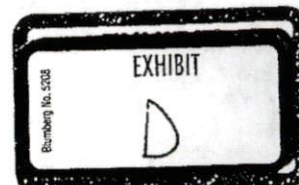
RE: *Estate of Max D. Hopper, Deceased: Jo N. Hopper v. JPMorgan Chase Bank, N.A., Stephen B. Hopper and Laura Wassmer; Cause No. PR-11-3238-3/Demand regarding Insurance premium payments owed on No. 9 Robledo, Dallas, Texas 75230, and, Return of Inadequate Payment [i.e., \$600.00]*

Dear Counsel:

Attached please find Stephen B. Hopper, M.D.'s original check #10273 in the amount of \$600.00, along with a copy of his note, both just received by Mrs. Jo Hopper. It is returned in care of your firm inasmuch as Mrs. Hopper wants there to be absolutely no confusion that she is not prepared to accept such a sum (in regard to the Homeowner's insurance on No. 9 Robledo) different from the insurance billing sent you previously. She is not. She neither has waived nor will waive her position in this regard. Mrs. Hopper's position on this matter is both principled and non-negotiable. Your clients' "free ride" is over.

Mrs. Hopper's position is that such insurance on Robledo (as to your clients' respective one-half portion of the insurance premium) is owed in full for all applicable policy periods since Mr. Hopper's death (see our prior email of July 9, 2012 with attachments, copy attached). As the Deed itself reflects and recites (and as is the law in Texas), both Dr. Stephen Hopper and Ms. Laura Wassmer have been owners of an undivided fee interest in Robledo since January 25, 2010. There

† BOARD CERTIFIED LABOR AND EMPLOYMENT LAW
TEXAS BOARD OF LEGAL SPECIALIZATION



July 20, 2012
Page 2

is/was no "magic" in the Deed's date of June 25, 2012, simply by virtue of the fact that is the date the Bank formalized a more-than-two-year "reality," by virtue of a filing Deed on that date.

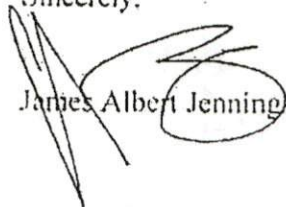
Please replace the attached check with a check for the correct amount actually due under the current policy, which billing you have previously been given as to that billing amount (see July 9th letter attached hereto).

Also, our client expects and DEMANDS your clients pay their pro-rata portion of all insurance premiums due from January 25, 2010 forward in time. You have ignored that same request, in writing, (June 28, 2012 - see attached) previously. Our client believes that this failure of payment creates a cause of action in her favor against your clients. Do you really want Mrs. Hopper to have to sue your clients for this failure to pay sums unquestionably owed.

We look forward to prompt remittance of all sums properly due from the date of Mr. Hopper's death, forward in time.

YOU ARE ON NOTICE.

Sincerely,



James Albert Jennings

JAJ:je
Enclosures

Cc: Mike Graham w/encls. (via email)
Mike Yanof w/encls. (via email)
Client w/encls. (via email)

AFFIDAVIT OF LAURA WASSMER

STATE OF FLORIDA §
 §
COUNTY OF Lee §

Before me, the undersigned notary, on this day personally appeared Laura Wassmer, the affiant, a person whose identity is known to me. After I administered an oath to affiant, affiant testified as follows:

1. My name is Laura Wassmer. I am the daughter of and my brother Stephen is the son of the deceased Max Hopper whose estate is being administered in Probate Court #3 in and for Dallas County, Texas. I am an appellant in this matter and have reviewed the motion to dismiss recently filed by Appellee Jo N. Hopper. I am over the age of 21, am of sound mind, have never been convicted of a felony or crime of moral turpitude and am fully competent in all respects to make this affidavit. Each of the facts herein contained is within my personal knowledge and is true and correct.

2. I own 50% of Quagmire, LLC an Oklahoma limited liability company (hereafter "Quagmire") and my brother Stephen owns the other 50%. Together we own and control 100% of Quagmire in which there is only one

asset, the combined 50% undivided interest in the house on Robledo. Quagmire has never owned anything else and it is not Stephen's and my intention that it ever own anything else. Rather it was and is Stephen's and my intention to only temporarily hold this interest in Quagmire to protect ourselves from liability as discussed below, until such time as the appeal is resolved. If the appeal is successful, we intended then and still do intend to transfer each of the 25% interests back to the administrator or court for later partition and distribution. The main reason that we transferred these interests to Quagmire was to protect ourselves from liabilities that might arise from our objected-to-ownership of these undivided interests. I know that Stephen also was concerned about protecting his ability to return his interest in the event of unforeseen professional liability claims. Also, because Stephen is a practicing psychiatrist, I am aware that he may be subjected to potential professional liability claims. Mindful of this fact, I also wanted to protect the interests in Robledo from any of his potential creditors (as well as mine) so that he and I would be able to assure that both of the 25% interests could be re-conveyed to the administrator or the court when the appeal is resolved.

3. On June 5, 2012, I received a letter from the Administrator, JPMorgan Chase, advising that it intended to issue undivided interests in the house on Robledo Lane in Dallas to me on June 25, 2012. I had been resisting such a transfer and insisting instead that the house be part of the overall partition process.

4. Nevertheless, JPMorgan Chase stated that it would issue the undivided interests on June 25, 2012. Our attorneys attempted to obtain a hearing objecting to such transfer, prior to June 25, but we were advised that the court did not have time available for the hearing before that date. Accordingly, on that date I received a 25% undivided interest in Robledo to which I had previously and strongly objected and to which I now continue to strongly object.

5. I desired to be insured against liability arising from my disputed ownership in the house. For many weeks after the transfer, I attempted through my own insurance agent, as did Stephen through two other agents, as well as others, including those suggested by our counsel in Dallas, to obtain insurance on the home to protect myself and Stephen. I was eventually told that because there was only one house, there could only be one insurance

policy and it was necessary for me to be named as an additional insured on the existing policy owned by Appellee, Jo N. Hopper.

6. Unfortunately, the Appellee refused to allow her insurance agent to add me on her policy as an additional insured unless I paid her for past insurance bills on the home before my disputed ownership. At all times, I communicated to her through counsel and her insurance agent, that I was willing and ready to pay my pro-rata portion of the cost of the homeowners policy from June 25, 2012 forward. When her insurance agent would no longer return our calls or those of my counsel, Stephen sent a check for \$600.00, more than the pro-rata cost of the policy for my 25% and his 25% interests and he demanded that our names be added to the policy. Because we were anxious to be insured and wanted no further delays, Stephen and I decided that he would send the check for both of our portions. I consented to his actions and agreed to reimburse him for my half of the \$600.00 check.

7. Within days, on July 20, 2012 Counsel for Appellee returned that check and refused to allow Stephen or me to be insured until his financial demands were met. A true and correct copy of Mr. Jennings' letter of that date is

attached hereto, marked as Exhibit A and is incorporated herein for all purposes.

8. On August 2, 2012 because of this intransigent and unreasonable position, I directed our attorneys to file and have heard on August 6, 2012 *Stephen Hopper's and Laura Wassmer's Motion to Order Plaintiff to Allow the Heirs to Insure their current Yet Disputed Undivided Interest in Robledo and to Prohibit Interference of Plaintiff with the Heir's Attempts to obtain Property and Liability Insurance*. A true and correct copy of that Motion is attached hereto, marked as Exhibit B and is incorporated herein for all purposes.

9. Appellee then filed an Opposition to this Motion, and among other things confirmed that Appellee would not allow me to insure my interest unless I paid for past insurance before I was wrongly deeded this undivided interest. A true and correct copy of Appellee's Opposition is attached hereto, marked as Exhibit C and is incorporated herein for all purposes.

10. As a result of the trial court's order of August 15, 2012 that allowed Stephen and me to pay for and be named an additional insured on the homeowner's policy, we later were added as of August, 29, 2012.

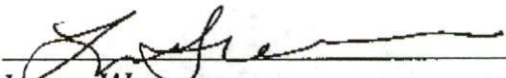
11. After reviewing the policy's liability section and after Stephen told me he discussed this with his own insurance agent and I discussed it with my own agent, we both became concerned that the low liability limits of the homeowner's policy could place our other assets at risk. The policy had only a \$500,000 limit and a limit of \$25,000 for medical payment claims, both of which I was very concerned were not sufficient to fully protect me. Stephen and I then sought the advice of Cynda Ottaway, an attorney with Crowe and Dunlevy law firm in Oklahoma City, Oklahoma. She advised Stephen and me that given the limitations of liability protection from the homeowner's insurance and the need to protect the Robledo interests to reconvey from any potential creditors of Stephen's or my own, the best way to proceed would be for us to temporarily own the interests in Robledo in a LLC. We could then easily re-convey those interests after resolution of this appeal.

12. It was Ms. Ottaway who formed Quagmire and prepared the transfer papers. Our appellate counsel in this case was unaware of this transfer until it was brought to their attention by the filing of the Motion to Dismiss.

13. Since August 29, 2012, Stephen and I have paid for our pro-rata share of the cost of the homeowner's insurance policy on two occasions totaling

more than \$3,800. Because the mortgage note is an interest-only note until April 2013, we have not yet made mortgage principal payments but will start doing so in April. We have paid our part of the insurance and will pay our share of the principal payments in order to assure that our respective 25% interests can be re-conveyed intact.

Further Affiant saith not."



Laura Wassmer

SWORN TO and SUBSCRIBED before me by Laura Wassmer on January 19
2013.



Notary Public in and for
The State of Florida

My Commission Expires:

4-25-15



ERHARD & JENNINGS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
THANKSGIVING TOWER
1601 ELM STREET, SUITE 4242
DALLAS, TEXAS 75201

TELEPHONE
(214) 720-4001

FACSIMILE
(214) 871-1655

JAMES ALBERT JENNINGS †

Email: jjennings@erhardjennings.com
OR jajennings@aol.com

July 20, 2012

Via Hand-Delivery

Mr. Mark Enoch
Ms. Melinda Sims
Mr. Gary Stolbach
Glast, Phillips & Murray
14801 Quorum Drive, Suite 500
Dallas, Texas 75254

RE: *Estate of Max D. Hopper, Deceased: Jo N. Hopper v. JPMorgan Chase Bank, N.A., Stephen B. Hopper and Laura Wassmer; Cause No. PR-11-3238-3/Demand regarding Insurance premium payments owed on No. 9 Robledo, Dallas, Texas 75230, and, Return of Inadequate Payment [i.e., \$600.00]*

Dear Counsel:

Attached please find Stephen B. Hopper, M.D.'s original check #10273 in the amount of \$600.00, along with a copy of his note, both just received by Mrs. Jo Hopper. It is returned in care of your firm inasmuch as Mrs. Hopper wants there to be absolutely no confusion that she is not prepared to accept such a sum (in regard to the Homeowner's insurance on No. 9 Robledo) different from the insurance billing sent you previously. She is not. She neither has waived nor will waive her position in this regard. Mrs. Hopper's position on this matter is both principled and non-negotiable. Your clients' "free ride" is over.

Mrs. Hopper's position is that such insurance on Robledo (as to your clients' respective one-half portion of the insurance premium) is owed in full for all applicable policy periods since Mr. Hopper's death (see our prior email of July 9, 2012 with attachments, copy attached). As the Deed itself reflects and recites (and as is the law in Texas), both Dr. Stephen Hopper and Ms. Laura Wassmer have been owners of an undivided fee interest in Robledo since January 25, 2010. There

† BOARD CERTIFIED LABOR AND EMPLOYMENT LAW
TEXAS BOARD OF LEGAL SPECIALIZATION



July 20, 2012
Page 2

is/was no "magic" in the Deed's date of June 25, 2012, simply by virtue of the fact that is the date the Bank formalized a more-than-two-year "reality," by virtue of a filing Deed on that date.

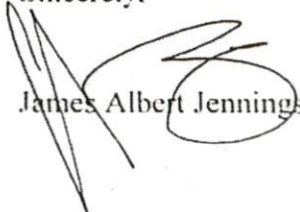
Please replace the attached check with a check for the correct amount actually due under the current policy, which billing you have previously been given as to that billing amount (see July 9th letter attached hereto).

Also, our client expects and DEMANDS your clients pay their pro-rata portion of all insurance premiums due from January 25, 2010 forward in time. You have ignored that same request, in writing, (June 28, 2012 – see attached) previously. Our client believes that this failure of payment creates a cause of action in her favor against your clients. Do you really want Mrs. Hopper to have to sue your clients for this failure to pay sums unquestionably owed.

We look forward to prompt remittance of all sums properly due from the date of Mr. Hopper's death, forward in time.

YOU ARE ON NOTICE.

Sincerely,



James Albert Jennings

JAJ:je
Enclosures

Cc: Mike Graham w/encls. (via email)
Mike Yanof w/encls. (via email)
Client w/encls. (via email)

PROPERTY AND LIABILITY INSURANCE and in support therefore would respectfully show the Court as follows:

1. Over the strenuous objections of the Heirs, Defendant Bank issued undivided interests in the homestead on Robledo Drive to the Heirs on June 25, 2012. The Heirs had previously and consistently urged the partition of all of the Estate pursuant to Texas law and Section 150 of the Texas Probate Code.
2. Notwithstanding the Heir's objections, they now appear to be the owners of an undivided interest of a combined 50% of Robledo. While they object to such distribution without partition, they nevertheless wish to immediately obtain property and liability insurance related to their partial ownership and subjected liabilities.
3. Numerous attempts have been made by the Heirs and their counsel to obtain this insurance, yet Plaintiff Jo Hopper has interfered with and prohibited the Heirs from obtaining same by instructing her insurance agent to not cooperate with the Heirs or allow their names to be added as "additional insureds" on the Declarations page of the existing insurance policy previously obtained by Plaintiff.
4. Attached hereto marked as Exhibit A and incorporated herein for all purposes is a copy of the current Declarations page of the Robledo policy indicating that the only person with an insurable interest is the Plaintiff. The Heirs have been advised by insurance industry experts that they cannot obtain another policy on a property for which a policy has already been issued. Neither can they obtain "partial" insurance on an undivided interest ownership. Rather, they must be part of and insured under the existing policy.
5. Chubb will not add the Heirs as additional insureds without the Plaintiff's agreement and the Plaintiff will not agree to allow the Heirs to insure their interests unless the

Plaintiff's demands for additional compensation are first met. The amount demanded by the Plaintiff is disputed and Plaintiff is attempting to extort the disputed amount or withhold her "authority" to allow the Heirs to insure themselves.

6. After failing to be able to place insurance on their interests themselves, the Heirs tendered payment to the Plaintiff of more than their proportional expense for the insurance for the current term (Sept. 1, 2011 – Aug. 31, 2012). They sent a \$600.00 check to the Plaintiff to reimburse her for their percentage of the cost of the annual insurance starting as of June 25, 2012, the date on which they received (over their objection) formal deeds distributing these undivided ownership interests and the date on which the Bank filed them of record.

7. On July 20, 2012, Plaintiff's counsel returned the check and demanded that the Heirs pay Plaintiff an additional amount in the thousands, or they would not be allowed to insure their current disputed ownership. See Exhibit B attached hereto.

8. As it currently stands, the Heirs have no insurance policy to cover their property interest or liability. Should the dwelling burn or should someone be injured on the property, they have no formal coverage.¹

9. The current policy of insurance covers September 1, 2011 until August 31, 2012. The total cost of the policy was \$6,198. Dividing that amount by the 365 days of the year equals a daily insurance cost of \$16.98. The Heirs obtained the disputed distribution on June 25. There are 66 days left of the coverage including the 25th. The actual cost for the Heirs' coverage should be half of the remaining coverage. That amount should be calculated by multiplying 66 days times \$16.98 times 50% (to reflect their ½ ownership). That amount is \$560.37. The Heirs, in an

¹ The Heirs do claim, however, that after the Plaintiff's refusal to accept the check (which is more than the prorated percentage of cost attributable to the Heirs' 50% interest from June 25 to the expiration of the current policy on Sept. 1, 2012) and refusal to allow them to obtain formal insurance, the Plaintiff herself is liable to fully indemnify and hold harmless the Heirs from any and all casualty losses, as is the Bank for wrongfully distributing the interest and failing to assure the Heirs of the ability to insure.

abundance of caution sent Plaintiff \$600.00...*more than required*...but were still refused insurance by the Plaintiff who now withholds "permission" to her agent to allow the naming of the Heirs as "additional insureds" unless her personal demands for more money are met.

10. A dispute between co-tenants in common is not unusual. That THIS Plaintiff has used her unique position as customer of Chubb to withhold the ability of the Heirs to insure themselves...*at their own cost*...should come as no surprise to the Bank. They knew of the absolute certainty of this situation, yet ignored it in their distribution. Surely, this Court did not intend for the Plaintiff to be allowed unilateral control over whether or not, at their own cost, the Heirs are able to insure themselves. This Court must now intervene to allow the Heirs to protect their interests and not be held hostage by the Plaintiff.

WHEREFORE PREMISES CONSIDERED, The Heirs pray that the court ORDER the Plaintiff to immediately allow the Heirs to become "additional insureds" named on the Declarations page of the current insurance policy by directing the insurance agency to do so for the payment by the Heirs to the Plaintiff of \$560.37. The Heirs pray for such other relief, both general and special, to which they may show themselves justly entitled and for which they will ever pray.

Respectfully submitted,

GLAST, PHILLIPS & MURRAY, P.C.

By:


MARK C. ENOCH

State Bar No. 06630360

MELINDA H. SIMS

State Bar No. 24007388

GARY STOLBACH

State Bar No. 19277700

GLAST, PHILLIPS & MURRAY, P.C.

14801 Quorum Drive, Suite 500

Dallas, Texas 75254-1449

Tel: (972) 419-8323

Fax: (972) 419-8329

ATTORNEYS FOR STEPHEN HOPPER
AND LAURA WASSMER

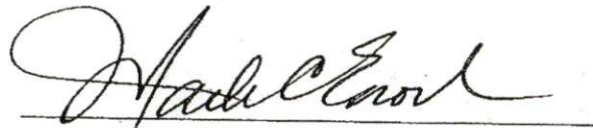
CERTIFICATE OF SERVICE

The undersigned certifies that on the 2nd day of August, 2012 a true and correct copy of the above and foregoing document was sent by certified mail, return receipt requested, to the following:

Mr. Thomas H. Cantrill
Mr. John C. Eichman
Hunton & Williams
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202
Via Hand-Delivery

Mr. James Albert Jennings
Erhard & Jennings, P.C.
1601 Elm Street, Suite 4242
Dallas, Texas 75201
Via Hand-Delivery

Mr. Michael L. Graham
Ms. Janet P. Strong
The Graham Law Firm, P.C.
100 Highland Park Village, Suite 200
Dallas, Texas 75205
Via Hand-Delivery



Mark C. Enoch



Chubb & Son, a division of Federal Insurance Company
15 Mountain View Road, Warren, New Jersey 07060

**TEXAS STANDARD HOMEOWNERS POLICY
DECLARATIONS PAGE**

Name and Address of Insured

JO N. HOPPER
9 ROBLEDO DRIVE
DALLAS, TX 75230-3054

Policy Period

Effective Date: 09/01/11
Expiration Date: 09/01/12
at 12:01 a.m. standard time at the location of the residence premises/dwelling
9 ROBLEDO
DALLAS, TX 75230
COUNTY - DALLAS
Residence Premises/Dwelling
Lot Block Addition

Mortgagee

FIRST REPUBLIC BANK
ITS SUCCESSORS AND/OR ASSIGNS
P O BOX 1527
ORANGE, CA 92856-0527
Loan No. 22-063027-7

Policy No. 11395241-14

New Rewrite Renewal

Amended-Date 03/07/12

Texas Homeowners Policy Form HO-C
Company Name and Address
CHUBB LLOYD'S INSURANCE COMPANY OF
TEXAS - A TEXAS LLOYD'S COMPANY
2001 BRYAN STREET, SUITE 3400
DALLAS, TX 75201-3068

Construction: BRICK
Protection Class: 2
Roof Type: TILE

Agent Name and Address

HIGGINBOTHAM & ASSOCIATES, INC.
500 W. 13TH STREET
FORT WORTH, TX 76102
Agent No. 41714 Sub Agent 999

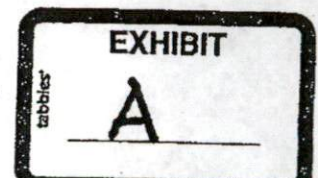
Coverages	Limits of Liability	Premium
Section I Property		
Coverage A. Dwelling	\$ 2,578,000	\$ 5,583
Other Structures	\$ 515,600	
Coverage B. Personal Property	\$ 1,546,800	Included
Personal Property Off Premises	Included	XXXXXXXXXXXX
Basic Premium	XXXXXXXXXXXX	\$ 5,583
Section II Liability		
Coverage C. Personal Liability(each occurrence)	\$ 500,000	Included
Coverage D. Medical Payments to Others(each person)	\$ 25,000	Included
Other Residential Premises - Location	XXXXXXXXXXXX	
Increased Liability Limits	XXXXXXXXXXXX	\$ 23
Loss of Use	Unlimited	XXXXXXXXXXXX
Other Coverages and Endorsements		
Endorsement Number and Title		
99-10-0299 07/92 POLICYHOLDER INFO. NOTICE	SEE PAGE 2	
02-10-0642 01/08 MOLD, FUNGI OR ... COV.		
02-02-0494 02/10 TX PLAT. PROG. FOR HOMEOWNERS		Included
02-02-0497 06/08 EXTENDED REPL. COST		\$ 5
02-02-0499 06/99 DAMAGED PROP. OF OTHERS	\$ 5,000	\$ 4
Deductibles (Section I only)	Amount of Deductible	Deductible Adjustment Premium
Deductible Clause 1 1% of Dwelling Limit	\$ 25,780	
Deductible Clause 2 1% of Dwelling Limit	\$ 25,780	
Deductible Clause 3		
Total Policy Premium	XXXXXXXXXXXX	\$ 6,198

Your premium will not change for this revision.

OTHER COVERAGES, LIMITS AND EXCLUSIONS APPLY - REFER TO YOUR POLICY

Paul N. Morrissette

Paul N. Morrissette, Authorized Signature



ERHARD & JENNINGS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
THANKSGIVING TOWER
1601 ELM STREET, SUITE 4242
DALLAS, TEXAS 75201

TELEPHONE
(214) 720-4001

FACSIMILE
(214) 871-1655

JAMES ALBERT JENNINGS †

Email: jjennings@erhardjennings.com
OR jajennings@aol.com

July 20, 2012

Via Hand-Delivery

Mr. Mark Enoch
Ms. Melinda Sims
Mr. Gary Stolbach
Glast, Phillips & Murray
14801 Quorum Drive, Suite 500
Dallas, Texas 75254

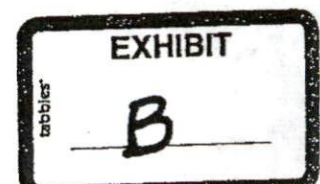
RE: *Estate of Max D. Hopper, Deceased: Jo N. Hopper v. JPMorgan Chase Bank, N.A., Stephen B. Hopper and Laura Wassmer; Cause No. PR-11-3238-3/Demand regarding Insurance premium payments owed on No. 9 Robledo, Dallas, Texas 75230, and, Return of Inadequate Payment [i.e., \$600.00]*

Dear Counsel:

Attached please find Stephen B. Hopper, M.D.'s original check #10273 in the amount of \$600.00, along with a copy of his note, both just received by Mrs. Jo Hopper. It is returned in care of your firm inasmuch as Mrs. Hopper wants there to be absolutely no confusion that she is not prepared to accept such a sum (in regard to the Homeowner's insurance on No. 9 Robledo) different from the insurance billing sent you previously. She is not. She neither has waived nor will waive her position in this regard. Mrs. Hopper's position on this matter is both principled and non-negotiable. Your clients' "free ride" is over.

Mrs. Hopper's position is that such insurance on Robledo (as to your clients' respective one-half portion of the insurance premium) is owed in full for all applicable policy periods since Mr. Hopper's death (see our prior email of July 9, 2012 with attachments, copy attached). As the Deed itself reflects and recites (and as is the law in Texas), both Dr. Stephen Hopper and Ms. Laura Wassmer have been owners of an undivided fee interest in Robledo since January 25, 2010. There

† BOARD CERTIFIED LABOR AND EMPLOYMENT LAW
TEXAS BOARD OF LEGAL SPECIALIZATION



July 20, 2012
Page 2

is/was no "magic" in the Deed's date of June 25, 2012, simply by virtue of the fact that is the date the Bank formalized a more-than-two-year "reality," by virtue of a filing Deed on that date.

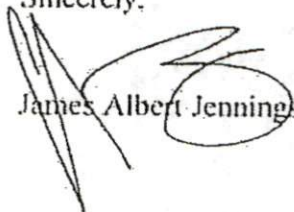
Please replace the attached check with a check for the correct amount actually due under the current policy, which billing you have previously been given as to that billing amount (see July 9th letter attached hereto).

Also, our client expects and DEMANDS your clients pay their pro-rata portion of all insurance premiums due from January 25, 2010 forward in time. You have ignored that same request, in writing, (June 28, 2012 - see attached) previously. Our client believes that this failure of payment creates a cause of action in her favor against your clients. Do you really want Mrs. Hopper to have to sue your clients for this failure to pay sums unquestionably owed.

We look forward to prompt remittance of all sums properly due from the date of Mr. Hopper's death, forward in time.

YOU ARE ON NOTICE.

Sincerely,



James Albert Jennings

JAJ:je
Enclosures

Cc: Mike Graham w/encls. (via email)
Mike Yanof w/encls. (via email)
Client w/encls. (via email)

CAUSE NO. PR-11-3238-3

FILED

2012 AUG -3 AM 11:19

IN RE: ESTATE OF
MAX D. HOPPER,
DECEASED

§
§
§
§
§

IN THE PROBATE COURT

JOHN E. WARREN
COUNTY CLERK
DALLAS COUNTY

JO N. HOPPER,

§
§
§
§
§
§
§
§
§
§

NO. 3

Plaintiff,

v.

JP MORGAN CHASE BANK, N.A.,
STEPHEN B. HOPPER and LAURA S.
WASSMER,

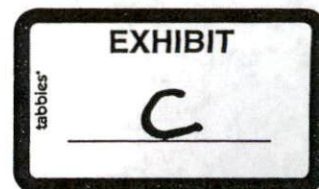
Defendants.

DALLAS COUNTY, TEXAS

PLAINTIFF JO N. HOPPER'S OPPOSITION TO: STEPHEN HOPPER'S AND LAURA WASSMER'S MOTION TO ORDER PLAINTIFF TO ALLOW THE HEIRS TO INSURE THEIR CURRENT YET DISPUTED UNDIVIDED INTEREST IN ROBLEDO AND PROHIBIT INTERFERENCE OF PLAINTIFF WITH THE HEIRS' ATTEMPTS TO OBTAIN PROPERTY AND LIABILITY INSURANCE

Plaintiff Jo N. Hopper ("Plaintiff" or "Hopper") files this *Plaintiff Jo N. Hopper's Response in Opposition to Stephen Hopper's and Laura Wassmer's Motion to Order Plaintiff to Allow the Heirs to Insure Their Current Yet Disputed Undivided Interest in Robledo and Prohibit Interference of Plaintiff with the Heirs' Attempts to Obtain Property and Liability Insurance* (the "Response" to this "Motion"), and states as follows:

PLAINTIFF JO N. HOPPER'S OPPOSITION TO: STEPHEN B. HOPPER'S AND LAURA S. WASSMER'S MOTION TO ORDER PLAINTIFF TO ALLOW THE HEIRS TO INSURE, ET AL.



I. Argument

A.

The Stepchildren's Motion is meritless and yet another waste of the parties' and Court's time. Stephen B. Hopper and Laura S. Wassmer (the "Stepchildren") act as if they are "aggrieved parties". **Far from it. The widow Plaintiff is the only aggrieved party and has carried the Stepchildren's insurance burden for well over two and a half years – without recompense.** Plaintiff's homestead, No. 9 Robledo Dr., is and has been continuously insured since her husband, Max D. Hopper (the "Decedent") died on January 25, 2010. It is also undisputed that the widow Plaintiff has shouldered and paid the entire insurance premiums due (tens of thousands of dollars) during that time, up to this very day. As reflected in the Deed issued by JP Morgan Chase Bank, N.A., as Independent Administrator (the "IA"), the Stepchildren have been owners of an undivided fee interest in Robledo since the Decedent's death. *See Stewart v. Hardie*, 978 S.W.2d 203, 207 (Tex. App. – Fort Worth 1998, pet. denied). As such, the Stepchildren were and are and always have been directly responsible for one-half of all insurance premiums from that date (January 25, 2010) forward.

B.

The Stepchildren's Motion is false and misleading in numerous respects – see especially paragraph "3" which is wholly false. In fact Plaintiff is happy, indeed thrilled, if the Stepchildren are

named insureds: **AS LONG AS THEY PAY THEIR OWN WAY.**¹

C.

The Stepchildren claim, however, that they are only “obligated” to pay insurance premiums from the date of the Deed (June 25, 2012) through the end of the current term of the existing insurance policy (August 31, 2012).² This position is absurd – the Stepchildren owned 50% of the fee from the date of the Decedent’s death (*see Stewart, supra*) regardless of the (wholly arbitrary) date of the Deed. Along with this ownership interest, came certain obligations, including the obligation to pay timely their share of the insurance premiums on Robledo. The Stepchildren cannot refuse to pay long past-due insurance premiums yet concurrently insist on Plaintiff adding them to the policy already obtained by Plaintiff. As they admit in/by their Motion, the Stepchildren owe money for insurance premiums, but they must pay all of the premiums that are owed – and are not allowed to “pick and choose” what and how much they prefer to pay. Plaintiff in solitary fashion has carried their burden for far too long. See Exhibits “A”, “B”, “C” and “D” hereto, incorporated by reference, making (polite) Demand for such payments. Such Demands, as the Stepchildren’s Motion admits, were rejected out of hand.

Accordingly, the Motion should be denied and the Stepchildren should be ordered to pay one-

¹ The Court is on notice per the Accounting just filed by the Bank/IA that each of the Stepchildren have actually received millions of dollars during this same time period in direct distributions from the Estate. Yet they’ve paid not a dime of the insurance cost on Robledo to date.

² The Stepchildren also allege that they cannot insure their interests independent of Plaintiff. They are wrong. There are insurance markets that will insure their interests. And of course they have millions of dollars with

half of all insurance premiums due on Robledo from January 25, 2010 forward in time, *instanter*.

II. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Motion be in all respects denied, that the Stepchildren be ordered to pay all insurance premiums due and paid by Plaintiff since Decedent's date of death, *instanter*, and that Plaintiff be granted such other relief to which she is justly entitled.

ERHARD & JENNINGS
a Professional Corporation
1601 Elm Street
Suite 4242
Dallas, Texas 75201-3509
(214) 720-4001
(214) 871-1655 (Facsimile)

By: _____

James Albert Jennings
State Bar No. 10632900
Kenneth B. Tomlinson
State Bar No. 20123100

GRAHAM LAW FIRM, P.C.
100 Highland Park Village, Suite 200
Dallas, Texas 75205
(214) 599-7000
FAX: (214) 599-7010

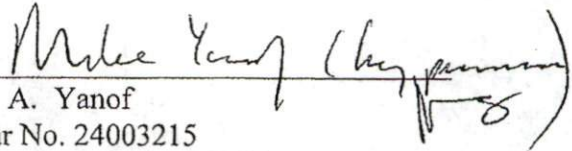
By: _____

Michael L. Graham
State Bar No. 08267500

which to pay (see footnote "1" above).

PLAINTIFF JO N. HOPPER'S OPPOSITION TO: STEPHEN B. HOPPER'S
AND LAURA S. WASSMER'S MOTION TO ORDER PLAINTIFF TO ALLOW
THE HEIRS TO INSURE, ET AL.

Janet P. Strong
State Bar No. 19415020

By: 
Michael A. Yanof

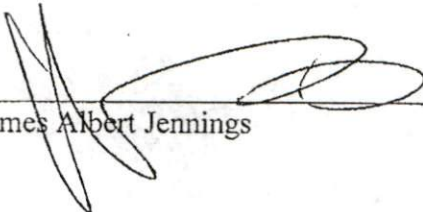
State Bar No. 24003215
THOMPSON, COE, COUSINS & IRONS,
LLP

Plaza of the Americas
700 North Pearl Street, 25th Floor
Dallas, Texas 75201
(214) 871-8200
FAX: (214) 871-8209

**ATTORNEYS FOR JO N. HOPPER,
PLAINTIFF**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served via hand delivery to: counsel for both the Independent Administrator and Bank, Thomas H. Cantrill and John Eichman, Hunton & Williams, 1445 Ross Avenue, Suite 3700, Dallas, Texas 75202, and to Defendants Stephen Hopper and Laura Wassmer, via their counsel of record, Mark Enoch, Gary Stolbach, and Melinda Sims, Glast, Phillips & Murray, P.C., 14801 Quorum Drive, Suite 500, Dallas, Texas 75254, on the 3rd day of August, 2012.


James Albert Jennings

Janet Elkins

From: Janet Elkins [janet@erhardjennings.com]
Sent: Thursday, June 28, 2012 3:51 PM
To: 'fly63rc@verizon.net'
Cc: 'jjennings@erhardjennings.com'; 'ktomlinson@erhardjennings.com'; 'mmaf13@aol.com'
Subject: FW: Cause No. PR-11-3238-3; In re Estate of Max D. Hopper, Deceased/Jo No. Hopper v. JPMorgan Chase, N.A., Stephen B. Hopper and Laura Wassmer; Probate Court No. 3, Dallas County, Texas [GPM-Interwoven.FID1467590]

Attachments: ltr to Jennings.2012-06-28.PDF

Dear Mark,

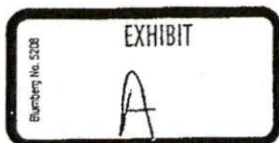
Apparently our two emails were both sent at exactly 3:11 p.m. I think mine addresses yours – even without my intending to do so when I wrote it.

The one thing that did trouble me about your letter was the first sentence on the top of page two. I don't know what "further discussion" we need to have about the cost – the policy costs simply need to be divided in half – as is the ownership of Robledo.

You can call the agent yourselves and check the cost of the policy. Once we get a check for half of it (which I am happy to hold temporarily in trust) from your clients, then of course, we can contact the agent and be sure all names are on the policy. Then Mrs. Hopper will cash your clients' check. This seems to be the simplest way to handle this very minor housekeeping issue.

Please advise.

Thanks.
Jim



Janet Elkins

From: Janet Elkins [janet@erhardjennings.com]
Sent: Thursday, June 28, 2012 4:41 PM
To: 'fly63rc@verizon.net'
Cc: 'jjennings@erhardjennings.com'; 'ktomlinson@erhardjennings.com'; 'mmaf13@aol.com'
Subject: FROM JAMES JENNINGS - Hopper - Follow up on cost of insurance

Dear Mark,

A further thought on the topic of insurance. Lest your clients forget, Mrs. Hopper (their Stepmother) has been insuring their half interest in Robledo, etc., at her expense since January 25, 2010. Mrs. Hopper has submitted those bills to the Independent Administrator (for payment of your clients' share) and we understand the Independent Administrator has claimed it did not pay (i.e., refused to pay) based upon pressure not to pay from your clients.

The Court's Order and certainly the law as reflected in the Deed itself, makes clear that the property (Robledo) has been owned all along jointly by our respective clients, in fee, since January 25, 2010. Your clients have no conceivable basis now for refusal to pay their proper portion of all insurance premiums from the date of death, forward in time, on Robledo. Indeed the law requires it.

Since their conduct has resulted (per the IA) in the IA essentially freezing these (legitimate) payments and thus refusing to pay Mrs. Hopper, your clients need to write a check forthwith for all those sums incurred to date, as well as another check for the premiums going forward. This is true whether your clients like or agree with the Court's Order of May 18th, or not.

Please advise when we can receive a check or checks for the full amount. Naturally, the check(s) representing retroactive payments do not need to be held in trust pending adding your clients' names to the policy -- as your clients have already had the benefit of that coverage for a long, long time.

We will need to discuss a fair rate of interest on such unpaid sums to date. We promise to be eminently reasonable in such regard.

Let me hear from you.

Thanks.
Jim

*Notice from Erhard & Jennings, a Professional Corporation

To comply with U.S. Treasury regulations, we advise you that any discussion of Federal tax issues in this communication was not intended or written to be used, and cannot be used, by any person (i) for the purpose of avoiding penalties that may be imposed by the Internal Revenue Service, or (ii) to promote, market or recommend to another party any matter addressed herein.

This Internet message may contain information that is privileged, confidential, and exempt from disclosure. It is intended for use only by the person to whom it is addressed. If you have received this in error, please (1) do not forward or use this information in any way; and (2) contact me immediately.

Neither this information block, the typed name of sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message.
Erhard & Jennings, a Professional Corporation



8/2/2012

Janet Elkins

From: Janet Elkins [janet@erhardjennings.com]
Sent: Monday, July 09, 2012 10:32 AM
To: 'fly63rc@verizon.net'
Cc: 'jjennings@erhardjennings.com'; 'ktoomlinson@erhardjennings.com'; 'mmaf13@aol.com'; 'mgraham@thegrahamlawfirm.com'
Subject: FROM JAMES JENNINGS - Hopper Declarations Page
Attachments: Declarations Page - Hopper Ins Policy.pdf

Dear Mark,

Attached please find the bill for insurance on Robledo. Please forward me your clients' check(s) for one-half the premium reflected on the attached invoice. The check should be payable to "Jo N. Hopper". As soon as the check(s), for good funds, has/have been received and cleared, Mrs. Hopper will contact the insurance company and add both of your clients to the policy as additional insureds.

We await your clients' check(s).

Thanks.

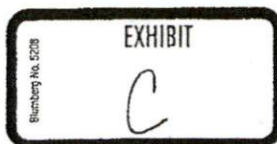
Sincerely,
James Albert Jennings

*Notice from Erhard & Jennings, a Professional Corporation

To comply with U.S. Treasury regulations, we advise you that any discussion of Federal tax issues in this communication was not intended or written to be used, and cannot be used, by any person (i) for the purpose of avoiding penalties that may be imposed by the Internal Revenue Service, or (ii) to promote, market or recommend to another party any matter addressed herein.

This Internet message may contain information that is privileged, confidential, and exempt from disclosure. It is intended for use only by the person to whom it is addressed. If you have received this in error, please (1) do not forward or use this information in any way; and (2) contact me immediately.

Neither this information block, the typed name of sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message.
Erhard & Jennings, a Professional Corporation



8/2/2012



Chubb & Son, a division of Federal Insurance Company
15 Mountain View Road, Warren, New Jersey 07080

**TEXAS STANDARD HOMEOWNERS POLICY
DECLARATIONS PAGE**

Name and Address of Insured

JO N. HOPPER
9 ROBLEDO DRIVE
DALLAS, TX 75230-3054

Policy Period

Effective Date: 09/01/11
Expiration Date: 09/01/12
at 12:01 a.m. standard time at the location of the
residence premises/dwelling
9 ROBLEDO
DALLAS, TX 75230
COUNTY - DALLAS
Residence Premises/Dwelling
Lot Block Addition

Policy No. 11395241-14

New Rewrite Renewal

Amended-Date 03/07/12

Texas Homeowners Policy Form HO-C
Company Name and Address
CHUBB LLOYD'S INSURANCE COMPANY OF
TEXAS - A TEXAS LLOYD'S COMPANY
2001 BRYAN STREET, SUITE 3400
DALLAS, TX 75201-3068

Construction: BRICK
Protection Class: 2
Roof Type: TILE

Mortgagee
FIRST REPUBLIC BANK
ITS SUCCESSORS AND/OR ASSIGNS
P O BOX 1527
ORANGE, CA 92856-0527
Loan No. 22-063027-7

Agent Name and Address
HIGGINBOTHAM & ASSOCIATES, INC.
500 W. 13TH STREET
FORT WORTH, TX 76102
Agent No. 41714 Sub Agent 999

Coverages	Limits of Liability	Premium
Section I Property		
Coverage A. Dwelling	\$ 2,578,000	\$ 5,583
Other Structures	\$ 515,600	
Coverage B. Personal Property	\$ 1,546,800	Included
Personal Property Off Premises	Included	XXXXXXXXXXXX
Basic Premium	XXXXXXXXXXXX	\$ 5,583
Section II Liability		
Coverage C. Personal Liability(each occurrence)	\$ 500,000	Included
Coverage D. Medical Payments to Others(each person)	\$ 25,000	Included
Other Residential Premises - Location	XXXXXXXXXXXX	
Increased Liability Limits	XXXXXXXXXXXX	\$ 23
Loss of Use	Unlimited	XXXXXXXXXXXX
Other Coverages and Endorsements		
Endorsement Number and Title		
99-10-0299 07/92 POLICYHOLDER INFO. NOTICE		
02-10-0642 01/08 MOLD, FUNGI OR ... COV.	SEE PAGE 2	
02-02-0494 02/10 TX PLAT. PROG. FOR HOMEOWNERS		Included
02-02-0497 06/08 EXTENDED REPL. COST		\$ 5
02-02-0499 06/99 DAMAGED PROP. OF OTHERS	\$ 5,000	\$ 4
Deductibles (Section I only)	Amount of Deductible	Deductible Adjustment Premium
Deductible Clause 1 1% of Dwelling Limit	\$ 25,780	
Deductible Clause 2 1% of Dwelling Limit	\$ 25,780	
Deductible Clause 3		
Total Policy Premium	XXXXXXXXXXXX	\$ 6,198

Your premium will not change for this revision.

OTHER COVERAGES, LIMITS AND EXCLUSIONS APPLY - REFER TO YOUR POLICY



ERHARD & JENNINGS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
THANKSGIVING TOWER
1601 ELM STREET, SUITE 4242
DALLAS, TEXAS 75201

TELEPHONE
(214) 720-4001

FACSIMILE
(214) 871-1655

JAMES ALBERT JENNINGS †

Email: jjennings@erhardjennings.com
OR jjennings@aol.com

July 20, 2012

Via Hand-Delivery
Mr. Mark Enoch
Ms. Melinda Sims
Mr. Gary Stolbach
Glast, Phillips & Murray
14801 Quorum Drive, Suite 500
Dallas, Texas 75254

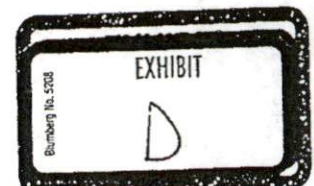
RE: *Estate of Max D. Hopper, Deceased: Jo N. Hopper v. JPMorgan Chase Bank, N.A., Stephen B. Hopper and Laura Wassmer; Cause No. PR-11-3238-3/Demand regarding Insurance premium payments owed on No. 9 Robledo, Dallas, Texas 75230, and, Return of Inadequate Payment [i.e., \$600.00]*

Dear Counsel:

Attached please find Stephen B. Hopper, M.D.'s original check #10273 in the amount of \$600.00, along with a copy of his note, both just received by Mrs. Jo Hopper. It is returned in care of your firm inasmuch as Mrs. Hopper wants there to be absolutely no confusion that she is not prepared to accept such a sum (in regard to the Homeowner's insurance on No. 9 Robledo) different from the insurance billing sent you previously. She is not. She neither has waived nor will waive her position in this regard. Mrs. Hopper's position on this matter is both principled and non-negotiable. Your clients' "free ride" is over.

Mrs. Hopper's position is that such insurance on Robledo (as to your clients' respective one-half portion of the insurance premium) is owed in full for all applicable policy periods since Mr. Hopper's death (see our prior email of July 9, 2012 with attachments, copy attached). As the Deed itself reflects and recites (and as is the law in Texas), both Dr. Stephen Hopper and Ms. Laura Wassmer have been owners of an undivided fee interest in Robledo since January 25, 2010. There

† BOARD CERTIFIED LABOR AND EMPLOYMENT LAW
TEXAS BOARD OF LEGAL SPECIALIZATION



July 20, 2012
Page 2

is/was no "magic" in the Deed's date of June 25, 2012, simply by virtue of the fact that is the date the Bank formalized a more-than-two-year "reality," by virtue of a filing Deed on that date.

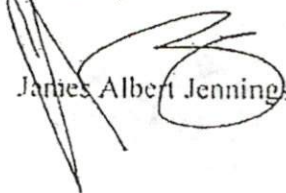
Please replace the attached check with a check for the correct amount actually due under the current policy, which billing you have previously been given as to that billing amount (see July 9th letter attached hereto).

Also, our client expects and DEMANDS your clients pay their pro-rata portion of all insurance premiums due from January 25, 2010 forward in time. You have ignored that same request, in writing, (June 28, 2012 - see attached) previously. Our client believes that this failure of payment creates a cause of action in her favor against your clients. Do you really want Mrs. Hopper to have to sue your clients for this failure to pay sums unquestionably owed.

We look forward to prompt remittance of all sums properly due from the date of Mr. Hopper's death, forward in time.

YOU ARE ON NOTICE.

Sincerely,



James Albert Jennings

JAJ:je
Enclosures

Cc: Mike Graham w/encls. (via email)
Mike Yanof w/encls. (via email)
Client w/encls. (via email)