

a. Texas Estates Code § 404.0037

Counsel for the Heirs has implied through its questioning of witnesses that Texas Estates Code § 404.0037 requires that the Court make a finding of “good faith” in the defense of a removal action *prior to* an independent administrator using estate funds to defend the removal action. As the Court has expressed, that is not a correct statement of the law or the statute. Accordingly, JPMorgan requests that the Court give the following instruction in order to correct any misimpression of law regarding the statute:

A finding of good faith is not required prior to the payment of the independent administrator’s reasonable attorney’s fees from the estate in the removal proceedings, as long as the independent administrator’s defense of the removal action is later found to have been in good faith.

b. Texas Estates Code Chapter 361 – Resignation of a Personal Representative.

Counsel for the Heirs has also implied through its questioning of witnesses and argument that the resignation of a independent administrator is an instantaneous process, without providing the jury a correct statement of what that process actually entails and is required to entail under Texas law. Accordingly, JPMorgan requests that the Court give the following instruction in order to correct any misimpression of law regarding the resignation of a personal representative under Texas Estates Code § 361.001 *et seq.*:

An independent administrator who wishes to resign must file a written application with the court clerk, accompanied by a complete and verified exhibit and final account showing the true condition of the estate entrusted to the independent administrator's care. [§361.001]. If the necessity exists, the court may immediately accept the resignation of an independent administrator and appoint a successor independent administrator. [§361.002(a)].

An independent administrator applying to resign may not be discharged until: (1) the resignation application has been heard; (2) the exhibit and final account required have been examined, settled, and approved; and (3) the applicant has satisfied the court that the applicant has delivered any estate property remaining in the applicant's possession or complied with all lawful orders of the court with relation to the applicant’s trust as independent administrator. [§361.005(a)].

When a personal representative applying to resign has fully complied with the orders of the court, the court shall enter an order accepting the resignation and discharging the applicant. [§361.005(b)].

Wherefore, Defendant JPMorgan Chase Bank, N.A., as Independent Administrator of the Estate of Max Hopper, Deceased, and in its corporate capacity, hereby requests the above jury instructions to be included in the Court's Jury Charge.

Respectfully submitted,

HUNTON & WILLIAMS LLP

By: */s/ Grayson L. Linyard* _____

John C. Eichman

State Bar No. 06494800

jeichman@hunton.com

Grayson L. Linyard

State Bar No. 24070150

glinyard@hunton.com

1445 Ross Avenue, Suite 3700

Dallas, Texas 75202-2700

Telephone: (214) 468-3300

Telecopy: (214) 468-3599

**ATTORNEYS FOR
JPMORGAN CHASE BANK, N.A.
IN ITS CAPACITY AS INDEPENDENT
ADMINISTRATOR OF THE ESTATE
OF MAX D. HOPPER, DECEASED AND
IN ITS CORPORATE CAPACITY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served on the following counsel of record via the electronic service manager and/or by email on this 23rd day of September, 2017.

Alan S. Loewinsohn
Jim L. Flegle
Kerry F. Schonwald
LOEWINSOHN FLEGLE DEARY SIMON L.L.P.
12377 Merit Drive, Suite 900
Dallas, Texas 75251
alanl@lfdslaw.com
jimf@lfdslaw.com
kerrys@lfdslaw.com
Attorneys for Plaintiff

Anthony L. Vitullo
Taylor A. Horton
FEE, SMITH, SHARP & VITULLO, L.L.P.
Three Galleria Tower
13155 Noel Road, Suite 1000
Dallas, Texas 75240
lvitullo@feesmith.com
thorton@feesmith.com
Attorneys for Defendants
Laura Wassmer and Stephen Hopper

James S. Bell
JAMES S. BELL, PC
5942 Colhurst
Dallas, Texas 75230
james@jamesbellpc.com
Attorneys for Defendants
Laura Wassmer, Stephen Hopper and
Quagmire, LLC

/s/ Grayson L. Linyard _____
Grayson L. Linyard