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April 10, 2018

**VIA ELECTRONIC FILING AND HAND DELIVERY**

The Honorable Brenda Hull Thompson  
Judge, Probate Court No. 1  
Dallas County  
1201 Elm Street, Suite 2400-A  
Dallas, Texas 75207

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*Re: Cause No. PR-11-3238-1; Estate of Max D. Hopper; Jo N. Hopper v. Stephen Hopper and Laura Wassmer v. JPMorgan Chase Bank pending in Probate Court No. 1, Dallas County, Texas*

Dear Judge Thompson:

Thank you for your time last week. We are working on the letter brief you requested, which we plan to file this Friday, April 13, 2018. But you also asked me for a chart of the specific calculations of punitive damages that I discussed with the Court. Below is that chart of calculations, based on the jury's award of \$222,780.95 in "economic" damages and \$500,000 in "noneconomic" (i.e., mental anguish) damages for Mrs. Hopper's breach of fiduciary duty claim<sup>1</sup>:

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<sup>1</sup> The jury awarded punitive damages only on Mrs. Hopper's breach of fiduciary duty claim. This is separate from her breach of contract claim, where the jury found that the Estate should reimburse Jo \$58,651.47 for expenses related to Robledo. The Dallas Court of Appeals disallows including any breach of contract damages in a punitive damages calculation or ratio comparison. *See, e.g., Signal Peak Enters. of Tex., Inc. v. Bettina Invest., Inc.*, 138 S.W.3d 915, 928 (Tex. App.—Dallas 2004, pet. struck) ("[E]conomic damages arising from breach of contract may not be used to increase the statutory cap [for punitive damages].") (JPMorgan Hearing Notebook Tab N-9).

If the Court determines the evidence supports one of the following conclusions or ratios ...	... then it should award the corresponding amount of punitive damages below.
Failure to establish clear and convincing evidence that JPMorgan acted with malice (i.e., a <i>specific</i> intent to cause <i>substantial</i> injury) towards Mrs. Hopper:	\$0
Failure to establish an independent and qualitatively different harm from the underlying tort damages <sup>2</sup> :	\$0
Failure to establish any of the 3 punitive damages guideposts under <i>State Farm</i> <sup>3</sup> and <i>Horizon Health</i> <sup>4</sup> :	\$0
Failure to establish reprehensibility under the five factors:	\$0
<b>0.5:1 ratio of punitive damages to economic tort damages</b> (using \$222,780.95 in economic damages found by the jury, and excluding mental anguish damages as suggested by <i>State Farm</i> <sup>5</sup> and <i>Tony Gullo Motors</i> <sup>6</sup> ):	\$111,390.48
<b>0.5:1 ratio of punitive damages to economic and noneconomic tort damages</b> (using \$222,780.95 in economic damages & \$500,000 in noneconomic damages found by the jury):	\$361,390.48
<b>1:1 ratio<sup>7</sup> of punitive damages to economic tort damages</b> (using \$222,780.95 in economic damages found by the jury):	\$222,780.95
<b>1:1 ratio of punitive damages to economic and noneconomic tort damages</b> (using same \$222,780.95 + \$500,000 as above):	\$722,780.95
<b>Statutory cap: 2x economic damages plus 1x noneconomic damages</b> (2x \$222,780.95 + 1x \$500,000), <i>see</i> C.P.R.C. § 41.008(b) <sup>8</sup> :	\$945,561.90

<sup>2</sup> *Horizon Health Corp. v. Acadia Healthcare Co.*, 520 S.W.3d 848, 867 (Tex. 2017) (Plaintiff “also required to prove that the defendants specifically intended for Horizon to suffer substantial injury that was ‘independent and qualitatively different’ from the compensable harms associated with the underlying causes of action.”) (JPMorgan Hearing Notebook Tab L-3).

<sup>3</sup> *State Farm Mutual Insurance Co. v. Campbell*, 538 U.S. 408, 418 (2003) (JPMorgan Hearing Notebook Tab M-1).

<sup>4</sup> *Horizon Health*, 520 S.W.3d at 873-74 (JPMorgan Hearing Notebook Tab L-3).

<sup>5</sup> *State Farm*, 538 U.S. at 426 (Emotional distress damages “likely were based on a component that was duplicated in the punitive award” and “already contain this punitive element.”) (JPMorgan Hearing Notebook Tab M-1).

<sup>6</sup> *Tony Gullo Motors I, L.P. v. Chapa*, 212 S.W.3d 299 (Tex. 2006) (“[E]motional damages themselves often include a punitive element.”) (JPMorgan Hearing Notebook Tab L-6).

<sup>7</sup> *State Farm*, 538 U.S. at 425 (“When compensatory damages are substantial, then a lesser ratio, perhaps only equal to compensatory damages, can reach the outermost limit of the due process guarantee.”) (JPMorgan Hearing Notebook Tab M-1).

We appreciate your continued time and attention to this matter.

Respectfully,

A handwritten signature in black ink, reading "Van H. Beckwith". The signature is written in a cursive style with a large, prominent "V" and "H".

Van H. Beckwith

cc: All counsel (via electronic filing)

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<sup>8</sup> See *Signal Peak*, 138 S.W.3d at 927 (“To allow the same fraud or malice finding to serve as an exception to the statutory caps under section 41.008(c) is inconsistent with the statutory scheme of limiting exemplary damages even when fraud or malice has been proven by clear and convincing evidence.”) (JPMorgan Hearing Notebook Tab N-9).