Filed: 8/25/2015 3:49:17 PM
Dana DeBeauvoir
Travis County Clerk
C-1-PB-14-001695
Blair Hicks

Cause No. C-1-PB-14-001695

ESTATE OF	§	IN THE PROBATE COURT
	§	
STELLA MARIE POWELL,	§	NUMBER ONE OF
	§	
DECEASED	§	TRAVIS COUNTY, TEXAS

JAMES POWELL AND ALICE HUSEMAN'S NO EVIDENCE MOTION AND MOTION ON THE PLEADINGS FOR SUMMARY JUDGMENT

TO THE HONORABLE COURT:

James Powell and Alice Huseman move for summary judgment, and would show the Court as follows:

I. INTRODUCTION

1.1 Stella Marie Powell died intestate on June 21, 2014. On September 18, 2014, James Powell and Alice Huseman, two of Stella's siblings, filed an Application for Determination of Heirship and Issuance of Letters of Independent Administration. Contestant Sonemaly Phrasavath filed a Counter-Application, claiming that she was in a same-sex, informal marriage with Decedent, and that she is therefore an intestate heir of Decedent. Because Contestant cannot adduce evidence sufficient to survive a no evidence summary judgment motion as to her assertion of an informal marriage, and because she has no viable claim in that regard, James Powell and Alice Huseman are entitled to summary judgment.

II. FACTS

2.1 Stella Marie Powell ("Decedent") died on June 21, 2014.

2.2 Applicants James Powell and Alice Huseman are two of the surviving siblings of Stella Marie Powell ("Decedent"). Decedent is also survived by her mother, Alice Powell, and her brother, Bryan Powell.

2.3 Applicants filed an Application for Determination of Heirship and Issuance of Letters of Independent Administration regarding Decedent's estate. In response, Sonemaly Phrasavath ("Contestant") filed a Counter-Application, claiming that she was in a same-sex, informal marriage with Decedent, and that she is therefore an intestate heir of Decedent.

2.4 Pursuant to the Application filed by James Powell and Alice Huseman, the Decedent's mother would be the primary heir of the Estate, enlitled to a one-half share of all Estate property. Applicants have been pursuing this matter in an attempt to see that their mother actually benefits from the Estate and because they believe their sister understood that her mother would be the primary beneficiary of her estate if she died intestate.

2.5 After Applicants filed special exceptions to the Contestant's Counter-Application based on the fact that Texas law did not recognize Contestant's claim to an intestate share of Decedent's estate, Contestant sought a ruling that Texas' statutes regarding same-sex marriage are unconstitutional.

2.6 At a hearing on Contestant's Special Exceptions held on February 17, 2015, this Court issued an order denying Applicants' special exceptions and holding that all of Texas' statutory and constitutional laws regarding same-sex marriage are unconstitutional under the United States Constitution.

2.7 The Texas Attorney General then intervened on behalf of the State of Texas, and filed a petition for writ of mandamus with the Texas Supreme Court, asking for emergency relief regarding this Court's February 17, 2015 order.

2.8 On February 19, 2015, the Texas Supreme Court issued an order granting emergency relief. That order specifically stayed this Court's order of February 17, 2015, pending further instruction from the Texas Supreme Court.

2.9 The Supreme Court of the United States issued its opinion in *Obergefell v. Hodges* on June 26, 2015. Although that opinion resolves the question of whether states can prohibit licensed marriages between same-sex couples, there remain questions about how the decision affects this case, which does not involve any alleged or attempted licensed marriage.

2.10 The Texas Supreme Court subsequently lifted its stay of this matter.

2.11 Trial is set for October 4, 2015 on the issue of whether Decedent was informally married to Contestant prior to her death.

2.12 James Powell and Alice Huseman move for a no evidence summary judgment and summary judgment on the pleadings as to the existence of an informal marriage, as described below.

III. ARGUMENT

3.1 The Texas Family Code provides the criteria for establishing an informal marriage in Texas, and includes a specific requirement that such marriages be between a man and a woman. *See* Texas Family Code § 2.401. After *Obergefell*, it is clear that the states cannot prohibit licensed marriages, but there remain questions about whether informal

or common law same-sex marriages can be recognized retroactively. These are not theoretical questions, as they are squarely presented by the instant case. According to existing Texas case law, as well as given practical considerations, informal same-sex marriages should not, and as a matter of law cannot, be recognized retroactively.

A. No evidence motion for summary judgment.

1. No Evidence Standard.

3.2 The purpose of the summary judgment procedure is to permit the trial court to promptly dispose of cases that involve unmeritorious claims. *See City of Houston v. Clear Creek Basin Auth.*, 589 S.W.2d 671, 678 n.5 (Tex. 1979). To succeed on a no-evidence motion for summary judgment against a plaintiff's cause of action, the defendant must allege that, after an adequate time for discovery, there is no evidence of an essential element of the plaintiff's cause of action. *See* TEX. R. CIV. P. 166a(i); *Sw. Elec. Power Co. v. Grant*, 73 S.W.3d 211, 215 (Tex. 2002). If the defendant meets its burden, the burden shifts to the plaintiff to produce more than a scintilla of evidence to raise a genuine issue of material fact on the challenged element. *See* TEX. R. CIV. P. 166a(i); *Forbes, Inc. v. Granada Biosciences, Inc.*, 124 S.W.3d 167, 172 (Tex. 2003). The evidence must be sufficient to allow reasonable and fair minds to differ in their conclusions on whether the challenged fact exists; evidence that raises only a speculation or surmise is insufficient. *Id.* If less than a scintilla of evidence is produced, the defendant is entitled to summary judgment. *See id.*

3.3 An adequate time for discovery has passed in this case (the discovery period ended on August 24, 2015), and Applicants are entitled to summary judgment due to Contestant's lack of evidence.

2. Contestant cannot meet her burden on the elements of her claim of an informal marriage.

3.4 The three elements of an informal marriage in Texas are: (1) an agreement to be married; (2) after the agreement, living together in Texas as husband and wife [or, for the purposes of this context, "as a married couple"]; and (3) representing to others in Texas that they are married. *See Russell v. Russell*, 865 S.W.2d at 932; Texas Family Code § 2.401. The statutory requirement of "representation to others" is synonymous with the judicial requirement of "holding out to the public." *In re Estate of Giessel*, 734 S.W.2d 27, 30 (Tex.App.—Houston [1st Dist.] 1987, writ ref'd n.r.e.) (citing *Estate of Claveria v. Claveria*, 615 S.W.2d 164, 166 (Tex. 1981)).

3.5 Contestant cannot adduce evidence to raise a genuine issue of material fact as to all of the foregoing essential elements of the putative claim for a common law marriage. Each element is challenged by this motion. Specifically, the elements of (1) an agreement to be married; (2) living together as husband and wife (or as a married couple); and (3) holding out to the public are all challenged.

3.6 In particular, that element of "holding out to the public" cannot be met as a matter of law, as set out below.

3. Contestant cannot, as a matter of law, establish the holding out element of her claim of an informal marriage.

3.7 Although same-sex marriages are now legally recognized in Texas, there is still a question as to whether or not a party or parties seeking to prove a same-sex informal marriage retroactively would be able to establish one of the essential elements of such a claim. Specifically, it is impossible to envision how the element of "holding out to the

public" could be established if the alleged "holding out" was done prior to the legal recognition of same-sex marriage in this State.

3.8 As noted above, the statutory requirement of "representation to others" in the context of an informal marriage claim is synonymous with the judicial requirement of "holding out to the public." *In re Estate of Giessel*, 734 S.W.2d at 30 (citing *Estate of Claveria v. Claveria*, 615 S.W.2d at 166). In this case, to meet her burden, Contestant must therefore establish, among other things, the "holding out" element, which she cannot do.

3.9 Occasional introductions as husband and wife do not establish the element of holding out. *Winfield v. Renfro*, 821 S.W.2d 640, 651 (Tex.App.—Houston [1st Dist.] 1991, writ denied). Rather, holding out equates to a "public status" of marriage. *See id.* at 650 (citing *Ex parte Threet*, 333 S.W.2d 361, 364 (Tex. 1960)).

3.10 "Holding out" is a necessary element of establishing an informal marriage, and that element cannot be met in a situation where, as here, the parties were allegedly holding themselves out as something that previously did not exist and was not legally recognized in the State of Texas. A couple cannot have a reputation in the community as being married when, at that time, that public status is not legally available to them or acknowledged. *See Eris v. Phares*, 39 S.W.3d 708, 715 (Tex. App.—Houston [1st Dist.] 2001, pet. denied) (discussing Texas appellate cases on informal marriage turning "on whether the couple had a reputation in the community for being married."); *see also Grigsby v. Reib*, 153 S.W. 1124, 1130 (Tex. 1913) ("The cohabitation must be professedly as husband and wife, and public, so that, by their conduct towards each other, they may be known as husband and wife."); *Winfield*, 821 S.W.2d at 650 (common law marriage "is a public status") (citing *Ex parte Threet*, 333 S.W.2d at 364).

3.11 An analogous situation arose in the case of *Farrell v. Farrell*, --- S.W.3d ---, 2015 WL 364093 (Tex. App.—El Paso 2015, no pet. h.). In that case, the parties attempted to establish that a Texas common law or informal marriage was established in part based on the period of time the couple spent living together in New Mexico. As the court of appeals pointed out, a problem with their argument was that New Mexico does not recognize common law marriage. Accordingly, the court of appeals stated that there could be no common law marriage established based on the time they spent together in New Mexico. *See id.* at *2.

3.12 In order for a couple to hold themselves out as married under Texas law, those witnessing the holding out would need to understand it to be a legally viable possibility. *Eris v. Phares*, 39 S.W.3d at 715; *In re Estate of Giessel*, 734 S.W.2d at 31; *Winfield*, 821 S.W.2d at 650 (common law marriage "is a public status") (citing *Ex parte Threet*, 333 S.W.2d at 364). Similar to a couple holding themselves out as married as common law spouses in New Mexico, a same-sex couple in Texas (while Stella Marie Powell was alive) could not have been understood by others to be legally married because, at that time, Texas law did not permit such a marriage. Accordingly, a party to a same-sex relationship cannot, as a matter of law, establish the holding out element necessary to prove a common law marriage retroactively.

3.13 Of additional significance is Texas' exception to the general rules about establishing a common law marriage where an impediment to the creation of a lawful marriage exists. *See Ballesteros v. Jones*, 985 S.W.2d 485, 490 (Tex. App.—San Antonio 1998, pet. denied). "If an impediment to the creation of a lawful marriage between the parties exists . . . there can be no common law marriage even if all three elements are

proved." *Howard v. Howard*, 459 S.W.2d 901, 904 (Tex. Civ. App.—Houston [1st Dist.] 1970, no writ). As one court of appeals has succinctly explained:

> Where the original relationship between the parties was illicit in origin, but where there has been a change in circumstances, a subsequent common law marriage may be shown circumstantially. However, the facts must be such as to exclude the inference that the previous illicit arrangement continued, and must show a new matrimonial intent.

Id. (internal citations omitted).

3.14 In the instant case, the alleged "holding out" was done at a time when Texas law did not recognize same-sex marriage. In addition to the legal impossibility of establishing the "holding out" element in this case, the previous legal impediment to same-sex marriages in Texas precludes establishing an informal same-sex marriage retroactively unless matrimonial intent was manifest after the recognition of same-sex marriages in this state. *See id.*

3.15 Texas case law demonstrates that recognition of informal same-sex marriages would not apply retroactively, but rather prospectively from the point at which the parties' relationship became "perfected." Such could occur at the time the state legally recognized the relationship but only if matrimonial intent was manifest after the state's recognition of that status. *See id.*

3.16 Because Sonemaly Phrasavath cannot adduce the necessary evidence on the elements of her claim of an informal marriage, and particularly the "holding out" element, James Powell and Alice Huseman are entitled to summary judgment.

B. Motion for summary judgment on the pleadings.

3.17 A party may file a motion for summary judgment showing that the non-movant has no viable cause of action or defense based on the non-movant's pleadings.

See, e.g., National Un. Fire Ins. Co. v. Merchants Fast Motor Lines, Inc., 939 S.W.2d 139, 141 (Tex. 1997) (no duty to defend insurance claim based on allegations in pleadings and terms of policy); *Trinity River Auth. v. URS Consultants, Inc.*, 889 S.W.2d 259, 261 (Tex. 1994) (petition showed statute of repose had run); *Helena Labs. v. Snyder*, 886 S.W.2d 767, 768-69 (Tex. 1994) (no cause of action for negligent interference with family relationship); *City of Houston v. Clear Creek Basin Auth.*, 589 S.W.2d 671, 680 (Tex. 1979) (Under the Water Code, city had no cause of action against the defendant for discharging polluted waste outside the city's boundaries).

3.19 In the context of such a summary judgment motion, the court must assume all allegations and facts in the nonmovant's pleading are true. *Natividad v. Alexsis, Inc.*, 875 S.W.2d 695, 699 (Tex. 1994). The court must also make all inferences about the nonmovant's pleadings in the light most favorable to the nonmovant. *Id.* The Court must also ensure that any defects in the pleading cannot be cured by amendment. *See in re B.I.V.*, 870 S.W.2d 12, 13 (Tex. 1994).

3.20 In her pleadings filed with this Court (including her Counter-Application filed on September 19, 2014), Contestant claims that "Decedent was in a common law or informal marital relationship with [Sonemaly Phrasavath] at the time of her death."

1. Movants are entitled to summary judgment on the pleadings because same-sex informal marriages cannot be established retroactively, as a matter of law.

3.21 Assuming all allegations and facts as pleaded are true, Contestant has not asserted a viable claim because, as discussed above, informal same-sex marriages cannot be established retroactively in Texas when one of the parties died prior to the legal recognition of same-sex marriage in this State. *See Eris v. Phares*, 39 S.W.3d at 715;

Grigsby v. Reib, 153 S.W. at 1130 ; *Winfield*, 821 S.W.2d at 650; *Ex parte Threet*, 333 S.W.2d at 364; *Howard v. Howard*, 459 S.W.2d at 904; Eric J. Shinabarger, *Back to the Future: How Illinois' Legalization of Same-Sex Relationships Retroactively Affects Marital Property Rights*, 90 Chi.-Kent. L. Rev. 335, 344-45. Accordingly, James Powell and Alice Huseman are entitled to summary judgment on the common law marriage claim. *See, e.g., Helena Labs. v. Snyder*, 886 S.W.2d at 768-69.

2. In addition to existing Texas case law clarifying that, as a matter of law, the establishment of a common law marriage is impossible in this context, there are compelling policy reasons why informal same-sex marriages should not be recognized retroactively.

a. A determination that informal same-sex marriages could be retroactively recognized in Texas could lead to unintended consequences for marital property rights.

3.22 In the majority of the constitutional challenges to prohibitions on same-sex marriage leading up to the *Obergefell* decision, same-sex couples sought to procure a marriage license or were seeking to challenge their home state's refusal to recognize an otherwise valid marriage effectuated in a state where same-sex marriage was already recognized. *See Obergefell v. Hodges*, 135 S.Ct. 1039 (2015) (order granting certiorari "limited to the following questions: 1) Does the Fourteenth Amendment require a state to license marriage between two people of the same sex? 2) Does the Fourteenth Amendment require a state to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state?").

3.23 However, controversies like the instant case present distinguishable issues that foreshadow corollary litigation that will likely follow the *Obergefell* decision. The question in this case is not whether the decision by two people to marry during their lifetime must now be recognized by the State of Texas. Here, the legal issue is necessarily different

because one party is deceased, and she never attempted to enter a legally binding marriage during her lifetime. In actuality, this is a case about property rights. Like most estate administration proceedings, a case such as this, to determine heirship rights, constitutes an *in rem* proceeding. *See, e.g., Guajardo v. Chavana*, 762 S.W.2d 683, 685 (Tex. App.–San Antonio 1988, writ denied).

3.24 As one Texas court has noted:

> The object [of an *in rem* proceeding] is to determine the status or condition of the property (res), and the proceeding is not concerned explicitly with the determination of personal rights or liabilities....

In re Bank of America, N.A., 2003 WL 22310800, *4 N.6 (Tex. App.—Houston [1st Dist.] October 9, 2003, orig. proceeding) (citing and quoting Roy McDonald & Elaine Carlson, Texas Civil Practice §§ 4:7, 413 (1992)).

3.25 By its nature, therefore, the instant proceeding is about property rights, which will undoubtedly be a central issue in litigation involving same-sex marriages in the future.

3.26 A recent article addressing the statutory recognition of same-sex marriage in Illinois is informative regarding some of the possible property rights implications of retroactive recognition of informal same-sex marriage in Texas. *See* Eric J. Shinabarger, *Back to the Future: How Illinois' Legalization of Same-Sex Relationships Retroactively Affects Marital Property Rights*, 90 Chi.-Kent. L. Rev. 335 (2015). Shinabarger's article follows a hypothetical Illinois couple who entered into a civil union in Vermont in 2002, and then later –at least arguably – became subject to Illinois law in 2011 when Illinois passed its first statutory scheme recognizing same-sex unions and still later when that state explicitly recognized same-sex marriage. Upon dissolution of their relationship, the hypothetical

couple faced the question of how to divide their property: specifically, when did they begin acquiring marital property and what effect did that determination have on their property rights?

3.27 An excerpt from the article sets up some of the practical implications of the not-so-hypothetical issues:

> When Richie and Homer entered into their civil union, they did so with the knowledge that their actions had no legal effect in Illinois. As far as they knew, their relationship would never be subject to Illinois laws, such as the division of marital property under the Marriage Act. If they would have thought of that outcome, they could have taken steps to avoid commingling their assets or signed an extra-marital contract to divide assets. For instance, Illinois recognizes the validity of pre-nuptial agreements and enforces such agreements under traditional contracts doctrine. Alternatively, the parties could have taken steps to ensure their pre-marital assets remained separate from marital assets. Private assets held by a person prior to a marriage can be transmuted into marital property by an affirmative action from a spouse, such as contribution of that property into the marital estate. If Richie and Homer knew that entering into a civil union would commingle their assets, they could have taken steps ensuring that their premarital assets or exempt assets remained isolated.

Id. at 344-45 (citations omitted).

3.28 A focus of Shinabarger's article is analyzing whether Illinois statutes recognizing same-sex marriages – which lack temporal guidance – should be applied retroactively. *Id.* at 336. Shinabarger's conclusion is that Illinois' statutory recognition of same-sex marriage should not be applied retroactively "as doing so would drastically alter the substantive rights of the parties involved." *Id.* at 337. Although the author's analysis relies on Illinois' statutes and common law for guidance, in large part his conclusions also turn on the fairness of adjudicating property rights retroactively in a context like this, particularly in cases where there was no clear intent to enter into a legally binding marital relationship or to jointly acquire marital property. *Id.* at 344-45, 357-58.

3.29 This concern seems even more heightened where, as in the instant case, one of the parties is deceased and prior to her death there was no manifest intent to seek legal recognition of a same-sex marriage, and the state in which the couple lived did not recognize same-sex marriages during the Decedent's lifetime. It seems patently unfair to apply a property regime to a decedent's estate that the Decedent, while alive, could not have fathomed would apply to her.

b. A determination that informal same-sex marriages could be retroactively recognized in Texas could also lead to unintended consequences in probate.

3.30 As discussed above, the legal recognition of same-sex marriages leads to questions about how that recognition affects marital property rights. Those issues are salient in probate proceedings, because, for example, community property acquired during marriage must be appropriately determined and distributed and in some cases must be administered as part of a decedent's estate. *See, e.g.*, Texas Estates Code §§ 201.003, 453.009; *Ross v. Goldstein*, 203 S.W.3d 508, 512 (Tex. App.—Houston [14th Dist.] 2006, no pet.). Moreover, as a practical matter, if same-sex marriages were recognized in Texas retroactively, there would be other potential repercussions on pending, closed, or never-opened decedents' estates.

3.31 When Texas courts facilitate the implementation of a decedent's estate plan, the decedent's intent is the most important factor. *Kelley v. Marlin*, 714 S.W.2d 303, 305 (Tex. 1986) (testator's intent single most important factor). In Texas, individuals have the broad testamentary freedom to dispose of their property by will as they see fit. *See Estate of Good*, 274 S.W.2d 900, 902 (Tex. Civ. App.—El Paso 1955, writ ref'd n.r.e.). An individual could, for example, leave his entire estate to his same-sex partner. *See Ross v. Goldstein*, 203 S.W.3d at 514. In the instant case, Stella Marie Powell could have left her

entire estate to Soncmaly Phrasavath, but she did not. If a decedent dies intestate, state laws implement a default dispositive scheme. *See, e.g.*, Texas Estates Code §§ 201.001, 201.002. Regardless of whether a decedent leaves a will, Texas law includes certain benefits for a surviving spouse, even if such benefits would be contrary to the decedent's intentions reflected in his or her will.

3.32 For example, the Texas Constitution creates homestead protections for a surviving spouse, and gives the surviving spouse the right to occupy the homestead for his or her lifetime. *See, e.g.*, Tex. Const. Art. XVI, Sec. 50 (exempting homestead from some claims of decedent's creditors); Tex. Const. Art. XVI, Sec. 52 (granting spouse exclusive right of occupancy of homestead). In addition, the Estates Code requires that certain property be set aside for a surviving spouse and that an allowance be provided to a surviving spouse in certain circumstances. Texas Estates Code § 353.051 (requiring that certain property be set aside for surviving spouse); Texas Estates Code § 353.101 (providing for "family allowance" for surviving spouse). Underlying these laws is an assumption and policy decision that spouses should be protected. In situations where the decedent evidenced an intent to marry the individual claiming these benefits, Texas law implements a decedent's presumed corollary intent to provide these types of remedies to his or her surviving spouse.

3.33 A determination that same-sex informal marriages should be retroactively recognized could allow parties to go back and claim entitlement to some of those protections, such as a family allowance or exempt property under Texas Estates Code Chapter 353. This situation would cause a dramatic shift in the application of entitlements of a surviving spouse. Unlike a marriage that is legally recognized during the decedent's

lifetime, a retroactively recognized common law marriage which was legally impossible while the decedent was alive does not look to the decedent's intent. Instead, the application of post-death spousal entitlements would rewrite the decedent's disposition of his or her estate, if he or she had a will. Potentially, a spousal claim asserted retroactively could claw back assets of a decedent's estate that had already been distributed to other beneficiaries designated under the decedent's will or under the intestacy statutes. *See, e.g.*, Texas Estates Code §§ 353.051, 353.101 (application for exempt property to be set aside for surviving spouse or for spousal allowance, respectively, can be made at any time before inventory approved); Texas Estates Code § 353.052 (homestead must be delivered to the decedent's surviving spouse). Although this issue may also be salient in other contexts, it is particularly troublesome to contemplate in the context of putative informal marriages, where one party died at a time when there was no recognition of same-sex unions in this state. Imposing a property regime on a decedent's estate that would not have been legally applicable during the decedent's lifetime is potentially both inequitable and jurisprudentially problematic.

3.34 This analysis further suggests that the recognition of same-sex marriages in Texas does not mean informal same-sex marriages should be recognized retroactively, particularly because of the effects on the substantive rights, including property rights, of the parties involved. If one of the parties was not alive when same-sex marriage was legally recognized in Texas, it would be impossible to hold the parties to their true intent after the fact.

3.35 For these additional reasons, summary judgment on the pleadings is appropriate.

IV. CONCLUSION

4.1 Contestant Sonemaly Phrasavath cannot adduce evidence sufficient to survive the no evidence summary judgment and/or she has stated a claim that is not viable. An analysis of existing Texas law demonstrates that a party attempting to prove an informal same-sex marriage retroactively faces the insurmountable hurdle – both conceptually and practically – of establishing the "holding out" element of an informal marriage. Moreover, Texas case law on exceptions to informal marriages suggests that such putative marriages would not be recognized retroactively but rather prospectively from the point at which the parties' relationship became perfected, which could occur no earlier than the time this State legally recognized same-sex relationships. Any determination otherwise would adjudicate property rights without regard to one of the parties' intentions, particularly in cases like this where there was no clear intent to enter into a legally binding marital relationship or to jointly acquire marital property. James Powell and Alice Huseman are therefore entitled to, and this Court should grant, a summary judgment on the claim that there was a common law or informal marriage.

WHEREFORE, PREMISES CONSIDERED, James Powell and Alice Huseman pray that upon hearing this Court grant summary judgment in their favor and such other and further relief, at law or in equity, to which they may be justly entitled.

Respectfully submitted,

OSBORNE, HELMAN,
KNEBEL & SCOTT, L.L.P.
301 Congress Avenue, Suite 1910
Austin, Texas 78701
Telephone: (512) 542-2002
Telecopier: (512) 542-2011

By: _____
MICHAEL B. KNISELY
State Bar No. 24047367
mbknisely@ohkslaw.com
JASON S. SCOTT
State Bar No. 24029228
jsscott@ohkslaw.com

ATTORNEYS FOR APPLICANTS

NOTICE OF HEARING

Please take notice that the hearing on Applicants James Powell and Alice Huseman's No Evidence Motion and Motion on the Pleadings for Summary Judgment is set to be heard, per the Court's scheduling order in the above styled and numbered cause, on **September 15, 2015 at 2:00 p.m., at the Travis County Courthouse, 1000 Guadalupe, 2nd Floor, Room 217, Austin, Texas.**

_____
Michael B. Knisely