

TABLE OF APPENDICES

	<i>Page</i>
APPENDIX A — ORDER OF THE PROBATE COURT NO. TWO, EL PASO COUNTY, TEXAS, FILED MARCH 2, 2016	1a
APPENDIX B — ORDER OF COMPLIANCE OF THE PROBATE COURT NO. 2 OF EL PASO COUNTY, TEXAS, FILED AUGUST 11, 2016 . . .	5a
APPENDIX C — ORDER OF THE JUDICIAL POWER FOR THE STATE OF CHIHUAHUA, DATED DECEMBER 10, 2021	6a
APPENDIX D — ORDER OF THE PROBATE COURT NUMBER 2 FOR EL PASO COUNTY, TEXAS, FILED NOVEMBER 29, 2022	27a
APPENDIX E — NOTICE OF FILING OF THE PROBATE COURT NUMBER 2 FOR EL PASO COUNTY, TEXAS, FILED JANUARY 31, 2023	29a
APPENDIX F — ORDER FOR REIMBURSEMENT OF ATTORNEY FEES IN THE STATUTORY PROBATE COURT NO. 2 OF EL PASO COUNTY, TEXAS, FILED FEBRUARY 3, 2023	35a

Table of Appendices

	<i>Page</i>
APPENDIX G — MOTION TO STRIKE NOTICE OF LETTER RULING BY THE COURT IN THE STATUTORY PROBATE COURT NO. TWO, EL PASO COUNTY, TEXAS, FILED MARCH 3, 2023	37a
APPENDIX H — CERTIFIED TRANSLATION OF THE FOURTH CIVIL COURT FOR HEARINGS OF THE MORELOS JUDICIAL DISTRICT, CHIHUAHUA, CHIHUAHUA, FILED MAY 23, 2023	42a
APPENDIX I — ORDER OF THE COURT OF APPEALS OF THE EIGHTH DISTRICT OF TEXAS, EL PASO, FILED JUNE 2, 2023	88a
APPENDIX J — ORDER OF RECUSAL OF THE EL PASO COUNTY STATUTORY PROBATE COURT NO. 2, FILED JULY 6, 2023	89a
APPENDIX K — ORDER OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, FILED FILED SEPTEMBER 15, 2023	91a
APPENDIX L — ORDER GRANTING MOTION OF THE STATUTORY PROBATE COURT NUMBER 1 FOR EL PASO COUNTY, TEXAS, FILED OCTOBER 11, 2023	93a

Table of Appendices

	<i>Page</i>
APPENDIX M — ORDER OF THE STATUTORY PROBATE COURT 1 FOR EL PASO COUNTY, TEXAS, FILED OCTOBER 12, 2023.....	95a
APPENDIX N — ORDER OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, FILED NOVEMBER 17, 2023.....	97a
APPENDIX O — ORDER OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, FILED NOVEMBER 17, 2023	99a
APPENDIX P — JUDGMENT OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, FILED DECEMBER 14, 2023.....	101a
APPENDIX Q — MEMORANDUM OPINION OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, DATED DECEMBER 14, 2023	103a
APPENDIX R — ORDER OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, FILED DECEMBER 14, 2023.....	108a
APPENDIX S — ORDER OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, FILED JANUARY 9, 2024.....	110a

Table of Appendices

	<i>Page</i>
APPENDIX T — ORDER OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, FILED JANUARY 24, 2024.....	112a
APPENDIX U — ORDER OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, FILED MARCH 7, 2024.....	115a
APPENDIX V — JUDGMENT OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, FILED JUNE 21, 2024.....	117a
APPENDIX W — MEMORANDUM OPINION OF THE COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS, DATED JUNE 21, 2024.....	119a
APPENDIX X — DENIAL OF PETITION FOR REVIEW OF THE SUPREME COURT OF TEXAS, DATED OCTOBER 4, 2024.....	140a
APPENDIX Y — DENIAL OF MOTION FOR REHEARING OF THE SUPREME COURT OF TEXAS, DATED APRIL 25, 2025.....	147a
APPENDIX Z — AFFIDAVIT OF HANS J. HERZL-BETZ, JD, MSLIS, MPhil, MA.....	152a

Table of Appendices

	<i>Page</i>
APPENDIX AA — CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	159a

1a

**APPENDIX A — ORDER OF THE PROBATE
COURT NO. TWO, EL PASO COUNTY, TEXAS,
FILED MARCH 2, 2016**

**IN THE PROBATE COURT NO. TWO
EL PASO COUNTY, TEXAS**

No. 2016-CPR00081

IN THE MATTER OF

THE ESTATE OF

**GEORGINA A. DE CHAVEZ,
DECEASED**

Dated March 2, 2016

**ORDER PROBATING WILL AND
GRANTING LETTERS TESTAMENTARY**

Came on to be heard and considered the Application to Probate Will and for Letters Testamentary (the "**Application**") filed in this cause by ALFONSO CHAVEZ ("**Applicant**"). The Court, having considered the Application and heard and taken due proof and evidence in the manner required by law, **FINDS:**

1. Citation has been served and returned in the manner and for the length of time required by the Texas Estates Code, to which no objection has been made.

2. ALFONSO CHAVEZ is domiciled in El Paso County, Texas.

Appendix A

3. GEORGINA A. DECHAVEZ (**Decedent**) was a resident of El Paso County, Texas, and was 70 at the time of her death.

4. Decedent died in El Paso County, Texas on January 8, 2016.

5. This Court has venue pursuant to Section 33.001(1) of the Texas Estates Code because Decedent resided at 1008 Broadmoor Dr., El Paso, El Paso County, Texas 79912-2004.

6. The Decedent owned real and personal property of a value exceeding \$50,000.

7. Decedent died with a last will consisting of the Last Will and Testament of Georgina A. de Chavez dated July 10, 1997 (**Last Will**).

8. Service can be had on the executor named in the Last Will at the following address: 1008 Broadmoor Dr., El Paso, Texas 79912-2004.

9. The names of each subscribing witness to the Last Will are: Peggy L. Dieter and Karen L. Bond.

10. No children were born to or adopted by Decedent after executing the Last Will.

11. No marriage of Decedent was ever dissolved after the Last Will was executed.

Appendix A

12. Amigo Kidney Foundation of El Paso, Texas, Desarrollo Juvenil del Norte, A.C. of Cd. Juarez, Chihuahua and Queen of Peace Catholic Church are named in the Last Will as charitable devisees.

13. The executor named in the Last Will is not disqualified by law from accepting letters testamentary.

14. The Last Will should be admitted to probate.

15. No appraiser is necessary and none is appointed.

It is accordingly **ORDERED, ADJUDGED, and DECREED** that the Last Will is admitted to probate and record as the last will of Decedent, and that the Last Will, together with the Application and all testimony given in this cause, shall be recorded in the minutes of this Court.

It is further **ORDERED, ADJUDGED, and DECREED** that ALFONSO CHAVEZ is appointed independent executor of the Estate of Georgina A. de Chavez, that letters testamentary shall be granted to him without bond or other security after he has taken the required oath, and that no action be had in this Court in the administration and settlement of this estate other than (1) returning an inventory, appraisement, and list of claims or an affidavit in lieu of inventory, appraisement and list of claims, within 90 days, unless that time is extended by this Court, and (2) filing of an affidavit or certificate concerning notice to beneficiaries.

4a

Appendix A

SIGNED 3-2, 2016

/s/ Eduardo A. Gamboa
JUDGE PRESIDING

5a

**APPENDIX B — ORDER OF COMPLIANCE
OF THE PROBATE COURT NO. 2 OF EL PASO
COUNTY, TEXAS, FILED AUGUST 11, 2016**

**IN THE PROBATE COURT NO. TWO
EL PASO COUNTY, TEXAS**

NO. 2016-CPR00081

IN THE MATTER OF THE ESTATE OF:

GEORGINA A. DE CHAVEZ,

DECEASED

Dated August 11, 2016

ORDER OF COMPLIANCE

On this day, the Court reviewed the above case and has found it to be in compliance with the filing of the following documents: Notice to Creditors, Affidavit of Notice to Beneficiaries & Inventory.

The County Clerk is hereby ORDERED to enter the status of this case as Complied until further Order of this Court.

SIGNED this 11 day of August, 2016.

/s/ Eduardo A. Gamboa
JUDGE PRESIDING

**APPENDIX C — ORDER OF THE JUDICIAL
POWER FOR THE STATE OF CHIHUAHUA,
DATED DECEMBER 10, 2021**

I, Patricia E. Valles, certified translator and interpreter, license # 21 161 19P-S-VIII, state under oath that this translation was done to the best of my knowledge and understanding, from Spanish to English and that it is a true and faithful translation of the document I had before me.

/s/ Patricia E. Valles

**JUDICIAL POWER
STATE OF CHIHUAHUA**

<Order to Serve Official Notice>

CHIHUAHUA, CHIHUAHUA, DECEMBER 8 OF THE
YEAR TWO THOUSAND TWENTY-ONE.

Add to the Court records, the writ received in the Box of this Court on November 22 this year, and forwarded to this Court the following day, signed by [**MAURICIO ORTIZ TERRAZAS**], with the legal capacity in records, and, as requested, taking into consideration that in his initial brief of claim in the **FIFTH PETITION** Point, he requested: “**AS AN URGENT MEASURE**, I request that immediately, this Hon. Court **SERVE OFFICIAL NOTICE TO** (sic) the Probate Court Number 2 of the County of El Paso, Texas, United States of America, in Case [2016-CPR0081], and to send duly compared copies of this demand (sic); and attached documents, in order to bring to his attention this lawsuit; and, that in

Appendix C

accordance with the legislation of that country, to take the "(sic) precautionary and provisional measures with respect to the assets owned by [ESTHER GEORGINA AYUB AYUB] and/or [GEORGINA A. DE CHAVEZ]; and if possible, inform this Court about the actions taken. Consequently, and since he declares **UNDER PENALTY OF PERJURY**, that the aforementioned writ... "will be apostilled by an attorney in that U.S. City, and submitted to said Probate Court so that, based on the applicable legislation of that country, he may take the appropriate actions as a matter of urgency". Consequently, it is ordered to serve official notice to the Judge of the Probate Court Number 2 (Two) of the County of El Paso, Texas, United States of America in relation to Case [2016-CPR0081], letting him know that it is submitted for the legal effects stated by the interested party. The above in accordance with the Jurisprudence of epigraph and the following content: "**FOREIGN PUBLIC DOCUMENTS, LEGALIZATION OF.** In accordance with the provisions of Articles 2, 3, 4, and 5 of the Convention that suppresses the Requirement of Legalization of Foreign Public Documents, subscribed by the Government of Mexico and approved by the Senate of the Congress of the Union, by means of decree published in the Federal Official Gazette on January 17 of the year nineteen hundred ninety-four, enacted and published for due observance by the President of the Republic in the same media on August 14 of the year nineteen hundred ninety-five, the only formality required for the evidentiary effectiveness of such instruments is that they contain the corresponding "Apostille" issued by the competent authority of the State from which the instrument originates. Therefore, if a document with

Appendix C

the characteristic noted above, lacks such formality, it is unquestionable that no evidentiary value can be granted; and, therefore, it is not eligible to justify what is intended from it".¹

The official letter ordered is available to the interested party, so that he may submit it to its addressee.

LET IT BE KNOWN TO THE PARTIES:

Thus, it was resolved and executed by MICHELLE CARRETE EVANGELISTA, Judge to the Fourth Civil Court by Hearings of the Morelos Judicial District, before the Judicial Clerk, **ALBERTO AVILA BARRIO**, with whom she acts and attests. I ATTEST.

Illegible signature

Illegible signature

PUBLISHED IN THE LIST ON DECEMBER NINE OF THE YEAR two thousand TWENTY-ONE, UNDER NUMBER 49. RECORD.

LEGALLY EFFECTIVE ON DECEMBER 10 OF THE YEAR TWO THOUSAND TWENTY-ONE. RECORD.

Key: 5754 [AAB].

1. Digital register: 194111; Instance: Collegiate Circuit Courts; Ninth Epoch; Subject(s) Common; Thesis: XIX.1o. J/7; Source: Judicial Weekly of the Federation and its Gazette.

Appendix C

PODER JUDICIAL ““2021, Año del Bicentenario de
ESTADO DE la Consumación de la
CHIHUAHUA Independencia de Mexico”
 “2021, Año de las Culturas
 del Norte”

<Exhibe Documental (No Probatoria)>

**CHIHUAHUA, CHIHUAHUA, A VEINTITRÉS DE
 FEBRERO DE DOS MIL VEINTIDÓS.**

Agréguese a los autos el escrito recibido en el Buzón de este Tribunal el día uno de los corrientes, y remitido ante este Juzgado el día siguiente, presentado por el Licenciado [MAURICIO ORTIZ TERRAZAS] con la personalidad acreditada en autos, y como lo solicita, se le tiene acompañando la traducción del auto de fecha ocho de diciembre del año próximo pasado, -al idioma Inglés-, realizado por la Perito Traductor autorizada por la Secretaría de Educación y Deporte, Dirección Estatal de Profesiones, del Gobierno del Estado, [PATRICIA EUGENIA VALLES MARTINEZ]; en consecuencia, dese cumplimiento al auto previamente referido y expídase el oficio ordenado, anexando además, un tanto de la traducción aludida.

NOTIFÍQUESE:

Así lo acordó y firma la Licenciada MICHELLE CARRETEE VANGELISTA Juez Cuarto Civil por Audiencias del Distrito Judicial Morelos, ante el Secretario Judicial Licenciado ALBERTO AVILA

10a

Appendix C

***BARRIO, con quien actúa y do fe. DOY FE..” DOS
RUBRICAS ILEGIBLES.***

Sin más por el momento, quedo de Usted.

**ATENTAMENTE
CHIHUAHUA, CHIHUAHUA,
A 01 DE MARZO DEL 2022.
JUEZA DEL JUZGADO CUARTO CIVIL
POR AUDIENCIAS DEL
DISTRITO JUDICIAL MORELOS.**

**/s/ Licenciada Michelle Carrete Evangelista
LICENCIADA MICHELLE CARRETE
EVANGELISTA.**

siah

Appendix C

**PODER JUDICIAL
ESTADO DE
CHIHUAHUA**

EL LICENCIADO **FERNANDO MENDOZA RUIZ**, SECRETARIO GENERAL DEL TRIBUNAL SUPERIOR DE JUSTICIA DEL ESTADO, CON BASE EN EL ARTÍCULO 46 FRACCIÓN VIII DE LA LEY ORGÁNICA DEL PODER JUDICIAL DEL ESTADO, HACE CONSTAR: QUE LA LICENCIADA **MICHELLE CARRETE EVANGELISTA**, A LA FECHA DE LA EXPEDICIÓN DEL DOCUMENTO ANTERIOR, OSTENTABA EL CARGO DE JUEZA DEL JUZGADO CUARTO CIVIL POR AUDIENCIAS DEL DISTRITO JUDICIAL MORELOS, CON RESIDENCIA EN ESTA CAPITAL. DOY FE. --- CHIHUAHUA CHIHUAHUA, A DOS DE MARZO DE DOS VEINTIDÓS. -----

/s/ Fernando Mendoza Ruiz
FERNANDO MENDOZA RUIZ

12a

Appendix C

Chihuahua	Mexico	No. 0649/22
	Apostille	(8)
	(Convention de la Haye du 5 octobre 1961)	

- (1) En México el presente documento
- (2) público ha sido firmado por: **LIC. FERNANDO MENDOZA RUIZ**
In Mexico this public document | Au Mexique ce document
has been signed by: | publieue a été signé par:
- (3) quien actúa en calidad de: **SECRETARIO GENERAL**
acting in the capacity of: | qui agit comme:
- (4) y está revestido del sello
correspondiente a: **TRIBUNAL SUPERIOR DE JUSTICIA DEL ESTADO DE CHIHUAHUA**
bears the seal/stamp of: | et est join couché
correspondant á:
- (5) certificado en:
Chihuahua, Chih.,
Mexico
certified in: | certificate
de:
- (6) en fecha: **2 de marzo del 2022**
on the date: | date

Appendix C

- (7) por: LIC. MAYRA BEDOY AGUILAR,
 by: | par: ASESORA TÉCNICA, de la Dirección
 de Análisis Jurídicos, con fundamento en
 los numerales 12 y 25 fracción X de la Ley
 Orgánica del Poder Ejecutivo del Estado
 y por delegación de facultades conferidas
 por la Dirección de Análisis Jurídicos de
 la Subsecretaría de Normatividad y Asuntos
 Jurídicos de la Secretaría General de
 Gobierno en términos del artículo 12
 fracción XVI y 31 fracción IX del Reglamento
 Interior de la Secretaría General de Gobierno.

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Datos del documento.

Information of the document: |

Informations sur le
 document:

**PODER EJECUTIVO
 DEL ESTADO
 DE CHIHUAHUA**

Tipo. DOCUMENTO DEL
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Type: | Type:

Titular: ALFONSO ENRIQUE (9) Sello/Timbre
 CHÁVEZ AYUB Seal/Stamp |

Holder: | Titulaire: Sceau/Timbre
 Se autentica la firma, no así el contenido del mismo.

Appendix C

PODER JUDICIAL
ESTADO DE
CHIHUAHUA

*“2022, Año del Centenario
de la llegada de la Comunidad
Menonita a Chihuahua”*

EXPEDIENTE No. 699/2021

OFICIO No.	
560/2022	JUEZ EN MATERIA DE SUCESIONES NÚMERO 2 (DOS) DEL CONDADO DE EL PASO TEXAS, ESTADOS UNIDOS DE AMÉRICA.

PRESENTE.

LE INFORMO QUE EN EL EXPEDIENTE AL RUBRO INDICADO, RELATIVO AL JUICIO ORDINARIO CIVIL PROMOVIDO POR LOS LICENCIADOS MAURICIO ORTIZ TERRAZAS Y/O CARLOS GARCÍA GUTIÉRREZ FIGUEROA, APODERADOS GENERALES PARA PLEITOS Y COBRANZAS DE ALFONSO ENRIQUE CHÁVEZ AYUB, EN CONTRA DE LA SUCESIÓN A BIENES DE [ESTHER GEORGINA AYUB AYUB Y/O GEORGINA A. DE CHÁVEZ] POR CONDUCTO DE SU ALBACEA [ALFONSO CHÁVEZ PACHECO], ASÍ COMO [ESTHER GEORGINA CHÁVEZ AYUB], Y POR ÚLTIMO, EN CONTRA DE: [ALEJANDRA CHÁVEZ AYUB], SE DICTARON DOS AUTOS QUE TEXTUALMENTE ESTABLECEN:

“<Se Ordena Girar Oficio>

CHIHUAHUA, CHIHUAHUA, A OCHO DE DICIEMBRE DE DOS MIL VEINTIUNO.

Appendix C

Agréguese a los autos el escrito recibido en el Buzón de este Tribunal el día veintidós de noviembre del año en curso, y remitido ante este Juzgado al día siguiente, signado por el Licenciado [**MAURICIO ORTIZ TERRAZAS**] con la personalidad acreditada en autos, y como lo solicita, tomando en consideración que desde su escrito inicial de demanda, en el Punto **QUINTO PETITORIO**, solicitó: **“COMO MEDIDA URGENTE, solicito que de manera inmediata, este H. Tribunal GIRE ATENTO OFICIO AL** el (sic) Tribunal en materia de sucesiones número 2 del condado de el Paso Texas, Estados Unidos de América en la causa [2016-CPR0081], y se le envié las copias debidamente cotejadas de las presente demanda (sic) y los documentos adjuntos, a fin de ponerle en conocimiento el presente juicio, y que conforme a la legislación de aquel país, adopte la medidas (sic) precautorias y provisionales respecto a los bienes propiedad de [**ESTHER GEORGINA AYUB AYUB**] y/o [**GEORGINA A. DE CHÁVEZ**], y de ser posible, informar a este Tribunal las medidas adoptadas. En consecuencia, y toda vez que manifiesta **BAJO PROTESTA DE DECIR VERDAD**, que dicho oficio... “se apostillará ya través de diverso abogado en aquella ciudad norteamericana, se le hará llegar a dicho tribunal de sucesiones para que con base a la legislación aplicable de aquei país, adopte las medidas conducentes que merezcan el caracter de urgentes”; en consecuencia, se ordena girar atento oficio al Juez en materia de sucesiones numero 2 (Dos) del Condado de El Paso Texas, Estados Unidos de América, en relación a la causa [2016-CPR0081], haciéndole saber que se le envía para los efectos legales que manifiesta el interesado; lo anterior de conformidad a la Jurisprudencia de epígrafe y contenido siguiente: **“DOCUMENTOS**

Appendix C

PUBLICOS EXTRANJEROS, LEGALIZACIÓN DE LOS. De conformidad con lo dispuesto por los artículos **2o., 3o., 4o. y 5o. de la Convención por la que se Suprime el Requisito de Legalización de los Documentos Públicos Extranjeros** `<javascript:void(0)>`, suscrita por el gobierno de México y aprobada por la Cámara de Senadores del Congreso de la Unión, mediante decreto publicado en el Diario Oficial de la Federación de diecisiete de enero de mil novecientos noventa y cuatro, promulgado y publicado para su debida observancia por el presidente de la República, en el mismo medio de difusión el catorce de agosto de mil novecientos noventa y cinco; la única formalidad que se exige para la eficacia probatoria de dichos instrumentos, es que contengan la "apostilla" correspondiente, puesta por la autoridad competente del Estado de donde emane ese instrumento. Luego entonces, si un documento con la característica anotada, carece de dicha formalidad, es inconcuso que nose le puede conceder valor probatorio alguno, y por tanto no es apto para justificar lo que con él se pretende".

Queda a disposición del interesado el oficio ordenado, para que lo haga llegar a su destinatario.

NOTIFÍQUESE:

Así lo acordó y firma la Licenciada **MICHELLEC ARRETEE VANGELISTA** Juez Cuarto Civil por Audiencias del Distrito Judicial Morelos, ante el Secretario Judicial Licenciado **ALBERTO AVILA BARRIO**, con quien actúa y da fe. DOY FE...

Auto inserto

Appendix C

PODER JUDICIAL “2021, Año del Bicentenario de
ESTADO DE la Consumación de la
CHIHUAHUA Independencia de Mexico”
 “2021, Año de las Culturas
 del Norte”

<Exhibe Documental (No Probatoria)>

**CHIHUAHUA, CHIHUAHUA, A VEINTITRÉS DE
FEBRERO DE DOS MIL VEINTIDÓS.**

Agréguese a los autos el escrito recibido en el Buzón de este Tribunal el día uno de los corrientes, y remitido ante este Juzgado el día siguiente, presentado por el Licenciado [MAURICIO ORTIZ TERRAZAS] con la personalidad acreditada en autos, y como lo solicita, se le tiene acompañando la traducción del auto de fecha ocho de diciembre del año próximo pasado, -al idioma Inglés-, realizado por la Perito Traductor autorizada por la Secretaría de Educación y Deporte, Dirección Estatal de Profesiones, del Gobierno del Estado, [PATRICIA EUGENIA VALLES MARTINEZ]; en consecuencia, dese cumplimiento al auto previamente referido y expídase el oficio ordenado, anexando además, un tanto de la traducción aludida.

NOTIFÍQUESE:

Así lo acordó y firma la Licenciada MICHELLE CARRETEE VANGELISTA Juez Cuarto Civil por Audiencias del Distrito Judicial Morelos, ante el Secretario Judicial Licenciado ALBERTO AVILA BARRIO, con quien actúa y do fe. DOY FE..” DOS RUBRICAS ILEGIBLES.

18a

Appendix C

Sin más por el momento, quedo de Usted.

**ATENTAMENTE
CHIHUAHUA, CHIHUAHUA,
A 01 DE MARZO DEL 2022.
JUEZA DEL JUZGADO CUARTO CIVIL
POR AUDIENCIAS DEL
DISTRITO JUDICIAL MORELOS.**

**/s/ Licenciada Michelle Carrete Evangelista
LICENCIADA MICHELLE CARRETE
EVANGELISTA.**

siah

Appendix C

**PODER JUDICIAL
ESTADO DE
CHIHUAHUA**

EL LICENCIADO FERNANDO MENDOZA RUIZ,
SECRETARIO GENERAL DEL TRIBUNAL
SUPERIOR DE JUSTICIA DEL ESTADO, CON BASE
EN EL ARTÍCULO 46 FRACCIÓN VIII DE LA LEY
ORGÁNICA DEL PODER JUDICIAL DEL ESTADO,
HACE CONSTAR: QUE LA LICENCIADA MICHELLE
CARRETE EVANGELISTA, A LA FECHA DE LA
EXPEDICIÓN DEL DOCUMENTO ANTERIOR,
OSTENTABA EL CARGO DE JUEZA DEL JUZGADO
CUARTO CIVIL POR AUDIENCIAS DEL DISTRITO
JUDICIAL MORELOS, CON RESIDENCIA EN ESTA
CAPITAL. DOY FE. --- CHIHUAHUA CHIHUAHUA,
A DOS DE MARZO DE DOS VEINTIDÓS. -----

/s/ Fernando Mendoza Ruiz
FERNANDO MENDOZA RUIZ

20a

Appendix C

Chihuahua	Mexico	No. 0649/22
	Apostille	(8)
	(Convention de la Haye du 5 octobre 1961)	

- (1) En México el presente documento
- (2) público ha sido firmado por: **LIC. FERNANDO MENDOZA RUIZ**
In Mexico this public document | Au Mexique ce document
has been signed by: | publique a été signé par:
- (3) quien actúa en calidad de: **SECRETARIO GENERAL**
acting in the capacity of: | qui agit comme:
- (4) y está revestido del sello
correspondiente a: **TRIBUNAL SUPERIOR DE JUSTICIA DEL ESTADO DE CHIHUAHUA**
bears the seal/stamp of: | et est join couché
correspondant á:
- (5) certificado en:
Chihuahua, Chih.,
Mexico
certified in: | certificate
de:
- (6) en fecha: **2 de marzo del 2022**
on the date: | date

Appendix C

- (7) por: LIC. MAYRA BEDOY AGUILAR,
 by: | par: ASESORA TÉCNICA, de la Dirección
 de Análisis Jurídicos, con fundamento en
 los numerales 12 y 25 fracción X de la Ley
 Orgánica del Poder Ejecutivo del Estado
 y por delegación de facultades conferidas
 por la Dirección de Análisis Jurídicos
 de la Subsecretaría de Normatividad
 y Asuntos Jurídicos de la Secretaría
 General de Gobierno en términos del
 artículo 12 fracción XVI y 31 fracción IX
 del Reglamento Interior de la Secretaría
 General de Gobierno.

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**PODER EJECUTIVO
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 DE CHIHUAHUA**

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Titular: ALFONSO ENRIQUE
 CHÁVEZ AYUB

Holder: | Titulaire:

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Appendix C

<p>PODER JUDICIAL ESTADO DE CHIHUAHUA</p>	<p>““2021, Año del Bicentenario de la Consumación de la Independencia de Mexico” “2021, Año de las Culturas del Norte”</p>
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<Exhibe Documental (No Probatoria)>

**CHIHUAHUA, CHIHUAHUA, A VEINTITRÉS DE
FEBRERO DE DOS MIL VEINTIDÓS.**

Agréguese a los autos el escrito recibido en el Buzón de este Tribunal el día uno de los corrientes, y remitido ante este Juzgado el día siguiente, presentado por el Licenciado [MAURICIO ORTIZ TERRAZAS] con la personalidad acreditada en autos, y como lo solicita, se le tiene acompañando la traducción del auto de fecha ocho de diciembre del año próximo pasado, -al idioma Inglés-, realizado por la Perito Traductor autorizada por la Secretaría de Educación y Deporte, Dirección Estatal de Profesiones, del Gobierno del Estado, [PATRICIA EUGENIA VALLES MARTINEZ]; en consecuencia, dese cumplimiento al auto previamente referido y expídase el oficio ordenado, anexando además, un tanto de la traducción aludida.

NOTIFÍQUESE:

Así lo acordó y firma la Licenciada MICHELLE CARRETEE VANGELISTA Juez Cuarto Civil por Audiencias del Distrito Judicial Morelos, ante el Secretario Judicial Licenciado ALBERTO AVILA

23a

Appendix C

***BARRIO, con quien actúa y do fe. DOY FE..” DOS
RUBRICAS ILEGIBLES.***

Sin más por el momento, quedo de Usted.

**ATENTAMENTE
CHIHUAHUA, CHIHUAHUA,
A 01 DE MARZO DEL 2022.
JUEZA DEL JUZGADO CUARTO CIVIL
POR AUDIENCIAS DEL
DISTRITO JUDICIAL MORELOS.**

**/s/ Licenciada Michelle Carrete Evangelista
LICENCIADA MICHELLE CARRETE
EVANGELISTA.**

siah

Appendix C

**PODER JUDICIAL
ESTADO DE
CHIHUAHUA**

EL LICENCIADO FERNANDO MENDOZA RUIZ,
SECRETARIO GENERAL DEL TRIBUNAL
SUPERIOR DE JUSTICIA DEL ESTADO, CON BASE
EN EL ARTÍCULO 46 FRACCIÓN VIII DE LA LEY
ORGÁNICA DEL PODER JUDICIAL DEL ESTADO,
HACE CONSTAR: QUE LA LICENCIADA MICHELLE
CARRETE EVANGELISTA, A LA FECHA DE LA
EXPEDICIÓN DEL DOCUMENTO ANTERIOR,
OSTENTABA EL CARGO DE JUEZA DEL JUZGADO
CUARTO CIVIL POR AUDIENCIAS DEL DISTRITO
JUDICIAL MORELOS, CON RESIDENCIA EN ESTA
CAPITAL. DOY FE. --- CHIHUAHUA CHIHUAHUA,
A DOS DE MARZO DE DOS VEINTIDÓS. -----

/s/ Fernando Mendoza Ruiz
FERNANDO MENDOZA RUIZ

25a

Appendix C

Chihuahua	Mexico	No. 0649/22
	Apostille	(8)
	(Convention de la Haye du 5 octobre 1961)	

- (1) En México el presente documento
- (2) público ha sido firmado por: **LIC. FERNANDO MENDOZA RUIZ**
In Mexico this public document | Au Mexique ce document
has been signed by: | publique a été signé par:
- (3) quien actúa en calidad de: **SECRETARIO GENERAL**
acting in the capacity of: | qui agit comme:
- (4) y está revestido del sello
correspondiente a: **TRIBUNAL SUPERIOR DE JUSTICIA DEL ESTADO DE CHIHUAHUA**
bears the seal/stamp of: | et est join couché
correspondant á:
- (5) certificado en:
Chihuahua, Chih.,
Mexico
certified in: | certificate
de:
- (6) en fecha: **2 de marzo del 2022**
on the date: | date

Appendix C

- (7) por: LIC. MAYRA BEDOY AGUILAR,
 by: | par: ASESORA TÉCNICA, de la Dirección
 de Análisis Jurídicos, con fundamento en
 los numerales 12 y 25 fracción X de la Ley
 Orgánica del Poder Ejecutivo del Estado
 y por delegación de facultades conferidas
 por la Dirección de Análisis Jurídicos
 de la Subsecretaría de Normatividad
 y Asuntos Jurídicos de la Secretaría
 General de Gobierno en términos del
 artículo 12 fracción XVI y 31 fracción IX
 del Reglamento Interior de la Secretaría
 General de Gobierno.

Valida tu
 información aquí

O visita
 chihuahua.gob.mx/
 apostillado

/s/ [Illegible]

(10) FIRMA
 signature: | signature:

Datos del documento.

Information of the document: |
 Informations sur le
 document:

**PODER EJECUTIVO
 DEL ESTADO
 DE CHIHUAHUA**

Tipo. DOCUMENTO DEL
 PODER JUDICIAL
 Type: | Type:

Titular. ALFONSO ENRIQUE
 CHÁVEZ AYUB

(9) Sello/Timbre
 Seal/Stamp |
 Sceau/Timbre

Holder: | Titulaire:
 Se autentica la firma, no así el contenido del mismo.

**APPENDIX D — ORDER OF THE PROBATE
COURT NUMBER 2 FOR EL PASO COUNTY,
TEXAS, FILED NOVEMBER 29, 2022**

**IN PROBATE COURT NUMBER 2
EL PASO COUNTY, TEXAS**

CAUSE NO. 2016-CPR00081

**IN THE MATTER OF THE ESTATE OF THE
ESTATE OF GEORGINA A. ECHAVEZ, DECEASED**

Filed November 29, 2022

ORDER

On the 9th day of November, 2022, came on to be heard the Application to Probate Foreign Will as Muniment of Title after Four Years, the Amended Application for Ancillary Probate of Foreign Will, and the 91a Motion to Dismiss a Baseless Cause of Action. After considering the Pleadings and evidence filed of record in this Cause, together with the Argument of Counsel, the Court **FINDS** as follows:

1. That Section 501.001 of the Texas Estates Code is applicable in this Case because that Section requires that the Testator **NOT** be domiciled in the State of Texas at the time of the Testator's death;
2. That all Appellate Deadlines for Objecting to the 2016 Order Probating the Texas Will have expired;

Appendix D

3. That ALFONSO E. CHAVEZ knew about the Texas Will since 2016 and was present at the reading of the Will and also had representation present in Chihuahua Mexico; and
4. That the Pleadings of ALFONSO E. CHAVEZ have no basis in law or in fact.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. The Application to Probate Foreign Will as Muniment of Title after Four Years is **HEREBY DENIED**;
2. The Amended Application for Ancillary Probate of Foreign Will is **HEREBY DENIED**;
3. The 91a Motion to Dismiss a Baseless Cause of Action is **HEREBY GRANTED**, and the Court will set a subsequent hearing on costs and attorney fees.

SIGNED the 29th day of November, 2022.

/s/ [Illegible]
JUDGE PRESIDING

**APPENDIX E — NOTICE OF FILING OF THE
PROBATE COURT NUMBER 2 FOR EL PASO
COUNTY, TEXAS, FILED JANUARY 31, 2023**

IN PROBATE COURT NUMBER 2
EL PASO COUNTY, TEXAS

CAUSE NO. 2016-CPR00081

IN THE MATTER OF THE ESTATE OF THE
ESTATE OF GEORGINA A. ECHAVEZ, DECEASED

**NOTICE OF FILING OF LETTER RULING
BY THE COURT**

You are hereby notified that DARRON POWELL, attorney for **ALFONSO CHAVEZ PACHECO**, Independent Executor of the Estate of Georgina A. De Chavez, hereby files of Record, in the above-referenced Cause, a Letter Ruling Entered by the Court on January 30, 2023 regarding the *Letters Rogatory* issued by a Court in Mexico on August 19, 2021 (attached hereto as Exhibit "A") and hereby incorporated for all intent and purposes.

This Letter Ruling should be included in the Record of the above-captioned Probate Cause, as evidence that this Court was **not** properly served with such Letters Rogatory.

30a

Appendix E

DATED: the 31st day of January, 2023.

Respectfully submitted,

DARRON POWELL, PLLC

BY: /s/
DARRON POWELL
Attorney for Independent Executor
1517 N. Campbell St.
El Paso Texas 79902
(915) 313-0081
(915) 313-0091 FAX

31a

Appendix E

JUDGE

EDUARDO A. GAMBOA

EL PASO COUNTY STATUTORY PROBATE COURT NO. 2

EL PASO COUNTY COURTHOUSE

500 E. SAN ANTONIO AVENUE

4TH FLOOR, ROOM 422

EL PASO, TEXAS 79901

(915) 546-8183 • (915) 875-8530 FAX

January 30, 2023

Atty. Alexander Neill

via email: aneill@fbknlaw.com

RE: Estate of Georgina A. De Chavez
Cause No. 2016-CPR00081

Dear Mr. Neill,

You requested a letter in regards to the Letter Rogatory that was ordered by the Mexican Court in the State of Chihuahua. After reviewing the translated order from the Mexican Court again, I found that proper notice was not given to this Court in accordance with the orders that were issued by the Honorable Judge in Mexico on the 19th day of August 2021. It was ordered that proper notice be given through the Mexican Consulate here in El Paso and that a company by the name of ABC Legal Services personally serve the Judge of the Statutory Probate Court No. 2 in El Paso, Texas.

32a

Appendix E

None of those instructions were followed therefore, this Court will not provide a letter that states that the Letter Rogatory was properly served on this Court.

Sincerely,

/s/ _____
Judge Eduardo A. Gamboa

EAG:bc

Cc: Atty. Darron Powell
via email: *xvdlp@yahoo.com*
Atty. Allan Goldfarb
via email: *allan@goldfarb-legal.com*

*Appendix E***Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Darron Powell on behalf of Darron Powell
Bar No. 24027632
xvdlp@yahoo.com
Envelope ID: 72318872
Status as of 1/31/2023 3:21 PM MST

Associated Case Party: Alfonso Chavez Pacheco

Name	Bar Number	Email	Timestamp Submitted	Status
DARRON LPOWELL		XVDLP@YAHOO.COM	1/31/2023 2:53:53 PM	SENT
Aaron Goldfarb		aaron@goldfarb-legal.com	1/31/2023 2:53:53 PM	SENT
Allan Goldfarb		allan@goldfarb-legal.com	1/31/2023 2:53:53 PM	SENT

34a

Appendix E

Thomas Kelly		thomas@goldfarb-legal.com	1/31/2023 2:53:53 PM	SENT
Victoria Reiners		victoria@goldfarb-legal.com	1/31/2023 2:53:53 PM	SENT

Associated Case Party: Alfonso Chavez

Name	Bar Number	Email	Timestamp Submitted	Status
Alexander V.Neill		aneill@fbknlaw.com	1/31/2023 2:53:53 PM	SENT

**APPENDIX F — ORDER FOR REIMBURSEMENT
OF ATTORNEY FEES IN THE STATUTORY
PROBATE COURT NO. 2 OF EL PASO COUNTY,
TEXAS, FILED FEBRUARY 3, 2023**

IN THE STATUTORY PROBATE COURT NO. 2
OF EL PASO COUNTY, TEXAS

NO. 2016-+CPR00081

IN THE MATTER OF THE ESTATE OF:

GEORGINA A. DE CHAVEZ, DECEASED.

February 3, 2023

**ORDER FOR REIMBURSEMENT
OF ATTORNEY FEES**

On the 26th day of January, 2023, the Court, after considering testimony and evidence presented, finds that attorney fees and costs paid by Mr. Alfonso Chavez Pacheco to attorneys Darron Powell, Allan Goldfarb, and expert witness Mario Martinez in relation to the probate of estate of Georgina A de Chavez, orders that the amount of \$15,000.00 dollars be reimbursed by Alfonso Enrique Chavez Ayub by March 3, 2023.

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED, that the Mr. Alfonso Chavez Pacheco be reimbursed \$15,000.00 by Alfonso Chavez, Jr. aka Alfonso Enrique Chavez Ayub for attorney fees and costs incurred in related to the probate of the estate of Georgina A. de Chavez on, or before March 3, 2023.

36a

Appendix F

SIGNED on this 3rd day of February, 2023.

/s/ [Illegible]
Judge Presiding

**APPENDIX G — MOTION TO STRIKE NOTICE
OF LETTER RULING BY THE COURT IN THE
STATUTORY PROBATE COURT NO. TWO, EL
PASO COUNTY, TEXAS, FILED MARCH 3, 2023**

IN THE STATUTORY PROBATE COURT NO. TWO
EL PASO COUNTY, TEXAS

CAUSE NO. 2016-CPR00081

IN THE ESTATE OF:

GEORGINA A. DE CHAVEZ, DECEASED.

Filed March 3, 2023

**MOTION TO STRIKE NOTICE OF
LETTER RULING BY THE COURT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **Alfonso Chavez**, Respondent, and files this Motion to Strike Notice of Letter Ruling by the Court filed by Darron Powell and for cause of action would respectfully show as follows.

FACTUAL BACKGROUND:

1. On January 8, 2016, Georgina A. De Chavez (the “Decedent”) died in El Paso County, Texas. The Decedent was a native of Cd. Juarez, Mexico but had an address in El Paso County, Texas. Decedent also maintained her childhood home, located at 701 B. Cano de Los Rios, San Felipe, Chihuahua, Mexico. On July 10, 1997, Decedent

Appendix G

executed a Last Will and Testament (the "1997 Will "). The 1997 Will identifies her spouse Alfonso Chavez and her three children, Alfonso, Esther and Alejandra. The 1997 Will contains language indicating that the Decedent may later have a will executed in Mexico but that said will would only apply to property located in Mexico. The 1997 Will makes three separate charitable bequests and provides that her husband inherit the remainder of her estate. On April 30, 2005, Decedent executed a last will and testament in Cd. Juarez, Mexico (the "2005 Will"). The 2005 Will was executed in the presence of Felipe Colomo Castro, Notary Public Number 28 of the Morelos Judicial District, Chihuahua, Mexico. Unlike the 1997 Will, the 2005 Will makes no specific statements as to limitations on the scope of the property to be disposed of pursuant to its terms. Rather, the 2005 Will clearly designates as her "SOLE AND UNIVERSAL HEIRS of *all her property at the time of her death* to her three children ALFONSO ENRIQUE CHAVEZ AYUB; ESTHER GEORGINA CHAVEZ AND ALEJANDRA CHAVEZ AYUB." (emphasis added). Contrary to Movants assertions, the 2005 Will makes no distinction as to her separate or community property in the disposition of her estate. Further, the 2005 Will contains no language limiting the bequest to her property located in Mexico. Finally, the 2005 Will contains clear and unequivocal language revoking prior wills. Specifically, in paragraph four of the 2005 Will, the Decedent states "she had not previously granted any last will, *but herein revokes and renders null and void any testamentary disposition that could be attributed to her and seemingly granted before this date.*" (emphasis added).

Appendix G

2. Subsequent to the Decedent's death, Alfonso filed the 1997 Will for probate in the above-captioned cause. The 1997 Will was admitted to probate by this Court on March 2, 2016. Alfonso represented to Respondent that his mother's will was admitted to probate in Mexico in a separate administrative proceeding. At the time, Respondent was unaware of the existence of the 2005 Will and that it contained a different disposition of property than the 1997 Will. Unbeknownst to Respondent, not only was Alfonso aware of the 2005 Will and its provisions, but he initiated the administrative proceedings for probate of that will in Mexico. At no time did Alfonso inform Respondent that there was a later-in-time will and that it contained clear language revoking all prior wills and providing a different disposition of property.

3. Respondent later discovered the existence of the 2005 Will and immediately took steps to file to establish his inheritance rights under the 2005 Will. The Mexican Lawsuit clearly asserts that the 2005 Will revokes all prior wills and applies to all of Decedent's property, including property located in the United States. As part of the Mexican Lawsuit, Respondent provided copies of the pleadings on file in this case to the Mexican court. On December 9, 2021, Judge Michelle Carrate Evangelista, Judge to the Fourth Civil Court by Hearings of the Morelos Judicial District signed an Order to Serve Official Notice. That order, a certified, translated and apostilled copy of which is attached as Exhibit "A", is to provide this Court with official notice of the Mexican Lawsuit and that the 2005 Will as Decedent's last will and testament. The Mexican Lawsuit was entered into evidence by this Court at a hearing on November 9, 2022.

Appendix G

4. Subsequent to a hearing in the above-captioned cause, Applicant requested a letter from this Court acknowledging receipt of the Letters Rogatory issued by the Judge Michelle Carrate Evangelista. Initially the Court agreed to do so. The Court later communicated that it wanted to review the translated order to determine if proper notice was in fact given. On January 30, 2023, the Court sent a letter to the undersigned counsel which states that proper notice of the Letters Rogatory were not given and therefore the Court had not been properly served. Counsel for Respondents then filed a Notice of Filing of Letter Ruling by the Court and attached the correspondence from the Court as part of the record in the above-captioned cause.

ARGUMENTS AND AUTHORITIES:

4. The Notice of Filing of Letter Ruling by the Court should be struck from the record in the above-captioned cause because the Court's conclusion that it was not properly served is erroneous. The Letter Rogatory issued by Judge Carrista does not require that this Court be served with notice through the Mexican Consulate. The Mexican Lawsuit does require that Alfonso Chavez Pacheco a/k/a Alfonso Chavez a/k/a Esther Georgina Chavez Ayub a/k/a Esther Georgina Chavez and Alejandra Chavez Ayub a/k/a Alejandra Chavez be served with process by through Mexican Consulate because they are Mexican citizens. Upon information and belief Alfonso Chavez Pacheco a/k/a Alfonso Chavez a/k/a Esther Georgina Chavez Ayub a/k/a Esther Georgina Chavez and Alejandra Chavez Ayub a/k/a Alejandra Chavez were

Appendix G

all formally served with process through the Mexican Consulate. There is no such requirement for service on this Court. A certified and translated copy of the Order to Serve Official Notice (the "Order") is attached as Exhibit "A" and incorporated by reference herein. The Order does not contain any requirement that this Court be served through the Mexican Consulate. As the Court's conclusion in its letter is erroneous, the Notice of Letter Ruling by the Court should be struck from the record in these proceedings.

WHEREFORE, premises considered, Movant prays that the Motion to Strike be granted and the Notice of Letter Ruling by the Court be struck from the record in the above-captioned cause. Movant prays for any further relief to which he is justly entitled.

Respectfully submitted,

FIRTH • BUNN • KERR • NEILL
Attorneys for Applicant
311 Montana, Suite B
El Paso, Texas 79902
Phone: (915) 532-7500
Fax: (915) 532-7503
aneill@fbknlaw.com

BY: /s/
Alexander V. Neill
State Bar Number: 24041575

**APPENDIX H — CERTIFIED TRANSLATION OF
THE FOURTH CIVIL COURT FOR HEARINGS
OF THE MORELOS JUDICIAL DISTRICT,
CHIHUAHUA, CHIHUAHUA, FILED MAY 23, 2023**

CERTIFIED TRANSLATION

Furnished on the 20th day of June, 2025

I, Salvador Ordorica, as a Quality Assurance Agent of The Spanish Group LLC, hereby attest that an authorized representative of The Spanish Group has proofread this document and I certify that the attached document is a faithful and authentic translation of its original.

Respectfully,

/s/
Salvador G. Ordorica
The Spanish Group LLC

*Appendix H***CHIHUAHUA, CHIHUAHUA, MAY TWENTY
THREE, TWO THOUSAND TWENTY THREE.**

SEEN to resolve the proceedings of Toca number [110/2023], and

RESULTING:

FIRST.- In the Ordinary Civil Oral Trial, promoted by lawyers [Mauricio Ortiz Terrazas and Carlos Garcia Gutiérrez Figueroa], in their capacity as attorneys for [Alfonso Enrique Chávez Ayub] against [Alfonso Chávez Pacheco and/or Alfonso Chávez], as executor of the succession to assets of [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez], as well as [Esther Georgina Chávez Ayub], and [Alejandra Chávez Ayub], with File number [699/2021], On January 25 (twenty-five) 2023 (two thousand and twenty-three), the Judge of the Fourth Civil Court for Hearings of the Morelos Judicial District, issued an order that reads:

"< Report by Office is Received >

**CHIHUAHUA, CHIHUAHUA, ON JANUARY TWENTY-
FIVE, TWO THOUSAND TWENTY-THREE.**

Add to the records the document number [CHH-6860], received on December 13, two thousand and twenty-two, sent by the ME (sic) [MÓNICA RODRÍGUEZ ARREDONDO], Director of the Passport Office in Chihuahua, through which it informs from the follow-up to the letter rogatory [5/2022], from whose attached

Appendix H

circumstantial act, it can be deduced that the Consul Attached to the city of El Paso, Texas, United States of America, on November 3, two thousand and twenty-two, carried out the summons ordered in the case of [Esther Georgina Chávez (sic), who agreed to be the same person sought, that is, [ESTHER GEORGINA CHÁVEZ AYUB]; regarding [ALEJANDRA CHÁVEZ AYUB] and [ALFONSO CHÁVEZ PACHECO].

*However; taking into account that by means of documents received in the Mailbox of the Court on November 24 of next year, and in this Court the following day, by the aforementioned [ESTHER GEORGINA CHÁVEZ AYUB], [ALEJANDRA CHÁVEZ AYUB] and [ALFONSO CHÁVEZ PACHECO]; consequently, and as requested, they are held in due time and form answering the lawsuit filed against them; in the terms referred to in their account brief, and opposing the exceptions and defenses that they propose, from which the peremptory exception of **res judicata reflects, which will be resolved in the preliminary hearing**, in accordance with numerals 62 and 63 of the Code of Civil Procedures.*

The plaintiff of the response brief as well as the opposing exceptions must be seen for a period of three days, so that they state what is in their interest, based on article 248 of the Procedural Code invoked.

*Regarding the **incompetence** mentioned by this Court to hear this trial, ... "Derived from the fact that the plaintiff requests the annulment of the American will, held in EL P450 Texas, of the United States of North America*

Appendix H

*on July 10, 1997 by MRS. [ESTHER GEORGINA AYUB AYUB] ... ”, the competence of this Court is upheld to hear this lawsuit since the main action claimed consists of A).- **THE VALIDITY OF THE READING OF THE WILL IS DECLARED OPEN PUBLIC RELEASE GRANTED** by [**ESTHER GEORGINA AYUB AYUB and/or GEORGINA A. DE CHÁVEZ**], which took place at eleven hours and fifty minutes on April 30, two thousand and five, before the Twenty-eighth Public Notary for this Judicial District; and other benefits claimed by way of consequence, since said legal act was carried out in the city of Chihuahua, Chihuahua, where this Court has jurisdiction, in accordance with numerals 161, 163 and 167 of the Code of Civil Procedures of the State.*

*Regarding the **expiration of the instance**, it is inadmissible since although it is true that the present trial was filed on August 31, two thousand and twenty-one, from the instrumental of proceedings it is clear that the plaintiff was carrying out various actions tending to achieve the summons made to the three defendants -promoters-, on November 3, two thousand and twenty-two, through the mediation of the relevant diplomatic officials; Therefore, there is no inactivity of more than one hundred and twenty days referred to in numeral 129 Bis of the Code of Civil Procedures.*

Likewise, it has been offered the evidence that indicates whose admission will be provided in the corresponding procedural stage, in accordance with articles 241 and 255 of the procedural code invoked.

Appendix H

*Finally, the address to hear notifications and receive documents is indicated at Avenida [Valle Escondido number 5500 eve thousand five hundred) interior 202 (two hundred two), of the Punto Alto Executive Center Building (E2), El Saucito Industrial Complex, of this city, in accordance with numeral 132 of the Code of Civil Procedures, authorizing for such purposes in terms of the provisions of the first paragraph of article 64 of said Code, to Lawyers [ISRAEL HERNANDEZ GONZALEZ] and/or [**RODRIGO ATAHUALPA TENA CRUZ**] and/or [**JOSÉ ANTONIO BRAVO GAVALDÓN**] and/or [**ALVARO JESÚS TENA ACOSTA**] and/or [**ISMAEL AGUILERA DOMÍNGUEZ**] and/or [**OSCAR PAVEL CRUZ MELENDEZ**] and/or [**TATIANA TORRES GOMEZ TAGLE**] and/or [**JOSÉ LUIS JARAMILLO LIZARRAGA**] and/or [**KAREN LILIANA CALZADILLAS OLIVAS**] and/or [**MABELL ALEJANDRA TORRES LECHUGA**] and/or [**LILIANA JANETH JACQUEZ PEINADOJ**] and/or [**ALEJANDRA OGAZ RAMOS**] and/or [**MARIAN ALARCÓN VENEGAS**] and [**CESAR ARMANDO DE LA O CHÁVEZ**] who have accredited their Law Graduate status with duly professional license registered in the digitized system that the Superior Court of Justice maintains for this purpose. **NOTIFY YOURSELF**".*

SECOND.- Dissatisfied with the previous determinations, the attorney [**JOSÉ Antonio Bravo Gavaldo**], in his capacity as authorized by the defendants [**Alfonso Chávez Pacheco**, executor of the estate of **Esther Georgina Ayub Ayub**, **Alejandra Chávez Ayub** and **Esther Georgina Chávez Ayub**] filed an appeal against said order, which was admitted and at the time filed in this Chamber, where she

Appendix H

was subjected to the procedures provided by law, and it was appropriate to issue the resolution that correspond; and,

CONSIDERING:

FIRST.- This Chamber is competent to hear and resolve this appeal, in accordance with the provisions of articles 624, 634 and 638 of the Code of Civil Procedures of the State, as well as article 54, section I, of the Organic Law of the State Judiciary.

SECOND.- In terms of the provisions of the Law on Protection of Personal Data of the State of Chihuahua, in accordance with article 81, sections I and VII of the Law of Transparency and Access to Public Information of the State of Chihuahua, to protect within the scope of this Court, the rights of access to information, privacy and protection of personal data, guaranteed in articles 6 and 16 of the Political Constitution of the United Mexican States, in the public versions of the sentences handed down by This Chamber, of the Superior Court of Justice of the State of Chihuahua, deletes, by means of the indication of square brackets "[]", the personal data of the parties and others susceptible to deletion, preserving at all times the integrity of the information in the documents. originals in accordance with article 5, section XXXVI, of the Law of Transparency and Access to Information for the State of Chihuahua.

THIRD.- The appellant uses as grievances those located on pages 455 (four hundred and fifty-five) to 459 (four

Appendix H

hundred and fifty-nine), from 461 (four hundred and sixty-one) to 465 (four hundred and sixty-five) and from 467 (four hundred and sixty-seven) to 475 (four hundred and seventy-five) of this Toca, given that despite the fact that they are the same reasons for disagreement, he expressed them separately in relation to each of the defendants who represents, which, due to procedural economy and obviously unnecessary repetitions, are not transcribed and are considered reproduced in this section as if they were inserted verbatim, since there is no legal obligation for this Chamber to transcribe them, since said omission does not it leaves the appellant defenseless, since he is not deprived of the opportunity to appeal this resolution, contesting all the considerations on which it is based; as foreseen in the thesis of the Eighth Epoch, with registration number 214290, published in the Judicial Weekly of the Federation, volume XII, of the month of November 1993, page 288.

FOURTH.- The grievances invoked by the appellant are partially founded but inoperative.

In principle, it should be noted that in accordance with articles 41, section I, 45 and 47 of the Code of Civil Procedures of the State, lack of jurisdiction is a procedural exception that can be promoted by plea or by inhibitory, the first of which is proposed before the judge or judge who is considered incompetent, asking him or her to refrain from knowing the business and refer the records to the person considered competent; and that the judge or judge, immediately after filing the plea, will send an authorized copy of the records to the court that must

Appendix H

decide the jurisdiction, previously summoning the parties to appear before the court of second instance to continue the corresponding process; that is to say, that when an incompetence is promoted, it is resolved in second instance.

Then, from the chapter on exceptions and defenses of their respective defense briefs, it is noted that under number 17 (seventeen) all the defendants objected to the lack of jurisdiction of the court of origin, as can be seen on page 284 (two hundred eighty-four) round and following, 330 (three hundred and thirty) round and following, as well as 376 (three hundred seventy-six) round and following, of the summary; while in the appealed order, which was the one that fell to such writings, instead of ordering the processing of said exception in the terms that were specified in the preceding paragraph, that is, sending an authorized copy of the records to second instance, summoning to the parties to appear before the appellate court for the continuation of the corresponding procedure, given that said exception is resolved by an Appeal Chamber, in accordance with section III of article 54 of the Organic Law of the State Judiciary; the primary Judge ruled reiterating her jurisdiction to hear the proceeding at hand, according to the reasons she considered appropriate; whose challenge by the defendants via appeal led to the formation of the Toca in which it acts, for which the appellants asserted against them the grievances that they considered pertinent.

Notwithstanding the misguidance of the procedure of the primary Judge in relation to the processing of the reference exception, this Chamber considers that for procedural

Appendix H

economy, the reasons for non-conformity asserted against the determination of the Judge of origin to reiterate her competence to hear of the origin procedure ; by virtue of the fact that in accordance with the third paragraph of article 17 of the Federal Constitution, provided that the equality between the parties, due process or other rights in trials or procedures followed in the form of trials are not affected, the authorities must give priority to the resolution of the conflict on procedural formalisms; Hence, in this case, the solution of the conflict should be privileged over procedural formalities, since in the case study, far from affecting the equality of the parties, due process or other rights, the contenders benefit if it is resolved in this Toca matters pertaining to the exception that concerns us instead of omitting its analysis until the Judge of knowledge gives it the procedure that according to law corresponded to it, since proceeding in those terms would delay the administration of justice to its detriment.

Thus, we have that from the statement of claim it can be deduced that the plaintiff appeared at the original procedure to exercise the inheritance petition action, claiming the following benefits, as can be seen on pages 4 (four) and following of the summary:

“BENEFITS

A).- THE VALIDITY OF THE READING OF THE OPEN PUBLIC WILL IS DECLARED GIVEN by [ESTHER GEORGINA AYUB AYUB and/or GEORGINAA. DE CHÁVEZ] in the city of Chihuahua on April 30, 2005, as this is her last will and As a result, possession is adjudicated,

Appendix H

delivered, and the consequences derived from the death of the testator in favor of [ALFONSO ENRIQUE Chávez AYUB], with respect to the corresponding percentage of 11.11% (eleven point eleven percent) of all of the author's assets, as well as the properties identified and registered before the Public Registry of Property of this city as:

i).-Commercial premises located at [Libertad number 329, in the central neighborhood] street of this city, with an area of [221,462] square meters that is registered under number [3084 on pages 187 of book 1843] of the first section.

ii).-Commercial premises located in street [Libertad number 327, in the central neighborhood] of this city with an area of [218,319] square meters that is registered under number [2131, on pages 123 of book 1850] of the first section.

B).- THE ABSOLUTE NULLITY OF ALL ACT OF TRANSFER OF PROPERTY AND DOMAIN OF THE VARIOUS ASSETS AND RIGHTS THAT MADE UP THE ENTIRE INHERITANCE, *due to the absence of consent and will of [ESTHER GEORGINA AYUB AYUB and/or GEORGINA A. DE CHÁVEZ] which were not included in his LAST WILL dated April 30, 2005, granted in the city of Chihuahua, Mexico, regarding his entire estate; which consists of any good or right existing both in Mexico and in any part of the world, including the United States of North America; all derived from the EXPRESS REVOCATION OF ANY OTHER TESTAMENTARY PROVISION GRANTED PRIOR TO APRIL 30, 2005,*

Appendix H

which includes the will dated July 10, 1997, granted in the city of El Paso, Texas, by express will of his testator who revoked and left without any value or effect any previous will.

*C).- Derived from the above, they are claimed, **THE EXPRESS OPPOSITION TO THE FIRST DECLARATION AND AS A CONSEQUENCE OF THE NULLITY** of the **FIRST** clause of the public deed No. [32,575] of Volume [1660] granted before Mr. [Felipe Colomo (sic) Castro], Notary Public Number 28 of this city of Chihuahua, in which [**ALFONSO CHÁVEZ PACHECO** and/or **ALFONSO CHÁVEZ**], OMITTED to include in the inventory **ALL THE ASSETS THAT MAKE UP THE ESTATE OF [ESTHER GEORGINA AYUB AYUB and/or GEORGINA A. DE CHÁVEZ]**, in her capacity as executor; against the last wishes of the testator.*

*D).-In the same way, the **EXPRESS OPPOSITION AND NULLITY** of the execution of the **SECOND AND THIRD clauses** of the public deed No. [32,575] of Volume [1660] granted before Mr. [Felipe Colomo Castro], Notary Public is demanded. Number 28 of this city of Chihuahua, where once again [**ALFONSO CHÁVEZ PACHECO** and/or **ALFONSO CHÁVEZ**] falsely and partially declared the formation of the inventory that he exhibited on **ALL** the goods and rights that were property of [**ESTHER GEORGINA AYUB AYUB and/or GEORGINA A. DE CHÁVEZ**] until before her death, and according to her will, [**ALFONSO ENRIQUE CHÁVEZ AYUB**] should have been awarded **33.33%***

Appendix H

(thirty-three point thirty-three percent) of the total the estate of [ESTHER GEORGINA AYUB AYUB and/or GEORGINA A. DE CHÁVEZ], identifiable in the probate procedure ILLEGALLY executed before Probate Court Number [2] of the county of [El Paso, Texas of the United States of North America], concluded with the order to probate the will and granting of testamentary letters dated March 2, 2016, due to a different will granted on July 10, 1997 which, as stated, was revoked by his testator on April 2005.

***E).-TO [ALFONSO CHA VEZ PACHECO and/or ALFONSO CHÁVEZ] IMMEDIATE RENDERING OF ACCOUNTS** is requested as executor and administrator regarding the 11.11% (eleven point eleven percent) that corresponds to [**ALFONSO ENRIQUE CHÁVEZ AYUB**] regarding 100% of the assets of the testator that are identified below, including.*

*i).-Commercial premises located at [Libertad number 329, in the central neighborhood] street of this city with an area of [221,462] square meters that is registered under **number [3084 on pages 187 of book 1843]** of the first section.*

*ii).-Commercial premises located in street [Libertad number 327, in the central neighborhood] of this city with an area of [218,319] square meters that is registered under **number [2131, on pages 123 of book 1850]** of the first section.*

Appendix H

*All of them established in the FIRST declaration of public deed No. [32,575], dated February 25, 2017, granted before the faith of Lic. [Felipe Colomo Castro] Notary Public Number 28, of the Morelos Judicial District, as well as the award immediately in favor of [**ALFONSO ENRIQUE CHÁVEZ AYUB**] of all the rights that protect them, including the percentage of income generated by said properties located in the city of Chihuahua, from the death of [**ESTHER GEORGINA AYUB AYUB** and/or **GEORGINA A. DE CHÁVEZ**], in the terms specified in the provision marked with subparagraph I) that will be specified later.*

F).-THEY ALSO CLAIMED FROM [ALFONSO Chávez PACHECO and/or ALFONSO CHÁVEZ], THE COMPLETE AND TOTAL INVENTORY AND APPRAISAL OF THE ASSETS AND RIGHTS that [ESTHER GEORGINA AYUB AYUB and/or GEORGINA A. DE CHÁVEZ] had in their patrimony tangible and intangible until January 8, 2016 and as a consequence, THE IMMEDIATE RENDERING OF ACCOUNTS regarding the administration of 33.33% (thirty-three point thirty-three percent) that corresponds to our client to [ALFONSO ENRIQUE CHÁVEZ AYUB], in relation to the TOTAL assets and rights that make up THE HEREDITARY ESTATE.

G).-IT IS ALSO CLAIMED THAT [ALFONSO CHÁVEZ PACHECO and/or ALFONSO CHÁVEZ] THE AWARD AND IMMEDIATE DELIVERY OF THE ASSETS AND RIGHTS THAT CORRESPOND TO HIS SON [ALFONSO ENRIQUE CHÁVEZ AYUB] over the

Appendix H

entire hereditary mass that make up the assets owned by the person who in life carried the name of [**ESTHER GEORGINA AYUB AYUB** and/or **GEORGINA A. DE Chávez**] as established in her last will or last testament that is embodied in the deed public number [12,138] dated April 30, 2005 that is exhibited in this act, granted before the faith of Lic. [Felipe Colomo Castro] Notary Public Number 28, of the Morelos Judicial District, that is, the adjudication and immediate delivery of assets located in Mexico and the United States of North America and/or anywhere in the world.

H).-[**ALFONSO CHÁVEZ PACHECO** and/or **ALFONSO CHÁVEZ**] is claimed **PAYMENT** resulting from the corresponding calculation by applying the 11.11% (eleven point eleven percent) that is generated by rent from the commercial premises that are described and identified in the beginnings II) and III) of the first declaration, of public deed No. [32,575, dated February 25, 2017, granted before Lic. [Felipe Colomo Castro] Notary Public Number 28 of the Judicial District Morelos, amount that must be calculated based on commercial appraisals and income generated, which through an appraiser will prove its value. The foregoing, **UNDER PROTEST TO TELL THE TRUTH**, states that [**ALFONSO ENRIQUE CHÁVEZ AYUB**] does not have access to and knowledge of the rental values or the documents or lease agreement of the commercial premises which have been leased prior to the death of his mother [**ESTHER GEORGINA AYUB AYUB** and/or **GEORGINA A. DE CHÁVEZ**, expert opinions that will allow the determination of **THE REAL VALUE OF THE PROPERTY AND THE RENTAL**

Appendix H

*VALUE, according to the characteristics and conditions determined by the expert expert in the matter. Amount claimed as of January 8, 2016, and its financial updates as of today, the date on which [**ALFONSO ENRIQUE CHÁVEZ AYUB**] should have received the fruits of the real estate on its proportional part given his character as heir, the which to date have not been received.*

*I).- The executor [**ALFONSO CHÁVEZ PACHECO** and/or **ALFONSO CHÁVEZ**] claims **THE IMMEDIATE RENDERING OF ACCOUNTS AND THE PAYMENT** of 33.33% (thirty-three point thirty-three percent) of all the assets, trusts, rights, investments, jewelry or any other element of the patrimony of [**ESTHER GEORGINA AYUB AYUB** and/or **GEORGINA A. DE CHÁVEZ**] from her death on January 8, 2016, until full compliance with what is claimed herein, derived from the illegal administration exercised by [**ALFONSO CHÁVEZ PACHECO** and/or **ALFONSO CHÁVEZ**] in the probate proceeding illegally executed before the Probate Court Number [2] of the county of [El Paso, Texas in the United States of North America], which concluded with the order of legalization of an invalid will and granting of testamentary letters dated March 2, 2016, in execution of the will revoked by its author, where the administration of the assets and rights of [**ESTHER GEORGINA AYUB AYUB**] was illegally transferred and/or **GEORGINA A. DE CHÁVEZ**] in favor of the executor [**ALFONSO CHÁVEZ PACHECO** and/or **ALFONSO CHÁVEZ**], all to the detriment of the assets and rights of the heir [**ALFONSO ENRIQUE Chávez AYUB**], in accordance with the true last will and testament of dated April 30, 2005.*

Appendix H

*J).- Derived from the omissions and malicious conduct of [**ALFONSO CHÁVEZ PACHECO** and/or **ALFONSO Chávez**] executor in the probate proceeding processed in this city of Chihuahua, the **DAMAGES and LOSSES** caused to the patrimony of [**ALFONSO ENRIQUE CHÁVEZ**] are claimed. **AYUB**, which will be calculated from the death of [**ESTHER GEORGINA AYUB AYUB** and /or **GEORGINA A. DE CHÁVEZ**] and until the execution of the sentence derived from the loss and impairment suffered in the patrimony by [**ALFONSO ENRIQUE CHÁVEZ AYUB**], who he stopped receiving the fruits generated by not being within his patrimony; this, derived from the omission to declare all the assets that make up the hereditary universe of [**ESTHER ORGINA AYUB AYUB** and/or **GEORGINA A. DE CHÁVEZ**], and that due to this the loss of financial gains and profits derived from the leases, investments, sales that could have been made in the goods and rights that should have been delivered to [**ALFONSO ENRIQUE CHÁVEZ AYUB**], who stopped receiving them after the death of the author of the last will.*

*K).- The payment of **EXPENSES AND COSTS** that are generated as a result of the processing of this lawsuit, taking into consideration the value of the estate and the risk assumed by [**ALFONSO ENRIQUE CHÁVEZ AYUB**] who has been subject to impairment and economic loss before the omissions and falsehoods that in this act are claimed and evidenced.*

*L).- Finally, the **DIRECTORATE OF THE PUBLIC PROPERTY REGISTRY AND NOTARIES** is requested*

Appendix H

*to send the original files referring to the succession trial to the assets of [**ESTHER GEORGINA AYUB AYUB** and/or **GEORGINA A. DE CHÁVEZ**] to this H. Court, processed before the then Notary Public No. 28 of this Judicial District as well as the consequent registry annotations derived from the present process once it is completed”.*

That is, the plaintiff filed the inheritance petition action and claimed the declaration of validity of the reading of the open public will granted by [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez] in this city of Chihuahua, on the 30th (thirty) of April 2005 (two thousand five); and that as a result of this, possession of 11.11% (eleven point eleven percent) of the two properties that he specified, located on [Libertad de la colonia centro] street of this city, be awarded to him; the rendering of accounts by the executor and administrator of the aforementioned percentage of said real estate that corresponds to the plaintiff; and the payment resulting from applying the same percentage to the amount of the income of the aforementioned real estate.

He also demanded the opposition to the first declaration and the nullity of the first, second and third clauses of the public deed number [32,575 (thirty-two thousand five hundred and seventy-five)] of the volume [1660 (one thousand six hundred and sixty)] of the Notary Public number 28 (twenty-eight) of the city of Chihuahua, in which the continuation of the extrajudicial testamentary succession process to the assets of [Esther Georgina Ayub Ayub] was recorded, given that, in her opinion, all the

Appendix H

assets were not included in the inventory that make up the estate of the author of the succession, since according to the plaintiff, according to the will of the author of the succession, he should have been awarded 33.33% (thirty-three point thirty-three percent) of the entire estate that was identified in the succession proceeding that was carried out before the Probate Court Number [2 (two)] of El Paso County, Texas, of the United States of America, due to a different will granted in that city on July 10 (ten) 1997 (one thousand nine hundred and ninety seven), which in his opinion was revoked by the testator on April 30 (thirty) 2005 (two thousand five); as well as the complete and total inventory and appraisal of the assets and rights that [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez] had in her estate on the date of her death, and as a consequence, the rendering of accounts regarding the administration of the percentage that corresponds to the plaintiff of all the assets and rights that make up the hereditary estate; the adjudication and immediate delivery to the plaintiff of the assets and rights that correspond to him over the entire estate of [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez], in accordance with the will granted on the 30th (thirtieth) day of April 2005 (two thousand and five) in Chihuahua, Chihuahua, which was recorded in public deed number [12,138 (twelve thousand one hundred thirty-eight)] of the Public Notary number 28 (twenty-eight) of the Morelos Judicial District, that is, demanded the adjudication and immediate delivery of the goods located in Mexico and the United States of America, as well as anywhere in the world; as well as the rendering of accounts and the payment of 33.33% (thirty-three point thirty-three

Appendix H

percent) of all the assets, trusts, rights, investments, jewelry and any other element of the patrimony of [Esther Georgina Ayub Ayub and / or Georgina A. de Chávez] from her death, until full compliance with the claim, derived from the illegal administration exercised by [Alfonso Chávez Pacheco and/or Alfonso Chávez] in the succession proceeding carried out before the Court in Probate matter number [2 (two)] of El Paso County, Texas, United States of America; Therefore, it likewise claimed the absolute annulment of any act of transfer of ownership and ownership of the various assets and rights that made up the entire estate of [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez], same as were not included in his last will dated April 30 (thirty) 2005 (two thousand and five), granted in Chihuahua, which he says consist of any good or right existing both in Mexico and anywhere in the world, including the United States from America; the foregoing derived from the express revocation of any other testamentary disposition granted prior to April 30 (thirty) 2005 (two thousand five), which includes the will dated July 10 (ten) 1997 (one thousand nine hundred and ninety seven) Granted in the City of El Paso, Texas.

Lastly, the plaintiff also claimed payment for damages caused to his estate from the death of [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez] and until the execution of the sentence; as well as the expenses and costs of the trial.

Likewise, from the chapter on facts of the claim brief, it is noted that the plaintiff referred to what was relevant, that on July 10 (ten) 1997 (nineteen hundred and ninety-

Appendix H

seven), in the city of El Paso, Texas, United States from America, Mrs. [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez] made a will; that later, on April 30 (thirty) 2005 (two thousand and five), in this city of Chihuahua, the aforementioned person made a different will, in which he established as his sole and universal heirs his children named [Alfonso Enrique —here plaintiff—, Esther Georgina and Alejandra —defendants here—, all last names Chávez Ayub], in which he stated that he had not previously made any will, but that in that act he revoked and rendered any testamentary disposition without any value or effect that could be attributed to it and that appears granted prior to that date.

It also maintained that on January 8 (eighth) 2016 (two thousand and sixteen) Mrs. [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez] died in the city of El Paso, Texas, United States of America, reason whereby the defendants went to Probate Court number 2 (two) in El Paso County, Texas, to improperly request the legalization of the supposed last will of [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez] granted in that city on July 10 (ten) 1997 (one thousand nine hundred and ninety-seven), hiding the existence of a later will, despite the fact that in his opinion in the will of April 30 (thirty) 2005 (two one thousand and five) the aforementioned person revoked and left without effect any testamentary disposition that could be attributed to him and that appears previously granted, which he says includes the will granted on July 10 (ten) 1997 (one thousand nine hundred and ninety-seven) in the city of El Paso, Texas, United States of America; procedure in which the will granted in that country was

Appendix H

declared valid and legal, for which reason the executor Mr. [Alfonso Chávez Pacheco and/or Alfonso Chávez] —also a defendant in this lawsuit— took over the administration of all the assets and rights that the author of the succession had in the United States of America; hence, the plaintiff considered that all proceedings should be annulled in Court number 2 (two) of El Paso County, Texas, United States of America.

Likewise, the plaintiff maintained that in this city of Chihuahua, Chihuahua, on August 15 (fifteen) 2016 (two thousand and sixteen) [Alfonso Chávez Pacheco and/or Alfonso Chávez, Esther Georgina Chávez Ayub and Alejandra Chávez Ayub —the defendants-, as well as Alfonso Enrique Chávez Ayub -actor-, the latter represented by the lawyer [Alfredo Medina Almazan], to the Public Notary number 28 (twenty-eight), to begin the extrajudicial process of the testamentary succession to the property of the lady [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez], where they recognized the validity of the will dated April 30 (thirty) 2005 (two thousand and five), the heirs accepted the inheritance, and Mr. [Alfonso Chávez Pacheco] accepted the position of executor; that subsequently the extrajudicial process of the aforementioned extrajudicial will continued, so that on February 25 (twenty-fifth) 2017 (two thousand and seventeen) the executor made an inventory and exhibited the appraisals of the assets that he affirmed were part of the estate, hiding the property and rights that the author of the succession had in the United States of America, culminating in the illegal inventory, appraisal and adjudication in favor of two heiresses, namely:

Appendix H

[Esther Georgina Chávez Ayub and Alejandra Chávez Ayub], but not in favor of the plaintiff, since he was not awarded possession of his part of the two properties that he specified in his facts, hence the executor continued as administrator of the percentage that corresponds to the plaintiff, who has omitted to render accounts of his administration; that there was a duplication of succession processes derived from two wills granted by the same person with respect to the same patrimony, and that if the last will of the testator had been correctly exercised, the plaintiff would have received 33.33% (thirty-three point thirty and three percent) of the universality of assets and rights that make up the estate of [Esther Georgina Ayub Ayub and/or Georgina A. de Chávez] located both in Mexico, the United States of America or any other part of the world.

Now, in accordance with articles 161 and 162 of the Code of Civil Procedures of the State, any demand or promotion must be formulated before a competent court; the competence will be determined by the matter, the amount, the degree and the territory; Except for territorial jurisdiction, no other is extendable; and in accordance with subparagraphs a) and c) of section VI of article 167 of the same nonnative body, the competent judge is the one in whose jurisdictional territory a succession proceeding is located, to hear inheritance petition actions and actions for nullity, rescission and sanitation by eviction of the hereditary partition; Therefore, as was previously stated in this ruling, in the case study the plaintiff appeared to file an inheritance petition in relation to a succession proceeding carried out in this

Appendix H

city of Chihuahua, Chihuahua, claiming in the same way forms the annulment of various clauses granted during the extrajudicial process of the testamentary succession of reference, among which is the one related to the adjudication made in favor of two of the defendants here of the assets belonging to the hereditary estate, that is, of the hereditary partition; There is no doubt that the Judge of origin is competent to hear the natural judgment, according to the aforementioned precepts, since the case study is within the assumptions established in the aforementioned precepts, since the succession procedure is reiterated in relation to the which the inheritance petition and annulment of the hereditary partition action was filed was processed in this city of Chihuahua, which is where the Knowledge Court is located.

Now, what the appellants allege is unfounded in the sense that the *A quo* is incompetent to declare the validity of the reading of the open public testament granted by [Esther Georgina Ayub Ayub], as well as the other claims that are claimed, because they are *res judicata*, derived from the fact that on February 25 (twenty-fifth) 2017 (two thousand and seventeen) the extrajudicial process of the testamentary succession of reference was terminated, by means of public deed number [32,575 (thirty-two thousand five hundred and seventy five), volume 1660 (one thousand six hundred and sixty)], of the Public Notary number 28 (twenty-eight) of the Morelos Judicial District, so it is something that has already caused a state and that was consented to by the plaintiff, since he intervened in that procedure.

Appendix H

The foregoing is affirmed, given that one thing is the incompetence of a court to hear a trial and another is the inadmissibility of a trial because there is *res judicata* in relation to the benefits claimed, since the first of these is a procedural exception. regulated by the Code of Civil Procedures of the State in its numerals 41, section I, 43, and from 45 to 57, which has the consequence that different court hears the matter; while the exception of *res judicata* is regulated by articles 63, 119, 362 and 364 of the same legal system, the effect of which is to prevent the initiation or continuation of a new trial on the resolved issues, without the aforementioned precepts being It follows that in the event that *res judicata* is upheld, the court must be declared incompetent, as the appellants claim, since these are different issues, as noted in the aforementioned precepts.

To the foregoing, it should be added that in accordance with the second paragraph of article 50 of the aforementioned regulatory body, any promoted competition that is not intended to decide which court or tribunal should hear the matter will be rejected outright, which is updated in the case study, given that through the aforementioned argument the dissatisfied maintain that since the extrajudicial process of the testamentary succession to the assets of [Esther Georgina Ayub Ayub] has already concluded and the same caused the state, there is no matter or reason for it to continue the trial at hand; that is, with such consideration, the appellants do not claim that the court or tribunal that should hear the matter be decided, but they only try to stop the natural Judge from hearing the trial because there is no matter or reason for it, at exist *res judicata*.

Appendix H

Now, in relation to what was sustained by the dissatisfied in the sense that the plaintiff tries to link events that took place under a foreign legal regime, since he intends that through the trial of study a will granted in the United States of America be annulled. in accordance with the laws of that Country, as well as the respective succession procedure; It must be said that it will be in the judgment on the merits that is issued in this trial where the Judge of origin determines in his case, if his ruling may have the scope of annulling the aforementioned will granted in the city of El Paso, Texas, of the United States of America, as well as the succession procedure that was carried out in that locality; since this Chamber is currently prevented from ruling on that point at this point, since doing so would be addressing substantive issues, which is not allowed prior to the issuance of the final judgment, since what is related to whether the acts indicated by the plaintiff that were carried out in the United States of America can be annulled by applying Mexican law is a matter that will be seen when analyzing the benefits claimed, when the ruling on the merits is handed down, since under these premises the plaintiff claimed it in your statement of claim; especially that the defendants took exceptions, arguing that this was not possible, according to the reasoning they invoked, hence these issues must be resolved in that sentence, when analyzing the origin of the action brought, as well as the opposing exceptions.

The foregoing also occurs in relation to what was sustained by the appellants in the sense that the will made by Mrs. [Esther Georgina Ayub Ayub] in the city of El Paso, Texas, of the United States of America, on 10 (ten) of July 1997

Appendix H

(one thousand nine hundred and ninety-seven), has no relationship or connection whatsoever with the will that was granted on April 30 (thirty) of 2005 (two thousand and five) in this city of Chihuahua, Chihuahua, but rather they are independent one from another, so it has no relation to this trial; that is, such a matter must also be analyzed when the final judgment is issued in the first instance. The foregoing is affirmed, by virtue of the fact that the plaintiff based the origin of his action precisely on the fact that, having granted the aforementioned will in our Country, the testator revoked and left without effect the will that he had previously granted in the United States of America, while the defendants based their exceptions, among other things, on the fact that the plaintiff is not correct in its statements, according to the considerations that they presented, so these are issues that must be analyzed when studying the origin of the claim. attempted action and the opposing exceptions, that is, when the final sentence is issued in the natural procedure, for which reason this Chamber cannot rule on the matter in this Toca, since it is not the appropriate procedural moment for it.

Nor is the claim made by the appellants admissible in the sense that the contested order should be revoked in the part in which the primary judge refused to declare herself incompetent to hear the trial, derived from the fact that in the opinion of the appellants it is a notoriously inappropriate because the *A quo* does not have the powers to hear the matter. The foregoing is sustained, given that, as has been stated in this ruling, the primary judge does have jurisdiction to hear the proceeding at hand, given that the inheritance petition action was brought

Appendix H

and the nullity, among other things, was claimed. of the hereditary partition, in relation to an extrajudicial succession proceeding processed in the same city as the location of the primary Judge, and it will be in any case upon final resolution when it is determined whether or not its resolution may affect acts carried out outside the Country, therefore, it is considered that the matter is not notoriously inadmissible, contrary to the appellants' feelings.

Likewise, we must also analyze what the appellants refer to in the final sentence in the sense that the trial under study cannot proceed because in rule 1.5 (one point five) of the will granted in the United States de America the testator established that she would make a separate will that would protect any real estate and/or personal property that she possessed at the time of her death, which were located in Mexico; that by means of that will executed in the United States of America, he only disposed of his real estate and personal property at the time of his death, which were located in the United States of America; and that if there were any conflict between the Mexican will and the will made in the United States of America, the latter would control all assets in the United States, and the Mexican will would control all assets located outside the United States; and if, as the dissenters refer, proceeding as the plaintiff intends would alter or disregard the will of the testator, thereby transgressing the principle of the will of the parties and the true intention of the parties.

The foregoing, since these are substantive issues of the disputed matter invoked by way of exception by the

Appendix H

defendants, whose analysis must be made when resolving the dispute definitively, since it is reiterated that in said circumstance the defendants made part of their exceptions, in order to declare the inadmissibility of the action attempted by his opponent; hence this Chamber cannot address its study at this time.

In the same way and for the same reasons, that is, because these are issues concerning the merits of the litigation, the final sentence that is issued in the natural trial must be analyzed in the final sentence that is issued in due course, regarding whether or not it can be applied in Mexican territory. foreign law —of the United States of America—, derived from what the defendants maintain that in accordance with article 1 of the Civil Code of the State of Chihuahua, the laws of the State are applied, among other assumptions, to the acts held outside the territory of the State that are subject to the laws of the same, as well as whether or not such issue is updated in the case study, determining whether or not the will granted in the United States of America was subject to the laws of our State, or if in the will itself that was granted abroad the testator established that the assets in the United States of America would be governed by that will, and that the assets in Mexico would be governed by the will granted in Mexico; that is, if the will granted in the United States of America is or is not subject to the laws of our State and/or Mexico.

The foregoing is so, by virtue of the fact that these are issues pertaining to the merits of the opposed exceptions, whose analysis must be carried out in the final

Appendix H

ruling, in order to determine if in accordance with the aforementioned numeral, the laws of the State only apply to acts held outside the territory of the State of Chihuahua that are subject to the laws of the State, unless said acts provide for the application of laws of another jurisdiction; and if said hypothesis is updated in the specific case, as well as if the application of the laws of the United States of America was expressly determined or not in the will granted in the United States of America with respect to the assets referred to in said will. ; in order to determine whether or not the defendants are right when they argued by way of exception that the extremes established in the aforementioned precept were not met, and whether or not the plaintiffs claims proceed as a result; Therefore, this Chamber is currently prevented from ruling on the point.

FIFTH.- On the other hand, with regard to the expiration of the instance, we have that in their briefs answering the claim the appellants stated the following on the point, as can be seen in their chapters on exceptions and defenses, on page 283 (two hundred eighty-three) lap and next, 329 (three hundred twenty-nine) lap and next, as well as 375 (three hundred seventy-five) lap and next, respectively:

"16.- LACK OF ACTION AND RIGHT.- EXPIRATION OF THE INSTANCE, it is alleged that the plaintiff does NOT have action and right to claim the benefits and/or claims since it is alleged that the expiration of the instance is updated.

It is alleged that the trial at hand is expired in accordance with article 129 bis of the Code of Civil Procedures of the

Appendix H

State of Chihuahua, since it is alleged that the expiration operates by operation of law, for which reason it is of public order, inalienable and cannot be the subject of agreements between the parties, for which the immediate declaration of that H. Court is requested, since such a request must be attended whatever the state of the trial, since the expiration of the instance proceeds from the first order issued in the litigation and up to the summons to hear the sentence, since it is alleged that the following circumstances concur:

1.- 120 days have elapsed, counted from the day following that on which the notification of the last judicial decision issued took effect, namely, at two moments:

a.- Considering that by means of an agreement dated August 31, 2021, the claim was admitted for processing, it follows that the 120 days were consummated on March 1, 2022, from which it follows that the date of the summons is November 2022, it is undisputed that said 120 days elapsed in excess.

b.- Assuming without granting that the agreement dated December 8, 2021 to issue a letter rogatory has interrupted the expiration term that began from the filing, it is assumed that the 120 days were consummated until the day of the summons on December 3 November 2022, because although it is true that there was a request after the one dated December 8, 2021, it is also true that said request dated December 8, 2021 was not carried out and therefore, a request is UNNECESSARY and dilatory. subsequent request, from which it follows that as

Appendix H

of the date of the summons it is uncontested that said 120 days elapsed in excess, since the subsequent proceedings do not prove that an attempt was made to locate and/or seek the necessary means to summon the defendants of immediately, since the plaintiff was always certain of the addresses where the defendants could be located, so the plaintiff was careless and delayed in not summoning the defendants before.

Therefore, the effect of the expiration of the instance that is decreed is that in accordance with article 129 bis of the Code of Civil Procedures of the State of Chihuahua, the plaintiff is ordered to pay costs and the expiration of the instance.

This petition is based on the following mandatory observation jurisprudence for that H. Court.

Digital registration: 2010517

Location: [J]; 10a. Epoch; Circuit Plenum; SJF Gazette, Book 24, November 2015; Volume II, Page 1637. Civil.

Thesis number: PC.XXVII.J/1 C (10a.)

EXPIRATION OF THE INSTANCE IN CIVIL MATTERS. THE COMPUTATION OF THE TERM FOR IT TO OPERATE MAY START BEFORE THE SUMMONS WHEN THERE ARE CHARGES FOR THE PLAINTIFF AND NOT ONLY FOR THE COURT (INTERPRETATION OF ARTICLE 131 OF THE CODE OF CIVIL PROCEDURES FOR THE STATE

Appendix H

**OF QUINTANA ROO, IN ITS TEXT PRIOR TO THE
PUBLISHED AMENDMENT IN THE OFFICIAL
GAZETTE ON JULY 25, 2014).**

In accordance with the aforementioned numeral, the expiration of the instance operates after 6 months of procedural inactivity, counted from the day following that on which the notification of the last resolution issued takes effect. However; since said procedural institution is a restrictive measure tending to prevent the litigants from extending the processes indefinitely, to decree their operation -even in the procedures of dispositive order; where available rights are settled-. Not only should the mere passage of time without procedural momentum of the parties be considered, but said inactivity must be verified while there is a procedural burden whose satisfaction, in their own interest, is pending to be filled by them at the respective procedural moment. Thus, what refers to the summons does not constitute an exclusive procedural burden of the court, but rather there are burdens for the plaintiff, since it must provide the necessary information to carry it out, in case the defendant is not found at the indicated address, such as investigate the correct one and provide it to the authority, or failing that, request the summons by edicts, which is why, once the order admitting the claim has been issued, it is valid to start the calculation of the term for the expiration to operate, even if it does not the counterpart); has been summoned, in the understanding that the presentation of a promotion tending to generate procedural momentum has the effect of interrupting said computation and starting it again, but not preventing it from being updated until the action

Appendix H

that is intended to be promoted materializes, as would be the case if the plaintiff provided a new address to summon her opponent, given the impossibility of locating her in the originally indicated address.

PLENARY OF THE TWENTY-SEVENTH CIRCUIT

Precedents: *Contradiction of thesis 1/2015. Among those sustained by the First and Third Collegiate Courts, both of the Twenty-seventh Circuit. September 29, 2015. Majority of two votes of Judges Florida Lopez Herncindez and JOSÉ Angel Mattar Oliva. Dissident: Jorge Mercado Mejia. Speaker: Florida Lopez Hernandez. Secretary: Edgar Alan Paredes Garcia.*

Thesis and/or competing criteria.

The one supported by the First Collegiate Court of the Twenty-seventh Circuit, when resolving direct amparo 432/2014 and the diverse one supported by the Third Collegiate Court of the Twenty-seventh Circuit, when resolving direct amparo 361/2014.

This thesis was published on Friday November 27, 2015 at 11:15 a.m. in the Federal Judicial Weekly and, therefore, it is considered mandatory as of Monday November 30, 2015, for the purposes provided for in the seventh point of the Plenary General Agreement 19/2013".

Now, as was made clear in advance in this ruling, in the contested order the Judge of origin held the following pertinent:

Appendix H

“(…)

*Regarding the **expiration of the instance**, it is inadmissible since although it is true that the present trial was filed on August 31, two thousand and twenty-one, from the instrumental of proceedings it is clear that the plaintiff was carrying out various actions tending to achieve the summons made to the three defendants -promoters-, on November 3, two thousand and twenty-two, through the mediation of the relevant diplomatic officials; Therefore, there is no inactivity of more than one hundred and twenty days referred to in numeral 129 Bis of the Code of Civil Procedures.*

(…)”

Therefore, the appellants are right when they maintain in their grounds of disagreement that the appealed determination is unduly motivated, given that in the causative order of this appeal the Original Judge limited herself to maintaining that the expiration of the instance was inadmissible invoked by the defendants, given that the plaintiff was carrying out various actions in order to achieve its summons, therefore the inactivity of more than one hundred and twenty days required by article 129 Bis of the Code of Civil Procedures was not updated; but he omitted to specify the actions that, in his opinion, prevented the figure invoked by the appellants here from being updated, which interrupted the corresponding term; Therefore, in reparation of said grievance, since there is no referral in the appeal, this Chamber will proceed to carry out the relative computation, in order to determine if the expiration of the instance was updated or not.

Appendix H

In principle, taking into account that in accordance with the first paragraph of article 129 Bis of the Code of Civil Procedures of the State, the expiration of the instance is updated regardless of the status of the trial from the first order issued in it until before the conclusion of the hearing of evidence, arguments and judgment, if after 120 (one hundred and twenty) business days from the notification of the last judicial determination, there is no promotion that tends to promote the procedure of any of the parties; It is convenient to make a brief account of various procedural actions that are related to the point of study, which is done in the following terms:

1. Visible on page 240 (two hundred and forty) of the summary, there is the filing order issued in the original proceeding on August 31 (thirty-one) 2021 (two thousand and twenty-one), from which it follows that in what here it is of interest, it was established that prior to providing in relation to the location of the defendants, it was ordered to send an official letter to the Ministry of Foreign Affairs of this city, in order to inform the Court of origin of the data, requirements, forms and costs to be covered in order to summon the defendants, given that the plaintiff indicated that they were domiciled in the city of [El Paso, Texas, in the United States of America], therefore their appeal to trial would have to be verified by letter rogatory ;
2. Visible on page 244 (two hundred and forty-four) of the summary, written by the order of September 30 (thirtieth) 2021 (two thousand and twenty-

Appendix H

one), through which the Director of the Passport Office in Chihuahua was found, from the Ministry of Foreign Affairs, responding to the official letter that was sent, informing the necessary requirements to be able to place the defendants by consular rogatory commission; without 120 (one hundred and twenty) business days having elapsed between this order and the one mentioned in the preceding numeral for the expiration of the instance to be updated, since the provision that precedes it — of August 31 (thirty-one) 2021 (two thousand and twenty-one)— took effect on September 2 (two), 2021 (two thousand and twenty-one), so the relative computation began on day 3 (three) of the aforementioned month of September, while the subsequent order, which is the one that concerns us, is from the 30th (thirtieth) day of the aforementioned month of September of the same year, so that between both provided not even a calendar month elapsed, so the term established by the first could have elapsed. paragraph of article 129 Bis of the Code of Civil Procedures of the State to update the expiration date; This action being suitable to interrupt the expiration term, since it tends to obtain the summons of the defendants, since in said document a letter was received that was sent by the Director of the Passport Office in Chihuahua, of the Secretariat of Foreign Relations, informing the necessary requirements to be able to summon the defendants in the city of El Paso, Texas, of the United States of America, without whose information the study trial could not advance to reach the issuance of the final sentence;

Appendix H

3. Visible on page 249 (two hundred and forty-nine) and following the indictment, is the order dated December 8 (eighth), 2021 (two thousand and twenty-one), published in the list of the following business day under number 48 (forty and eight), which took effect on Friday 10 (ten) of the aforementioned month of December; in which, at the request of the plaintiff, it was ordered to issue a letter rogatory to the General Consulate of Mexico in El Paso, Texas, with the necessary inserts, for review by the Passport Office, Chihuahua Delegation, of the Ministry of Foreign Affairs, for the purpose of summoning the defendants, provided that the letter rogatory of account was ordered to be delivered to the interested party, in order for it to be delivered to its addressee. Thus, between this provision and the one mentioned in the preceding numeral—which had taken effect on October 4, 2021 (two thousand twenty-one)—, only 65 (sixty-five) calendar days had elapsed, so that in reality, fewer business days elapsed, since it would be necessary to exclude Saturdays, Sundays, and those days when the courts were closed, in accordance with article 74 of the Code of Civil Procedures, so it is clear that the time did not elapse between both actions. Required for instance expiration update; This provision being suitable for the interruption of expiration, since in it it was ordered to issue a letter of request to the Consulate General of Mexico located in the place of residence of the defendants, in order to carry out their summons, which was the action that followed so that the trial could move forward;

Appendix H

4. Visible on the back of page 259 (two hundred and fifty-nine) of the summary, the record drawn up on the occasion of the delivery that was made to the plaintiff on May 16 (sixteen) 2022 (two thousand and twenty-two), of the letter rogatory ordered in the order dated December 8 (eighth), 2021 (two thousand and twenty-one) in order to summon the defendants, a document whose date of preparation is the same day it was delivered to the interested party, as can be seen on page 261 (two hundred and sixty-one) of the summary; resulting that 155 (one hundred and fifty-five) calendar days elapsed between the order that ordered the release of the request to consult the account and its delivery to the interested party, to which, in accordance with article 74 of the Code of Civil Procedures, it is necessary to subtract those days in which the courts were closed, since the 120 (one hundred and twenty) days indicated in article 129 Bis of the same legal system for updating the expiration of the instance must be business days, not calendar days; Therefore, the 18 (eighteen), 19 (nineteen), 25 (twenty-five) and 26 (twenty-six) days of December 2021 (two thousand and twenty-one) should not be computed in said period; 1 (one), 2 (two), 8 (eight), 9 (nine), 15 (fifteen), 16 (sixteen), 22 (twenty-two), 23 (twenty-three), 29 (twenty-nine) and 30 (thirty) of January 2022 (two thousand twenty-two); 5 (five), 6 (six), 12 (twelve), 13 (thirteen), 19 (nineteen), 20 (twenty), 26 (twenty-six) and 27 (twenty-seven) of February 2022 (two thousand and twenty-two) ; March 5 (five), 6 (six), 12 (twelve), 13 (thirteen),

Appendix H

19 (nineteen), 20 (twenty), 26 (twenty-six) and 27 (twenty-seven) March 2022 (two thousand twenty-two); 2 (two), 3 (three), 9 (nine), 10 (ten), 16 (sixteen), 17 (seventeen), 23 (twenty-three), 24 (twenty-four) and 30 (thirty) of April 2022 (two thousand twenty-two); as well as the 1 (one), 7 (seven), 8 (eight) and 14 (fourteen) of the month of May 2022 (two thousand twenty-two); all of them for corresponding to Saturdays and Sundays; as well as from Monday, December 20 (twenty) to Friday, December 31 (thirty-one), 2021 (two thousand and twenty-one), as it corresponds to the second vacation period of said year for officials and employees of the State Judiciary; on Monday, February 7 (seven), 2022 (two thousand and twenty-two), on which February 5 (fifth) was commemorated; on Monday, March 21 (twenty-first), 2022 (two thousand twenty-two), on which March 21 (twenty-first) was commemorated; on Wednesday 13 (thirteen), Thursday 14 (fourteen) and Friday 15 (fifteen) of April 2022 (two thousand twenty-two), which corresponded to the main days of Holy Week, and May 5 (fifth), 2022 (two thousand twenty-two); in accordance with article 74 of the Code of Civil Procedures of the State, therefore, from the 155 (one hundred fifty-five) calendar days that elapsed between the proceedings at hand, 59 (fifty-nine) days must be subtracted, for having been non-business days, leaving a total of only 96 (ninety-six) business days between the order of December 8 (eighth), 2021 (two thousand and twenty-one) that ordered a letter of request to be issued to the Consulate General of Mexico of the place of residence of the defendants to in order to

Appendix H

summon them, and the date on which said document was delivered to the interested party to make it reach its addressee; hence, between such actions the expiration of the instance was not updated;

5. Visible on page 260 (two hundred and sixty) and following of the summary, there is a brief from the plaintiff received in the Court of origin on June 10 (ten) 2022 (two thousand and twenty-two), through which he appeared exhibit the original of the letter rogatory dated May 16 (sixteen) 2022 (two thousand twenty-two), which was delivered to him in order for the summons of the defendants to be carried out; since they had informed him in the legal department of the State Delegation of the Ministry of Foreign Affairs that it could not be processed, for not complying with the guidelines that had been indicated to the Judge of origin in the official letter that was considered received by order dated September 30 (thirty), 2021 (two thousand twenty-one); for which the petitioner requested that a letter of request be issued, complying with the necessary requirements for its completion; Hence, between this promotion and the action that precedes it, only 25 (twenty-five) calendar days elapsed, from which the non-business days would have to be subtracted, so that without a doubt the necessary time did not elapse between them for it to be updated. The expiration of the instance;

6. Visible on page 265 (two hundred and sixty-five) of the indictment, the order dated June

Appendix H

17 (seventeen) 2022 (two thousand and twenty-two), which fell to the promotion specified in the preceding numeral, in which ordered to issue once again a letter of request with the necessary inserts to the General Consulate of Mexico in the city of El Paso, Texas, of the United States of America, by means of an official letter to the Passport Office of this city of the Ministry of Foreign Affairs, for its review, independently for each defendant, complying with the requirements referred to in the official letter sent to the Judge of origin by the Director of the Passport Office in Chihuahua, of the Ministry of Foreign Affairs, for the purpose of that the summons of the defendants be carried out; being ordered in the same way to deliver the respective letters rogatory to the interested party, so that they could reach their addressee; so it is clear that between this action and the promotion to which only 7 (seven) calendar days elapsed, hence the expiration of the instance could not be updated, resulting in said provision being suitable to interrupt the expiration term, since what was agreed therein tends directly to the continuation of the trial, since the respective consular rogatory commissions were ordered to be released, complying with the legal requirements for their completion, in order to be able to call the defendants to trial, which evidently had as purpose for the trial to advance;

7. Visible on page 409 (four hundred and nine) of the summary, document number [CHH-6860], received

Appendix H

in the Court of origin on December 13 (thirteen) 2022 (two thousand and twenty-two), through which the Director of the Passport Office in Chihuahua, of the Ministry of Foreign Affairs, informed the *Aquo* that the Consulate of Mexico in El Paso, Texas, United States of America, on November 16 (sixteen) of that year sent her the circumstantial record drawn up as a result of the requested procedure, attaching the corresponding original documents, of which it is noted that the defendants were summoned on November 3 (three), 2022 (two thousand and twenty-two). Then, from the time of the order dated June 17 (seventeen) 2022 (two thousand and twenty-two) —published in the list the following Monday 20 (twenty), taking effect on the following day, that is, June 21 (twenty-first). of 2022 (two thousand and twenty-two)—, date when it was ordered to release letters rogatory related to the General Consulate of Mexico in the city of El Paso, Texas, of the United States of America for the purpose of summoning the defendants, until November 3 (three), 2022 (two thousand and twenty-two), date when the ordered procedures were carried out, 82 (eighty-two) business days elapsed, given that said term began on June 22 (twenty-two), 2022 (two thousand and twenty-two), as it was the day after the last proceeding went into effect, while June 25 (twenty-fifth) and twenty-six (twenty-six); 2 (two), 3 (three), 9 (nine), 10 (ten), 16 (sixteen), 17 (seventeen), 23 (twenty-three), 24 (twenty-four), 30 (thirty) and 31 (thirty-one) of July; 6 (six), 7 (seven), 13 (thirteen), 14 (fourteen), 20

Appendix H

(twenty), 21 (twenty-one), 27 (twenty-seven) and 28 (twenty-eight) of the month of August; September 3 (three), 4 (four), 10 (ten), 11 (eleven), 17 (seventeen), 18 (eighteen), 24 (twenty-four) and 25 (twenty-fifth); as well as 1 (one), 2 (two), 8 (eight), 9 (nine), 15 (fifteen), 16 (sixteen), 22 (twenty-two), 23 (twenty-three), 29 (twenty-nine) and 30 (thirty) of October; all aforementioned months of the year 2022 (two thousand and twenty-two), were non-business days because they were Saturdays and Sundays; Monday 18 (eighteen) to Friday July 29 (twenty-nine), 2022 (two thousand and twenty-two), were non-working days because they fell within that year's first vacation period for officers and employees of the State Judiciary; September 15 (fifteen) and 16 (sixteen), as well as October 12 (twelve) of the year 2022 (two thousand and twenty-two) were non-business days as set forth by Article 74 of the Code of Civil Procedures; while November 1 (one) and 2 (two) of 2022 (two thousand and twenty-two) were non-working days pursuant to Article 56 of the General Working Conditions of the Government of the State of Chihuahua and its Workers, which provides these dates are mandatory rest days; therefore, none of those days can be taken into consideration for the purpose of calculating the proceeding's lapse term; therefore, among the aforementioned proceedings, the 120 (one hundred and twenty) business days set forth by Article 129 Bis of the Code of Civil Procedures to establish the lapsing of the proceeding did not elapse since the summons proceedings of the defendants were

Appendix H

suitable to interrupt the corresponding term given that it was the next procedural act required for the trial to advance in order to reach its conclusion.

In view of the facts set forth above, it can be inferred that, as stated by the Judge of origin in the contested order, it is noted from the record that, once the matter at hand was filed, various actions were carried out for the purpose of summoning the defendants, which was carried out on November 3 (three), 2022 (two thousand and twenty-two), that is, to promote the procedure, and therefore there was no inactivity for 120 (one hundred) twenty business days as required to establish the lapsing of the proceeding, as claimed by the defendants.

In conclusion, if the purpose of the lapsing of the proceeding is to penalize the lack of interest of the parties in the prosecution of the trial during the term established in the cited precept; in the case studied here, it is evident that the proceeding was not abandoned for the time required by Law to establish said legal concept, but rather that given the circumstances, the necessary and conducive actions were performed in order to continue through the summons of the defendants, in order to arrive at the issuance of the final sentence in due course. Thus, the lapsing of the proceeding cannot be established and, despite the fact that the grievance at hand was well founded, it is inapplicable.

In view of the foregoing considerations, it is necessary to confirm the challenged determination; without issuing any special orders regarding costs in this proceeding

Appendix H

due to the fact that the hypothesis contemplated for this purpose by Article 159 of the Code of Civil Procedures of the State in its Section IV cannot be established since there is no sentence for two fully equal judgements in the operative part, without taking into account the statement on the costs.

In view of the foregoing and as established above, the court hereby

ORDERS:

FIRST.- The order issued on January 25 (twenty-fifth) 2023 (two thousand and twenty-three), by the Judge of the Fourth Civil Court for Hearings of the Morelos Judicial District, in the Ordinary Civil Oral Trial to which this Toca is contracted, is confirmed.

SECOND.- No special order on costs is made in this instance.

THIRD.- BE NOTIFIED; send testimony of this resolution to the Court of knowledge and file the present Touch as a closed matter.

This was resolved and signed by Mr. JOSÉ Cain Lara Davila, Secretary of Agreements of the Seventh Civil Chamber of the State Superior Court of Justice, in charge of the Office by Ministry of Law, due to the temporary absence of the Head of this Chamber in accordance with articles 266, 267 and 268 of the Organic Law of the State Judiciary, assisted by the Secretary Designer

87a

Appendix H

Ram6n Alvaro Medina Carmona, acting as Secretary of Agreements, with whom he acts and attests. ATTEST.

PUBLISHED IN THE LIST OF MAY TWENTY-FOURTH, TWO THOUSAND TWENTY-THREE, UNDER THE NUMBER _____. FOR THE RECORD

IT TAKES EFFECT ON THE TWENTY-FIFTH DAY OF MAY TWO THOUSAND TWENTY-THREE, AT TWELVE HOURS. FOR THE RECORD

Key: 19 :LCVC/chaos

88a

**APPENDIX I — ORDER OF THE COURT
OF APPEALS OF THE EIGHTH DISTRICT OF
TEXAS, EL PASO, FILED JUNE 2, 2023**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS**

No. 08-23-00072-CV

**IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ, DECEASED,**

Appellant,

Filed June 2, 2023

ORDER

**Appeal from the Probate Court No. 2 of
El Paso County, Texas (TC# 2016-CPR00081)**

The Court GRANTS the Appellant's second motion for extension of time within which to file the brief until **June 19, 2023**. NO FURTHER MOTIONS FOR EXTENSION OF TIME TO FILE THE APPELLANT'S BRIEF WILL BE CONSIDERED BY THIS COURT.

It is further ORDERED that the Hon. Michael R. Nevarez, the Appellant's attorney, prepare the Appellant's brief and forward the same to this Court on or before June 19, 2023.

IT IS SO ORDERED this 2nd day of June, 2023.

PER CURIAM

Before Rodriguez, C.J., Palafox, and Soto, JJ.

**APPENDIX J — ORDER OF RECUSAL OF THE
EL PASO COUNTY STATUTORY PROBATE
COURT NO. 2, FILED JULY 6, 2023**

IN THE EL PASO COUNTY STATUTORY
PROBATE COURT NO. 2

Cause No. 2016-CPR00081

IN THE MATTER OF THE ESTATE OF
GEORGINA A. DECHAVEZ,

Deceased.

ORDER OF RECUSAL

On July 3, 2023, the Court called the above-styled and numbered cause on an evidentiary hearing on a motion to withdraw filed by Michael R. Nevarez, appellant attorney for appellant, Alfonso E. Chavez Ayub.

After reviewing appellant, Alfonso E. Chavez Ayub's Motion for Contempt of Court and Sanctions and appellant's attorney of record, Mr. Michael R. Nevarez's Reply to Response to Motion for Leave to Withdraw as Attorney of Record, which were filed of record, the Court, on its own motion, is of the opinion that the Court should recuse itself sua sponte, and said motion should be granted.

The Court therefore orders that the undersigned Trial Judge is hereby recused from further proceedings in the above-styled and numbered cause. It is further ordered

90a

Appendix J

that the undersigned Trial Judge take no further action in the case, except for good cause stated in any order taking action.

By this order, the undersigned hereby requests that a Statutory Probate Judge be appointed to hear this case by the Presiding Judge of the Texas Probate Courts, Guy Herman.

SIGNED this 6th day of July 2023.

/s/ [Illegible]
JUDGE PRESIDING

91a

**APPENDIX K — ORDER OF THE COURT OF
APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, EL PASO, TEXAS,
FILED SEPTEMBER 15, 2023**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS**

No. 08-23-0072-CV

**Appeal from the Probate Court No. 2
of El Paso County, Texas
(TC# 2016-CPR00081)**

**IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ DECEASED,**

Appellant,

ORDER

On June 21, 2023, this Court abated the appeal and remanded to the trial court for further proceedings. On July 10, 2023, we received a letter from Judge Eduardo A. Gamboa notifying this Court that he recused himself from the underlying case. On September 14, 2023, this Court received a supplemental clerk's record containing an order from the Statutory Probate Courts of Texas assigning this case to the Honorable David W. Jahn, a Denton County Probate Court judge.

Pending before this Court is Michael R. Nevarez's motion to withdraw as attorney of record. On June 12, 2023,

Appendix K

Appellant Alfonso E. Chavez filed a response opposing the motion. Also pending before this Court is Appellant's motion for contempt and court sanctions against Michael R. Nevarez filed August 23, 2023. We refer Michael Nevarez's motion to withdraw and Appellant's motion for contempt and sanctions to the trial court.

The trial court is ORDERED to conduct a hearing on the motions before October 15, 2023. The trial court, based on its findings, shall render orders on both motions. The trial court shall forward its findings of fact and conclusions of law to the County Clerk of El Paso County, Texas, on or before October 15, 2023. The County Clerk shall prepare and forward a supplemental clerk's record containing the findings of fact and conclusions of law and forward the same to this Court on or before October 25, 2023. Further, the transcript of the hearing shall be prepared, certified, and filed with this Court on or before October 25, 2023. This appeal will be reinstated upon the date the complete supplemental clerk's record and reporter's record is filed with this Court.

IT IS SO ORDERED this 15th day of September 2023.

PER CURIAM

Before Rodriguez, C.J., Palafox and Marion, C.J. (Ret.)
Marion, C.J. (Ret.) sitting by assignment

**APPENDIX L — ORDER GRANTING MOTION OF
THE STATUTORY PROBATE COURT NUMBER 1
FOR EL PASO COUNTY, TEXAS,
FILED OCTOBER 11, 2023**

IN THE STATUTORY PROBATE COURT NUMBER 1
EL PASO COUNTY, TEXAS

CAUSE NO. 2016-CPR00081

ALFONSO E. CHAVEZ AYUB,

Plaintiff/Appellant,

v.

ALFONSO CHAVEZ PACHECO,

Defendant/Appellee.

IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ,

Deceased.

**ORDER GRANTING MOTION TO WITHDRAW AS
ATTORNEY OF RECORD**

ON THIS DAY the Court considered the Motion
to Withdraw as Attorney of Record filed by Michael

Appendix L

R. Nevarez and The Nevarez Law Firm, P.C. After considering the motion, the arguments of the parties, and the testimony presented at the hearing on same, the Court finds good cause to allow Michael R. Nevarez and The Nevarez Law Firm, P.C. to withdraw as attorney of record.

IT IS THEREFORE ORDERED that Michael R. Nevarez and The Nevarez Law Firm, P.C. are withdrawn as attorney of record for Plaintiff/Appellant, ALFONSO E. CHAVEZ a/k/a ALFONSO CHAVEZ a/k/a ALFONSO E. CHÁVEZ AYUB in the above-styled and -number cause of action.

IT IS FURTHER ORDERED that any and all future pleadings, motions, notices and communications be served on Plaintiff/Appellant, ALFONSO E. CHAVEZ a/k/a ALFONSO CHAVEZ a/k/a ALFONSO E. CHÁVEZ AYUB, 5167 Yarmouth Ave., #7, Encino, CA 91316, and by email to: alfonso@mochamedia.com.

SIGNED on this the 11th day of October, 2023.

/s/_____
JUDGE DAVID W. JAHN,
~~Presiding Judge~~
Probate Court No. 1
El Paso County, TX
Sitting by Assignment.

###

**APPENDIX M — ORDER OF THE STATUTORY
PROBATE COURT 1 FOR EL PASO COUNTY,
TEXAS, FILED OCTOBER 12, 2023**

**IN THE STATUTORY PROBATE COURT 1
OF EL PASO COUNTY, TEXAS**

Cause No. 2016-CPR00081

**IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHÁVEZ, DECEASED**

**ORDER DENYING APPELLANT'S AMENDED
MOTION FOR CONTEMPT OF COURT
ORDER AND SANCTIONS**

On October 6, 2023, came on for hearing *Appellant's Amended Motion for Contempt of Court Order and Sanctions* filed by Alfonso E. Chávez Ayub, Pro Se. After hearing the evidence and arguments of Appellant Alfonso E. Chávez (Pro Se), Michael Nevarez, and Darron Powell, attorney for Appellee, the Court hereby DENIES Appellant Alfonso E. Chávez Ayub's requests for relief.

THE COURT FINDS that Mr. Michael Nevarez did not act groundlessly, or with bad faith, by filing a timely Motion to Withdraw that complied with Texas Rule of Civil Procedure 10.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that all requested relief to hold Mr. Michael Nevarez in Contempt of Court and to Sanction his conduct is **DENIED** in full.

96a

Appendix M

This is a final Judgment/Order requiring notice under
Texas Rule of Civil Procedure 306a(3)

SIGNED on October 12, 2023.

/s/ _____
DAVID W. JAHN,
PROBATE COURT NO. 1,
EL PASO COUNTY, TEXAS
SITTING BY ASSIGNMENT

97a

**APPENDIX N — ORDER OF THE COURT OF
APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, FILED NOVEMBER 17, 2023**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO COUNTY COURTHOUSE**

CHIEF JUSTICE

Vacant

JUSTICES

Gina M. Palafox

Lisa Soto

November 17, 2023

Hon. Aaron Goldfarb
The Goldfarb Law Firm, PLLC
309 E. Robinson Ave.
El Paso, TX 79902
* DELIVERED VIA E-MAIL *

Hon. Darron Powell
Darron Powell PLLC
1517 N. Campbell St.
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* DELIVERED VIA E-MAIL *

Alfonso Chavez
5167 Yarmouth ave. #7
Encino, CA 91316
* DELIVERED VIA E-MAIL *

98a

Appendix N

RE: Court of Appeals Number: 08-23-00072-CV
Trial Court Case Number: 2016-CPR00081

Style: In the Matter of the Estate of Georgina A. De
Chavez, Deceased

The Court has this day DENIED, without written
order, the Appellant's motion for disqualification of a
Judge.

Respectfully yours,

ELIZABETH G. FLORES, CLERK

/s/ Elizabeth G. Flores

**APPENDIX O — ORDER OF THE COURT OF
APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, EL PASO, TEXAS,
FILED NOVEMBER 17, 2023**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS**

No. 08-23-0072-CV

**Appeal from the Probate Court No. 2
of El Paso County, Texas
(TC# 2016-CPR00081)**

**IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ DECEASED,**

Appellant,

ORDER

The Court received and filed the hearing record as requested in its order dated June 21, 2023. Per the trial court's findings, the Court GRANTS Michael Nevarez's motion to withdraw and DENIES Pro Se Appellant Alfonso E. Chavez's amended motion for contempt of court order and sanctions. Alexander V. Neill will be withdrawn from the case as an oral motion to withdraw was granted with the trial court.

Therefore, the above styled and number cause is hereby REINSTATED. The Appellee's brief is now due December 17, 2023.

100a

Appendix O

IT IS SO ORDERED this 17th day of November 2023.

PER CURIAM

101a

**APPENDIX P — JUDGMENT OF THE COURT
OF APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, EL PASO, TEXAS,
FILED DECEMBER 14, 2023**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS**

No. 08-23-00337-CV

**Appeal from the Probate Court No. 1
of El Paso County, Texas
(TC# 2016-CPR00081)**

**IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ DECEASED**

JUDGMENT

This is an appeal from the order signed by the trial court on October 13, 2023, wherein the court denied in full all requested relief seeking to hold Mr. Michael Nevarez in contempt of court and to sanction his conduct. The Court has considered this cause on the record and concludes it shall be consolidated with pending cause number 08-23-00072-CV, to the extent of the appeal of the trial court's denial of sanctions, and it shall be dismissed to the extent of the denial of a contempt order. Thus, we first consolidate this cause and transfer its records and filings to cause number 08-23-00072-CV, to the extent of the appeal of a denial of sanctions; and second, for lack of jurisdiction, we dismiss this cause to the extent of its appeal of a denial of a contempt order. We further order Appellant to pay

102a

Appendix P

all costs of this appeal and that this decision be certified below for observance.

IT IS SO ORDERED THIS 14TH DAY OF
DECEMBER 2023.

GINA M. PALAFOX, Justice

Before Alley, C.J., Palafox, J., and Marion, C.J. (Ret.)
Marion, C.J. (Ret.) (Sitting by Assignment)

**APPENDIX Q — MEMORANDUM OPINION OF
THE COURT OF APPEALS FOR THE EIGHTH
DISTRICT OF TEXAS, EL PASO, TEXAS,
DATED DECEMBER 14, 2023**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS**

No. 08-23-00337-CV

**Appeal from the Probate Court No. 1
of El Paso County, Texas
(TC# 2016-CPR00081)**

**IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ DECEASED**

MEMORANDUM OPINION

This appeal is before the Court on its own motion to determine whether it should be dismissed. Appellant, pro se, attempts to appeal from an order denying an “amended motion for contempt of court order and sanctions,” signed October 12, 2023. The challenged order, however, relates to a combined motion that Appellant had filed in pending cause number 08-23-00072-CV, which this Court referred to the trial court for fact finding and disposition. In 08-23-00072-CV, Appellant challenged an order denying an application to probate a foreign will as muniment of title. Both this appeal and 08-23-00072-CV arise from the same trial cause number 2016-CPR-00081. To the extent Appellant appeals an order denying sanctions, we

Appendix Q

consolidate that portion of the appeal with pending cause 08-23-00072-CV. As for the remaining portion of the case, we dismiss this attempted appeal for lack of jurisdiction to the extent it challenges the trial court's denial of a contempt order.

Because our decision to consolidate and dismiss this appeal is informed by the pending appeal in 08-23-00072-CV, we provide a brief history of that case. On June 7, 2023, attorney Michael R. Nevarez filed a motion for leave to withdraw as Appellant's counsel in 08-23-00072-CV. Appellant opposed the motion requesting this Court "deny Mr. Nevarez's Motion unless he agrees to refund the retainer in full, and/or the Court orders the refund, strike Mr. Nevarez's allegations from the record, and provide for such other legal, equitable, and ethical relief to which Appellant may be entitled. . . ." We abated the appeal and remanded the case to the trial court for a hearing on the withdrawal motion. While the case remained in abeyance, this Court received notice of two subsequent events occurring in the trial court. First, the Honorable Eduardo A. Gamboa, presiding judge of El Paso County Statutory Probate Court No. 2, recused himself from the proceeding by order of recusal. Second, by a minute order issued on September 7, 2023, the Honorable Guy Herman, presiding judge of the Statutory Probate Courts of Texas, assigned the case to the Honorable David W. Jahn, a probate court judge of Denton County.

Meanwhile, once the appeal had been reinstated, Appellant filed in 08-23-00072-CV a combined motion, which he later amended, seeking an order of contempt

Appendix Q

and sanctions against Michael Nevarez, his appellate counsel. The combined motion presented complaints about counsel's representation of the appeal. Again, we abated the appeal and referred the combined motion, as well, for a hearing before the trial court. After a supplemental clerk's record and reporter's record were received, we again reinstated the appeal. The record reflects that, following a hearing on October 12, 2023, the trial court found the evidence presented by Appellant did not support a finding that his counsel had filed a groundless motion to withdraw, or that he had acted in bad faith as alleged by Appellant. Thus, the trial court permitted withdrawal and found that neither a contempt order nor sanctions were proper under Rule 13 of the Texas Rules of Civil Procedure. Subsequently, Appellant filed this new appeal docketed as 08-23-00337-CV, wherein he attempts to appeal the October 12 order to the extent it denied his combined motion seeking a contempt order and for sanctions against his now former counsel.

On November 15, 2023, the Clerk of the Court notified all parties of this appeal by letter that it appeared there was no appealable order or judgment, and this Court lacked jurisdiction over this appeal unless grounds for continuing were shown by November 26, 2023. *See* TEX. R. APP. P. 42.3 (providing for notice of the Court's intent to dismiss for want of jurisdiction). To date, Appellant has provided no response, while Appellees filed a motion to dismiss the appeal to the extent it challenged the denial of the contempt order.

Appendix Q

We conclude this attempted appeal calls for differing outcomes as to our jurisdictional inquiry. First, an order denying contempt is not reviewable by direct appeal, *see Norman v. Norman*, 692 S.W.2d 655, 655 (Tex. 1985) (per curiam); *Pedregon v. Pedregon*, No. 08-05-00236 CV, 2005 WL 2593660, at *1 (Tex. App.—El Paso Oct. 13, 2005, no pet.) (mem. op., not designated for publication), while an order on a motion for sanctions is reviewable under an abuse of discretion standard. *See e.g., Darnell v. Broberg*, 565 S.W.3d 450, 460 (Tex. App.—El Paso 2018, no pet.) (reviewing a motion for sanctions filed against an opposing party and his counsel, which alleged that groundless pleadings were filed without any legal basis, in bad faith, and for improper purposes). Because we lack jurisdiction over the denial of a contempt order, we dismiss in part Appellant's appeal to the extent he seeks review of that portion of the trial court's order. *See Pedregon*, 2005 WL 2593660, at *1. To the extent that Appellant also files an attempted appeal of the denial of his motion for sanctions, we conclude the appeal originates from the sanctions motion originally filed in 08-23-00072-CV. Because that separate cause remains pending with this Court, we see no need to maintain duplicative appeals of the remaining part of the trial court's October 12 order. In sum, we dismiss the appeal of the denial of contempt for lack of jurisdiction, and further dismiss the appeal of the denial of sanctions to the extent of the understanding that Appellant will be permitted to raise that issue in cause number 08-23-00072-CV.

For all purposes, then, we consolidate 08-23-00337-CV with 08-23-00072-CV. The issues, records, and documents

Appendix Q

filed in 08-23-00337-CV are hereby consolidated into cause number 08-23-00072-CV. Accordingly, the Clerk of this Court shall transfer all the records and filings in this cause to 08-23-00072-CV, wherein the appeal shall proceed but only to the extent of a review of the trial court's denial of sanctions. However, to the extent Appellant attempts an appeal of the denial of a contempt order, the case docketed as 08-23-00072-CV is hereby dismissed. Lastly, all pending motions filed in this case are denied as moot.

GINA M. PALAFOX, Justice

December 14, 2023

Before Alley, C.J., Palafox, J., and Marion, C.J. (Ret.)
Marion, C.J. (Ret.) (Sitting by Assignment)

**APPENDIX R — ORDER OF THE COURT OF
APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, EL PASO, TEXAS,
FILED DECEMBER 14, 2023**

COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

No. 08-23-00072-CV

Appeal from the Probate Court No. 2
of El Paso County, Texas
(TC# 2019-CPR00081)

IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ DECEASED,

Appellant.

ORDER

By opinion and judgment issued this same date in Cause No. 08-23-00337-CV, the Court, on its own motion, consolidated Cause No. 08-23-00337-CV with Cause No. 08-23-00072-CV, directed that all documents be transferred from Cause No. 08-23-00337-CV to Cause No. 08-23-00072-CV, and thereafter dismissed Cause No. 08-23-00337-CV. Accordingly, the notice of appeal and all other documents filed in Cause No. 08-23-00337-CV have been refiled in Cause No. 08-23-00072-CV.

IT IS SO ORDERED this 14th day of December 2023.

109a

Appendix R

PER CURIAM

Before Alley, C.J., Palafox, J. and Marion, C.J. (Ret.)
Marion, C.J. (Ret.), sitting by assignment

110a

**APPENDIX S — ORDER OF THE COURT OF
APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, EL PASO, TEXAS, FILED JANUARY 9, 2024**

COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

No. 08-23-00072-CV

Appeal from the Probate Court No. 2
of El Paso County, Texas
(TC# 2016-CPR00081)

IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ, DECEASED,

Appellant.

ORDER

Pending before the Court is Appellant's motion to correct the record. The motion is GRANTED.

Therefore, the County Clerk is ORDERED to file a supplemental clerk's record with the legible copies of the corrupted pages (pages 402-470) which are attached to the Notice of Filing filed on March 8, 2023. Said supplemental clerk's record with the legible copies are due with this Court on or before January 24, 2023. The Appellant's reply brief is due fifteen days after the supplemental clerk's record is filed.

111a

Appendix S

IT IS SO ORDERED this 9th day of January 2024.

PER CURIAM

Before Alley, CJ., Palafox and Soto, JJ.

**APPENDIX T — ORDER OF THE COURT OF
APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, EL PASO, TEXAS, FILED JANUARY 24, 2024**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS**

No. 08-23-00072-CV

**Appeal from the Probate Court No. 2
of El Paso County, Texas
(TC# 2016-CPR00081)**

**IN THE MATTER OF THE ESTATE OF
GEORGINA A. DE CHAVEZ, DECEASED,**

Appellant.

ORDER

Before the Court is Appellant's second motion to correct and complete the clerk's record and extend the time for filing Appellant's reply brief. The motion is GRANTED in part.

On January 8, 2024, Appellant filed a motion to correct the clerk's record. Appellant complained that pages 402–70, a portion of the Notice of Filing within the clerk's record, were corrupted and illegible. The next day, this Court granted Appellant's motion and ordered the county clerk to file a supplemental clerk's record with legible copies of the corrupted pages. On January 11, 2024, the

Appendix T

county clerk filed a fourth supplemental clerk's record containing 478 pages and the complete Notice of Filing. Appellant's reply-brief deadline was set fifteen days later, on January 26, 2024.

On January 22, 2024, Appellant filed his second motion to correct the clerk's record and to extend the time for filing Appellant's reply brief. Appellant now complains that pages 15–83 of the fourth supplemental clerk's record are illegible and corrupted. Appellant further complains that 470 pages are missing from the clerk's record. He states that the original clerk's record "contained 948 pages," and the fourth supplemental clerk's record "contains only 478 pages." He requests that the clerk's record be corrected and that the deadline to file his reply brief be extended to February 26, 2024.

The Court has reviewed the clerk's record and the fourth supplemental clerk's record in this cause. The clerk's record contains 948 pages. The fourth supplemental clerk's record contains 478 pages. The Court has independently verified that all pages in clerk's record and the fourth supplemental clerk's record are legible.

Although the Court has verified that the clerk's record and supplemental record are not corrupted and are viewable in their entirety, we exercise our discretion under Texas Rule of Appellate Procedure 2 to suspend the rules and provide Appellant with a digital copy of the complete record. The Clerk of this Court is directed to copy the entire record in this cause to a compact disk and to verify that the fourth supplemental clerk's record

114a

Appendix T

on the disk is legible in its entirety. The Clerk shall send the same to Appellant via FedEx Express 2-day shipping. The Appellant's reply brief shall be due fifteen days from the receipt of the record.

IT IS SO ORDERED this 24th day of January 2024.

PER CURIAM

Before Alley, CJ., Palafox and Soto, JJ.
Soto, J., not participating

**APPENDIX U — ORDER OF THE COURT OF
APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, FILED MARCH 7, 2024**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO COUNTY COURTHOUSE**

CHIEF JUSTICE

Jeff Alley

JUSTICES

Gina M. Palafox

Lisa Soto

March 7, 2024

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RE: Court of Appeals Number: 08-23-00072-CV
Trial Court Case Number: 2016-CPR00081

Style: In the Matter of the Estate of Georgina A. De
Chavez, Deceased

116a

Appendix U

The Court has this day PASSED AND WILL
CONSIDER WITH THE CASE, without written order,
Appellant's motion for spoliation and summary judgment.

Respectfully yours,

ELIZABETH G. FLORES, CLERK

/s/ Elizabeth G. Flores

By Karina A. Trevizo, Deputy Clerk

**APPENDIX V — JUDGMENT OF THE COURT
OF APPEALS FOR THE EIGHTH DISTRICT OF
TEXAS, EL PASO, TEXAS, FILED JUNE 21, 2024**

COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

No. 08-23-00072-CV

Appeal from the Probate Court No. 2
of El Paso County, Texas
(TC# 2016-CPR00081)

IN THE ESTATE OF GEORGINA A. DE CHAVEZ,

Deceased.

JUDGMENT

The Court has considered this cause on the record and concludes there was no error in the Order of September 29, 2022, and Order of Reimbursement of Attorney's Fees of February 23, 2023 issued by the court below. We further order that Appellee recover from Appellant and his sureties, if any, *see* TEX. R. APP. P. 43.5, for performance of the judgment and all costs, both in this Court and the court below, for which let execution issue. This decision shall be certified below for observance.

IT IS SO ORDERED THIS 21ST DAY OF JUNE
2024.

118a

Appendix V

JEFF ALLEY, Chief Justice

Before Alley, C.J., Palafox, J., and Gabriel, J., (Senior
Justice, Ret.)

Gabriel, J., (Senior Justice, Ret.) sitting by assignment

**APPENDIX W — MEMORANDUM OPINION
OF THE COURT OF APPEALS FOR THE
EIGHTH DISTRICT OF TEXAS, EL PASO, TEXAS,
DATED JUNE 21, 2024**

**COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS**

No. 08-23-00072-CV

IN THE ESTATE OF GEORGINA A. DE CHAVEZ,

Deceased.

Appeal from the
Probate Court No. 2
of El Paso County, Texas
(TC# 2016-CPR00081)

Dated June 21, 2024

MEMORANDUM OPINION

The genesis of this appeal is an apparent conflict between a decedent's will executed in the United States, and another will executed in Mexico. Appellant Alfonso Chavez, Jr. attempted to probate his mother's purported last will that was executed in Mexico with Probate Court No. 2 for El Paso County, Texas. Six years earlier, Appellee Alfonso Chavez Pacheco, the decedent's husband and Appellant's father, had admitted to probate in the same court a different will that was executed in Texas. For clarity, we refer to Alfonso Chavez, Jr. as "Alfonso" and Appellee Alfonso Chavez Pacheco as "Dr. Pacheco."

Appendix W

The probate court dismissed Alfonso's application to probate the Mexico Will by granting Dr. Pacheco's Rule 91a motion to dismiss. The probate court additionally awarded attorney's fees and costs against Alfonso. He appeals, claiming that the probate court erred: (1) in acting on the belief that the award of attorney's fees and costs is mandatory under Rule 91a; (2) in assessing those fees and costs against him personally; (3) in looking outside the pleadings in ruling on the motion to dismiss; and (4) in granting the motion to dismiss. Because we ultimately find that the live, amended pleading is baseless in law, we affirm.

STATEMENT OF FACTS¹

Georgina A. De Chavez died a domiciliary of El Paso, Texas on January 8, 2016. In March of 2016, her 1997 will—which named her husband, Dr. Pacheco, as the executor of her estate—was admitted to probate. The 1997 will contains language designating it the “United States Will,”² and it contemplates the making of a separate will that would govern Georgina's real and personal property

1. As we explain below, Rule 91a requires a court to consider only the pleading for the cause of action being challenged and those limited documents which might be attached and considered with the pleading under Tex. R. Civ. P. 59. The parties cite to a great deal more from the Clerk's and Reporter's Record, which we reference only for the limited purpose of providing context to some of the arguments raised. To be clear, our decision is based only on what we are permitted to consider under Rule 91a.

2. For clarity, we adopt the parties' designation of this will as the “Texas Will.”

Appendix W

located in Mexico.³ What we refer to as the “Mexico Will” was executed under Mexican procedures in 2005, and it was recognized by a Mexico probate court as Georgina’s last will in December of 2021.

The Mexico Will and the Texas Will make different dispositions of Georgina’s property. While the Texas Will makes certain bequests to Dr. Pacheco and the couple’s three children, the Mexico Will designates Georgina’s three children as the “sole and universal heirs of all her property.” Dr. Pacheco is named as executor of the estate under the Mexico Will but was not named as a beneficiary. Additionally, the Mexico Will makes no distinction between property owned in the United States and property owned in Mexico. It also revokes all prior wills.

A. Alfonso attempted to probate the Mexico Will in Texas

In June 2022, some six years after the probate of the Texas Will, Alfonso filed an Application to probate the Mexico Will as a muniment of title (Original Application). His Original Application attached a copy of the Mexico Will. In August of 2022, Alfonso filed an Amended Application for Ancillary Probate of Foreign Will (Amended Application). The Amended Application states that it attaches the Mexico Will and an order

3. Specifically, the Texas Will made explicit that “If there [was] any conflict between [her] Mexican Will and [the Texas Will], [the Texas] Will shall control as to all assets located in the United States, and [her] Mexican Will shall control as to all assets located outside the United States.”

Appendix W

from a Mexican Court admitting it to probate. No actual attachments, however, were included with the pleading.

Both the original and amended applications to probate the Mexico Will allege that Georgina was a domiciliary of Texas at the time of her death; that her estate is valued above \$500,000; that the Mexico Will is an unrevoked written will dated April 30, 2005, and was witnessed by three subscribing witnesses; that the will was notarized by an authorized notary public in Mexico; and that the original of the Mexico Will is on file with the "notaria publica" in Mexico pursuant to Mexican law. Both pleadings list Georgina's three children as sole beneficiaries under the Mexico Will and assert there are no charitable bequests, nor are there outstanding debts, barring liens on real property, to be paid from the estate. Further, both pleadings assert that the Mexico Will was made "self-proved as required by Section 251.101 of the Texas Estates Code."

However, the Original Application and Amended Application invoke different sections of the Texas Estates Code to justify the admission of the Mexico Will to probate in Texas. The Original Application seeks to probate the Mexico Will as a muniment of title.⁴ But the Amended

4. By definition, a muniment of title is "[d]ocumentary evidence of title, such as a deed or a judgment regarding the ownership of property." *Muniment of Title*, BLACK'S LAW DICTIONARY 1038 (7th ed. 1999). One purpose for probating a will as a muniment of title "is to provide continuity in the chain of title to estate properties by placing the will on the public record." *In re Est. of Kurtz*, 54 S.W.3d 353, 355 (Tex. App.—Waco 2001, no

Appendix W

Application seeks to admit the Mexico Will to probate only under § 501.001 of the Texas Estates Code. That section permits the probate of a foreign will of a testator who was not domiciled in the state at the time of death if (1) the will would affect property in the state, and (2) the proponent presents proof that the will was probated in any other U.S. state or foreign nation. Tex. Est. Code Ann. § 501.001.

B. Dr. Pacheco opposes the filing

Dr. Pacheco filed an opposition to the Amended Application and a separate motion to dismiss under Texas Rule of Civil Procedure 91a.⁵ Both motions set out similar legal arguments. In his motion to dismiss, Dr. Pacheco argued the following reasons why Alfonso's application

pet.). Generally, an applicant must file a will as a muniment of title within four years of the testator's death. *See* Tex. Est. Code Ann. § 257.054 (requiring proof that four years have not elapsed since the date of testator's death to probate as muniment of title). But if an applicant can show they were not in "default," they may file the will after the four-year deadline. *See Matter of Estate of Masters*, 659 S.W.3d 145, 151 (Tex. App.—El Paso 2022, no pet.). Here, the Original Application asserted this theory and exception by explaining why Alfonso was not in default. But as we note, the Amended Application drops all reference to muniment of title and the issue of default.

5. The Rule 91a motion was titled "Motion to Dismiss Application For Copy of Foreign Will Not Produced in Court as Muniment of Title After Four Years Under Rule 91a". Although based on the title, the motion to dismiss appears to address only the Original Application, but it addresses the substance of both the original and amended applications to probate the Mexico Will.

Appendix W

to probate the Mexico Will should be denied as baseless in law and fact:

- Because Georgina was domiciled in Texas at the time of death, the Mexico Will cannot be probated as a foreign will under Chapter 501 of the Texas Estates Code.
- The Mexico Will does not comply with the requirements of § 251.001 of the Texas Estates Code and cannot be admitted as a muniment of title because it is not a statutory will.
- Limitations bar the probate of the Mexico Will: all appellate deadlines to challenge the probate of the Texas Will have passed, and it has been more than four years since Georgina's passing.
- The Texas Will expressly provides that the Mexico Will governs property in Mexico while the Texas Will governs property located in Texas.
- While the Mexico Will purports to dispose of Georgina's separate property, she held all property in Texas under a community property regime and had no separate property in Texas.
- Georgina's real and personal property in Texas has already been distributed for more than four years in accordance with the terms of the Texas Will.

Appendix W

- Alfonso is estopped from accepting benefits under Georgina's wills and then making claims contrary to his benefits.

Dr. Pacheco requested that the applications be dismissed and that he be awarded reasonable and necessary attorney's fees and costs.⁶

C. Alfonso's response to the Rule 91a motion to dismiss

Alfonso filed a response to Dr. Pacheco's motion to dismiss that attached four documents. He attached the Texas Will and the Mexico Will. He also attached the transcript of a March 2016 hearing on the Application to Probate the Texas Will for the purpose of showing Dr. Pacheco's attorney told the court there were no other wills. Finally, he attached documents from a lawsuit in Mexico that assert the Mexican Will revokes all prior wills and disposes of property in the United States. In sum, Alfonso argued the Texas Will was revoked, and probating the Mexico Will in Texas is "clearly permitted by Section 501.001 of the Texas Estates Code," as that section permits the admission of a foreign will into probate.

6. Dr. Pacheco also filed an answer where he raises affirmative defenses that include "[l]imitations; inapplicability [of] Chapter 501 of the Texas Estates Code . . .; expiration of Appellate deadlines relating to the 2016 Order Probating the Texas Will; and Estoppel."

*Appendix W***D. The probate court's hearing and ruling**

At the hearing, aside from the attorney's argument, the court accepted exhibits, and took testimony from Alfonso and his sister. Two exhibits, admitted by Alfonso without objection, include a translated copy of the Mexico Will, and records of the clerk's office from the Mexico proceedings. Two other exhibits, introduced by Dr. Pacheco, include Alfonso's response to the Rule 91a motion and a letter notifying Alfonso that the Texas Will was being probated. Dr. Pacheco's attorney called Alfonso to provide live testimony. Alfonso testified to several facts that were absent from his Amended Application.⁷

The arguments and evidence at the hearing, while far reaching, also included discussion of whether a foreign will could be admitted in an ancillary proceeding under § 501.001 in a Texas probate proceeding when the decedent was domiciled in Texas on the date of death.⁸ The probate

7. For example, he testified that he was aware of the proceeding to probate the Texas Will in 2016; that he became aware of the Mexico Will in the summer of 2016; that he was not physically present at the will reading in Mexico but had an attorney present as a proxy; and that in 2020, he discovered that the wills were different.

8. Dr. Pacheco's attorney argued:

MR. POWELL: . . . The biggest problem, though, is 501.001. You can't bring the will from Mexico into Texas. The written will: a testator who is not domiciled in this state. She was domiciled in this state, period.

THE COURT: Well, that's how I read 501.

Appendix W

court granted Dr. Pacheco's motion to dismiss. The court's order embraces the original and amended applications, as it specifically states the court has considered and denies Alfonso's Original Application and his Amended Application. In support of its ruling, the court found the following:

1. That Section 501.001 of the Texas Estates Code is applicable [sic] in this Case because that Section requires that the Testator NOT be domiciled in the State of Texas at the time of the Testator's death;
2. That all Appellate Deadlines for Objecting to the 2016 Order Probating the Texas Will have expired;
3. That Alfonso E. Chavez knew about the Texas Will since 2016 and was present at the reading of the Will and also had

MR. POWELL: That's it, Judge. That's it. You're not getting past that.

Alfonso's attorney responded:

MR. NEILL: . . . Now, another thing I'd like to point out to the Court is if the Court interprets 501.001 as requiring to be a domiciliary of Texas to be of legal effect, the very next statute allows you to file the judgment from the foreign probate proceeding in the Deed Records of El Paso County and give it legal effect. So that is – this issue isn't going away whether or not the application is granted or not.

Appendix W

representation present in Chihuahua Mexico;⁹ and

4. That the Pleadings of Alfonso E. Chavez have no basis in law or in fact.

After a separate hearing on attorney's fees and costs, the probate court ordered that Alfonso reimburse Dr. Pacheco \$15,000.

On appeal, Alfonso asserts four points of error. First, he argues that the trial court erred in holding that the award of attorney's fees was mandatory upon granting the Rule 91a motion to dismiss. Second, he argues that the probate court erred in awarding attorney's fees and costs against him personally, as he was a represented party. Third, Alfonso complains that the trial court erred in considering evidence outside the pleadings in ruling on the motion to dismiss. And finally, Alfonso argues it was error for the probate court to find that his cause of action was baseless. We address each issue out of order.

STANDARD OF REVIEW AND APPLICABLE LAW

Under Rule 91a, a party may "move to dismiss a cause of action on the grounds that it has no basis in law

9. This fact was not alleged in Alfonso's amended application. It is not appropriate to make findings of fact in the context of a Rule 91a proceeding. *Harpole v. Rains Cnty. Appraisal Dist.*, No. 12-22-00221-CV, 2023 WL 3510829, at *6 (Tex. App.—Tyler May 17, 2023, no pet.) (mem. op.) (citing *IKB Indus. (Nigeria) Ltd. v. Pro-Line Corp.*, 938 S.W.2d 440, 443 (Tex. 1997)).

Appendix W

or fact.” Tex. R. Civ. P. 91a.1; *see also* Tex. Gov’t Code Ann. § 22.004(g) (“The supreme court shall adopt rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence.”). “A cause of action has no basis in law if the allegations, taken as true, together with inferences reasonably drawn from them, do not entitle the claimant to the relief sought.” Tex. R. Civ. P. 91a.1. In contrast, “[a] cause of action has no basis in fact if no reasonable person could believe the facts pleaded.” *Id.*

In ruling on a Rule 91a motion, a court “may not consider evidence . . . and must decide the motion based solely on the pleading of the cause of action, together with any pleading exhibits permitted by Rule 59.” Tex. R. Civ. P. 91a.6; *Strickland v. iHeartMedia, Inc.*, 665 S.W.3d 739, 742 (Tex. App.—San Antonio 2023, pet. denied). Rule 59 allows that only certain types of documents may be attached to or otherwise made a part of a pleading. Tex. R. Civ. P. 59 (“Notes, accounts, bonds, mortgages, records, and all other written instruments, constituting, in whole or in part, the claim sued on, or the matter set up in defense, may be made a part of the pleadings No other instrument of writing shall be made an exhibit in the pleading.”).

“We review the merits of a Rule 91a motion de novo.” *San Jacinto River Auth. v. Medina*, 627 S.W.3d 618, 628 (Tex. 2021); *Aguilar v. Morales*, 545 S.W.3d 670, 676–77 (Tex. App.—El Paso 2017, pet. denied) (“[B]oth determinations of whether a cause of action has any basis in law and in fact are legal questions[.]”). “[W]e consider whether the pleadings, liberally construed, allege sufficient facts to affirmatively demonstrate that the

Appendix W

pleader is entitled to the relief requested.” *Strickland*, 665 S.W.3d at 741. Because of the harsh remedy provided, Rule 91a is strictly construed. *Darnell v. Rogers*, 588 S.W.3d 295, 304 (Tex. App.—El Paso 2019, no pet.).

Some affirmative defenses might also be raised through a Rule 91a motion, but they must stand or fall on the petition being attacked (and the attachments to that petition under Rule 59). “A cause of action may be dismissed if the facts alleged in the plaintiff’s petition establish the defendant’s affirmative defense.” *Strickland*, 665 S.W.3d at 742 (citing *Bethel v. Quilling, Selander, Lownds, Winslett & Moser, P.C.*, 595 S.W.3d 651, 656 (Tex. 2020)). In that situation, a court may look to a defendant’s answer to determine whether the defense is properly before the court. *Bethel*, 595 S.W.3d at 656. Even so, Rule 91a’s limited scope of review still controls on factual inquiries. *Id.* (recognizing that “some affirmative defenses will not be conclusively established by the facts in a plaintiff’s petition.”).

ANALYSIS**A. What is the live pleading?**

We first address which pleadings may be considered as part of the motion to dismiss. Alfonso filed an Original Application. Then, and before any response from Dr. Pacheco, Alfonso filed an Amended Application. The pleadings differed both in legal theory (muniment of title in Original and § 501.001 in the Amended) and in attachments (the Mexico Will in the Original, nothing in the Amended). Dr. Pacheco’s motion to dismiss, filed two months after the Amended Application, addresses both

Appendix W

the original and amended applications. The probate court's order states that the court considered both applications, and it separately denies both applications.

Rule 91a.5 requires that any amendments to the challenged cause of action be made at least three days before the motion-to-dismiss hearing for the court to consider the amendment in ruling on the motion. Tex. R. Civ. P. 91a.5(c). Additionally, "[a] plaintiff's timely filed amended pleading supersedes all previous pleadings and becomes the controlling petition in the case regarding theories of recovery." *Encore Enterprises, Inc. v. Borderplex Realty Tr.*, 581 S.W.3d 347, 362 (Tex. App.—El Paso 2018, no pet.) (quoting *Elliott v. Methodist Hosp.*, 54 S.W.3d 789, 793 (Tex. App.—Houston [1st Dist.] 2001, pet. denied)). Because the Amended Application was timely filed and superseded the Original Application, the probate court could only consider the Amended Application as the live pleading in ruling on the motion to dismiss. Tex. R. Civ. P. 65 (stating amended instrument replaces original instrument); *See Parker v. Ohio Development, LLC*, No. 04-23-00069-CV, 2024 WL 1864756, at *3 (Tex. App.—San Antonio Apr. 30, 2024, no pet. h.) (mem. op.) (considering only plaintiff's last amended petition in Rule 91a proceeding because it was timely filed and superseded previous petitions). We therefore restrict our analysis to the Amended Application.

B. Evidence outside the amended application

First, we address Alfonso's argument that the probate court erred in relying on testimony elicited at the motion-

Appendix W

to-dismiss hearing. In deciding Rule 91a motions to dismiss, courts are restricted to the party's pleading of the cause of action, together with any exhibits permitted under Rule 59 of the Rules of Civil Procedure. Tex. R. Civ. P. 91a.6. All allegations asserted in the pleading are taken as true, and courts may not consider facts or other evidence outside the pleading. *Id.*; *Bethel*, 595 S.W.3d at 655.

At the hearing below, both sides admitted exhibits and elicited testimony. Neither party objected to the evidence or testimony based on Rule 91a.6.¹⁰ Alfonso's own counsel elicited part of that testimony, as did the probate court. In one sense, Alfonso's introduction of evidence and

10. Some courts have recognized that the preservation requirements of Texas Rule of Appellate Procedure 33.1 apply to Rule 91a.6. *See Owings v. Kelly*, No. 07-20-00115-CV, 2020 WL 6588610, at *2 n.1 (Tex. App.—Amarillo Nov. 10, 2020, no pet.) (mem. op.) (citing *Thomas v. Logic Underwriters, Inc.*, No. 02-16-00376-CV, 2017 WL 5494386, at *5 (Tex. App.—Fort Worth Nov. 16, 2017, pet. denied) (mem. op.)) (noting appellants' failure to object to the court's request of evidence at the motion-to-dismiss hearing resulted in waiver of any complaint they had of that request on appeal); *cf. Sw. Airlines Pilots Ass'n v. Boeing Co.*, No. 05-21-00598-CV, 2022 WL 16735379, at *7 (Tex. App.—Dallas Nov. 7, 2022, pet. denied) (mem. op.) (holding the recitation of the Rule 91a standard of review to the trial court in a response to a motion to dismiss was sufficient to preserve error); *but see Davis v. Homeowners of Am. Ins. Co.*, No. 05-21-00092-CV, 2023 WL 3735115, at *6, 8 (Tex. App.—Dallas May 31, 2023, no pet.) (implicitly rejecting the applicability of preservation rules to Rule 91a proceedings by limiting its review to the face of the plaintiff's pleading even though both sides attached evidence to their Rule 91a filings and urged the lower court to consider the evidentiary value of those attachments without objection).

Appendix W

volunteered testimony operates as invited error—a party can hardly introduce evidence and then complain about its admission. *See Berry v. Segall*, 315 S.W.3d 141, 143 (Tex. App.—El Paso 2010, no pet.) (“The doctrine of invited error provides that a party may not complain of an error which he has invited.”). But we need not resolve that issue, because the exhibits and testimony all relate to grounds in the Rule 91a motion that we need not reach. That is, there is a dispositive ground in the Rule 91a motion, expressly accepted by the probate court, that is not dependent on any of the exhibits or testimony offered at the hearing. Thus the admission of any exhibits or testimony is harmless and we overrule Alfonso’s third issue for that reason alone.

C. Merits of the dismissal

The court determined Alfonso’s application lacked a factual and legal basis because (1) § 501.001 of the Texas Estates Code is inapplicable here, and (2) all appellate deadlines to challenge the 2016 probate order have lapsed. Because we find the court was correct in dismissing the pleading for lacking a basis in law, we focus our analysis on that prong of the Rule 91a standard. A cause of action has no basis in law if something in the pleading itself triggers a clear bar to the claim. *See Darnell*, 588 S.W.3d at 301 (“[I]f nothing in the pleading itself triggers a clear legal bar to the claim, then there is a basis in law and the motion should be denied.”). We therefore determine if probating the Mexico Will in an Ancillary Proceeding in a Texas court is barred by the allegations in the Amended Application.

Alfonso’s Amended Application seeks to probate the Mexico Will only under § 501.001 of the Texas Estates

Appendix W

Code. That section, pertaining to “Ancillary Probate of Foreign Will[s],” provides that the will of a testator “*who was not domiciled in [Texas] at the time of the testator’s death* may be admitted to probate . . . if: (1) the will would affect any property in [Texas]; and (2) . . . the will stands probated or otherwise established in . . . a foreign nation.” Tex. Est. Code Ann. § 501.001 (emphasis added). Alfonso’s Amended Application alleges Georgina was domiciled in El Paso, Texas at the time of her death. Taking that allegation in the pleading as true, we hold that this admission triggers a complete bar to probating the Mexico Will under § 501.001, which does not apply to decedents who were domiciled in Texas. And because the Amended Application pursues no other avenue for probating the Mexico Will, we hold it was appropriate for the court to grant Dr. Pacheco’s motion to dismiss.

The dismissal of the § 501.001 cause of action comports with what that section was intended to accomplish. Section 501.001 provides a procedural mechanism that simplifies the probate of foreign wills in Texas by avoiding all the formal requirements of an original proceeding to probate a will. *See Haga v. Thomas*, 409 S.W.3d 731, 737 (Tex. App.—Houston [1st Dist.] 2013, pet. denied) (analyzing the analog statute in the Probate Code); Tex. Est. Code Ann. § 501.002 (“An application for ancillary probate . . . of a foreign will . . . is required to indicate only that probate in this state is requested on the basis of the authenticated copy of the foreign proceedings in which the will was admitted to probate[.]”). So where a testator who was domiciled in another jurisdiction owns property in Texas, the testator’s foreign will that has been admitted

Appendix W

to probate in that other jurisdiction may be admitted to probate in Texas under § 501.001. Tex. Est. Code Ann. § 501.001; *Holland v. Jackson*, 37 S.W.2d 726, 728 (Tex. 1931) (holding sister states must give full faith and credit to an order probating a will in state where testator was domiciled). Once probated in Texas, the foreign will is effective to dispose of the testator's property in Texas, just as any other will. *Id.* § 501.007; see also *Haga*, 409 S.W.3d at 737 (stating only an ancillary court in Texas has jurisdiction to administer real property located in Texas). The obvious caveat is that the testator must have been domiciled in another jurisdiction. See *Bourland's Estate v. Hanes*, 474 S.W.2d 592, 598 (Tex. App.—Corpus Christi 1971, no writ) (holding probate orders of another jurisdiction are not entitled to full faith and credit in Texas if decedent was domiciled in Texas, where the courts of this state have exclusive jurisdiction over the original probate of a will). Alfonso's pleading admits that is not the case, which is why § 501.001 simply does not apply here.

Moreover, as Dr. Pacheco argued, the period for probating the Mexico Will has expired. Proponents of a will have four years from the decedent's death to probate a will unless the proponent of the will was not in default for failing to probate the will within the prescribed period. Tex. Est. Code Ann. § 256.003. Alfonso's petition alleges that Georgina died January 8, 2016. Thus, the period for probating her Mexico Will expired four years thereafter, in January of 2020. Alfonso's application to probate the will was filed in August of 2022. To the extent that there is some basis to avoid that limitation period, Alfonso carried the burden of raising the issue. But the Amended

Appendix W

Application alleges no facts to raise any theory to avoid limitations.¹¹ His application to probate the Mexico Will is consequently time-barred. *See Bethel*, 595 S.W.3d at 656 (plaintiff's pleading established all that was necessary for immunity defense); *see In re Springs Condominiums, L.L.C.*, No. 03-21-00493-CV, 2021 WL 5814292, at *3 (Tex. App.—Austin Dec. 8, 2021, no pet.) (mem. op.) (noting plaintiff did not allege the discovery rule or another tolling issue that would affect the statute of limitations in a Rule 91a proceeding).

Alfonso's brief makes a host of other arguments, such as fraud, or matters that might be appropriate in a will contest, or facts germane to answering the statute of limitations defense. But none of these issues are raised by the facts asserted in the Amended Application or the single legal theory that it asks the probate court to rule on: whether the Mexico Will can be admitted in an "ancillary probate" proceeding. Because those matters are not part of the Amended Application, and that is the pleading that is struck, they are not before us.

11. The Original Application and in his response to the motion to dismiss, Alfonso alleges that he did not have possession of the Mexico Will or knowledge of its contents when the Texas Will was probated. He also alleges his father knew of the Mexico Will but failed to apprise him of this fact. But these allegations do not appear in the Amended Application, which is the only petition that should have been at issue in the Rule 91a hearing. *See Seger v. Branda*, No. 01-21-00224-CV, 2022 WL 17981559, at *4 (Tex. App.—Houston [1st Dist.] Dec. 29, 2022, pet. denied) (mem. op.) ("A plaintiff's timely filed amended pleading supersedes all previous pleadings and becomes the controlling petition in the case regarding the theories of recovery.").

*Appendix W***D. Attorney's fees and costs**

Alfonso's first two issues challenge the award of attorney's fees and costs. First, Alfonso argues that it was error for the court to award fees and costs based on Dr. Pacheco's claim that the award was mandatory. To this point, we find no indication in the trial court's order or elsewhere that the court's decision to award attorney's fees and costs was based on counsel's argument that this award was mandatory. The award of attorney's fees and costs is a discretionary decision. Tex. R. Civ. P. 91a.7 ("... the court may award the prevailing party on the motion all costs and reasonable and necessary attorney's fees ..."); *1st and Trinity Super Majority LLC v. Milligan*, 657 S.W.3d 349, 377 (Tex. App.—El Paso 2022, no pet.). But without proof that the court acted out of compulsion, instead of simply exercising its discretion, we overrule issue one.

Second, Alfonso argues it was error for the court to assess those fees against him personally, as he was a represented party at the time. This argument is based on Chapter 10 of the Texas Civil Practice and Remedies Code. That chapter governs sanctions for frivolous pleadings and allows a court to sanction a person, a party represented by a person, or both if a person has signed a pleading or motion in violation of the enumerated grounds in that section. Tex. Civ. Prac. & Rem. Code Ann. § 10.001–.002. And under that chapter, a court may not order sanctions against a represented party for frivolous pleadings alone. *Id.* § 10.004. Even so, Chapter 10 of the Civil Practice and Remedies Code is not relevant here, where Texas Rule of

Appendix W

Civil Procedure 91a.7 clearly allows the court to award attorney's fees and costs to the prevailing party without a similar limitation. *Cf. Envision Realty Group, LLC v. Chuan Chen*, No. 05-18-00613-CV, 2020 WL 1060698, at *7 (Tex. App.—Dallas Mar. 5, 2020, no pet.) (mem. op.) (holding Rule 91a.7 prohibits the award of costs and attorney's fees against the attorney of a represented party and distinguishing this rule from Texas Rule of Civil Procedure 13 and § 10.004 of the Texas Civil Practice and Remedies Code). Thus, we hold the court did not err in ordering Alfonso reimburse Dr. Pacheco his attorney's fees and costs. This issue is overruled.

POST APPEAL MOTIONS

While this appeal was pending, Alfonso filed a "Motion for Spoliation and Summary Judgment" with this Court.¹² As we best understand the motion, Alfonso argues in seven separate issues that the appellate record is defective due to spoliation, that the lower court overlooked his concerns about the record's integrity, that prejudicial harm resulted from the defects in the record and the court's alleged oversight, and that the Mexico Will is a valid will. He asks this Court to render summary judgment in his favor. There are no rules governing summary judgment motions in appellate courts. *See generally* Tex. R. App. P. 10 (governing motions in appellate courts). And appellate courts do not have original jurisdiction over these matters. *See generally* Tex. R. App. P. 52 (listing the types of

12. Alfonso was represented below by counsel but is representing himself on appeal.

Appendix W

original proceedings appellate courts may entertain, none of which are summary judgment proceedings). Further, none of the record-integrity arguments that Alfonso makes affect the single issue which we find dispositive of this appeal. We therefore deny Alfonso's motion without reference to its merit.

And after the briefing was completed in this appeal, Alfonso filed a motion asking this court to take judicial notice of an upcoming trial proceeding in Mexico and that the court in Mexico has issued a second Letter Rogatory that is forthcoming. We deny the motion because even assuming that we could and did grant the relief sought, it would not affect the ground upon which we decide this appeal. Any other pending motion is denied as moot.

CONCLUSION

We hold that the probate court properly granted Dr. Pacheco's motion to dismiss under Rule 91a on the ground discussed above. As such, we overrule all of Alfonso's issues and affirm.

JEFF ALLEY, Chief Justice

June 21, 2024

Before Alley, C.J., Palafox, J., and Gabriel, J., (Senior Justice, Ret.) Gabriel, J., (Senior Justice, Ret.) sitting by assignment

140a

**APPENDIX X — DENIAL OF PETITION FOR
REVIEW OF THE SUPREME COURT OF TEXAS,
DATED OCTOBER 4, 2024**

RE: Case No. 24-0615 DATE: 10/4/2024
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MR. ALFONSO CHAVEZ
* DELIVERED VIA E-MAIL *

141a

Appendix X

RE: Case No. 24-0615 DATE: 10/4/2024
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MR. ALLAN GOLDFARB
THE GOLDFARB LAW FIRM, PLLC
309 E ROBINSON AVE
EL PASO, TX 79902-3127
* DELIVERED VIA E-MAIL *

142a

Appendix X

RE: Case No. 24-0615 DATE: 10/4/2024
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

COUNTY CLERK EL PASO COUNTY
EL PASO COUNTY COURT
500 E. SAN ANTONIO, SUITE 105
EL PASO, TX 79901
* DELIVERED VIA E-MAIL *

143a

Appendix X

RE: Case No. 24-0615 DATE: 10/4/2024
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MR. AARON GOLDFARB
THE GOLDFARB LAW FIRM, PLLC
309 E ROBINSON AVE
EL PASO, TX 79902-3127
* DELIVERED VIA E-MAIL *

144a

Appendix X

RE: Case No. 24-0615 DATE: 10/4/2024
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MS. ELIZABETH FLORES
CLERK, EIGHTH COURT OF APPEALS
500 EAST SAN ANTONIO, SUITE 1203
EL PASO, TX 79901
* DELIVERED VIA E-MAIL *

145a

Appendix X

RE: Case No. 24-0615 DATE: 10/4/2024
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MICHAEL NEVAREZ
THE NEVAREZ LAW FIRM, PC
7362 REMCON CIR
EL PASO, TX 79912-1623
* DELIVERED VIA E-MAIL *

146a

Appendix X

RE: Case No. 24-0615 DATE: 10/4/2024
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MR. DARRON LEE POWELL
DARRON POWELL PLLC
1517 N. CAMPBELL STREET
EL PASO, TX 79902-4218
* DELIVERED VIA E-MAIL *

147a

**APPENDIX Y — DENIAL OF MOTION FOR
REHEARING OF THE SUPREME COURT OF TEXAS,
DATED APRIL 25, 2025**

RE: Case No. 24-0615 DATE: 4/25/2025
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the motion
for rehearing of the above-referenced petition for review.

MR. ALFONSO CHAVEZ
* DELIVERED VIA E-MAIL *

148a

Appendix Y

RE: Case No. 24-0615 DATE: 4/25/2025
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the motion
for rehearing of the above-referenced petition for review.

COUNTY CLERK EL PASO COUNTY
EL PASO COUNTY COURT
500 E. SAN ANTONIO, SUITE 105
EL PASO, TX 79901
* DELIVERED VIA E-MAIL *

149a

Appendix Y

RE: Case No. 24-0615 DATE: 4/25/2025
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the motion
for rehearing of the above-referenced petition for review.

MS. ELIZABETH FLORES
CLERK, EIGHTH COURT OF APPEALS
500 EAST SAN ANTONIO, SUITE 1203
EL PASO, TX 79901
* DELIVERED VIA E-MAIL *

150a

Appendix Y

RE: Case No. 24-0615 DATE: 4/25/2025
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the motion
for rehearing of the above-referenced petition for review.

MICHAEL NEVAREZ
THE NEVAREZ LAW FIRM, PC
7362 REMCON CIR
EL PASO, TX 79912-1623
* DELIVERED VIA E-MAIL *

151a

Appendix Y

RE: Case No. 24-0615 DATE: 4/25/2025
COA #: 08-23-00072-CV TC#: 2016-CPR00081
STYLE: IN RE ESTATE OF DE CHAVEZ

Today the Supreme Court of Texas denied the motion
for rehearing of the above-referenced petition for review.

MR. DARRON LEE POWELL
DARRON POWELL PLLC
1517 N. CAMPBELL STREET
EL PASO, TX 79902-4218
* DELIVERED VIA E-MAIL *

**APPENDIX Z — AFFIDAVIT OF
HANS J. HERZL-BETZ, JD, MSLIS, MPhil, MA**

Hans J. Herzl- Betz, JD, MSLIS, MPhil, MA

Date: June 20, 2025

Omaha, NE

hansherzl-betz@creighton.edu

I, HANS J. HERZL-BETZ, JD, MSLIS, MPhil, MA, declare, under oath, that I am the Reference and Instructional Services Librarian at Creighton University School of Law, and state the following:

1. I hereby affirm that the facts stated here are within my personal and professional knowledge. I affirmatively state that, if sworn as a witness, I could and would testify competently thereto. This declaration is being submitted to state facts *In re Estate Of Georgina A. De Chavez, Deceased* before Probate Court No. 1 Cause No. 2016- CPR00081, the Eighth Court of Appeals Cause No. 08-23-00072-CV in El Paso, TX, the Supreme Court of Texas Cause No. 24-0615, and in the Supreme Court of the United States on behalf of Appellant Mr. Alfonso E. Chávez Ayub.
2. **Background and Expertise:** I am the Reference and Instructional Services Librarian at Creighton University School of Law, with extensive experience in legal research and with sufficient technical expertise to troubleshoot run-of-the-mill technological issues

Appendix Z

that arise with using electronic documentation in an academic law library setting as part of my duties as a reference librarian and as Circulation Supervisor. I earned my J.D. and MSLIS from Drexel University in Philadelphia, Pennsylvania, in 2018.

3. **Observation of Appellant's Review of Court Documents:** I have noted that the Appellant has consistently been able to review PDFs provided by Court reporters without issue. However, specific problems have arisen with the Appellate record compiled by the El Paso County Registrar. These files include both those sent electronically and those sent via CD to the Appellant.
4. **Technical Evaluation:** In my professional capacity, I observed the Appellant's attempts to review these documents using the most recent Apple Operating System, Sonoma 14.1. The PDE documents were accessed using PDE Maker, Adobe Acrobat Reader, and Apple's Preview application. In all instance, issues of illegibility were noted on 192 pages, including: "2023-04-05-COA Record08-23-72-CV-ClkRecVoll" (electronically- sent, pages 331-387, 402-470), "2024-01-14-08-23-72-CV-4th-SuppClkRecVoll" (electronically- sent, pages 15-83) and the "08-23-72-CVClkRecVoll" (CD, pages 331-387, 402-470) and the "08-23-72-CV-4th-SuppClkRec-Voll(2)" (CD, pages 15-83). The extent of technical errors materially compromise the integrity of the record, amounting to spoliation.

Appendix Z

5. **Cross-Platform Verification:** Upon transferring and opening the same PDF files on my work laptop, a Windows-based system, I observed three things. 1. For the 4th Supplemental Record (“2024-01-14-08-23-72-CV-4th-SuppClkRec-Voll” (electronic) and “08-23-72-CV-4th-SuppClkRec-Voll(2)” (CD)), the pages deemed illegible on the Apple system were legible on the Windows system. 2. However, the pages in the Original Record (“2023-04-05-COA Record08-23-72-CV-ClkRecVoll” (electronic) and the “08-23-72-CV-ClkRecVoll” (CD)) were still gibberish (see Exhibit A). 3. Additionally, the 4th Supplemental Record files (“2024-01-14-08-23-72-CV-4th-SuppClkRec-Voll” (electronic) and “08-23-72-CV-4th-SuppClkRec-Voll(2)” (CD)) contained unexpected annotations such as comments and highlights (see Exhibit B), which raises concerns about the document’s integrity. I would also like to note that it is especially suspicious when a page that has the phrase “SIN TEXTO” (without text) has highlights, and the related Comment in the right sidebar indicates that text was highlighted (see Exhibit C).

I affirm under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: 06/20/2025

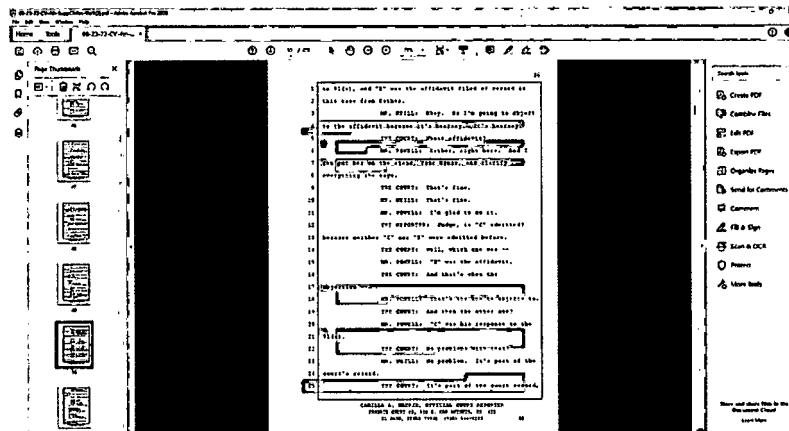
/s/

Hans J. Herzl-Betz, JD, MSLIS, MPhil, MA

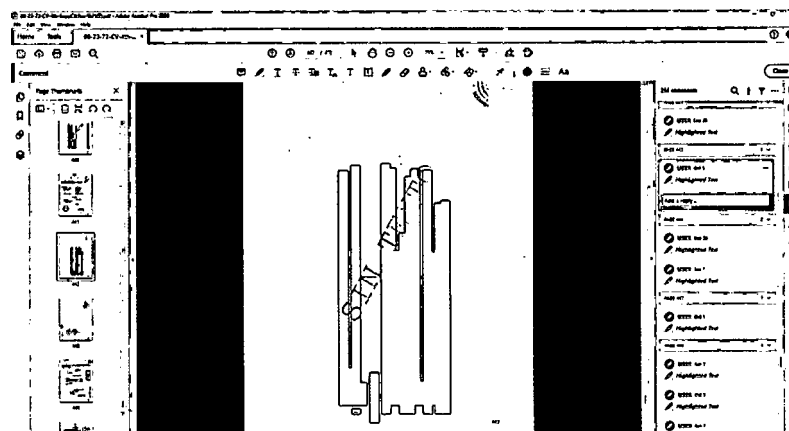
EXHIBIT A

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Screenshot 2024-02-02 08-23-72-CV-4th-SuppClkRec-Vol1(2)_p50



Screenshot 2024-02-02 08-23-72-CV-4th-SuppClkRec-Vol1(2)_p442



Appendix Z

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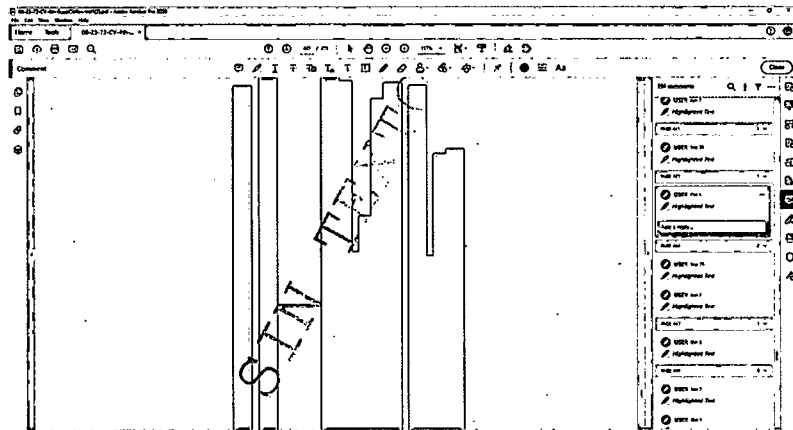
158a

Appendix Z

EXHIBIT C

Screenshot 2024-02-02 2024-01-14-08-23-72-CV-4th-
SuppClkRec-Vol1_p442

Close Up



**APPENDIX AA — CONSTITUTIONAL
AND STATUTORY PROVISIONS INVOLVED**

**THE CONSTITUTION OF THE UNITED STATES
OF AMERICA**

U.S. CONST. ART. III, § 2, CL. 1

“The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.”

U.S. CONST. ART. IV, § 1

“Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.”

Appendix AA

U.S. CONST. ART. VI, cl. 2

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

U.S. CONST. AMEND. V

“Nor shall any person ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

U.S. CONST. AMEND. XIV, § 1

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Appendix AA

U.S. STATUTES

28 U.S.C. § 1738

“Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.”

28 U.S.C. § 1781

“(a) The Department of State has power, directly, or through suitable channels— (1) to receive a letter rogatory issued, or request made, by a foreign or international tribunal, to transmit it to the tribunal, officer, or agency in the United States to whom it is addressed, and to receive and return it after execution; and (2) to receive a letter rogatory issued, or request made, by a tribunal in the United States, to transmit it to the foreign or international tribunal, officer, or agency to whom it is addressed, and to receive and return it after execution.”

Appendix AA

28 U.S.C. § 1782

“(a) The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon the application of any interested person ...”

Appendix AA

TEXAS LAW

TEX. EST. CODE § 501.001

“The written will of a testator who was not domiciled in this state at the time of death and that devises property in this state may be admitted to probate in this state if: (1) the will has been admitted to probate or otherwise established in the foreign jurisdiction; and (2) an authenticated copy of the will and the foreign order admitting the will to probate, or establishing the will, is filed in a court of this state.”

TEX. R. CIV. P. 91a.1

“Except in actions brought under the Family Code or in cases governed by Chapter 14 of the Texas Civil Practice and Remedies Code, a party may move to dismiss a cause of action on the grounds that it has no basis in law or fact.”
(current text as of May 1, 2020).

*Appendix AA***TREATIES AND CONVENTIONS**

VIENNA CONVENTION ON CONSULAR RELATIONS, Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261, art. 36(1).

“Consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State.”¹

VIENNA CONVENTION ON CONSULAR RELATIONS, Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261, art. 5(e), (j).

“[C]onsular functions consist in: ... (e) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required; ... (j) transmitting judicial and extrajudicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such agreements, in any other manner compatible with the laws and regulations of the receiving State.”²

1. VIENNA CONVENTION ON CONSULAR RELATIONS, opened for signature Apr. 24, 1963, United Nations, Treaty Series, vol. 596, p. 261 (entered into force Mar. 19, 1967), available at https://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf?utm_campaign=timestop10_daily_newsletter&utm_medium=mobile&utm_source=nl_landingpage (last visited Aug. 26, 2025).

2. *Id.*

Appendix AA

**HAGUE CONVENTION ABOLISHING THE REQUIREMENT OF
LEGALISATION FOR FOREIGN PUBLIC DOCUMENTS (APOSTILLE
CONVENTION), Oct. 5, 1961, 527 U.N.T.S. 189, art. 1.**

“This Convention shall apply to public documents which have been executed in the territory of one Contracting State and which have to be produced in the territory of another Contracting State.”

**HAGUE CONVENTION ABOLISHING THE REQUIREMENT OF
LEGALISATION FOR FOREIGN PUBLIC DOCUMENTS (APOSTILLE
CONVENTION), Oct. 5, 1961, 527 U.N.T.S. 189, art. 3(1).**

“The only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the apostille described in Article 4.”³

**HAGUE CONVENTION ABOLISHING THE REQUIREMENT OF
LEGALISATION FOR FOREIGN PUBLIC DOCUMENTS (APOSTILLE
CONVENTION), Oct. 5, 1961, 527 U.N.T.S. 189, art. 4(1).**

“The apostille shall be placed on the document itself or on an ‘allonge’; it shall be in the form of the model annexed to this Convention.”⁴

3. CONVENTION ABOLISHING THE REQUIREMENT OF LEGALISATION FOR FOREIGN PUBLIC DOCUMENTS art. 4(1), Oct. 5, 1961, 527 U.N.T.S. 189, <https://www.hcch.net/en/instruments/conventions/full-text/?cid=41>.

4. *Id.*

Appendix AA

FOREIGN AUTHORITIES

**POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES
[CONST. POL. MÉX.], ART. 1, PARA. 1.**

“In the United Mexican States, all persons shall enjoy the human rights recognized by this Constitution and the international treaties to which the Mexican State is a party, as well as the guarantees for their protection; their exercise may not be restricted or suspended, except in the cases and under the conditions established by this Constitution.”¹

**POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES
[CONST. POL. MÉX.], ART. 30**

“Mexican nationality is acquired by birth or by naturalization. A. Mexicans by birth are: I. Those born in the territory of the Republic, regardless of the nationality of their parents.”²

1. POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES (official English translation), Organization of American States, accessed Aug. 26, 2025, at https://www.oas.org/ext/Portals/33/Files/Member-States/Mex_intro_txtfun_eng.pdf

2. *Id.*

Appendix AA

Council Regulation (EU) No 1215/2012 (Brussels I Recast), art. 7(2).

“A person domiciled in a Member State may be sued in another Member State: ... (2) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur.”