

**In the United States District Court
for the Southern District of Texas
Houston Division**

**Thomas Taylor III
as Receiver,
Plaintiff**

Dkt. No. 12 cv 1491 (NFA)

v.

**Daniel Frishberg, et al.
Defendants**

Request for Order on Issue Agreed to by the Parties

Aaron David Frishberg, attorney for Defendants Daniel Frishberg and Elisea Frishberg, makes this request for an Order to clarify the procedural posture on an issue on which the Plaintiff and Defendants are in agreement.

In response to a letter requesting a brief extension of my time to respond to the Receiver's motion to strike Defendants' answer, Andrew Goforth wrote, in relevant part that

the Motion to Quash Frishberg's Declaration ...was filed in conjunction with (and was incorporated by and into) the Receiver's Reply brief regarding the Motion for Partial Summary Judgment. So the relief sought is part of the argument of and relief sought in the Reply must be considered in conjunction with the court's consideration of the MSJ briefing...It is not a separate motion with its own briefing schedule and relief but rather a part of our Reply briefing on the MSJ issue.

While disagreeing that the Receiver has a reasonable basis for the relief of striking the Declaration of Daniel Frishberg, I am in agreement that the motion should be considered part of the Receiver's Reply, and not a separate motion with its own briefing schedule.

However LR7.4 of the Local Rules of the Southern District of Texas states that

“Failure to respond [to a motion] will be taken as a representation of no opposition.” To clarify that no opposition to the submission by the Receiver styled a motion is required or permitted, I am submitting a proposed Order to that effect, along with a form order pursuant to LR7.4 (D) denying the relief sought.

Respectfully submitted,

/s/

Aaron David Frishberg
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