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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SUPREME COURT
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HELLER EHRMAN LLP,
Plaintiff and Petitioner,
v.
DAVIS WRIGHT TREMAINE LLP,
Defendant and Respondent.

AND RELATED CASES

On a Certified Question from the U.S. Court of Appeals for the Ninth Circuit
Case Nos. 14-16314, 14-16315, 14-16317, 14-16318

APPLICATION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE AND BRIEF OF AMICI CURIAE THE BAR ASSOCIATION OF SAN FRANCISCO AND THE LOS ANGELES COUNTY BAR ASSOCIATION IN SUPPORT OF RESPONDENTS

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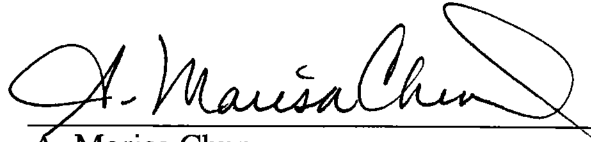
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Pursuant to California Rules of Court, rule 8.208, *amici curiae* the Bar Association of San Francisco and the Los Angeles County Bar Association certify that they know of no person or entity that must be listed under this Rule.

Dated: April 24, 2017



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APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF

Pursuant to California Rule of Court, rule 8.520(f), the Bar Association of San Francisco and the Los Angeles County Bar Association respectfully apply for leave to file the attached brief of *amici curiae* in support of Respondents Davis Wright Tremaine LLP, Jones Day, Orrick, Herrington & Sutcliffe LLP, and Foley & Lardner LLP.

The **Bar Association of San Francisco** ("BASF") is a non-profit voluntary membership association of attorneys, law students, and legal professionals in the San Francisco Bay Area. Founded in 1872, BASF enjoys the support of more than 7,500 individuals, law firms, corporate legal departments, and law schools. Through its board of directors, committees, volunteer legal services programs, and other community efforts, BASF works to advance the professional interests of its members and the interest of the public in effective, ethical legal representation and access to justice.

The **Los Angeles County Bar Association** ("LACBA"), with more than 18,000 members, is one of the largest metropolitan voluntary bar associations in the United States. In addition to meeting the professional needs of its members, LACBA actively promotes the administration of justice, access to the judicial system, and the role of lawyers in facilitating both.

Both BASF and LACBA bring to this case strong interest and expertise in issues of client rights and client protection, the core values of the legal profession, and the ethical rules governing practice in the State of California.

Amici seek, in particular, to assist this Court's consideration of the matter by emphasizing the ways in which recognizing a dissolved firm's continuing interest in hourly fee matters would contravene basic client-

protecting ethical principles, while harming the interests of law firms and their creditors.

No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of the brief. No person other than amici curiae or their counsel made a monetary contribution to the preparation or submission of this brief.

Dated: April 24, 2017

Respectfully submitted,

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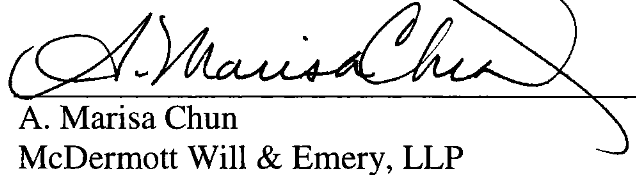

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INTRODUCTION

The Court must decide whether a dissolved law firm, retained to handle matters on an hourly basis, has an interest in client matters that are in progress but not completed at the time of dissolution. The question presented is increasingly important to lawyers and clients, because "[t]he traditional view of the law firm as a stable institution with an assured future is now challenged by an awareness that even the largest and most prestigious firms are fragile economic units . . . . ." (*Howard v. Babcock* (1993) 6 Cal.4th 409, 420 (Mosk, J.) (quoting Hillman, *Law Firm Breakups* (1990) § 1.1, at p. 1).)

The widely publicized failures of some of the very largest firms, several of them founded and based in California,[1] draw most of the attention. But they represent only a fraction of the problem. Since 1998, dozens and dozens of larger law firms have dissolved. (See, e.g., Hildebrandt White Paper, *The Anatomy of Law Firm Failures* (Nov. 19, 2008) at p. 2, http://media.insidecounsel.com/insidecounsel/historical/whitepaper/432.pdf (referencing a Hildebrandt study of 80 law firm failures occurring in the United States from 1998 to 2004).) While the Heller Trustee assumes that this Court's decision will only impact dissolving "large law firms" (RB at p. 1)[2], this is not so. Rather, this Court's rule will

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1 In addition to Heller, those firms include Graham & James, Brobeck, Phleger & Harrison, Pettit & Martin, and Thelen LLP.

2 The "Heller Trustee" and the "Trustee" refer to the bankruptcy plan administrator of plaintiff-petitioner Heller Ehrman LLP. The Heller Trustee's reply brief is cited as "RB."

affect medium and smaller size firms too, as well as "near-collapses" of firms which are averted by merger or acquisition. [3]

Against this background, the comprehensive briefing by the respondents and the excellent brief of amici curiae 32 National and International Law Firms show clearly why the relevant common law rules and statutes require that this Court should decide the certified question in the negative—a dissolved law firm has no interest in ongoing hourly matters.

In this brief, *amici* bar associations make two points in support of that result.

First, a negative answer to the certified question is the only answer that is consistent with basic client-protecting ethical values of the legal profession. Granting a dissolved law firm a continuing interest in the client's hourly matters is inconsistent with the client's fundamental and non-waivable interest in controlling its own matters, including the critical question of which lawyer will represent the client and receive compensation for doing so. Heller's proposed rule would also violate basic ethical principles governing the compensation of hourly lawyers, by paying the dissolving law firm for work that it did not and cannot do. Finally, Heller's proposed rule violates the dissolving law firm's obligation to minimize the

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[3] For example, Professor John Morley of Yale Law School assembled a list of 37 law firms, which reportedly consisted of essentially "every law firm collapse" occurring from 1988 to 2014 that received "significant national press coverage." While the list included every "Am Law 200" firm that had dissolved during that period, as well as other large law firm dissolutions, the list expressly excluded "many" small firm failures and near-collapses of law firms. (Morley, *Why Law Firms Collapse* (2015) Yale Law & Economics Research Paper No. 521 at 40-41 (Table 1) and 4 ["Morley"].)

prejudice that the firm inflicts on the client through its dissolution. Instead of minimizing such prejudice, Heller's proposed rule compounds it, by impairing the client's right to choose the law firm that is best able and fully motivated to carry on the representation of the client in the most timely and efficient manner.

Second, this case does not require the Court to choose between the profession's ethical values and the real world economic interests of law firms and creditors. To be sure, adoption of Heller's proposed rule would result in increased payments to its creditors in this matter. But the long-term and broader effect of that rule on law firms having the potential to fail (which is many firms) will be to harm the interests of both clients and creditors by destabilizing firms and increasing the likelihood, complexity and adverse consequences of dissolution. Ultimately, enhancing law firm stability—and reducing the impact of the dissolutions that will inevitably occur—will increase the value both of the law firm's professional services and its ability to meets its obligations to creditors.

ARGUMENT

I. RECOGNIZING A DISSOLVED LAW FIRM'S INTEREST IN FUTURE HOURLY FEES IS INCONSISTENT WITH FOUNDATIONAL PRINCIPLES OF PROFESSIONAL ETHICS

The Court has framed the question as follows: "Under California law, what interest, if any, does a dissolved law firm have in legal matters that are in progress but not completed at the time the law firm is dissolved, when the dissolved law firm had been retained to handle the matters on an hourly basis?"

The answer to that question is clear: the only interest that a lawyer or law firm can have in a matter in which she is compensated on an hourly

basis is an interest in being paid for each hour worked prior to her discharge or withdrawal. When a firm has been compensated for every hour worked prior to its dissolution, it has no future interest of any kind in any of the hourly fee matters that it can no longer handle.

Two related sets of contract principles—each with a vital ethical core—determine that conclusion. First, the client has "an absolute right to discharge [an] attorney at any time…." (*Fracasse v. Brent* (1972) 6 Cal.3d 784, 786.) That right implies a further "absolute right to substitute one attorney for another for any reason…." (*Kallen v. Delug* (1984) 157 Cal.App.3d 940, 950.) The reason for the rule is that the client is entitled to a lawyer in which she has "absolute confidence," and, conversely, a right to find a new lawyer should that confidence falter. (*Fracasse*, *supra*, 6 Cal.3d at p. 790.)

Second, with rare exceptions not relevant here, a lawyer is generally entitled to be paid only for work she has actually done.[4] For example, California Rules of Professional Conduct, rule 4-200 requires fees to be reasonably tethered to the value of services rendered. (See Rules Prof. Conduct, rule 4-200(B)(1).) As a consequence, a firm may not receive fees if it has done nothing of value for the client. (See *Champion v. Super. Ct.* (1988) 201 Cal.App.3d 777, 782-83 (fees are unconscionable if disproportionate to work performed).) Where the representation has ended, the contractual basis for valuing the lawyer's services was based on hours of work performed, and the lawyer has been fully paid for each of those

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4 Those exceptions include lawful referral fees, consented to in writing by the client, Rules Prof. Conduct, rule 2-200(A), and so-called true retainers, where a law firm receives a fee for committing to be available to the client for a specified period of time. (*Banning Ranch Conservancy v. Super. Ct.* (2011) 193 Cal.App.4th 903, 916-17.)

hours—any additional claim to compensation for work not performed is *prima facie* unethical.

These two principles together require the conclusion that, once dissolved, Heller had no continuing interest in hourly matters that it had failed to complete. Given the dissolution, Heller's clients were absolutely entitled, and as a practical matter compelled, to discharge Heller and substitute new law firms to bring those matters to a conclusion. Thereafter, fully paid, and with neither the ability nor the authority to perform work for its former clients, Heller lacked any contractual or moral basis to claim any share of further hourly fees for work performed by other firms.

Given the force of this reasoning, it is not surprising that Heller's position leads to results that cannot be squared with other basic and closely-related principles in the law of lawyering. For example, it is well-settled (and the Heller Trustee has conceded) that if a lawyer leaves a solvent firm for another, and an hourly fee client subsequently exercises its absolute right to discharge the first firm and to hire the second, the former firm has no claim for future hourly fees against the departed lawyer, the former client, or the new firm, unless the former firm can prove tortious misconduct on the part of the departing lawyer and/or client. (*In re Heller Ehrman LLP* (Bankr. N.D. Cal., Mar. 11, 2013, No. 08-32514DM) 2013 WL 951706 at pp. *3-4 (Heller's counsel conceding "that if a Shareholder had left Heller prior to the dissolution and had taken unfinished business, Heller could not pursue recovery of profits earned by that Shareholder following his or her departure, absent some breach of fiduciary duty.").)

Under the Trustee's reading of the law, however, this rule would apply only until the law firm dissolves and is discharged. At that moment, the law firm's interest in future hourly fees paid by the client would spring into existence. But that result is exactly backwards. When a law firm has

dissolved, the client's right to discharge at will is buttressed by compelling good cause. By failing, the old law firm has shown itself to be unworthy of confidence and has forced the client to find new representation. Conversely, the dissolved law firm's claim to an interest in future fees ought to be at absolute zero, because it no longer has any capacity to do the work to generate those fees. If anything, then, a dissolved law firm's claim to a continued share of future hourly fees should be weaker than that of a continuing, solvent firm. The fact that Heller's argument suggests just the opposite is a sure sign that it is wrong.

The prior California cases dealing with the so-called "unfinished business" doctrine do not suggest a different outcome. Many of those cases involve tortious conduct directed at the law firm of a kind that concededly did not occur here. (See, e.g., *Rosenfeld, Meyer & Susman v. Cohen* (1983) 146 Cal.App.3d 200, 222-24; *Little v. Caldwell* (1894) 101 Cal. 553, 560-62.) Just as important, those cases, including *Jewel v. Boxer* (1984) 156 Cal.App.3d 171, largely involve uncompleted contingent fee matters. When a lawyer in a contingent fee matter is discharged prior to resolution of the matter, he or she retains a right to be compensated in *quantum meruit* for the reasonable value of work performed to date—a claim that is required to prevent the client from using its power to discharge as a means of unjust enrichment. (*Fracasse*, *supra*, 6 Cal. 3d at pp. 790-92.) But unlike in an hourly fee matter, that right to compensation for past work remains contingent on the client eventually realizing a favorable outcome.

Such an interest can fit comfortably within the concept of "unfinished business," as that term has been used in partnership law, because it reflects the firm's present ownership of a contingent claim for past services which cannot be satisfied (or indeed, even fairly valued) unless and until the client's matter is brought to a successful conclusion. It

may well make sense to view that claim for past services as an asset of the firm that can be the subject of a fraudulent transfer—indeed, in many plaintiffs firms, such claims may make up the bulk of the assets of the firm. It also makes sense that former partners of the firm who continue to be involved in the matter following dissolution must seek to protect, advance, and account for that interest, subject to their right, now recognized under the Revised Uniform Partnership Act ("RUPA"), to reasonable compensation for doing so. (Corp. Code §16401(h).) Similar conclusions may also follow for other fees that are earned only upon completion of the work, including flat fees and the blended fees that combine reduced hourly rates with a contingent success fee.

Heller's argument—like that of *Rothman v. Dolin* (1993) 20 Cal.App.4th 755, 758-59, the only California case to grant a dissolved law firm a continuing economic interest in hourly fee matters—is that there is no reason to treat uncompleted hourly fee cases differently from uncompleted contingent fee cases. But that conclusion is wrong. In an hourly fee case, the law firm's right to compensation for past work can be determined and satisfied early in the winding up process, as it was here. Once that has occurred, the dissolved firm has no further claim for compensation for past services, no interest, contingent or otherwise, that hinges on the outcome of the client's case, and no right or ability to perform further work. In this situation, unlike in a contingent fee matter, the policy of preventing unjust enrichment weighs against the recognition of any continuing claim by the lawyer. In short, though the client's matter is not finished, the law firm has no "unfinished business" with the client and no asset that could be the subject of a fraudulent transfer.

Given all this, it is not surprising that the New York Court of Appeals, the only other state court of last resort to consider this issue in

recent years, and only court in the nation with supervisory responsibility for more active lawyers than this Court, has squarely rejected the position urged by the Trustee here. (*In re Thelen, LLP* (2014) 24 N.Y.3d 16, 28 ("[N]o law firm has a property interest in future hourly legal fees because they are too contingent in nature and speculative to create a present or future property interest, given the client's unfettered right to hire and fire counsel.") (internal quotation marks and citations omitted).) This Court should do the same.

II. RECOGNIZING A DISSOLVED FIRM'S FUTURE INTEREST IN HOURLY FEE MATTERS INCREASES THE PREJUDICE TO CLIENTS RESULTING FROM LAW FIRM DISSOLUTION

When a law firm dissolves, its obligations to clients should be paramount. Chief among them are the duties to keep the client informed of the situation, to facilitate delivery of papers and property, to refund advanced fees, and to avoid "reasonably foreseeable prejudice." (See Rules Prof. Conduct, rules 3-500, 3-700; State Bar Formal Opn. No. 2014-190.) A key potential for prejudice is the loss of the client's investment—both emotional and financial—in the lawyer who has represented the client to date. (See *Kirk v. First American Tit. Ins. Co.* (2010) 183 Cal.App.4th 776, 809 (recognizing the client's interest in continuity of representation).)

Client choice is another paramount value: If the dissolution forces the client to choose among different or successor firms, the dissolving firm must advise the client of its right to preserve current counsel or retain new counsel. (See State Bar Formal Opn. No. 1985-86.) Because the "interests of the clients must prevail over all competing considerations if…the firm's dissolution is to be accomplished in a manner consistent with professional responsibility," all lawyers "involved directly in [the dissolution] have a

responsibility to see that the client receives the protections required by this rule. . . . " (*Ibid.*)

The Trustee's position is inconsistent with these principles. Avoiding prejudice to the client at dissolution requires *maximizing* the client's opportunity to preserve chosen counsel, but the interest that the Trustee argues for would burden that right in several different ways. For one, a former Heller partner working on former Heller matters will essentially be working at cost indefinitely—all profits earned from the representation would be remitted to the Trustee. The result extends to any law firm that takes on a former Heller partner. This creates striking disincentives for law firms to hire lawyers of a dissolving firm, reducing the quality and range of firms available to clients at precisely the moment when finding new counsel is imperative. It also jeopardizes the client's ability to maintain continuity of representation in those cases where lawyers from the dissolved firm are the best positioned to work on the case going forward.

Even if the client's matter finds a home with a new firm willing to take on a former Heller partner, the Trustee's claim on the profits generated from the client creates a powerful disincentive against optimum work. Although the client will be paying full fees—and should be entitled to the advantages that flow therefrom—the client's lawyers will be working for a sharply reduced rate that simply covers their costs. Inevitably, and despite their professional obligations, the lawyers will be placed under a temptation to devote more time and energy to new matters rather than pending ones inherited from Heller. No client would willingly consent to such a misalignment of attorney incentives.

In effect, then, the regime sought by the Trustee puts the former Heller client to an unenviable choice. If the client wishes to continue

working with his or her lawyer of choice, the client must accept a radical fee structure that does not adequately incentivize the lawyer, and which limits the number of firms willing to take on the matter at all. In the alternative, the client can find—at the client's cost—new counsel who have no experience or familiarity with the case. This is a serious restriction of client rights. As the courts have recognized, demanding that a client's lawyer work as a "partially paid volunteer" effectively deprives the client of its choice of counsel. (*Champion*, *supra*, 201 Cal.App.3d at p. 783.)

In short, instead of putting the "interests of the clients" ahead of "all competing considerations," Opinion 1985-86, *supra*, the Trustee's approach subordinates those interests to those of the firm creditors.

III. DENYING A DISSOLVED LAW FIRM'S INTEREST IN FUTURE HOURLY MATTERS SERVES BOTH THE INTERESTS OF CLIENTS AND LAW FIRM CREDITORS

A. The Trustee's Proposed Rule Decreases Law Firm Stability

This Court has expressly recognized an interest in law firm stability. (*Howard v. Babcock*, *supra*, 6 Cal. 4th at pp. 419-20.) A rule that denies a dissolving law firm an interest in future hourly matters serves this interest much better than the Trustee's proposed rule.

Under the Trustee's proposed rule, if a lawyer leaves a financially unstable firm prior to dissolution, and her clients follow, the dissolved firm will have no claim. (*In re Heller Ehrman LLP, supra*, 2013 WL 951706 at pp. *3-4.) Conversely, if the lawyer seeks to stay with the firm in an effort to save it, and the firm subsequently dissolves, she and her clients will be subject to claims under the Trustee's proposed rule.

The Trustee's proposed rule thus creates obvious incentives to leave a ship that seems in danger of sinking. (See *In re Thelen LLP*, *supra*, 24

N.Y.3d at p. 32 (noting that the Thelen and Coudert Brothers trustees' approach "would encourage partners to get out the door, with clients in tow, before it is too late, rather than remain and work to bolster the firm's prospects.").) Moreover, once the risk of dissolution is apparent, the Trustee's rule may trigger an ethical obligation on the lawyer's part to advise the client to leave as well, rather than be dragged down by the new claims that would arise after dissolution. (Rules Prof. Conduct, rule 3-500 (requiring a lawyer to inform the client of "significant developments" relating to the representation).)

The dangers of this kind of destabilization are significant, particularly given the growth in the number and size of large law firms. (Burk & McGowan, *Big but Brittle: Economic Perspectives on the Future of the Law Firm in the New Economy* (2011) Colum. Bus. L. Rev. 1, 11-13 ["Burk & McGowan"].) In 1968, the largest American law firm had 169 lawyers. By 1988, the largest firm had 1179 lawyers. By 2008, nearly 700 firms employed 50 or more lawyers, with 23 firms numbering more than 1000 lawyers. The average size of the 250 largest American law firms by headcount was 535 lawyers. (*Id.* at p. 12 (citing *Why Law Is A Growth Industry* (Jan. 13, 1968) Business Week, at pp. 78-79; *The NLJ 250* (Sept. 26, 1988) Nat'l L.J., at pp. S-1, S-4, and *The 2009 NLJ 250: Annual Survey* (Nov. 9, 2009) Nat'l L.J., at p. S-14).)

Lateral partner movement between "elite" law firms, once unheard of, has also increased significantly since the 1970s. (Burk & McGowan at p. 14.) Rules of professional responsibility promote client choice, by prohibiting partnership (or similar) agreements that restrict a lawyer from practicing after termination of the partnership relationship. (See Rules Prof. Conduct, rule 1-500; ABA Model Rules Prof. Conduct, rule 5.6.) As general counsel have become more sophisticated, they have sought

specialized expertise for particular matters, rather than turning to one firm for all their legal needs. Concurrently, the rise of legal publications which cover "the business of law" also has increased transparency about partner compensation and profitability at larger firms, thereby making it easier to value a partner's "human capital" and encouraging lawyer mobility among law firms. (Burk & McGowan at pp. 14-15.) Increasingly, then, clients are less attached to particular firms, and more attached to particular lawyers or specialized groups of lawyers, within law firms. In choosing their firms, those lawyers in turn may be more likely to give increased weight to the perceived economic rewards of doing so, rather than to shared values and personal ties, and as those perceived rewards decline, partners may be quicker to leave.

Almost all large firm dissolutions are preceded by the departure of key partners. (See Morley, *supra,* at p. 2.) Professor Morley describes the mechanism: "Like a bank run, a partner run operates through a self-reinforcing spiral of withdrawal." (*Ibid.*) When one partner leaves, he or she damages the firm, thereby causing other partners to leave, which further damages the firm, causing still more partners to leave, and so on. As Professor Morley shows, claims like the Trustee's "push partners to the exits, because they punish partners who stay more than they punish partners who leave." (*Ibid.*) The Trustee's rule would tend to encourage such runs on the partnership. A rule recognizing that the dissolved firm does not have a continuing interest in hourly work would not.

B. The Trustee's Proposed Rule Will Increase the Costs of Dissolution

The Trustee's proposed rule will also sharply increase the costs associated with dissolution, most notably by generating conceptually complex and factually intensive litigation to determine the nature and

amount of the dissolved firm's continuing interest. These costs and complexities are well-described in the answering brief filed by the Orrick firm. (Orrick AB at pp. 46-48). They include the conceptual questions of how to define and calculate the dissolving firm's interest, given the new firm's right to reasonable compensation, and the many factual questions that will arise from the tremendous diversity in the ways that law firms operate with respect to, among other things, size, staffing, the billing of clients, and the compensation of partners.

The complexity and cost of determining the dissolving firm's interest would be heightened by the Trustee's effort to locate that interest in "the use of the firm's capital and the investments of the Heller partnership" to develop client relationships. (RB at p. 12). This approach would add to the above inquiries a difficult causal question of whether the firm's investments played any role in building a client relationship and, if so, how much as compared, for example, with the past work, experience and skills of the lawyer who left the firm. One client may have chosen to retain a partner because the Heller firm made capital investments over decades to nurture that relationship and that partner happened to inherit the client relationship from retired partners at the firm. Another may have retained a partner at the Heller firm due to his or her wide-ranging experience and success as a trial lawyer, irrespective of the identity of the Heller firm. A third may have recently arrived at the firm because its long time lawyer made a lateral move to Heller shortly before the dissolution. Sorting out these questions in litigation seems certain to drive up the costs of dissolution, ultimately damaging creditors of the dissolved firms.

C. **Creditors Will Ultimately Benefit from the Rejection of Heller's Proposed Rule**

At bottom, Heller's arguments for recognizing a dissolved law firm's interest in hourly matters are based on the interests of the firm's creditors, including its staff and retirees. As Judge Breyer acknowledged, the plight of such creditors is often serious, and their interest in additional compensation is real. (*Heller Ehrman LLP v. Davis, Wright, Tremaine, LLP* (N.D. Cal. 2014) 527 B.R. 24, 32.)

But the Trustee's focus on maximizing the creditors' recovery in this bankruptcy, while understandable, is both narrow and short-sighted. The real test of whether a rule benefits creditors is whether, across the full range of cases where the rule potentially applies, it increases the likelihood that they will be repaid. Once one recognizes that many, if not most, firms, are at some real risk of dissolution, it is clear that granting the dissolving firm an interest in future hourly fees ultimately disserves the interests of creditors, by making the firm less attractive to clients, destabilizing the firm's partnership ranks, increasing the risk of dissolution, and driving up the cost of dissolution when it occurs. Public policy favors incentivizing partners to stick through the financial challenges or economic stressors which nearly every law firm faces at one time or another, rather than leaving, in order to avoid the Trustee's proposed bright-line rule of liability for those who remain until dissolution.[5] In the long run, clients, lawyers,

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[5] (Compare *Heller Ehrman LLP*, 527 B.R. at 27 (noting the Trustee's counsel's concession that "the duty to account arose upon dissolution, but not before") with Morley, *supra*, at pp. 26 & n. 62 (recounting how, in May 2014, the chairman of the Patton Boggs firm slowed down the exodus of partners, and may have saved the firm, by asking each remaining partner to commit to staying, which allowed the firm sufficient time to complete a merger with another firm).)

the legal profession, and the creditors of law firms are all better served by this Court holding that a dissolved law firm has no interest in unresolved hourly fee legal matters.

CONCLUSION

For the reasons stated above, this Court should answer the Ninth Circuit's request by clarifying that, under California law, a dissolved law firm has no interest in legal matters that are in progress but not completed at the time the law firm is dissolved, when the dissolved law firm had been retained to handle the matters on an hourly basis.

Dated: April 24, 2017

Respectfully submitted,

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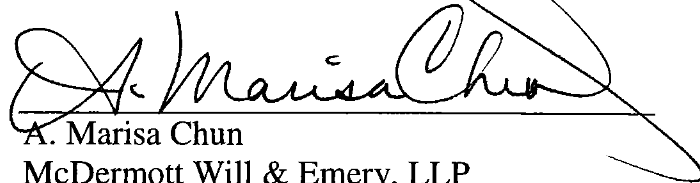

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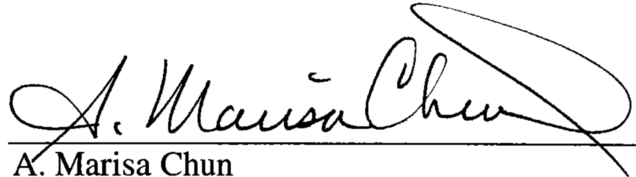

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PROOF OF SERVICE
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I am employed in the County of San Mateo, State of California. I am over the age of 18 and not a party to the within action; my business address is 275 Middlefield Road, Suite 100, Menlo Park, California 94025-4004.

On April 24, 2017, I served the foregoing documents described as **APPLICATION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE AND BRIEF OF AMICI CURIAE THE BAR ASSOCIATION OF SAN FRANCISCO AND THE LOS ANGELES COUNTY BAR ASSOCIATION IN SUPPORT OF RESPONDENTS** on the interested parties of record below by placing true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

BY U.S. MAIL: I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully in the ordinary course of business.

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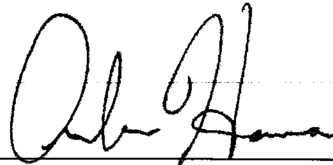

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