

**U.S. District Court
Northern District of Texas (Dallas)
CIVIL DOCKET FOR CASE #: 3:09-cv-00262-K**

Bachow v. Swank Energy Income Advisers LP et al
Assigned to: Judge Ed Kinkeade
Cause: 15:78m(a) Securities Exchange Act

Date Filed: 02/10/2009
Date Terminated: 09/13/2010
Jury Demand: Plaintiff
Nature of Suit: 850 Securities/Commodities
Jurisdiction: Federal Question

Plaintiff

Terri Morse Bachow
*Individually and on Behalf of Herself and
All Others Similarly Situated*

represented by **Marc R Stanley**
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V.

Defendant

Swank Energy Income Advisers LP

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TERMINATED: 09/10/2009

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ATTORNEY TO BE NOTICED

Defendant

Swank Capital LLC

represented by **Rodney Acker**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Grace Lee Hill

(See above for address)

TERMINATED: 09/10/2009

Karl G Dial

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ATTORNEY TO BE NOTICED

Scott P Drake

(See above for address)

ATTORNEY TO BE NOTICED

Stephen M Dollar

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

Jerry V Swank

represented by **Rodney Acker**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

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TERMINATED: 09/10/2009

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ATTORNEY TO BE NOTICED

Scott P Drake
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ATTORNEY TO BE NOTICED

Stephen M Dollar
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ATTORNEY TO BE NOTICED

Defendant

Mark W Fordyce
CPA

represented by **Rodney Acker**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Grace Lee Hill
(See above for address)
TERMINATED: 09/10/2009

Karl G Dial
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ATTORNEY TO BE NOTICED

Scott P Drake
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ATTORNEY TO BE NOTICED

Stephen M Dollar
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ATTORNEY TO BE NOTICED

Defendant

Brian R Bruce

represented by **Rodney Acker**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Grace Lee Hill
(See above for address)
TERMINATED: 09/10/2009

Karl G Dial
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ATTORNEY TO BE NOTICED

Scott P Drake
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ATTORNEY TO BE NOTICED

Stephen M Dollar
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ATTORNEY TO BE NOTICED

Defendant

Ronald P Trout

represented by **Rodney Acker**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Grace Lee Hill
(See above for address)
TERMINATED: 09/10/2009

Karl G Dial
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Scott P Drake
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ATTORNEY TO BE NOTICED

Stephen M Dollar
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Defendant

Edward N McMillan

represented by **Rodney Acker**
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LEAD ATTORNEY
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Grace Lee Hill
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TERMINATED: 09/10/2009

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Scott P Drake

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Stephen M Dollar
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ATTORNEY TO BE NOTICED

Defendant

Jonathan Lee Riches
TERMINATED: 08/11/2010

represented by **Jonathan Lee Riches**
#40948-018
FMC Lexington
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Lexington, KY 40512
PRO SE

V.

Movant

Isong Akpan
TERMINATED: 08/11/2010

represented by **Isong Akpan**
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FMC Lexington
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Lexington, KY 40512
PRO SE

Movant

Patrick J Simpson
TERMINATED: 08/11/2010

represented by **Patrick J Simpson**
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FMC Lexington
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Lexington, KY 40512
PRO SE

Movant

Billy Driggers
TERMINATED: 08/11/2010

represented by **Billy Driggers**
13494-078
FMC Lexington
PO Box 14500
Lexington, KY 40512
PRO SE

Movant

Daniel Anthony Weymouth
TERMINATED: 08/11/2010

represented by **Daniel Anthony Weymouth**
55153-083
FMC Lexington
PO Box 14500

Date Filed	#	Docket Text
02/10/2009	1	Class Action COMPLAINT WITH JURY DEMAND against Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce filed by Terri Morse Bachow. (Filing fee \$350; Receipt number 28742) NOD-No CIP (jyg) (Entered: 02/11/2009)
02/10/2009	2	Summons Issued as to Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce. (Iss -7) (jyg) (Entered: 02/11/2009)
02/25/2009	3	WAIVER OF SERVICE Returned Executed as to Edward N McMillan. Waiver sent on 2/13/2009. (Mandel, Roger) Modified on 2/26/2009 (skt). (Entered: 02/25/2009)
02/25/2009	4	WAIVER OF SERVICE Returned Executed as to Brian R Bruce. Waiver sent on 2/13/2009. (Mandel, Roger) Modified on 2/26/2009 (skt). (Entered: 02/25/2009)
02/25/2009	5	WAIVER OF SERVICE Returned Executed as to Jerry V Swank. Waiver sent on 2/13/2009. (Mandel, Roger) Modified on 2/26/2009 (skt). (Entered: 02/25/2009)
02/25/2009	6	WAIVER OF SERVICE Returned Executed as to Ronald P Trout. Waiver sent on 2/13/2009. (Mandel, Roger) Modified on 2/26/2009 (skt). (Entered: 02/25/2009)
02/25/2009	7	***WRONG EVENT USED-DISREGARD***SEE DOC #6***Writ of Execution Returned (Mandel, Roger) Modified on 2/25/2009 (jyg). (Entered: 02/25/2009)
02/25/2009	8	WAIVER OF SERVICE Returned Executed as to Swank Capital LLC. Waiver sent on 2/13/2009. (Mandel, Roger) Modified on 2/26/2009 (skt). (Entered: 02/25/2009)
02/25/2009	9	WAIVER OF SERVICE Returned Executed as to Swank Energy Income Advisers LP. Waiver sent on 2/13/2009. (Mandel, Roger) Modified on 2/26/2009 (skt). (Entered: 02/25/2009)
02/25/2009	10	WAIVER OF SERVICE Returned Executed as to Mark W Fordyce. Waiver sent on 2/13/2009. (Mandel, Roger) Modified on 2/26/2009 (skt). (Entered: 02/25/2009)
03/23/2009	11	Agreed Motion for Extension of Time to File Answer <i>or Otherwise Respond to Complaint</i> filed by Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce (Hill, Grace) (Entered: 03/23/2009)
03/30/2009	12	ORDER granting 11 Defendants' Agreed Motion for Extension of Time to File Answer re 1 Complaint. Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce answer due 7/13/2009. (Ordered by Judge Ed Kinkeade on 3/30/09) (klm) (Entered: 03/31/2009)
04/14/2009	13	MOTION for Appointment of Lead Plaintiff and Co-Lead Class Counsel filed by Terri Morse Bachow. (Mandel, Roger) Modified on 4/15/2009 (klm). (Entered: 04/14/2009)
04/14/2009	14	Brief in Support filed by Terri Morse Bachow re 13 MOTION for Appointment of Lead Plaintiff and Co-Lead Class Counsel. (Mandel, Roger) Modified on 4/15/2009 (klm). (Entered: 04/14/2009)

04/14/2009	15	Declaration re 14 Brief in Support re 13 MOTION for Appointment of Lead Plaintiff and Co-Lead Class Counsel by Terri Morse Bachow. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4) (Mandel, Roger) Modified on 4/15/2009 (klm). (Entered: 04/14/2009)
04/14/2009	16	Designation of lead counsel Rodney Acker for Defendants Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce. (Acker, Rodney) (Entered: 04/14/2009)
04/20/2009	17	ORDER re 13 MOTION for Appointment of Lead Plaintiff and Co-Lead Class Counsel. The Court hereby orders that Co-Lead Plaintiff for the Class is permitted to file an amended class action complaint within 45 days of this Order. (see order for specifics) (Ordered by Judge Ed Kinkeade on 4/20/09) (tln) (Entered: 04/21/2009)
04/29/2009	18	Joint MOTION Entry of Initial Scheduling Order and for Extension of Deadline to File Class Certification Motion filed by Brian R Bruce, Ronald P Trout, Edward N McMillan, Terri Morse Bachow, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce (Mandel, Roger) Modified on 4/30/2009 (skt). (Entered: 04/29/2009)
05/07/2009	19	ORDER granting 18 Motion Joint MOTION Entry of Initial Scheduling Order and for Extension of Deadline to File Class Certification. (see order) (Ordered by Judge Ed Kinkeade on 05/07/09) (lmp) (Entered: 05/08/2009)
06/04/2009	20	FIRST AMENDED CLASS ACTION COMPLAINT WITH JURY DEMAND against Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce filed by Terri Morse Bachow. (Attachments: # 1 certificate of service) (Rifkin, Mark) (Entered: 06/04/2009)
07/13/2009	21	Unopposed MOTION for Leave to File Memorandum in Support of Defendants' Motion to Dismiss Plaintiffs' First Amended Class Action Complaint <i>Motion to Exceed Page Limit</i> filed by Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce (Attachments: # 1 Text of Proposed Order Granting Defendants' Unopposed Motion for Leave to Exceed Page Limits) (Acker, Rodney) (Entered: 07/13/2009)
07/14/2009	22	ORDER granting 21 Unopposed Motion for Leave to Exceed Page Limits. Defendants hereby are granted leave to file a combined brief on behalf of all Defendants in support of their motion to dismiss of no more than thirty-five (35) pages, and Plaintiff is hereby granted leave to file a response thereto of no more than thirty-five (35) pages. (Ordered by Judge Ed Kinkeade on 07/14/09) (lmp) (Entered: 07/15/2009)
07/17/2009	23	MOTION to Dismiss <i>Plaintiff's Amended Complaint</i> filed by Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce (Attachments: # 1 Text of Proposed Order Granting Defendants' Motion to Dismiss Plaintiff's Amended Complaint) (Acker, Rodney) (Entered: 07/17/2009)
07/17/2009	24	Brief/Memorandum in Support filed by Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce re 23 MOTION to Dismiss <i>Plaintiff's Amended Complaint</i> (Acker, Rodney) (Entered: 07/17/2009)
07/17/2009	25	Appendix in Support filed by Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce re 23 Motion to Dismiss Plaintiff's Amended Complaint. (Attachments: # 1 Exhibit App. 001-094, # 2 Exhibit App. 095-147, # 3 Exhibit App. 148-239, # 4 Exhibit App. 240-310, # 5 Exhibit App. 311-379, # 6 Exhibit App. 380-424, # 7 Exhibit App. 425-495) (Acker, Rodney)

		Modified on 7/20/2009 (Imp). (Entered: 07/17/2009)
08/31/2009	26	RESPONSE in Opposition filed by Terri Morse Bachow re 23 MOTION to Dismiss <i>Plaintiff's Amended Complaint</i> . (Mandel, Roger) Modified on 9/1/2009 (klm). (Entered: 08/31/2009)
09/04/2009	27	Unopposed MOTION to Withdraw as Attorney filed by Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce (Attachments: # 1 Text of Proposed Order) (Acker, Rodney) (Entered: 09/04/2009)
09/10/2009	28	ORDER granting 27 Motion to Withdraw as Attorney. Attorney Grace Lee Hill terminated. (see order) (Ordered by Judge Ed Kinkeade on 9/10/2009) (mfw) (Entered: 09/11/2009)
09/30/2009	29	<i>Defendants'</i> REPLY in Support of Their re: 23 MOTION to Dismiss <i>Plaintiff's Amended Complaint</i> filed by Brian R Bruce, Ronald P Trout, Edward N McMillan, Swank Energy Income Advisers LP, Swank Capital LLC, Jerry V Swank, Mark W Fordyce (Acker, Rodney) (Entered: 09/30/2009)
01/06/2010	30	Memorandum Opinion and Order denying 23 Motion to Dismiss filed by Edward N McMillan, Jerry V Swank, Brian R Bruce, Swank Energy Income Advisers LP, Mark W Fordyce, Ronald P Trout, Swank Capital LLC. (Ordered by Judge Ed Kinkeade on 1/6/2010) (klm) (Entered: 01/08/2010)
01/13/2010	31	NOTICE of Change of Address by Roger L Mandel, counsel for Terri Morse Bachow. New address is: <i>Beckham & Mandel 3400 Carlisle, Suite 550, Dallas, Texas 75204</i> (Mandel, Roger) (Entered: 01/13/2010)
01/22/2010	32	ANSWER to 20 Amended Complaint, filed by Jerry V Swank, Mark W Fordyce (Acker, Rodney) (Entered: 01/22/2010)
01/22/2010	33	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Jerry V Swank, Mark W Fordyce. (Acker, Rodney) (Entered: 01/22/2010)
03/09/2010	34	Proposal for contents of scheduling and discovery order <i>Joint Proposal Pursuant to FRCP 26</i> by Terri Morse Bachow. (Mandel, Roger) (Entered: 03/09/2010)
03/12/2010	35	SCHEDULING ORDER: Discovery due by 12/10/2010. Motions due by 1/10/2010. Pretrial Materials due by 4/19/2011. Pretrial Order due by 4/19/2011. Amended Pleadings due by 5/1/2010. Joinder of Parties due by 5/1/2010. This case is set for JURY trial on the Court's three-week docket beginning 5/2/2011 before Judge Ed Kinkeade. Status Report due by 10/8/2010. (See Order.) (Ordered by Judge Ed Kinkeade on 3/12/2010) (twd) (Entered: 03/12/2010)
03/16/2010	36	AMENDED SCHEDULING ORDER: All motions that would dispose of all or any part of this case (including all motions for summary judgment), shall be filed by 1/10/2011. (Ordered by Judge Ed Kinkeade on 3/16/2010) (mfw) (Entered: 03/16/2010)
03/25/2010	37	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Terri Morse Bachow. (Mandel, Roger) (Entered: 03/25/2010)
04/26/2010	38	MOTION to Certify Class <i>and Brief in Support</i> filed by Terri Morse Bachow with Brief/Memorandum in Support. (Portela, Jose) (Entered: 04/26/2010)
04/26/2010	39	AFFIDAVIT re 38 MOTION to Certify Class <i>and Brief in Support Declaration of Mark C. Rifkin in Support of Plaintiff's Motion for Class Certification</i> by Terri Morse Bachow. (Attachments: # 1 Exhibit A-Class Certification, # 2 Exhibit B-Firm Resume of Wolf

		Haldenstein, # 3 Exhibit C-Firm Resume of Beckham Mandel, # 4 Exhibit D-Report of Candace Preston) (Portela, Jose) (Entered: 04/26/2010)
05/17/2010	40	Unopposed MOTION preliminary approval of class action settlement filed by Terri Morse Bachow (Attachments: # 1 Proposed Order Proposed Preliminary Approval Order) (Mandel, Roger) (Entered: 05/17/2010)
05/17/2010	41	Agreed STIPULATION <i>and Agreement of Settlement</i> by Terri Morse Bachow. (Attachments: # 1 Exhibit(s) Order for Notice and Hearing, # 2 Exhibit(s) Order and Final Judgment) (Mandel, Roger) (Entered: 05/17/2010)
05/27/2010	42	Defendants' Submission of Proof of Service of Notice of Proposed Settlement Required by the Class Action Fairness Act filed by Mark W Fordyce, Jerry V Swank. (Attachments: # 1 Exhibit(s) A) (Drake, Scott) (Entered: 05/27/2010)
06/28/2010	43	ORDER FOR NOTICE AND HEARING: A hearing (the "Settlement Fairness Hearing") pursuant to Rule 23(e) of the Federal Rules of Civil Procedure is hereby scheduled to be held before the Court on September 13, 2010, at 9:30 a.m. (see order for specifics) (Ordered by Judge Ed Kinkeade on 6/28/2010) (tln) (Entered: 06/28/2010)
07/30/2010	44	MOTION to Intervene filed by Isong Akpan, Patrick J Simpson, Billy Driggers, Daniel Anthony Weymouth, Jonathan Lee Riches. (mpw) (Entered: 08/02/2010)
08/09/2010	45	RESPONSE filed by Terri Morse Bachow re: 44 MOTION to Intervene (Mandel, Roger) (Entered: 08/09/2010)
08/11/2010	46	ORDER denying 44 Motion to Intervene. (Ordered by Judge Ed Kinkeade on 8/11/2010) (mcr) (Entered: 08/12/2010)
08/19/2010	47	Unopposed MOTION for Leave to File Brief in Excess of Page Limitations filed by Terri Morse Bachow (Mandel, Roger) (Entered: 08/19/2010)
08/20/2010	48	ELECTRONIC ORDER granting 47 Motion for Leave to File Brief in Excess of Page Limitations. Plaintiff shall file its brief within 3 days from the date of this order. (Ordered by Judge Ed Kinkeade on 8/20/2010) (chmb) (Entered: 08/20/2010)
08/23/2010	49	Declaration of Jason Zuena by Terri Morse Bachow. (Mandel, Roger) (Entered: 08/23/2010)
08/23/2010	50	Declaration of Stephen DeNittis In Support of 55 Plaintiffs' Motion, and Brief in Support, for Award of Attorneys' Fees and Reimbursement of Out-of-Pocket Expenses and for Payment of Incentive Award by Terri Morse Bachow. (Mandel, Roger) (Entered: 08/23/2010)
08/23/2010	51	Declaration of Terri Morse Bachow in Support of 55 Plaintiffs' Motion, and Brief in Support, for Award of Attorneys' Fees and Reimbursement of Out-of-Pocket Expenses and for Payment of Incentive Award by Terri Morse Bachow. (Mandel, Roger) (Entered: 08/23/2010)
08/23/2010	53	Declaration of Mark C. Rifkin in Support of 55 Plaintiffs' Motion, and Brief in Support, for Award of Attorneys' Fees and Reimbursement of Out-of-Pocket Expenses and for Payment of Incentive Award to Lead Plaintiff by Terri Morse Bachow. (Mandel, Roger) (Entered: 08/23/2010)
08/23/2010	54	Plaintiff's Memorandum of Law in Support of Final Approval of Class Action Settlement filed by Terri Morse Bachow re 43 Order, (Mandel, Roger) (Entered: 08/23/2010)
08/23/2010	55	Plaintiffs' Motion, and Brief in Support, for Award of Attorneys' Fees and Reimbursement of Out-of-Pocket Expenses and for Payment of Incentive Award to Lead Plaintiff filed by Terri Morse Bachow with Brief/Memorandum in Support. (Mandel, Roger) (Entered: 08/23/2010)

08/23/2010	56	CORRESPONDENCE filed by Patrick J Simpson. (mcr) (Entered: 08/24/2010)
08/23/2010	52	Declaration of Roger L. Mandel in Support of 55 Plaintiffs' Motion, and Brief in Support, for Award of Attorneys' Fees and Reimbursement of Out-of-Pocket Expenses and for Payment of Incentive Award to Lead Plaintiff by Terri Morse Bachow. (Mandel, Roger) (Entered: 08/24/2010)
08/24/2010		Document Number Reset To 56. (Entered: 08/24/2010)
09/13/2010		ELECTRONIC Minute Entry for proceedings held before Judge Ed Kinkeade: Fairness/Prove Up Hearing held on 9/13/2010. (Court Reporter: Pamela Wilson) (No exhibits) Time in Court - :30. (chmb) (Entered: 09/14/2010)
09/13/2010	57	ORDER AND FINAL JUDGMENT. (see order) (Ordered by Judge Ed Kinkeade on 9/13/2010) (mpw) (Entered: 09/15/2010)
10/21/2010	58	NOTICE OF FILING OF OFFICIAL ELECTRONIC TRANSCRIPT of Fairness Hearing Proceedings held on 9/13/2010 before Judge Ed Kinkeade. Court Reporter/Transcriber Pam Wilson, Telephone number 214.662.1557. Parties are notified of their duty to review the transcript. A copy may be purchased from the court reporter or viewed at the clerk's office public terminal. If redaction is necessary, a Redaction Request - Transcript must be filed within 21 days. If no such Request is filed, the transcript will be made available via PACER without redaction after 90 calendar days. If redaction request filed, this transcript will not be accessible via PACER; see redacted transcript. The clerk will mail a copy of this notice to parties not electronically noticed. Redaction Request due 11/12/2010. Redacted Transcript Deadline set for 11/22/2010. Release of Transcript Restriction set for 1/19/2011. (pjw) (Entered: 10/21/2010)
01/14/2011	59	Unopposed MOTION to Approve Payment of Net Settlement Fund to Authorized Claimants filed by Terri Morse Bachow (Mandel, Roger) (Entered: 01/14/2011)
01/14/2011	60	AFFIDAVIT re 59 Unopposed MOTION to Approve Payment of Net Settlement Fund to Authorized Claimants <i>Declaration of Stephen J. Cirami in Support of Lead Plaintiff's Motion for Approval of Distribution Plan</i> by Terri Morse Bachow. (Mandel, Roger) (Entered: 01/14/2011)
01/26/2011	61	ELECTRONIC ORDER: In Chambers Conference set for 2/3/2011 02:00 PM before Judge Ed Kinkeade. (Ordered by Judge Ed Kinkeade on 1/26/2011) (chmb) (Entered: 01/26/2011)
02/03/2011		ELECTRONIC Minute Entry for proceedings held before Judge Ed Kinkeade: Status Conference held on 2/3/2011. (Court Reporter: Not Recorded) (No exhibits) Time in Court - 1:00. (chmb) (Entered: 02/03/2011)
03/29/2011	62	ORDER granting 59 Unopposed Motion to Approve Payment of Net Settlement Fund to Authorized Claimants. (Ordered by Judge Ed Kinkeade on 3/29/2011) (ndt) (Entered: 03/29/2011)
03/29/2011		ELECTRONIC Minute Entry for proceedings held before Judge Ed Kinkeade: Status Conference held on 3/29/2011. (Court Reporter: Not Recorded) (No exhibits) Time in Court - :15. (chmb) (Entered: 04/01/2011)
01/06/2012	63	ORDER DISTRIBUTING RESIDUAL FUNDS: The Court hereby directs that the remainder or \$7,400.00 (approximate) residual balance of the Net Settlement fund shall be distributed to Legal Aid of Northwest Texas for general charitable purposes consistent with the mission of that organization. (Ordered by Judge Ed Kinkeade on 1/6/2012) (cea) (Entered: 01/06/2012)

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