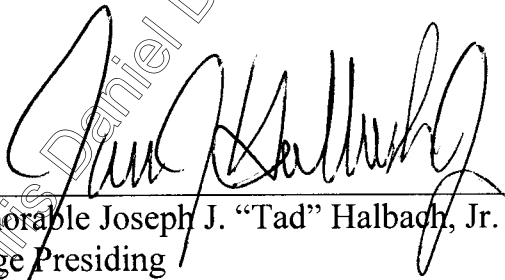


Defendants' Motion for Summary Judgment with respect to jurisdictional grounds only is DENIED.

Although Defendants' Motion for Summary Judgment includes evidence and issues beyond subject matter jurisdiction, the sole and exclusive issue that the Court is ruling on at this time is subject matter jurisdiction. Additionally, Defendants' Motion for Summary Judgment includes two affidavits signed by David Hawes (see Exhibit 2 and Exhibit 3 of Appendix in support of Defendants' Motion for Summary Judgment). By prior ruling of the Court on December 7, 2012, neither affidavit was considered by the Court in this ruling and should not be considered part of the Appendix.

Signed this 25th day of Feb, ~~January~~, 2013.


Honorable Joseph J. "Tad" Halbach, Jr.
Judge Presiding

Unofficial Copy Office of Chief Daniel District Clerk

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above has been served upon the following via facsimile transmission, on January 23, 2013:

Blank Rome, LLP
Barry Abrams
700 Louisiana, Suite 4000
Houston, Texas 77002
713-228-6601 (telephone)
713-228-6605 (facsimile)

/s/ Andy Taylor
Andy Taylor

Unofficial Copy Office of Chris Daniel District Clerk