

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MICHAEL J. QUILLING, Receiver for ABC
VIATICALS, INC., and Related Entities,
Plaintiff,

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Civil Action No.
3:07-CV-1153-P

ECF

v.

ERWIN & JOHNSON, LLP, and
CHRISTOPHER R. ERWIN,
Defendants and
Third-Party Plaintiffs,

v.

MILLS, POTO CZAK & COMPANY,
Defendants.

DEFENDANTS' MOTION FOR LEAVE TO BRING
IN THIRD-PARTY DEFENDANT JASON SUN

Pursuant to Rule 14 of the FEDERAL RULES OF CIVIL PROCEDURE, Defendants Christopher R. Erwin ("Erwin") and Erwin & Johnson, LLP, ("E&J") (collectively "Defendants") move for leave to serve summons and a Third-Party Complaint on Jason Sun ("Sun").

1. Jason Sun is or may be liable to E&J and Erwin for all or part of the Plaintiff's claims against E&J and Erwin. Specifically, upon information and belief, Sun used E&J's name when marketing viatical or life settlements. E&J never authorized Sun to use its name in marketing viatical or life settlements.

2. As this Motion is made more than ten (10) days from the date on which E&J and Erwin served their Answers in this case, leave of Court is required under FEDERAL RULE OF CIVIL PROCEDURE 14(a).


3. E&J and Erwin have not unreasonably delayed in bringing this Motion. The Court's scheduling order establishes a deadline of August 28, 2009 to bring motions for leave to join additional parties.

4. Defendants' Third-Party Complaint against Jason Sun is attached as Exhibit A to this Motion and its summons directed to Jason Sun is attached as Exhibit B to this Motion.

WHEREFORE, DEFENDANTS ERWIN & JOHNSON L.L.P AND CHRISTOPHER R. ERWIN respectfully ask this Court to direct the clerk to file Defendants' Third-Party Complaint against Jason Sun and to issue a summons to Jason Sun and give Defendants whatever and further relief to which they may be entitled.

Respectfully submitted,

**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**


By: 

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**ATTORNEYS FOR DEFENDANTS/
THIRD-PARTY PLAINTIFFS
CHRISTOPHER ERWIN and ERWIN &
JOHNSON, LLP**

CERTIFICATE OF CONFERENCE

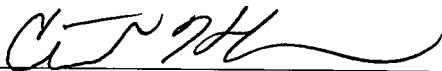
The undersigned attorney certifies that she spoke to Brent Rodine, attorney for the Plaintiff on June 23, 2009, but they were unable to reach agreement on this Motion and it is opposed by Plaintiff. She spoke to Christopher Trowbridge, attorney for Third-Party Defendant, Mills Potoczak on June 24, 2009 and on July 22, 2009 he indicated that he was not opposed to the motion.



Cathlynn H. Cannon

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on this 4 day of August, 2009, to all known counsel of record as required by the FEDERAL RULES OF CIVIL PROCEDURE.



Cathlynn H. Cannon