

Nicole M. Goodwin, SBN 024593  
[goodwinn@gtlaw.com](mailto:goodwinn@gtlaw.com)  
GREENBERG TRAURIG, LLP  
2375 East Camelback Road  
Phoenix, Arizona 85016  
T: (602) 445-8000  
F: (602) 445-8100

Paul J. Ferak (*pro hac vice* pending)  
[ferakp@gtlaw.com](mailto:ferakp@gtlaw.com)  
Jonathan H. Claydon (*pro hac vice* pending)  
[claydonj@gtlaw.com](mailto:claydonj@gtlaw.com)  
GREENBERG TRAURIG, LLP  
77 West Wacker Drive, Suite 3100  
Chicago, IL 60601  
T: (312) 456-8400  
F: (312) 456-8435

*Attorneys for Defendants JPMorgan Chase Bank, NA,  
Samantha Nelson f/k/a Samantha Kumbaleck,  
Kristofer Nelson, and Vikram Dadlani*

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
**IN AND FOR THE COUNTY OF MARICOPA**

PETER S. DAVIS, as Receiver of  
DENSCO INVESTMENT  
CORPORATION, an Arizona corporation,

Plaintiff,

v.

U.S. BANK, NA, a national banking  
organization; HILDA H. CHAVEZ and  
JOHN DOE CHAVEZ, a married couple;  
JP MORGAN CHASE BANK, N.A., a  
national banking organization;  
SAMANTHA NELSON f/k/a  
SAMANTHA KUMBALECK and  
KRISTOFER NELSON, a married couple,  
and VIKRAM DADLANI and JANE  
DOE DADLANI, a married couple.

Defendants.

NO. CV2019-011499

**MOTION TO SUSPEND BRIEFING  
ON THE CHASE DEFENDANTS'  
MOTION TO DISMISS PLAINTIFF'S  
ORIGINAL COMPLAINT**

(Assigned to the Honorable Daniel Martin)

Defendants JPMorgan Chase Bank, N.A., Samantha Nelson, Kristofer Nelson,

1 Vikram Dadlani, and Jane Doe Dadlani (collectively, the “Chase Defendants”), by and  
2 through their undersigned counsel, respectfully move this Court to suspend the briefing  
3 of the Chase Defendants’ motion to dismiss Plaintiff’s complaint (the “Original  
4 Complaint”) until Plaintiff’s First Amended Complaint is filed. In support of this motion,  
5 the Chase Defendants state as follows:

6 1. The Chase Defendants filed their motion to dismiss Plaintiff’s Original  
7 Complaint on February 5, 2020. Plaintiff’s response thereto was originally due on  
8 February 25, 2020, and was extended by agreement to March 2, 2020.

9 2. On March 2, 2020, Plaintiff filed a response to the Chase Defendants’  
10 motion to dismiss (the “Response”) as well as a separate motion for leave to file a First  
11 Amended Complaint. The Response is not limited to arguing in support of the sufficiency  
12 of the allegations in the Original Complaint. Instead, it raises arguments based not only  
13 on the Original Complaint’s allegations, but also on new allegations in the First Amended  
14 Complaint that were not—and could not have been—addressed in the motion to dismiss  
15 the Original Complaint.

16 3. Shortly after the March 2 filings, counsel for the Chase Defendants, the U.S.  
17 Bank Defendants, and counsel for Plaintiff conferred in an effort to reach a stipulation  
18 regarding the schedule going forward. Since all Defendants did not oppose the motion for  
19 leave and consented to the filing of the First Amended Complaint, the Chase Defendants  
20 proposed that the parties agree to a new response date for all defendants to answer or  
21 otherwise respond to the First Amended Complaint thirty (30) days after it was filed.

22 4. Plaintiff has not agreed to this proposal. While Plaintiff has agreed to  
23 indefinitely extend the Chase Defendants’ time to file a reply brief, Plaintiff takes the  
24 position that the Chase Defendants must file a reply brief in support of the motion to  
25 dismiss the Original Complaint despite the fact that Plaintiff has already sought leave to  
26 file an amended complaint that will supersede the pending complaint and render the Chase  
27 Defendants’ motion to dismiss moot.

28 5. Plaintiff has provided no explanation for this position, which ignores the

7. All defendants have confirmed their non-opposition to the Plaintiff's motion for leave and their consent to the filing of Plaintiffs' First Amended Complaint, with a full reservation of rights and defenses, by a separate paper filed contemporaneously with this filing.

8. Given that all defendants do not oppose and have consented to the filing of the First Amended Complaint, the First Amended Complaint should be deemed the operative pleading. The pending motion to dismiss papers are properly considered moot and this matter should proceed forward based on the First Amended Complaint.

Wherefore, for the reasons stated above, the Chase Defendants respectfully request the Court to suspend the briefing of their motion to dismiss Plaintiff's Original Complaint until Plaintiff's First Amended Complaint is filed, which will render moot any further activity on the Original Complaint, and will also avoid any waste of Court and party time and resources.

RESPECTFULLY SUBMITTED this 16th day of March 2020.

GREENBERG TRAURIG, LLP

By: /s/ Nicole Goodwin  
Nicole M. Goodwin  
*Attorneys for Chase*

1 ORIGINAL of the foregoing e-filed with the  
2 Clerk of Court this 16th day of March 2020.

3 COPY of the foregoing electronically  
4 distributed this 16th day of March 2020 to:

5 Hon. Daniel Martin

6 COPY of the foregoing served via  
7 TurboCourt e-Service this 16th day of  
8 March 2020 to:

9 Brian Bergin  
10 Kenneth Frakes  
11 Kevin Kasarjian  
12 BERGIN FRAKES SMALLEY &  
13 OBERHOLTZER, PLLC  
14 4343 E. Camelback Road, Suite 210  
15 Phoenix, AZ 85018  
16 [bbergin@bfsolaw.com](mailto:bbergin@bfsolaw.com)  
17 [kfrakes@bfsolaw.com](mailto:kfrakes@bfsolaw.com)  
18 [kkasarjian@bfsolaw.com](mailto:kkasarjian@bfsolaw.com)  
19 *Attorneys for Plaintiff*

20 Gregory J. Marshall  
21 Amanda Z. Weaver  
22 SNELL & WILMER, L.L.P.  
23 One Arizona Center  
24 400 E. Van Buren Street, Suite 1900  
25 Phoenix, AZ 85004-2202  
26 [gmarshall@swlaw.com](mailto:gmarshall@swlaw.com)  
27 [aweaver@swlaw.com](mailto:aweaver@swlaw.com)  
28 *Attorneys for U.S. Bank National  
Association and Hilda Chavez*

/s/ Barrie Peagler