

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
ESQUIRE TITLE, LLC,	§	
Defendant,	§	261st JUDICIAL DISTRICT

**CELESTINE CAPITAL, L.L.C.’S RESPONSE TO THE TEXAS TITLE INSURANCE  
GUARANTY ASSOCIATION’S NOTICE IN SUPPORT OF ASSIGNMENT**

NOW COMES, Celestine Capital, L.L.C. (d/b/a DPA Servicing) (“Celestine”) and files this, its Response to the Texas Title Guaranty Association’s Notice in Support of Assignment of the Gemini Errors and Omissions Policy to TTIGA (the “Application”). In support of this Response, Celestine respectfully shows the Special Master and Court the following:

Celestine objects to TTIGA’s request that Gemini be deemed to have waived any objection as to the assignment of the Policy by not entering an appearance in this action and lodging an objection. Gemini is not a party to this action, has not entered an appearance, and there has been no affirmative showing of jurisdiction. More to the point, however, the Policy expressly forbids assignment—*with or without Gemini’s consent*. See Policy, § XIII (“The interests or rights hereunder of any Insured *are not assignable*.” (emphasis added)). Gemini cannot accomplish by inaction, that which it cannot do through affirmative action of consenting to the assignment.



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/s/ David W. Dodge

**EXHIBIT “B”**

**(Listing of Prior Briefing and Associated Exhibits Incorporated Herein by Reference)**

1. Claimant Celestine Capital, LLC’s Motion for Relief from Stay (filed April 13, 2010);
2. Reply in Further Support of Claimant Celestine Capital, LLC’s Motion for Relief from Stay (filed June 14, 2010);
3. Claimant Celestine Capital, LLC’s Supplemental Brief in Support of Motion for Relief from Stay (filed July 16, 2010);
4. Celestine Capital, LLC (d/b/a DPA Servicing’s) Post-Hearing Brief in Support of Motion for Relief from Stay (filed July 30, 2010); and
5. Celestine Capital LLC’s Objection to Special Master’s Memorandum Recommendation (filed October 25, 2010).

# EXHIBIT “B”

# EXHIBIT “C”