IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

AUGUSTO SUI, individually and as Representative of the ESTATE OF VIRGILIO SUI and JUANA SUI,	)	
Plaintiffs,	)	
v.	)	C.A. No. N20C-09-222 MMJ
JOHN S. SPADARO, as Personal Representative of the ESTATE OF JANE L. EMERY,	)	
Defendants.	)	

On Defendant's Motion to Dismiss
Pursuant to Superior Court Civil Rule 19
DENIED

1. In this wrongful death action, Defendant has moved to dismiss pursuant to Superior Court Civil Rule 19. Defendant argues that Plaintiffs have failed to join an indispensable party. The alleged indispensable party is Virgilio Sui Chau, a surviving son of the decedent. Chau is Peruvian national and resides in Peru. In the absence of this son, Defendant asserts that the Estate will be subject to multiple claims and obligations.

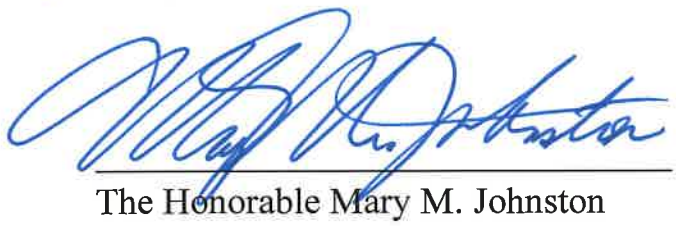
2. In opposition, Plaintiffs state that any future action brought by Chau would be time-barred. Additionally, there is no legal authority to support Defendant's

proposition that one potential plaintiff's failure to file a wrongful death claim bars all remaining timely-filed suits. Finally, Plaintiffs have no obligation to locate and join Chau in this action. To do so could be unethical as an improper attempt at client solicitation.

3. The Court finds that, under these circumstances, Chau is neither a necessary nor an indispensable party. Judgment can be rendered in his absence and a separate future action would be barred by the statute of limitations. There is no Delaware authority requiring joinder of Chau.

THEREFORE, Defendant's Motion to Dismiss Pursuant to Superior Court Civil Rule 19 is hereby **DENIED.**

IT IS SO ORDERED this 18th **day of March, 2021.**



The Honorable Mary M. Johnston