

The Complaint fails to allege any facts that HOPE wrongfully obtained anything from Plaintiffs, which would be necessary in order for the Court to impose a constructive trust upon HOPE. It thus fails to state a claim for constructive trust.

In support of this motion, HOPE contemporaneously files herewith a Memorandum of Law.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC



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NOTICE OF HEARING

**THIS MOTION IS EXPECTED TO BE HEARD ON FRIDAY, OCTOBER 7, 2005
AT 9:00 A.M. FAILURE TO TIMELY RESPOND TO THIS MOTION IN
ACCORDANCE WITH THE LOCAL RULES OF COURT WILL RESULT IN ITS
BEING GRANTED WITHOUT FURTHER HEARING, AND COUNSEL OR PRO SE
LITIGANTS NEED NOT APPEAR.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first-class U.S. mail, postage prepaid, on this the 25th day of September, 2005, upon the following:

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