

CASE NO. 01-23-00362-CV

IN THE COURT OF APPEALS
FOR THE FIRST JUDICIAL DISTRICT
HOUSTON, TEXAS

IN THE ESTATE OF NELVA E. BRUNSTING

Candace Louise Curtis

Appellant

V.

Carl Henry Brunsting, Individually and as Independent Executor of
the Estates of Elmer H. Brunsting & Nelva E. Brunsting, *Et Al*
Appellees

OPPOSED SECOND JOINT MOTION FOR EXTENSION OF TIME TO FILE
THE APPELLEES BRIEF OF CO-TRUSTEE ANITA K. BRUNSTING, CO-
TRUSTEE AMY R. BRUNSTING, & CARL H. BRUNSTING

On Appeal from Probate Court No. Four
Harris County, Texas
C.A. No. 412,249-401

CO-TRUSTEE ANITA K.
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TO THE HONORABLE COURT OF APPEALS:

Co-Trustee Anita K. Brunsting, Co-Trustee Amy R. Brunsting, and Carl H. Brunsting, Individually (collectively the Appellees, and each an Appellee as determined by the context), jointly move the Court to extend the time for each Appellee to file their respective response brief to Appellant's brief, and would respectfully show the Court as follows:

1. Appellant filed her brief on July 3, 2023.

2. The Court granted Appellees' first motion and extended their deadline for filing their briefs to September 1, 2023.

3. Appellees respectfully request a thirty-day extension to file their briefs.

4. This is Appellees' second request to extend the time to file their response briefs.

5. The bases for the additional time are as follows:

A. This litigation has a decade-long, complex procedural history in federal district and appellate courts, and in state district, probate, and appellate courts. An accurate presentation of the procedural history is necessary to enable the Court to understand and decide the issues presented by Appellant's briefing. This procedural history has generated thousands of pages of motions, briefing, rulings, orders, and transcripts, and identifying and ensuring the necessary documents are included in the appellate record from the entire world of documents is a herculean task aided by the brief writing process. Based on the brief writing progress to date, it appears the appellate record will need to be supplemented.

B. Appellees' counsel have been working diligently to prepare their response briefs, which require a coordinated effort due to the aligned and complementary interest among Appellees. Coordinating the schedules of multiple lawyers across the three law firms representing the three Appellees is also more art than science.

C. Although Appellees' briefs are in progress, more time is needed to prepare responses sufficiently detailed for the Court to efficiently rule on the issues for review presented by Appellant, along with other matters raised by her complicated and, at times, confusing, briefing.

D. Counsel for Appellee Co-Trustee Amy R. Brunsting had some minor health issues coupled with a September 2023 trial setting that required him to prepare for trial in C.A. No. 2022-43993; *Karis Elizabeth Traywick, Individually and on behalf of the Estate of Darrick Ellis Traywick, Deceased, and As Next Friend of D.T., Minor, and as Wrongful Death Beneficiaries v. Portlee, LLC d/b/a Baytown Sand & Clay, LLC and BSC Management, Ltd., d/b/a Baytown Sand & Clay*; In the 157TH

Judicial District Court of Harris County, Texas. Although this case has since been removed from its September 2023 trial setting, counsel had to assume the case was going to trial and prepare accordingly.

E. The law firm for Appellee Co-Trustee Anita K. Brunsting had to prepare for and attend the following hearings during August 2023:

- i. *In re Estate of Carey*, Harris County Probate Court No. 1 (probate of will and declaratory judgment hearing).
- ii. *In re Estate of Frank Smith*, Harris County Probate Court No. 2 (Rule 91a Motion to Dismiss involving a *pro se* defendant).
- iii. *In re Estate of Y'Barbo*, Fort Bend County Court at Law No. 4 (extended hearing involving multiple witnesses on pending matters).

6. This request is not sought for delay, but so that justice can be done, and so that the Appellees respective counsel will have the time reasonably required to review and evaluate the Appellant's brief, and to prepare cogent briefs in response thereto.

For these reasons, Appellees respectfully request that this Court: (a) grant their motion for extension of time; (b) give Appellees until October 2, 2023 to file their response briefs; and (c) grant Appellees such other and further relief to which they may be entitled.

[SIGNATURES ON FOLLOWING PAGE]

Respectfully submitted,

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Attorney for Amy R. Brunsting, Co-Trustee of the Brunsting Family Trust

Certificate of Conference

Per TEX. R. APP. P. 10.1(5), counsel for the Appellant confirmed by email that the Appellant opposes the relief sought by this motion.

// s // Stephen A. Mendel

Stephen A. Mendel

Certificate of Service

As required by TEX. R. APP. P. 6.3 and 9.5(b), (d), and (e), I certify that I served this document on all other parties—which are listed below—as follows:

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via e-service and/or email on August 31, 2023.

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