## CASES RELATED BY OPERATIVE FACTS AND PARTICIPANTS

Backend Exploitation Chronology

# [SDTX No. 4:12-cv-592](http://www.probatemafia.com/Brunsting/Tab%201%202012-02-27%20Case%20412-cv-592%20Curtis%20Original%20Federal%20Complaint.pdf)

1. Candace Louise Curtis vs Amy Brunsting, Anita Brunsting and Does 1-100, a breach of fiduciary action seeking accounting and disclosures filed Pro se on 2/27/2012.

# [5th Circuit ROA.12-20164](http://www.probatemafia.com/Brunsting/Tab%2098%20Curtis%20v%20Brunsting%20ROA%2012-20164%20Complete.pdf)

1. **Jan 9, 2013** – Curtis v Brunsting 704 F.3d 406 (pro se appeal)

# Harris County District Court 180

1. Depositions before suit

# [Harris County District Court 164 Cause No. 2013-05455](http://www.probatemafia.com/Brunsting/%5B4%5D%202013-01-29%20Case%202013-05455%20District%20Court%20Complaint%20against%20Freed.pdf)

1. A malpractice action against the estate planning attorneys filed by Carl Brunsting as “independent executor” of his Parents estate, **filed January 29, 2013**. Carl resigned the office of “independent executor” February 19, 2015 and there has been no plaintiff in this case since.

# [Harris County Probate Court No. 4 Cause No. 412249-401](http://www.probatemafia.com/Brunsting/Tab%2025%20Carl%27s%20Original%20April%209%2C%202013%20Petition%20412249-401%20PBT-2013-115617_Certified.pdf)

1. A civil tort action exclusively related to the Brunsting trust filed on April 9, 2013, the same day as the [injunction hearing in SDTX No. 4:12-cv-592](http://www.probatemafia.com/Brunsting/%5B5%5D%202013-04-09%20Case%20%204-12-cv-592%20Injunction%20Hearing%20Transcript-Hoyt.pdf).

# [Harris County Probate Court No. 4 Cause No. 412249-402](http://www.probatemafia.com/Brunsting/TAB%2046%20%202015-02-09%20Docket%20sheet%20412249-402%20Certified%202019-08-22.pdf) [Doc 79]

1. – the federal case was remanded to Harris County Probate Court No. 4 May 14, 2014, approved as a transfer in June 2014 and ancillary cause docket -402 was created February 9, 2015.

• June 3, 2014 Order accepting transfer of the federal case was signed [ROA 274, & 302]

• February 3, 2015 Carl was deposed by Vacek & Freed in the District Court CAUSE NO. 2013-05455 164th Judicial District Court. (Audio & Video) JOB NO. 177755 US LEGAL SUPPORT 713-653-7100

• February 9, 2015 “[estate of Nelva Brunsting No. 412249-402](http://www.probatemafia.com/Brunsting/Docket%20in%20412249-402.pdf)” was opened [ROA 29 para 2]

• February 12, 2015 Carl is alleged to have given Drina POA (Not in probate records but in Mendel’s proposed “settlement agreement” vicariously obtained by me in July 2023)

• February 17, 2015 [Carl resigns and files substitution](http://www.probatemafia.com/Brunsting/Tab%2027%202015-02-19%20Case%20412248%20PBT-2015-57597%20Carl%20Resignation_Certified.pdf) of Drina as attorney in fact [ROA 25-26]

• February 20, 2015 An [Agreed Docket Control Order](http://www.probatemafia.com/Brunsting/Tab%2028%202015-02-20%20Case%20412249-401%20Agreed%20Docket%20Control%20Order_Certified.pdf) was signed [ROA 27-28]

• March 9, 2015 an “[agreed order to consolidate](http://www.probatemafia.com/Brunsting/Tab%2029%20%202015-03-05%20Agreed%20Order%20to%20Consolidate%20412249-402%20into%20412249-401_Certified.pdf) “estate of Nelva Brunsting No. 412249-402” with “estate of Nelva Brunsting No. 412249-401” was signed, closing the -402 file. [ROA 289]

## [Remand order” was accepted in Probate Court No. 4 as a transfer order](http://www.probatemafia.com/Brunsting/2014-05-28%20%20Case%20412249%20402%20MOTION%20TO%20ENTER%20TRANSFER%20ORDER%20signed%20by%20Butts%20PBT%202014%20184792.pdf)

1. Federal case criminally converted into “[*Estate of Nelva Brunsting No. 412249-402*](http://www.probatemafia.com/Brunsting/2016-11-01%20-%20Docket%20in%20412249-402.pdf)” and then Dissolved into *Estate of Nelva Brunsting No. 412249-401*, which is the case brought by Carl Brunsting both individually and as “independent” executor on March 9, 2015.

# [Curtis et al., vs. Kunz-Freed et al., SDTX No. 4:16-cv-1969](http://www.probatemafia.com/Brunsting/2016-07-05%20Case%204-16-cv-01969%20Doc%201%20Harris%20County%20RICO_Complaint.pdf)

1. an honest services fraud case brought under the racketeer influenced corrupt organization statutes filed July 5, 2016: dismissed for failure to state a claim.

# [5th Circuit ROA.17-20360](http://www.probatemafia.com/Brunsting/%5B100%5D%202018-06-28%20No.%2017-20360_United%20States%20Court%20of%20Appeals%20for%20the%205th%20Circuit.pdf)

1. Affirmed for lack of a sufficient statement of supporting facts June 28, 2018.

## [Registration of Foreign Judgment, Submission ID: 43704956](http://www.probatemafia.com/Brunsting/Foreign%20Judgment/)

1. , filed with Harris District Clerk on June 12, 2020, domesticating the federal preliminary injunction. The Foreign Judgment was not challenged by the respondents within 30 days as required and thus, the Foreign Judgment became a final judgement on July 12, 2020.

# [Harris County Probate Court No. 4 Cause No. 412249-403](http://www.probatemafia.com/Brunsting/TAB%2053%20%202019-03-01%20Order%20to%20transfer%20District%20court%20case%20to%20Probate_Certified.pdf)

1. – This is case #3 supra, Harris County District Court 164 Cause No. 2013-05455 [ordered transferred to Harris County Probate Court No. 4](http://www.probatemafia.com/Brunsting/TAB%2053%20%202019-03-01%20Order%20to%20transfer%20District%20court%20case%20to%20Probate_Certified.pdf) on April 4, 2019, without a pending probate administration to be ancillary to and, where it remains without a plaintiff. (See Narvaez v Powell)

Haight v. Koley Jessen PC, No. 10-18-00057-CV, at \*4-5 (Tex. App. June 12, 2019) (“In In re Hannah, the court held that a cause of action brought in the district court was not a "matter related to a probate proceeding" within the scope of [Section 31.002 of the Estates Code.](https://casetext.com/statute/texas-codes/estates-code/title-2-estates-of-decedents-durable-powers-of-attorney/subtitle-a-scope-jurisdiction-venue-and-courts/chapter-31-general-provisions/section-31002-matters-related-to-probate-proceeding) In re Hannah, [431 S.W.3d at 809](https://casetext.com/case/in-re-hannah-16#p809). The court focused on the nature of the damages sought, and held that because the suit sought damages which would, if awarded, be satisfied from the defendant's individual assets rather than from any property of the estate, the claims were not related to a probate proceeding. In re Hannah, [431 S.W.3d at 809-811](https://casetext.com/case/in-re-hannah-16#p809). In Narvaez, the court agreed with the court in Hannah that the nature of the claims and the relief sought must be examined when determining whether the probate court has jurisdiction of a non-probate claim. Narvaez v. Powell, [564 S.W.3d 49, 56](https://casetext.com/case/narvaez-v-darron-powell-darron-powell-pllc#p56) (Tex. App.—El Paso 2018, no pet). In Narvaez, a group of heirs filed suit in district court against attorneys alleging breach of fiduciary duties and legal malpractice. Narvaez v. Powell, [564 S.W.3d at 52](https://casetext.com/case/narvaez-v-darron-powell-darron-powell-pllc#p52). The court in Narvaez found that a legal malpractice claim cannot be characterized as a probate proceeding within the meaning of [Section 31.001](https://casetext.com/statute/texas-codes/estates-code/title-2-estates-of-decedents-durable-powers-of-attorney/subtitle-a-scope-jurisdiction-venue-and-courts/chapter-31-general-provisions/section-31001-scope-of-probate-proceeding-for-purposes-of-code) or related to a probate proceeding as that term is defined by [Section 31.002 of the Estates Code.](https://casetext.com/statute/texas-codes/estates-code/title-2-estates-of-decedents-durable-powers-of-attorney/subtitle-a-scope-jurisdiction-venue-and-courts/chapter-31-general-provisions/section-31002-matters-related-to-probate-proceeding) Narvaez v. Powell, [564 S.W.3d at 57](https://casetext.com/case/narvaez-v-darron-powell-darron-powell-pllc#p57).”)

The ringer is [Mortensen v Villegas](http://www.probatemafia.com/Brunsting/2021-02-01%20Hannah%20-%20Mortensen%20v.%20Villegas.pdf) 630 S.W.3d 355! Mortensen is a judicial analysis of In re Hannah *In re Hannah*, 431 S.W.3d 801, 807-08 (Tex. App.—Houston [14th Dist.] 2014. Attorney Bayless wrote the petition for writ of mandamus for Relator Julie Hannah while the Brunsting non-probate case was pending in the probate court. Bayless filed Brunsting in April 2013 and she filed Hannah v Hatcher in August 2013.

# [Harris County Probate Court No. 4 Cause No. 412249-404](http://www.probatemafia.com/Brunsting/Tab%2049%20Certified%2016230048-%20C%23%204%20Bill%20of%20Review%20Petition%20for%20Bi.pdf)

1. – A statutory Bill of Review constituting a direct attack on the Probate Courts Order denying Candace Curtis Plea to the Jurisdiction BUT MADE INTO A SEPARATE CASE BY THE CLERK.

# [Harris County Probate Court No. 4 Cause No. 412249-405](http://www.probatemafia.com/Brunsting/2022-04-08%20docket%20412249-405.pdf)

1. – This case was created March 11, 2022 by an order severing Carl Brunsting from the 412249-401 lawsuit Carl Brunsting filed in the probate court April 9, 2013, [No. 412249-401], leaving Candace Curtis as the sole defendant with alleged Co-Trustee Defendants Amy Brunsting and Anita Brunsting and their attorneys Stephen Mendel and Neal Spielman as the only remaining Plaintiff’s in the lawsuit Carl Brunsting filed the same day as the preliminary injunction hearing in the Southern District of Texas.

# [Texas First District Court of Appeal No. 01-22-00378-CV](http://www.probatemafia.com/Brunsting/TAB%20x%202022-05-18%20Notice%20of%20Appeal.pdf)

1. (Appeal Withdrawn) The clerk will not compile a record from more than one case number. This would explain why the attorneys create a mess with multiple case file numbers when there is only one family and one family trust at issue.

# [Texas First District Court of Appeal No. 01-22-00513-cv](http://www.probatemafia.com/Brunsting/2022-07-10%20file%20stamped%20Petition%20for%20writ%20of%20Mandamus%20curtis.pdf)

1. Petition for Writ of Mandamus ([denied with no explanation](http://www.probatemafia.com/Brunsting/2022-07-15%2001-22-00514-CV_LTR%20ISSSD_FILECOPY.pdf)) Apparently the dirt flows up steam in Texas which is a mirror of the [Chalupowski fleecing](http://www.probatemafia.com/Brunsting/Grift%20of%20the%20Chalupowskis.pdf) in Massachusetts.

A December 5, 2021 Rule 11 Agreement

March 11, 2022 order severing the claims of diversity polluting “[involuntary](http://www.probatemafia.com/Brunsting/Tab%2039%202021-12-05%20Rule%2011%20Agreement%20Certified%2018210428.pdf) Plaintiff” Carl Brunsting from those of “Co-Plaintiff” Candace Curtis,

[Carl Brunstings’ March 18, 2022 Nonsuit of Candace Curtis](http://www.probatemafia.com/Brunsting/Tab%2081%202022-03-18%20Carl%20nonsuit%20of%20Candace%20Curtis.pdf) and a

[February 25, 2022 Order for Summary Judgement,](http://www.probatemafia.com/Brunsting/Tab%2042%20February%2025%2C%202022%20Order%20for%20Summary%20Judgment.pdf)

1. Changing Candace Curtis standing, uncover the veil of fraudulent joinder and provide the basis for invoking removal jurisdiction pursuant to 28 U.S.C. § 1441(a) and (b)(1).

There hasn’t even been an evidentiary hearing. Candace Curtis could never get an evidentiary hearing. Without a hearing there is no evidence and without evidence no judgment can be entered. Oh, but let us not let law get in the way when stealing money is the only real issue.

# [SDTX No. 4:22-cv-1129](http://www.probatemafia.com/Brunsting/4-22-cv-01129%20Notice%20of%20Removal%20and%20Exhibits.zip)

1. April 7, 2022 created by removal of the alleged Co-Trustees’ counterclaims to the Southern District of Texas.
	1. Rosenthal remanded saying [Curtis sued her siblings in the probate court](http://www.probatemafia.com/Brunsting/Tab%2057%20Pre-settlement%20accounting%20Certified%2018070048-%20C%23%204%20Answer%20%26nbsp;.pdf) as a result of [Mendel lying to Judge Rosenthal](http://www.probatemafia.com/Brunsting/2022-04-08%2002-12%20Exhibit%20q%20Anita%E2%80%99s%20%28Mendel%29%20attorney%20Fee%20Disclosure.pdf) to give the appearance of a vexatious litigant. On page 1 Medel lies about who filed suit in the probate court in the 412,249-401. Curtis did not sue her siblings in the probate court. [Curtis sued Anita and Amy in the Southern District of Texas](http://www.probatemafia.com/Brunsting/2016-07-05%20Case%204-16-cv-01969%20Doc%201%20Harris%20County%20RICO_Complaint.pdf). More than a year before Carl’s 412,249-401 action was filed in the probate court.

# Court Of Appeals for the First District of Texas Houston [No. 01-23-00362-CV](http://www.probatemafia.com/Brunsting/2023-06-30%20Appellants%20Brief%20No.%2001-23-00362-CV.pdf)

The Brunsting trust controversy is not a probate matter, a probate case or a probate proceeding and there is no estate administration for all of these fraudulently manufactured cases to have been filed ancillary too.

Elmer Brunsting [[412248](http://www.probatemafia.com/Brunsting/Tab%2012%2020212-08-28%20Will%20of%20Elmer%20Brunsting_Certified.pdf)] and Nelva Brunsting [[412249](http://www.probatemafia.com/Brunsting/2012-04-03%20Will%20of%20Nelva%20Brunsting.pdf)] had pour-over-wills and a [living trust](http://www.probatemafia.com/Brunsting/Tab%2062%20%20Defendants%20Nov%205%202021%20Motion%20for%20Summary%20J%20Exhibit%20A%20Restatement_Certified.pdf). Elmer’s estate [inventory](http://www.probatemafia.com/Brunsting/Tab%2015%20Inventory%20and%20Order%20Approving%20Inventory%20Case%20412248_Certified.pdf) doesn’t contain any tangible property other than ½ of a 1970’s used car and Nelva’s estate [inventory](http://www.probatemafia.com/Brunsting/Tab%2021%202013-03-27%20Case%20412249%20PBT-2013-99449%20Inventory%2C%20appraisement%20and%20list%20of%20claims.pdf) also contains ½ of a used car. Nothing else in either inventory provides a basis for probate jurisdiction.

THE PARTICIPANTS

# Attorney Candace Kunz-Freed, Texas State Bar No. 24041282

(Vacek & Freed P.L.L.C.) Estate planning attorney’s Candace Kunz-Freed and Bernard Lyle Matthews III are the disloyal estate planning attorneys. Candace Kunz-Freed (Freed) worked very closely with Anita Brunsting [using each family crisis event to implement changes](http://www.rikmunson.com/wp-content/uploads/2022/06/2021-10-15-addendum.pdf) not authorized by the trust instrument after the trust had already became irrevocable by its own terms ([Article III](http://www.rikmunson.com/wp-content/uploads/2022/06/2005-01-06-P230-316-2005-Restatement-of-Trust.pdf)). Disciplinary Rules 1.06(a), (b)(2), (d), (e), (f) and comments 1, 2, 3, 4, 6, & 9

Attorney Candace Kunz-Freed testified at a deposition that she couldn’t pass the state board certification exam if she tried and yet, she still advertises “estate planning services” and “The Pursuit of Excellence”. (<http://www.freedlawyer.com>)

# Attorney Bernard Lyle Matthews III, Texas State Bar No. 13187450

When trust beneficiary and de jure trustee Candace Curtis filed breach of fiduciary claims in the [SDTX](http://www.rikmunson.com/wp-content/uploads/2022/06/Tabs-1-10.zip) Bernard Lyle Matthews III (Mathews) appeared on behalf of their new clients arguing the case fell within the probate exception. Mathews appeared using a Green and Mathew’s law firm label to conceal his conflict of interests. Disciplinary Rule 1.06 et seq.

# Attorney Bobbie G. Bayless, Texas State Bar No. 01940600

Attorney Bobbie G. Bayless (Bayless) representing Carl Brunsting (or his wife Drina) was the attorney that engaged in state court activities while Candace Curtis federal appeal was pending. That series begins with a petition to take depositions before suit, Harris County 80th Judicial District Court No. 2012-14538. After the 5th Circuit revered and remanded for further proceedings (Curtis v Brunsting 704 F.3d 406) and while the federal case was in transition between courts, Bayless filed malpractice claims against the estate planning law firm in Harris County 164th Judicial District Court No.2013-05455. The Vacek & Freed Defendants are represented by Thompson Coe attorneys Attorney Zandra E. Foley, State Bar No. 24032085 and Cory S Reed, Texas State Bar No. 24076640. Affiant will address their undisclosed conflict of interest in due course.

Upon return to the Southern District of Texas Candace Curtis obtained a preliminary injunction and, on that same day, Bayless filed non-probate related tort claims [[Tab 25](http://www.probatemafia.com/Brunsting/Tab%2025%20Carl%27s%20Original%20April%209%2C%202013%20Petition%20412249-401%20PBT-2013-115617_Certified.pdf)] in the probate court, (No. 412249-401) as ancillary to a closed estate, in an independent administration of a pour-over estate, after the inventory had been approved and the estate administration closed, in violation of Disciplinary Rules 3.01, 3.02, 3.03.

In short Bayless intentionally segregated the estate planning bait and switch grifters from their victims; the intended beneficiaries of the settlor’s estate planning law firms’ products and services.

With the estate planning attorneys sequestered in the district court and the trust held hostage in the probate court Bayless resigns her incapacitated independent executor [[Tab 27](http://www.probatemafia.com/Brunsting/Tab%2027%202015-02-19%20Case%20412248%20PBT-2015-57597%20Carl%20Resignation_Certified.pdf)] and began signing agreements [Tab [28](http://www.probatemafia.com/Brunsting/Tab%2028%202015-02-20%20Case%20412249-401%20Agreed%20Docket%20Control%20Order_Certified.pdf) & [29](http://www.probatemafia.com/Brunsting/Tab%2029%20%202015-03-05%20Agreed%20Order%20to%20Consolidate%20412249-402%20into%20412249-401_Certified.pdf)] with the other participating attorneys.

## HANNAH v. HATCHER

Bayless filed Carl Brunstings non-probate tort suit in Harris County Probate Court April 9, 2013. Bayless filed Hannah v Hatcher in August 2013. Bayless wrote a [plea to the jurisdiction](http://www.probatemafia.com/Brunsting/Tab%2080c1%202013-11-1%20Hannah%20-%20Bayless%20Plea%20to%20the%20Jurisdiction.pdf) and [petition for writ of mandamus](http://www.probatemafia.com/Brunsting/Tab%2080c1%202013-11-1%20Hannah%20-%20Bayless%20Plea%20to%20the%20Jurisdiction.pdf) No. 14-14-00126-CV, In Re Julie Hannah, effectively arguing that the tort claims she filed in the district court were not probate claims. [see *In re Hannah* , [431 S.W.3d 801](http://www.probatemafia.com/Brunsting/Tab%2080c3%202014-05-13%20IN%20RE%20%20Julie%20HANNAH.pdf)] The ringer is [Mortensen v Villegas](http://www.probatemafia.com/Brunsting/2021-02-01%20Hannah%20-%20Mortensen%20v.%20Villegas.pdf) 630 S.W.3d 355! Mortensen is a judicial analysis of In re Hannah *In re Hannah*, 431 S.W.3d 801, 807-08 (Tex. App.—Houston [14th Dist.] 2014. In essence, [Bayless petition](http://www.probatemafia.com/Brunsting/Tab%2080c2%202014-02-11%20Hannah%20Petition%20for%20writ%20of%20mandamus%20filed.pdf) and the opiniuon of the Court of appeal both show that Bayless knew Carl’s probate court claims were not probate realted claims and that the Statutory Probate Court had no subject matter jurisdiction.

At a deposition July 3, 2015, [[Tab 74](http://www.probatemafia.com/Brunsting/Tab%2074%202015-02-03%20Case%202013-05455%20BRUNSTING%2C%20CARL%20H.-1%20Deposition%20of%20Carl%20H.%20Brunsting.pdf), [p.77](http://www.probatemafia.com/Brunsting/Tab%2074%20Pages%2077-78%20from%202015-02-03%20Case%202013-05455%20BRUNSTING%2C%20CARL%20H.-1%20Deposition%20of%20Carl%20H.%20Brunsting.pdf) ln 16-25] Carl testified that he had already paid attorney Bayless a quarter of a million dollars. That was more than eight years ago and none of Carl’s claims have been resolved.

# Attorney Jason B. Ostrom Texas State Bar No. 24027710, Fed. Id. No. 33680

There is no rule this attorney did not break. His conduct in this case was absolutely reprehensible but the late Jason Bradley Ostrom (Ostrom) is no longer of concern to the Bar and no longer a threat to public justice. It should be noted that Ostrom appeared as a pro se defendant in the honest services fraud case (SDTX 4:16-cv-1969) and also represented co-defendant Attorney Gregory Lester, Texas State Bar No. 12235700, against the client he betrayed.

Attorney Gregory Lester, Texas State Bar No. 12235700 was appointed Temporary Administrator for the sole purpose of evaluating the pending “claims” (Tex. Est. Code § 22.005). We will get to the fraudulent temporary administrator and his report in due course but Ostrom representing RICO co-conspirator, co-defendant, Gregory Lester against his former client was a violation of Disciplinary Rule 1.06 et seq. Ostrom also lied to the federal tribunal, claiming the honest services fraud case arose from a “probate case” [SDTX NO. 4:16-cd-1969 Doc 78 p.1] (Disciplinary Rule 3.03 et seq.)

“It is settled law that a trustee is not entitled to expenses related to litigation resulting from the fault of the trustee. See **duPont v** **. S. Nat'l Bank** , [575 F.Supp. 849, 864](https://casetext.com/case/dupont-v-southern-nat-bank-of-houston-texas#p864) (S.D. Tex. 1983), modified, [771 F.2d 874](https://casetext.com/case/dupont-v-southern-nat-bank-of-houston-tex) (5th Cir. 1985). ” Goughnour v. Patterson, No. 12-17-00234-CV, at \*25-26 (Tex. App. Mar. 5, 2019)

Nelva passed 11/11/2011. Anita was unable to produce a competent accounting and had already made her plans to steal the family trust well known. Candace filed a breach of fiduciary suit 109 days after Nelva passed (2/27/2012). The case was dismissed under the probate exception then reversed by the 5th Circuit [[Tab 2](http://www.probatemafia.com/Brunsting/Tab%202%202013-01-09%20%20Curtis%20v.%20Brunsting%20704%20F.3d%20406%205th%20Circuit%20Jan%202013.pdf)]. Upon returning to the Southern District of Texas with no accounting having been produced, Candace applied for a preliminary injunction.

Anita claims to have become sole trustee on 12/21/2010. The injunction hearing was had April 9 2013.

## Breach of fiduciary has three elements.

1. The existence of a fiduciary relationship.

2. The fiduciary’s failure to perform the obligations owed to the beneficiary

3. Benefit to the fiduciary (trustee) or injury to the beneficiary as a result of the trustees failure to perform.

The memorandum of preliminary injunction [[Tab 4](http://www.probatemafia.com/Brunsting/Tab%204%202013-04-19%20Doc%2045%20Memorandum%20of%20Preliminary%20Injunction%20Certified.pdf)] established the existence of a fiduciary relationship (1). Anita Brunsting and Amy Brunsting owe fiduciary obligations to Candace Curtis. (2) that Anita’s had failed to perform the obligations required by the trust - based upon the instruments Anita submitted to the Court; that Anita had failed to establish books and records of accounts after more than two years as trustee and failed to disclose unprotected trust instruments. (3) A May 9, 2013 Order appointing a Special Master [[Tab 5](http://www.probatemafia.com/Brunsting/Tab%205%202013-05-09%20Case%204-12-cv-592%20%5BDoc%2055%5D%20Order%20Appointing%20West%20-%20Special%20Master.pdf)] verified how Anita caused the litigation to be brought by her failure to account and the Report of the Special Master [[Tab 6](http://www.probatemafia.com/Brunsting/Tab%206%20%202013-08-08%20Case%20%204-12-cv-592%20Doc%2062%20Report%20of%20Special%20Master.pdf)] filed August 8, 2013 revealed self-dealing and other undisclosed transactions Anita had performed that benefitted only her or her, Amy and Carole. One example is $40,000 in personal credit card debt paid directly out of a trust checking account. Anita labeled that as “trustee compensation” but failed to perform her trustee duties and made no record of any fiduciary acts that would justify “compensation”.

On January 6, 2014 Houston attorney Jason Bradley Ostrom (Ostrom) filed Notice of Appearance in the SDTX as counsel of record for Candace Curtis [[Tab 8](http://www.probatemafia.com/Brunsting/TAB%208%20%202014-01-06%20Ostrom%20Appearance%20in%204-12-cv-592.pdf)]. At this juncture an accounting had been produced and all that was necessary was for previous distributions to be equalized among the beneficiary’s and the remaining assets divided by 5. However, there is no indication that Anita had any intentions of performing those obligations but fully intended on causing litigation to be brought so she could play the In Terrorem card, as was stated in Curtis original complaint [[Tab 1](http://www.probatemafia.com/Brunsting/Tab%201%202012-02-27%20Doc%201%20Case%20412-cv-592%20Curtis%20Original%20Federal%20Complaint_verified%20not%20Certified.pdf)]. That complaint also mentioned hearsay of Anita wiretapping Nelva’s phone and stalking her emails. All of this gets verified in due course.

Rather than resolve the fiduciary issue and settle the trust, Ostrom perpetrated fraud in order to obtain an order for Remand.

May 9, 2014 Ostrom filed a 1st amended complaint to pollute diversity [[Tab 9](http://www.probatemafia.com/Brunsting/Tab%209%202014-05-09%20Ostrom%E2%80%99s%20Motion%20to%20Amend%20federal%20Complaint_certified.pdf)], and on May 9, 2014 Ostrom filed an unopposed Motion to “**Remand**” the non-probate case to Harris County Probate Court No. 4 [[Tab 10](http://www.probatemafia.com/Brunsting/Tab%2010%202014-05-09%20federal%20motion%20for%20remand.pdf)], from which the case had never been removed. Ostrom never even filed notice of appearance in the state probate court but simply started filing documents and signing agreements. May 28, 2014 Ostrom filed a Motion to Enter a Transfer Order. The order approving the federal remand as a transfer was entered June 5, 2014 [[Tab 26](http://www.probatemafia.com/Brunsting/Tab%2026%20%202014-06-05%20412249-401%20Motion%20to%20Enter%20Remand%20as%20a%20Transfer%20and%20Order%20Accepting%20Transfer%20Certified.pdf)] February 9, 2015 Estate of Nelva Brunsting No. 412249-402 was opened, and was allegedly the federal case remanded/transferred to the probate court.

February 17, 2015, incapacitated independent executor Carl Henry Brunsting tendered his resignation and substituted his wife Drina as his attorney in fact. [[Tab 27](http://www.probatemafia.com/Brunsting/Tab%2027%202015-02-19%20Case%20412248%20PBT-2015-57597%20Carl%20Resignation_Certified.pdf)]. Three days later, February 20, 2015, Ostrom and the participating attorneys all signed an Agreed Docket Control Order [[Tab 28](http://www.probatemafia.com/Brunsting/Tab%2028%202015-02-20%20Case%20412249-401%20Agreed%20Docket%20Control%20Order_Certified.pdf)] and March 5, 2015 the participating attorneys all signed an Agreed Order to Consolidate “estate of Nelva Brunsting 412,249-402” with “estate of Nelva Brunsting 412,249-401” [[Tab 29](http://www.probatemafia.com/Brunsting/Tab%2029%20%202015-03-05%20Agreed%20Order%20to%20Consolidate%20412249-402%20into%20412249-401_Certified.pdf)].

## The question at this juncture is where is the federal plaintiff’s lawsuit?

The probate court docket [ROA.20-20566.2869] shows that Ostrom did not even bother to file an appearance in Harris County Probate Court No. 4, but simply filed a motion to enter a transfer order [ROA.20-20566.2684-2690] and then entered into agreements culminating in a merger so complete [ROA.20-20566.2693-2696] that it deprived Appellant of her separate legal identity and substantial rights. In this manner Appellant’s own counsel, in concert with other attorney’s, robbed Candace Curtis of her right to due process, her right to equal protection of the law, her legal work product and access to the benefit of the unanimous opinion of the 5th circuit court in the very cause in which it was obtained. (Curtis v Brunsting 704 F.3d 406)

# Attorney Stephen A Mendel, Texas State Bar No. 13930650

Defendant’s Anita Brunsting and Amy Brunsting appeared in SDTX No. 4:12-cv-592 represent by their parent’s disloyal estate planning attorneys (Bernard Lyle Matthews III) but changed to attorneys from Thompson Coe for the Fifth Circuit appeal [No. 12-20164]. George Vie III appeared in the federal court and Maurene McCutcheon appeared in the state probate court. Affiant has no complaints regarding the conduct of the Mills Shirley Attorneys.

After the fraudulent “REMAND” to the state probate court and a pointless mediation, Mills Shirley Attorney Maurene McCutcheon, unwilling to descent to the level of moral depravity required by her client’s intentions, filed a motion for leave to withdraw citing conflicts between the law firm and their clients.

Stephen A Mendel made his appearance November 14, 2015 and page one of the very first pleading Mendel filed [[Tab 54](http://www.probatemafia.com/Brunsting/Tab%2054%202014-12-05%20Case%20412249-401%20%20Anita%20Objection%20to%20Carl%20and%20Candy%20distribution.pdf)] December 5, 2015 makes four claims:

1. Distributions to pay legal-fee creditors are not authorized by the trust and, therefore, the motions must be denied.

2. Distributions to pay legal-fee creditors are prohibited by the trust and, therefore, the motions must be denied.

3. The Court lacks jurisdiction to decide the distributions for legal-fee creditor issue because there are no allegations of fraud, misconduct, or clear abuse of discretion with respect to Candace's and Carl's request that the trust pay their attorneys' fees.

4. If the Court finds the in terrorem clause is enforceable, then Candace and Carl have no right to any distribution from the trust.

There it is, Number 4, the intimidation artifice. Don’t forget sanctions and the vexatious litigant label.

February 17, 2015, incapacitated independent executor Carl Henry Brunsting tendered his resignation and substituted his wife Drina as his attorney in fact [[Tab 27](http://www.probatemafia.com/Brunsting/Tab%2027%202015-02-19%20Case%20412248%20PBT-2015-57597%20Carl%20Resignation_Certified.pdf)]. The very next day, February 20, 2015, Mendel Law firm attorney Brad Featherston and the participating attorneys all signed an Agreed Docket Control Order [[Tab 28](http://www.probatemafia.com/Brunsting/Tab%2028%202015-02-20%20Case%20412249-401%20Agreed%20Docket%20Control%20Order_Certified.pdf)] and March 5, 2015 the participating attorneys all signed an Agreed Order to Consolidate “estate of Nelva Brunsting 412,249-402” with “estate of Nelva Brunsting 412,249-401” [[Tab 29](http://www.probatemafia.com/Brunsting/Tab%2029%20%202015-03-05%20Agreed%20Order%20to%20Consolidate%20412249-402%20into%20412249-401_Certified.pdf)], and closing the -402 docket, effectively converting the federal plaintiff into a state court co-plaintiff/defendant in Carl’s (Bayless) probate case.

Curtis fired Ostrom immediately upon discovering his treachery and the Agreed Order to Consolidate [[Tab 29](http://www.probatemafia.com/Brunsting/Tab%2029%20%202015-03-05%20Agreed%20Order%20to%20Consolidate%20412249-402%20into%20412249-401_Certified.pdf)] quickly disappeared from the docket record.

After illegal WIRE TAP recordings[[1]](#footnote-2)[[2]](#footnote-3) were disseminated by the Mendel law firm via certified mail in July 2015, the “Agreed Docket Control Order” [[Tab 28](http://www.probatemafia.com/Brunsting/Tab%2028%202015-02-20%20Case%20412249-401%20Agreed%20Docket%20Control%20Order_Certified.pdf)] and dispositive motions hearings were displaced by Bayless Emergency Motion for a Protective Order [[Tab 72](http://www.probatemafia.com/Brunsting/Tab%2072%202015-07-22%20Emergency%20Motion%20for%20Protective%20Order.pdf)]. See transcript [Tab 63]. We didn’t see another Docket control Order until June 2021 [[Tab 75](http://www.probatemafia.com/Brunsting/Tab%2075%202021-06-11%20Docket%20control%20Order.pdf)]. Let’s see where we are in the [war of attrition](http://www.probatemafia.com/Brunsting/DCO%20issued%20June%2010%202021%20412249-401%20vs%20DCO%202015.pdf), nothing resolved to date and everything is still pending. Judge Christine Butts never ruled on a single dispositive or declaratory issue.

In the Honest Services Fraud case [[SDTX 4:16-cv-1969](http://www.probatemafia.com/Brunsting/SDTX%204-16-cv-1969%20RICO%20files.zip)] Mendel claimed the allegations stemmed from a probate case ([Steven Mendel Doc 36](http://www.probatemafia.com/Brunsting/2016-09-30%20Case%204-16-cv-01969%20Doc%2036%20Filed%20in%20TXSD%20on%20stephen%20Mendel%20Rule%2012%20Motion.pdf) p2, 6) and used the words “probate court” redundantly. Mendel was also accused of extortion and obstruction of justice. The proof of extortion comes in the form of a “pre-settlement accounting” [[Tab 57](http://www.probatemafia.com/Brunsting/Tab%2057%20Pre-settlement%20accounting%20Certified%2018070048-%20C%23%204%20Answer%20%26nbsp;.pdf)] where the attorneys were demanding their fees be paid “off the top”, a/k/a from the trust. So much for [Mendel’s December 5, 2014 pleading](http://www.probatemafia.com/Brunsting/2014-12-05%20Case%20412249-401%20%20Anita%20Objection%20to%20Carl%20and%20Candy%20distribution.pdf) that:

1. Distributions to pay legal-fee creditors are not authorized by the trust and, therefore, the motions must be denied.

&

2. Distributions to pay legal-fee creditors are prohibited by the trust and, therefore, the motions must be denied.

Mendel engaged in nothing but obstruction and evasion while making verbal threats of disinheritance in effort to force beneficiary Candace Curtis to capitulate to his ransom demands. He did not put his larceny on paper until his March 5, 2021 “settlement proposal” [[Tab 57](http://www.probatemafia.com/Brunsting/Tab%2057%20Pre-settlement%20accounting%20Certified%2018070048-%20C%23%204%20Answer%20%26nbsp;.pdf)], where he completely ignored his December 5, 2015 arguments against distributing anything to the beneficiary. [[Tab 54](http://www.probatemafia.com/Brunsting/Tab%2054%202014-12-05%20Case%20412249-401%20%20Anita%20Objection%20to%20Carl%20and%20Candy%20distribution.pdf)]

Tex. Prop. Code

Sec. 101.002. LIABILITY OF TRUST PROPERTY.

Although trust property is held by the trustee without identifying the trust or its beneficiaries, the trust property is not liable to satisfy the personal obligations of the trustee.

Sec. 112.038. FORFEITURE CLAUSE. (a) A provision in a trust that would cause a forfeiture of or void an interest for bringing any court action, including contesting a trust, is enforceable unless in a court action determining whether the forfeiture clause should be enforced, the person who brought the action contrary to the forfeiture clause establishes by a preponderance of the evidence that:

(1) just cause existed for bringing the action; and

(2) the action was brought and maintained in good faith.

(b) This section is not intended to and does not repeal any law, recognizing that forfeiture clauses generally will not be construed to prevent a beneficiary from seeking to compel a fiduciary to perform the fiduciary's duties, seeking redress against a fiduciary for a breach of the fiduciary's duties, or seeking a judicial construction of a will or trust.

Mr. Mendel and his client have been in perpetual violation of the federal preliminary injunctions [[Tab 4](http://www.probatemafia.com/Brunsting/Tab%204%202013-04-19%20Doc%2045%20Memorandum%20of%20Preliminary%20Injunction%20Certified.pdf)] command to deposit income into an appropriate account for the beneficiary. Instead, Mendel has allowed his client to pay excess taxes directly resulting from the trustees’ refusal to distribute anything to the beneficiary. (see reference to “incurred debt” ROA.20-20566.2886) [[Tab 100](http://www.probatemafia.com/Brunsting/Tab%20100%202021-01-03%20ROA%2020-20566.pdf)] The exercise of a cestui que right to hold the trustee accountable cannot be diminished, let alone perverted into violation of an in Terrorem clause. Disciplinary Rule 3.01.

Tex. Prop. Code Sec. 112.032. ACTIVE AND PASSIVE TRUSTS; STATUTE OF USES. (a)

Except as provided by Subsection (b), title to real property held in trust vests directly in the beneficiary if the trustee has neither a power nor a duty related to the administration of the trust.

(b) The title of a trustee in real property is not divested if the trustee's title is not merely nominal but is subject to a power or duty in relation to the property.

Mendel showed his true colors when he filed a ranting Motion for Summary Judgement claiming Curtis violated a no-contest clause by refusing to capitulate to their ransom demands [[Tab 76](http://www.probatemafia.com/Brunsting/Tab%2076%202021-11-05%20Co-Trustees%27%20Motion%20for%20Summary%20Judgment.pdf)]. Mendel’s fee statement [[Tab 51](http://www.probatemafia.com/Brunsting/TAB%2051%202022-03-04%20A%20Co-Trustees%20Anita-Mendel%20-%201st%20Supp.%20Resp%20%26%20Prdctn%20to%20RFD_modified.pdf)] does not show Anita Brunsting having ever paid Mendel a dime. See Disciplinary Rule 1.08 (e)(h) & Note 7. Mendel by advancing credit for his services and demanding his fees be paid from the trust, has attempted to acquire an interest in the trust thereby acquiring a proprietary interest in the subject matter of the litigation in which he has endlessly sought to maximize his own return (champerty and maintenance) rather than representing the interests of his client and performing as an officer of the legal system and guardian of the law, Mendel has acted in the capacity of a self-interested predator. See Disciplinary Rules 3.02, 3.03, 3.04 & 3.05. See Preamble A para 1, 2, 3, 4, 5, 7, & 8.

# Attorney Gregory Lester Texas State Bar No. 12235700

[[Tab 60](http://www.probatemafia.com/Brunsting/Tab%2060%20Order%20Appting%20Temp%20Admin%20Certified%2018131898-%20C%23%204%20Application%20for%20Summary%20J%20exhibit.pdf)] After the wiretap recordings were used to eliminate the February 20, 2015 DCO and evade dispositive motions hearings, Attorney Gregory Lester was appointed Temporary Administrator for the “*estate of Nelva Brunsting*” for purposes of evaluating the “claims” in the case.

Tex. Est. Code § 52.002 CLAIM DOCKET

**(a)** The county clerk **shall** maintain a record book titled "Claim Docket" and shall record in the book each claim that is presented against an estate for the court's approval.

The Report of Temporary Administrator Gregory Lester [[Tab 59](http://www.probatemafia.com/Brunsting/Tab%2059%20Certified%2018131899-%20C%23%204%20Application%20for%20Summary%20J%20Report%20of%20temporary%20Admin.pdf)] never mentions the will of Nelva Brunsting, fails to identify any property subject to in rem claims and never mentions a single claim against the “*estate of Nelva Brunsting*”.

Instead, Temporary Administrator Gregory Lester’s Report runs straight to the In Terrorem clause in an instrument referred to as a “Qualified Beneficiary Designation and Testamentary Power of Appointment under living Trust Agreement” containing a no contest clause that includes corruption of blood. This instrument is not in evidence and the defendant alleged co-trustees will not produce the instrument and qualify it as evidence because they cannot. See [[Tab 77a](http://www.probatemafia.com/Brunsting/Tab%2077a%20Pages%20from%202017-08-13%20Appellants%20Opening%20Brief%20on%20Appeal_17-20360_RICO.pdf)]

“An honest temporary administrator’s report [ROA.17-20360.611] would have pointed these things out instead of attempting to validate the forgery called 8/25/2010 QBD.24 Defendants cling to this instrument in their assertions of fact, but refuse to produce it and qualify it as evidence. They will not because they cannot.”

Gregory Lester’s bill for services [[Tab 78](http://www.probatemafia.com/Brunsting/Tab%2078%202017%2009%2028%20Lester%20Fee%20%20Application.pdf)] shows that he spent the lion’s share of his time with Attorney Neal Spielman and his statement does not match [Jill Young’s statement](http://www.probatemafia.com/Brunsting/2017-11-16%20Jill%20Willard-Young%27s%20bill%20%2410%2C620.73.pdf) for the periods each billed for meeting with the other. Fraudulent Administrator Gregory Lester (administrator of nothing) also filed a supplement to his report that is patently false [[Tab 77](http://www.probatemafia.com/Brunsting/Tab%2077%202016-01-19%20Case%20412249%20Greg%20Lester%20Supplement%20to%20Court%20TRCP.pdf)].

#  Attorney Neal Spielman, Texas State Bar No. 00794678

Attorney Neal Spielman made his appearance on behalf of Co-Trustee Defendant Amy Brunsting shortly after the Mendel law firm made their appearance.

# Attorney Jill Willard-Young Texas State Bar No. 00797670

# Attorney Zandra E. Foley, State Bar No. 24032085

Thompson/Coe attorney representing estate planning bait and switch Grifter Candace Kunz-Freed in [**Harris County District Court 164 Cause No. 2013-05455**](http://www.probatemafia.com/Brunsting/Tab%2074%202015-02-03%20Case%202013-05455%20BRUNSTING%2C%20CARL%20H.-1%20Deposition%20of%20Carl%20H.%20Brunsting.pdf) brought by Bayless on behalf of the estates of Elmer and Nelva Brunsting. This case was abandoned by Bayless when she filed Carl’s resignation.

Attorney Zandra Foley was simultaneously [representing Clarinda Comstock](http://www.probatemafia.com/Brunsting/2016-09-27%20Comstock%20Motion%20in%20Dexel179126614293.pdf), associate Judge for Harris County Probate Court No. 4, as a co-defendant in Willie Jo Mills. See SHERRY LYNN JOHNSON vs. DAVID DEXEL, ET AL [SDTX Case 4:16-cv-03215](http://www.probatemafia.com/Brunsting/2019-03-14%20Johnston%20v.%20Dexel%20%28S.D.%20Tex.%20Mar.%2014%2C%202019%29.pdf)

# Attorney Cory S Reed, Texas Bar No. 24076640

Thompson/Coe attorney representing estate planning bait and switch Grifter Candace Kunz-Freed in [Harris County District Court 164 Cause No. 2013-05455](http://www.probatemafia.com/Brunsting/Tab%2074%202015-02-03%20Case%202013-05455%20BRUNSTING%2C%20CARL%20H.-1%20Deposition%20of%20Carl%20H.%20Brunsting.pdf) brought by Bayless on behalf of the estates of Elmer and Nelva Brunsting. This case was abandoned by Bayless when she filed Carl’s resignation.

Attorney Cory S Reed was simultaneously [representing Clarinda Comstock](http://www.probatemafia.com/Brunsting/2016-09-27%20Comstock%20Motion%20in%20Dexel179126614293.pdf), associate Judge for Harris County Probate Court No. 4, as a co-defendant in SHERRY LYNN JOHNSON vs. DAVID DEXEL, ET AL [SDTX Case 4:16-cv-03215](http://www.probatemafia.com/Brunsting/2019-03-14%20Johnston%20v.%20Dexel%20%28S.D.%20Tex.%20Mar.%2014%2C%202019%29.pdf).

### Milking the Malpractice Insurance Money Cow

Representing the Associate Judge in the probate court while also representing the estate planning bait and switch grifters in the District Court.

# County Employee/Appointee (Associate Judge) Clarinda Comstock

Clarinda Comstock was a Defendant in a wrongful death action involving Willie Jo Mills. See SHERRY LYNN JOHNSON vs. DAVID DEXEL, ET AL SDTX Case 4:16-cv-03215

County Employee/Appointee (Associate Judge) Clarinda Comstock was represented in that case by the same law firm and attorneys that are representing the Vacek & Freed estate planning attorneys in the case transferred to the probate court from the District Court with no pending estate administration and where the case has remained before Comstock without a plaintiff since Carl Brunsting resigned the office of independent executor February 19, 2015. Clarinda Comstock has never had the integrity to declare her conflicts of interest in the case.

1. [Wire Tap Recordings](http://www.probatemafia.com/Brunsting/WireTap%20Recording%20BRUNSTING%205838.wav) [↑](#footnote-ref-2)
2. [Wire Tap Recording2](http://www.probatemafia.com/Brunsting/WireTap%20Recording%20BRUNSTING%205839.wav) [↑](#footnote-ref-3)