

ESTATE OF	§	IN PROBATE COURT
	§	
NELVA E. BRUNSTING,	§	NUMBER FOUR (4) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

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CARL HENRY BRUNSTING, et al	§
	§
V.	§
	§
ANITA KAY BRUNSTING, et al	§

**Anita Brunsting’s Motion to Compel the  
Deposition of Candace Kunz-Freed**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, Anita Brunsting, files her motion to compel the deposition of Candace Kunz-Freed (“Kunz-Freed”), and would respectfully show the Court as follows:

**I. Material Facts**

Kunz-Freed, an attorney who performed estate planning work for Nelva Brunsting (the “Decedent”) is a *material witness* in this case. More specifically, Kunz-Freed prepared a trust agreement referred to as the August 25, 2010 Qualified Beneficiary Designation (the “QBD”), and notarized Decedent’s execution of same. Plaintiffs, Carl Brunsting and/or Candace Curtis, have alleged that the QBD is invalid, and that Decedent lacked the capacity to execute the QBD. Kunz-Freed, as both the attorney who drafted the QBD and the notary who witnessed its execution, has personal knowledge of the validity of the QBD and Decedent’s state of mind at that time.

## **II. Argument & Authorities**

Defendant's motion to compel should be granted for the following reasons:

1. Kunz-Freed is the only witness who can testify as to her work product, which is the QBD, and Decedent's mental state at the time that the QBD was executed.
2. The undersigned sought Kunz-Freed's cooperation as to when and where to give her deposition. In email correspondence sent to Kunz-Freed's counsel on October 31, 2018, Defendant suggested November 18, 2018, as a possible date for the deposition, and requested alternative dates if Kunz-Freed or her counsel were not available on that date. Kunz-Freed's counsel refused to respond to the October 31, 2018 correspondence, and refused to provide any alternative deposition dates.
3. Having received no response regarding the deposition, Defendant issued notice of intent to take the oral deposition of Kunz-Freed. Kunz-Freed was personally served on December 5, 2018, with a subpoena to appear for her deposition.

## **II. Prayer**

For these reasons, Defendant asks the Court to compel Kunz-Freed to give a deposition on a date certain, and grant Defendant such other and further relief, both general or special, legal or equitable, to which Defendant may be entitled.

Respectfully submitted,

*//s// Timothy J. Jadloski*

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## Certificate of Service

I certify that a true and correct copy of the foregoing was served upon the following:

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via eService, email, telefax, or first class mail, on this December 18, 2018.

*//s// Timothy J. Jadloski*

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