

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

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

NON-PARTY WITNESS CANDACE KUNZ-FREED’S RESPONSE TO AMY BRUNSTING’S MOTION FOR CLARIFICATION

TO THE HONORABLE JUDGE OF SAID COURT:

Non-Party Witness Candace Kunz-Freed (“Kunz-Freed”) files this Response to Amy Brunsting’s Motion for Clarification, and would respectfully show the Court as follows:

**I.
RESPONSE**

1. To be clear, Kunz-Freed has never and does not agree to mediate any claims pending against her. At this time, the only live claims are pending in the Malpractice Lawsuit¹. Until the recent motions on her deposition, Kunz-Freed has never formally appeared in this case. Consequently, Kunz-Freed could not have agreed to mediate a case in which she is not a party.

2. Kunz-Freed opposes any request to consolidate the pending Malpractice Lawsuit into the present action. The Malpractice Lawsuit has been pending since January 29, 2013. **Six years later** no one has brought forth any evidence to support any claim of malpractice against Kunz-Freed or the law firm by which she was employed. Furthermore, the Temporary Administrator appointed by this Court concluded Kunz-Freed’s drafting of the subject

¹ See No. 2013-05455; *Carl Henry Brunsting, et al v. Candace L. Kunz-Freed, et al*; In the 164th Judicial District Court of Harris County, Texas.

documents were proper and all legal actions taken by Nelva Brunsting were within her authority. See Exhibit "A." Therefore, there is not and cannot be a basis for maintaining the Malpractice Lawsuit.

2. There are several motions pending in the Malpractice Lawsuit which if granted will end that lawsuit. One such motion is pending on March 8, 2018. This Court should prohibit any attempt to further delay the resolution of the Malpractice Lawsuit.

3. Brunsting argues the Malpractice Lawsuit "cannot be properly adjudicated until the claims pending in the 401-Proceeding have been resolved." Stated another way, Brunsting wants (again) to deny Kunz-Freed the opportunity and right to defend herself against the pending claims. Kunz-Freed should not have to continue to wait to adjudicate the serious allegations of malpractice. Kunz-Freed should have the right to proceed now.

III. PRAYER FOR RELIEF

Non-Party Witness Candace Kunz-Freed respectfully requests that this Court issue an order denying any motion to transfer the Malpractice Lawsuit to this case. Non-Party Witness Candace Kunz-Freed requests such other and further relief to which she may show herself justly entitled.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: Cory S. Reed
Zandra E. Foley
State Bar No. 24032085
Cory S. Reed
State Bar No. 24076640
One Riverway, Suite 1400
Houston, Texas 77056
Telephone: (713) 403-8200
Telecopy: (713) 403-8299
Email: zfoley@thompsoncoe.com
Email: creed@thompsoncoe.com

**ATTORNEYS FOR NON-PARTY WITNESS
CANDACE KUNZ-FREED**

CERTIFICATE OF SERVICE

I hereby certify that pursuant to the Texas Rules of Civil Procedure, on this the 4th day of February, 2019, a true and correct copy of this document has been forwarded by certified mail, facsimile and/or e-filing to all counsel.

Stephen A. Mendel
Timothy J. Jadloski
The Mendel Law Firm, L.P.
1155 Dairy Ashford, Suite 104
Houston, TX 77079

Neal Spielman
Griffin & Matthews
1155 Dairy Ashford, Suite 300
Houston, TX 77079

Bobbie G. Bayless
2931 Ferndale
Houston, Texas 77098

Candace Louis Curtis
218 Landana St.
American Canyon, California 94503

Carole Ann Brunsting
5822 Jason St.
Houston, Texas 77074

Cory S. Reed
Cory S. Reed