

CARL HENRY BRUNSTING,
INDEPENDENT EXECUTOR OF THE
ESTATES OF ELMER H. BRUNSTING
AND NELVA E. BRUNSTING

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IN PROBATE COURT

V.

NUMBER FOUR (4)

CANDACE L. KUNZ-FREED AND
VACEK & FREED, PLLC f/k/a
THE VACEK LAW FIRM, PLLC

HARRIS COUNTY, TEXAS

**CANDACE KUNZ-FREED’S MOTION TO APPOINT PERSONAL
REPRESENTATIVE OR ADMINISTRATOR**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants Candace Kunz-Freed and Vacek & Freed, PLLC (“Kunz-Freed”) file this Motion to Appoint a Personal Representative or Administrator for the Estates of Elmer H. Brunsting and Nelva E. Brunsting, and would respectfully show unto this Honorable Court as follows:

**I.
MOTION**

1. This is a legal malpractice lawsuit filed against Kunz-Freed which has been abandoned. Carl Brunsting as Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting filed this lawsuit on January 1, 2013. On February 19, 2015, in Probate Cause 412,248, Carl filed an application to resign as executor. The Probate Court granted the application in March 2015. **Since that time, this malpractice lawsuit has been in limbo as a representative of the estate has not been assigned.**

2. Until a successor executor is appointed, there is no plaintiff to pursue the action against Kunz-Freed. Since March 2015 no one has made any attempt to replace Carl as the

representative of the estate. Four years later no one has taken any action to prosecute the malpractice claims against Kunz-Freed.

3. This case has been pending for 2,448 days. To date, Kunz-Freed has filed several dispositive motions and a motion for sanctions. All of the motions remain pending. Kunz-Freed formally requests the Court appoint a representative of the estates so they can proceed forward with defending against the claims asserted in this matter.

II.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants Candace Kunz-Freed and Vacek & Freed, PLLC pray that this Court Appoint a Personal Representative or Administrator for the Estates of Elmer H. Brunsting and Nelva E. Brunsting, and for such other and further relief, both at law and in equity, to which Defendants may show to be justly entitled.

Respectfully submitted,

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

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**ATTORNEYS FOR DEFENDANTS
CANDACE KUNZ-FREED AND VACEK &
FREED, PLLC**

CERTIFICATE OF SERVICE

I hereby certify that pursuant to the Texas Rules of Civil Procedure, on this the 16th day of October, 2019, a true and correct copy of this document has been forwarded by certified mail, facsimile and/or e-filing to all counsel.

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