

NO. 412,249-404

CARL HENRY BRUNSTING, et al. § IN PROBATE COURT
v. § NUMBER FOUR (4) OF
ANITA KAY BRUNSTING, et al., § HARRIS COUNTY, TEXAS


CARL HENRY BRUNSTING’S ORIGINAL ANSWER

TO THE HONORABLE PROBATE COURT:

COMES NOW Drina Brunsting as attorney-in-fact for Carl Henry Brunsting individually (“Carl”) filing his Original Answer to the Statutory Bill of Review filed by Candace Louise Curtis (“Curtis”), and in support thereof would respectfully show the Court the following:

I.

General Denial

 Carl generally denies all the allegations contained in Curtis’ Statutory Bill of Review and respectfully requests that Curtis be required to prove the charges and allegations contained therein by a preponderance of the evidence.

II.

Affirmative Defenses

1. In the alternative, and without waiving the foregoing, Carl asserts that to the extent Curtis complains about a lack of jurisdiction for Carl’s action, the jurisdiction for the proceeding Carl filed is not dependent only on the jurisdiction conferred by the Texas Estates Code, but is also supported by Chapter 115 of the Texas Property Code and Chapter 37 of the Texas Civil Practice and Remedies Code, just as Carl’s pleadings state. Texas Estates Code §32.006 does, however, establish this statutory probate court’s jurisdiction over actions involving trusts, and the concurrent jurisdiction shared by this statutory probate court and district courts over trust matters is also

addressed by Texas Estates Code §32.007. The concurrent jurisdiction over trust proceedings afforded to statutory probate courts under Texas Property Code §115.001(d) is not limited to matters incident to an estate or for which an estate is actually pending.

2. In the alternative, and without waiving the foregoing, Carl asserts that Curtis voluntarily brought her complaints to this court and asked it to assume jurisdiction over those complaints. Curtis' action has since been ordered consolidated under the cause number for the action Carl filed. To the extent Curtis is now somehow attempting to complain that there was no jurisdiction for the relief she sought and was granted, that conflicts with the allegations in her pleadings. Curtis' First Amended Petition does not assert jurisdiction pursuant to the Texas Estates Code.¹ Curtis' Second Amended Petition, however, filed after Curtis had brought her claims to this Court, asserts jurisdiction pursuant to §32.002(c) and 32.005 of the Texas Estates Code, but also alleges jurisdiction for her claims based on Chapter 37 of the Texas Civil Practice and Remedies Code and Chapter 115 of the Texas Property Code.

3. In the alternative, and without waiving the foregoing, Carl asserts that the order about which Curtis complains is not subject to contest by way of a bill of review. This is nothing more than an attempt to contest an adverse ruling on an interlocutory order for which no interlocutory appeal is available.

4. In the alternative, and without waiving the foregoing, Carl asserts that all legal remedies available to Curtis have not been exhausted.

¹ Curtis' First Amended Petition was filed when her case was still pending in federal court and made only federal jurisdiction allegations.

5. In the alternative, and without waiving the foregoing, Carl asserts that no fraud, accident, or wrongful act of Curtis' opponents prevented Curtis from adequately opposing any order about which she complains.

6. In the alternative, and without waiving the foregoing, Carl asserts that Curtis' own actions prevent the relief Curtis seeks.

7. In the alternative, and without waiving the foregoing, Carl asserts that Curtis is not entitled to recover attorney's fees in an action filed pursuant to Texas Estates Code Ann. §55.251.

WHEREFORE, PREMISES CONSIDERED, Carl respectfully prays that Curtis take nothing by her suit as to Carl, that Carl recover his costs, and that Carl have such other relief, both legal and equitable, to which he may be entitled.

Respectfully submitted,

BAYLESS & STOKES

By: /s/ Bobbie G. Bayless

Bobbie G. Bayless

State Bar No. 01940600

2931 Ferndale

Houston, Texas 77098

Telephone: (713) 522-2224

Telecopier: (713) 522-2218

bayless@baylessstokes.com

*Attorneys for Drina Brunsting, attorney-in-
fact for Carl Henry Brunsting*

CERTIFICATE OF SERVICE

Pursuant to the Texas Rules of Civil Procedure, I hereby certify that on June 29, 2021, a true and correct copy of this document was delivered to all counsel of record, and all other interested parties, via certified mail, return receipt requested, e-mail, facsimile, e-file service, hand delivery, and/or by other accepted method.

Stephen A. Mendel
The Mendel Law Firm, LP
1155 Dairy Ashford, Suite 104
Houston, Texas 77079

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

Cory S. Reed
Thompson, Coe, Cousins & Irons, LLP
One Riverway, Suite 1400
Houston, Texas 77056

Candice L. Schwager
Attorney at Law
16807 Pinemoor Way
Houston, Texas 77058

Carole Brunsting
5822 Jason St.
Houston, Texas 77074

/s/ Bobbie G. Bayless
BOBBIE G. BAYLESS