

NO. 412.249-401

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

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CARL HENRY BRUNSTING, § IN PROBATE COURT  
individually and as independent §  
executor of the estates of Elmer H. §  
Brunsting and Nelva E. Brunsting §  
vs. §  
ANITA KAY BRUNSTING f/k/a §  
ANITA KAY RILEY, individually, §  
as attorney-in-fact for Nelva E. Brunsting, §  
and as Successor Trustee of the Brunsting § NUMBER FOUR (4) OF  
Family Living Trust, the Elmer H. §  
Brunsting Decedent's Trust, the §  
Nelva E. Brunsting Survivor's Trust, §  
the Carl Henry Brunsting Personal §  
Asset Trust, and the Anita Kay Brunsting §  
Personal Asset Trust; §  
AMY RUTH BRUNSTING f/k/a §  
AMY RUTH TSCHIRHART, §  
individually and as Successor Trustee §  
of the Brunsting Family Living Trust, §  
the Elmer H. Brunsting Decedent's Trust, §  
the Nelva E. Brunsting Survivor's Trust, §  
the Carl Henry Brunsting Personal §  
Asset Trust, and the Amy Ruth Tschirhart §  
Personal Asset Trust; §  
CAROLE ANN BRUNSTING, individually §  
and as Trustee of the Carole Ann §  
Brunsting Personal Asset Trust; and §  
as a nominal defendant only, §  
CANDACE LOUISE CURTIS § HARRIS COUNTY, TEXAS

CARL HENRY BRUNSTING'S SECOND AMENDED EXPERT WITNESS  
DESIGNATION AND FURTHER SUPPLEMENT TO CARL'S RESPONSES  
TO ALL REQUESTS FOR DISCLOSURES

COMES NOW Drina Brunsting as attorney-in-fact for Carl Henry Brunsting, Individually, and files this Second Amended Designation of Expert Witnesses who may testify in the above-referenced cause of action and further supplement to Carl's responses to all parties' requests for disclosure:

**Expert Witnesses**

1. Carl may elicit expert testimony from the following retained experts:

- a. Bobbie G. Bayless  
Bayless & Stokes  
2931 Ferndale  
Houston, Texas 77098  
713.522.2224 - Telephone  
713.522.2218 - Telecopier  
[bayless@baylessstokes.com](mailto:bayless@baylessstokes.com)

Ms. Bayless may testify concerning attorney's fees relevant to or at issue in this case. Ms. Bayless will rely on the actions taken and the filings in the case as well as her knowledge concerning reasonable, necessary, and customary fees in matters such as this. Ms. Bayless' resume and bibliography have already been served on counsel with an earlier Designation.

- b. Alan D. Westheimer, CPA/CFF, CFE  
4544 Post Oak Place Dr., Suite 320  
Houston, Texas 77027  
713.623.8911

Mr. Westheimer may testify concerning damages suffered by Carl as a result of Defendants' actions. The documents available to Mr. Westheimer to support his opinions are the pleadings in this case, the discovery exchanged in the case, and relevant accounting documents. Mr. Westheimer's opinions will support Carl's allegations that Carl suffered damages as a result of Defendants' actions and quantify those damages which include those set forth in paragraph (d) of Carl's various Responses to Requests for Disclosure. Information is still being sought concerning the full extent of those damages and others, including potential tax consequences. Mr. Westheimer's resume and bibliography are attached to this designation.

2. Carl may also elicit testimony from the following experts who are not retained experts at the time of this designation but who may become retained experts if factors concerning Carl's condition resulting from his having suffered from encephalitis is made an issue in the case or becomes relevant to issues in the case or if Carl's capacity is attacked:

a. Shonna Piegari, M.D.  
808 Travis Street, Suite 915  
Houston, Texas 77002  
713.471.3959

Dr. Piegari's opinions will address the impact encephalitis had on Carl, Carl's care and recovery from encephalitis, and Carl's capacity. Dr. Piegari's testimony will be based on her medical knowledge of those issues and her interactions with Carl. Dr. Piegari's opinions will also confirm Carl's capacity to hire counsel to pursue this and other actions and to execute powers of attorney. Dr. Piegari's qualifications have been served on counsel with an earlier designation.

b. Charles G. Kevorkian, M.D.  
Vice Chair and Associate Professor  
Physical Medicine and Rehabilitation  
O'Quinn Medical Tower at St. Luke's  
6624 Fannin St., Suite 2330  
Houston, Texas 77030  
713.798.4061

Dr. Kevorkian's opinions will address the impact encephalitis had on Carl, Carl's recovery from encephalitis, and Carl's capacity. Dr. Kevorkian's testimony will be based on his medical knowledge of those issues and his interactions with Carl. Dr. Kevorkian's opinions will also confirm Carl's capacity to execute the power of attorney making Drina Brunsting his attorney-in-fact. Dr. Kevorkian's qualifications have been served on counsel with an earlier designation.

c. Jonathan Anthony Garza, M.D.  
Chief of Neurology  
Kelsey-Seybold Clinic  
2727 West Holcomb Blvd.  
Houston, Texas 77025  
713.442.0000

Dr. Garza's opinions will address the impact encephalitis had on Carl, Carl's continuing issues relating to the encephalitis, and Carl's needs resulting from his illness. Dr. Garza's testimony will be based on his medical knowledge

of those issues and his interactions with Carl. Dr. Garza's qualifications are being served on counsel together with this designation.

- d. Carl may also elicit expert testimony from experts who are not retained by Carl, including witnesses with expertise who may be called to testify by Candace Curtis or Defendants even though not retained as experts by those parties, as well as experts who are designated by Candace Curtis or Defendants.

### **Reservations**

Carl reserves the right to supplement this designation with additional designations of experts within the time limits imposed by this Court or any alterations of same by subsequent Court Order or agreement of the parties, or pursuant to the Texas Rules of Civil Procedure and/or the Texas Rules of Civil Evidence.

Carl reserves the right to call undesignated rebuttal expert witnesses, whose testimony cannot reasonably be foreseen until the presentation of the evidence.

Carl reserves the right to withdraw the designation of an expert and to aver positively that any such previously designated expert will not be called as a witness at trial, and to redesignate same as a consulting expert.

Carl reserves the right to elicit expert opinions or lay opinion testimony at the time of trial which would be truthful, which would be of benefit to the jury to determine material issues of fact, and which would not be violative of any existing Court Order or the Texas Rules of Civil Procedure.

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](mailto:bayless@baylessstokes.com)

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

### **CERTIFICATE OF SERVICE**

Pursuant to the Texas Rules of Civil Procedure, I hereby certify that on November 4, 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

Carole Brunsting  
5822 Jason St.  
Houston, Texas 77074

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

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

/s/ Bobbie G. Bayless

BOBBIE G. BAYLESS

*Curriculum Vitae*

**Alan D. Westheimer, CPA/CFF, CFE**

4544 Post Oak Place Drive, Suite 320

Houston, TX 77027-3104

Phone 713-623-8911 / Fax 713-623-8914

[alan@westheimercpa.com](mailto:alan@westheimercpa.com) [www.westheimercpa.com](http://www.westheimercpa.com)

**Education and Professional Qualifications**

B.S.E., University of Pennsylvania, Wharton School of Finance and Commerce, Philadelphia, PA, Major – Accounting

M.B.A., University of California, Haas School of Business, Berkeley, CA, Major – Finance

Certified Public Accountant (CPA) – Texas

Certified Fraud Examiner (CFE)

Certified in Financial Forensics (CFF)

Chartered Global Management Accountant (CGMA)

**Professional History**

*1989 – 2003 and 2007 – Present*

Sole Practitioner – Consulting practice with primary emphasis on litigation services, federal taxation matters, general business consulting, and practice management consulting for professional firms

*2004 – 2007*

Partner, Westheimer Shumberg LLP – Consulting practice with primary emphasis on litigation services, federal taxation matters, general business consulting, and practice management consulting for professional firms

*1986 – 1988*

Partner-in-Charge, Pannell Kerr Forster, Certified Public Accountants, Houston, Texas office - also Tax Partner

*1972 – 1985*

Managing Partner/Tax Partner-in-Charge, Westheimer & Company (formerly Goldberg, Westheimer & Co.), Certified Public Accountants, Houston, Texas

1972

Tax Manager, Alford, Meroney & Co., Certified Public Accountants, Dallas, Texas (now merged into Ernst & Young, LLP)

1967 – 1971

Tax Staff, Alexander Grant & Co. (n/k/a Grant Thornton, LLP) and Farb, Miller & Beerman), Certified Public Accountants, Houston, Texas

1968 – 1969

Nine month hiatus – served as controller for local steel importer while working for Alexander Grant & Co. evenings and weekends

1966 – 1967

Active duty period, U.S. Air Force Reserve - served with the 32<sup>nd</sup> Medical Services Squadron, Ellington AFB, Texas until 1972

### **Teaching Background**

Lecturer on Taxation, Jesse H. Jones Graduate School of Business, Rice University, Houston, Texas, 1982 – 1997

Lecturer of Management, Jesse H. Jones Graduate School of Business, Rice University, Houston, Texas, 1997 – 1999 and 2001 – 2005

Adjunct Professor, Bauer College of Business, University of Houston, Houston, Texas, 1995 – 2001

Adjunct Professor, College of Law, University of Houston Law Center, Houston, Texas, 2006 – 2008

### **Publications Authored**

“A Businesslike Approach to Collections,” *The Practicing CPA*, 12/89 and 01/90

“Case Study: Everyday Experience Proves Invaluable to Forensic Expert,” *CPA Litigation Service Counselor*, 06/93

“Getting Involved in the Litigation Process,” *CPA Litigation Service Counselor*, 02/95

Monthly commentary column, typically on CPA firm practice management issues, *CPA Digest*, 01/95 through 12/95 issues

“From the Field Report: Getting Your Foot in the Door, and the Real Value of Marketing Your Professional Services Firm,” *Bisk Audio Practice Management Report*, Volume 3, Issue 5, 05/97

“California Appellate Court Overturns \$42 Million Jury Verdict,” *CPA Litigation Service Counselor*, 09/97

“Getting Paid for Litigation Services,” *CPA Litigation Service Counselor*, 09/98

“Probate Disputes,” *CPA Litigation Service Counselor*, 12/98

“Why Marketing Litigation Services Is Unique,” *CPA Litigation Service Counselor*, 04/99

“Of *Daubert*, *Kumho Tire*, and Junk Accounting,” *CPA Litigation Service Counselor*, 07/99

“The Accountant and the Economist,” *CPA Litigation Service Counselor*, 11/99

“Litigation Services and Applicable Professional Standards,” Consulting Services Special Report 03-1 (co-author with five others), AICPA, New York, 2003

“To Designate Or Not To Designate, That is the Question,” *AICPA Focus Newsletter*, Sept./Oct. 2009

“Mediation: Finding the Marketing Opportunity,” *FVS Consulting Digest*, AICPA, Issue 1 – January 2011

“Watch Out for Employee Scams,” *Texas Lawyer*, 11/07/11

“Lessons Learned Through a Career of Seeing Tax Returns from All Sides,” *FVS Consulting Digest*, AICPA, Issue 24 – July 2015

### **Presentations – Speaking Engagements**

“The Effect of Excluded Cancellation of Debt Income on S Corporation Shareholder Basis”

Wednesday Tax Forum, June 27, 2000

“The Expert Shoot-Out”

Houston Bar Association Ultimate Trial Advocacy Institute, September 20, 2001

“Getting Behind the Numbers in a Litigant’s Financial Statements”

Houston Bar Association Fall/Winter CLE Seminar Series, October 28, 2004

“Tales From the Tax Shelter Wars – Too Good to be True and Too Bad to be True”

Wednesday Tax Forum, May 27, 2008

“Getting the Most Out of Your Expert Witness in Tax Cases”

Houston Bar Association Tax Section, December 17, 2008



**“Scams That Hit Lawyers”**

State Bar of Texas 27<sup>th</sup> Annual Tax Law Course, August 28, 2009

University of Texas School of Law Annual Taxation Conference, December 2011

**“Litigation Report Writing A-Z: Content of Written Expert Reports”**

Houston CPA Society Forensic & Valuation Services Seminar, April 28, 2010

**“Ethical Dilemmas Facing Financial Experts in Litigation”**

AICPA National Forensic Accounting Conference, October 1, 2010

Houston Bar Association All Day Ethics Program, February 5, 2011

Houston CPA Society Forensic & Valuation Services Seminar, May 5, 2011

Houston Bar Association Civil/Appellate Bench Bar Institute, May 5, 2011

Wednesday Tax Forum, May 24 & June 14, 2011

Houston Bar Association Spring/Summer 2011 Seminar Series, July 28, 2011

Association of Certified Fraud Examiners – Houston Chapter – January 10, 2012

Texas Society of CPAs 2012 CPE Expo, December 2012

Houston Women’s Society of CPAs 35<sup>th</sup> Annual Seminar, February 10, 2018

Houston CPA Society Forensic & Valuation Services Seminar, April 25, 2018

**“Litigation & Divorce Tax Traps & Tips”**

Houston Bar Association Fall/Winter CLE Seminar Series, November 12, 2010

**“Justice in Amerika – The Matt Seiffert Tax Court Decisions”**

Wednesday Tax Forum, September 23, 2014

**“Lessons Learned Through a Career of Seeing Tax Returns from All Sides”**

Houston CPA Society FVS Committee, December 2, 2015

**Professional Memberships**

American Institute of Certified Public Accountants

Texas Society of Certified Public Accountants

Houston CPA Society

Association of Certified Fraud Examiners & Houston Area Chapter

American Bar Association (Associate Member)

Houston Estate and Financial Forum

Houston Business & Estate Planning Council

Wednesday Tax Forum

Tax Procedure Group

Turnaround Management Association

**Professional Activities**

American Institute of Certified Public Accountants (AICPA), Member, Forensic and Litigation Services Committee, 2008 – 2011; Member, Responsibilities of Litigation Practitioners Task Force, 2000 – 2003

Texas Society of Certified Public Accountants (TSCPA), Member, Board of Directors, Litigation Services Member Section, 1997 – 2000; Member, Litigation Services Committee, 1991 – 1997

Houston CPA Society, Member, Forensic & Valuation Services Committee, 1990 – 2018

Houston Estate and Financial Forum, Member, Board of Directors, 1972 – 1975 and 1993 – 2006; President, 2004 – 2005, Vice-President, 2003 – 2004, Secretary, 2002 – 2003, Treasurer, 2001 – 2002

State Bar of Texas, Public Member, District 4B Grievance Committee, 1993 – 1999

Selected by *Accounting Today* as one of The 100 Most Influential People in Accounting, 1994 and 1995

University of Houston Executive MBA Alumni Association Distinguished Faculty Award for Teaching Excellence, 1998

*CPA Digest*, Editorial Advisor, 1991 – 1994; Editor, 1995

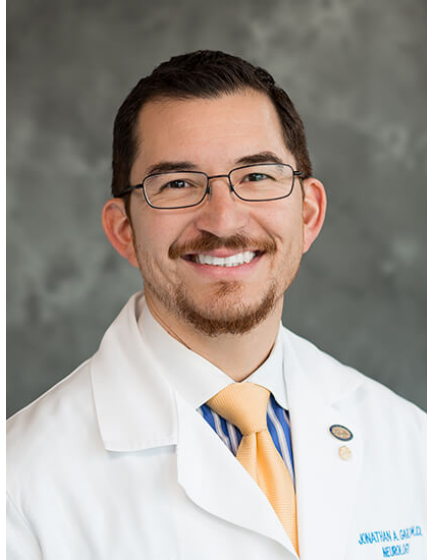
*CPA Litigation Service Counselor*, Editorial Advisor, 1993 – 1999

*Accounting Today*, Editorial Advisor-Taxation, 1993 – 2000

*FVS Consulting Digest* (AICPA), Member, Technical Advisory Board, 2010 – Present

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 Kelsey-Seybold Clinic



# Jonathan Garza, MD

Neurology

Sees Patients At:

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Berthelsen Main Campus

2727 West Holcombe Blvd.  
Houston, Texas 77025  
Telephone: 713-442-0000

Spring Medical and Diagnostic Center

15655 Cypress Woods Medical Drive, Suite 100  
Houston, Texas 77014  
Telephone: 713-442-1700

□

## **Specialty**

Neurology

## **Language(s) Spoken**

English

## **Joined Kelsey–Seybold**

August 2008

## **Accepting New Patients?**

Yes

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## **Professional Background**

Dr. Jonathan Garza is Chief of Neurology at Kelsey-Seybold Clinic.

After earning his medical degree from Columbia University College of Physicians and Surgeons in 2003, Dr. Garza completed his internship and residency at The University of Texas Health Science Center at Houston.

## **Professional Associations**

Dr. Garza is a member of the American Medical Association, American Academy of Neurology and the Harris County Neurological Society.

## **Hobbies and Interests**

When not caring for patients, Dr. Garza enjoys spending time with his wife and two daughters. In his spare time, he also enjoys reading, rock climbing and traveling with his family.

## **Medical School**

Columbia University College of Physicians and Surgeons, 2003

## **Internship/Residency**

The University of Texas Health Science Center at Houston, Internal Medicine/Neurology

## Board Certifications

American Board of Psychiatry and Neurology

## Hospital Affiliations

CHI St. Luke's Health - Baylor St. Luke's Medical Center

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*I believe in healing through smart medicine, compassion, and empathy.*

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## Awards & Recognitions

- President's Scholar at Southern Methodist University, Dallas, Texas
- Dean's Scholar at The University of Texas at Austin
- Tier 1 of Alpha Phi Omega
- Beta Beta Beta Biological Honor Society
- Golden Key National Honor Society
- NIH Research Project, Columbia Presbyterian Hospital, Neurological Institute: Center for Movement Disorders.
- Scholarship, Gladys Brooks Foundation
- Arnold P. Gold Humanism In Medicine Honor Society
- Chief Resident for Department of Neurology Residency Program

## Publications

- Garza J. A case of statin-associated myopathy at the 29th Annual Carrell-Krusen Symposium. Journal of Clinical Neuromuscular Disease. March 2007; Volume 3.
- Garza JA, Louis ED, Ford B. Long-term outcome of psychogenic movement disorders. Neurology 2001; 55 (Suppl): A120.

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Bobbie Bayless  
Bar No. 01940600  
bayless@baylessstokes.com  
Envelope ID: 58854422  
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Associated Case Party: CAROLEANNBRUNSTING

Name	BarNumber	Email	TimestampSubmitted	Status
Carole AnnBrusnting		cbrunsting@sbcglobal.net	11/4/2021 11:31:50 AM	SENT

Associated Case Party: ANITAKAYBRUNSTING

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Stephen A.Mendel		info@mendellawfirm.com	11/4/2021 11:31:50 AM	SENT

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Candice Schwager		candiceschwager@icloud.com	11/4/2021 11:31:50 AM	SENT

Associated Case Party: NealeSpielman

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Associated Case Party: BOBBIEG.BAYLESS

Name	BarNumber	Email	TimestampSubmitted	Status
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Case Contacts

Name

### Automated Certificate of eService

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#### Case Contacts

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Candace CurtisCurtis		occurtis@sbcglobal.net	11/4/2021 11:31:50 AM	SENT
Carole BrunstingBrunsting		cbrunsting@sbcglobal.net	11/4/2021 11:31:50 AM	SENT
Candice L. Schwager		candiceschwager@icloud.com	11/4/2021 11:31:50 AM	SENT
Bradley Featherston		brad@mendellawfirm.com	11/4/2021 11:31:50 AM	ERROR

#### Associated Case Party: CARLHENRYBRUNSTIING

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#### Associated Case Party: AMYRUTHBRUNSTING

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