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REPORTER'S RECORD

VOLUME 1 OF 1

TRIAL COURT CAUSE NO. 412249-401

APPELLATE COURT NO. _____

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

* * * * *

CAROLE A. BRUNSTING'S EMERGENCY MOTION
FOR A TRUST DISTRIBUTION

* * * * *

On the 6th day of January, 2022, the following proceedings came to be heard in the above-entitled and numbered cause before the Honorable James Horwitz, Judge of Probate Court No. 4, held in Houston, Harris County, Texas:

Proceedings reported by Machine Shorthand

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VOLUME 1

(Carole A. Brunsting's Emergency Motion For A Trust Distribution)

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1 January 6, 2022 (WHEREUPON the following proceedings
2 were conducted via Zoom and YouTube:)

3 PROCEEDINGS:

4 THE COURT: All right. Good afternoon,
5 counsel. Can everybody hear me? I guess if you
6 couldn't hear me, you're not going to respond.

7 Happy New Year to each of you.

8 What I show on my docket today is an
9 Emergency Motion For Trust Distribution, and this is
10 filed by Carole Brunsting, pro se.

11 For the record, let's have each attorney
12 make an appearance and tell the Court who you represent.

13 MS. BAYLESS: Bobbie Bayless, Your Honor,
14 on behalf of Carl Brunsting.

15 MR. MENDEL: Steve Mendel on behalf of
16 Anita Brunsting, a Defendant and Co-Trustee.

17 MS. SCHWAGER: Candice Schwager on behalf
18 of Candace Curtis.

19 MR. SPIELMAN: Neal Spielman on behalf of
20 Amy Brunsting.

21 MR. REED: Cory Reed on behalf of Candace
22 Kunz-Freed and her law firm.

23 MS. CAROLE BRUNSTING: And this is Carole
24 Brunsting, pro se.

25 THE COURT: Okay. Now Ms. Brunsting, I've

1 read your emergency motion - it states that you were
2 diagnosed with cancer on December 22nd, 2021, and
3 treatment will begin at M.D. Anderson on January 3rd,
4 2022; is that still a correct --

5 MS. CAROLE BRUNSTING: Yes.

6 THE COURT: Okay.

7 MS. CAROLE BRUNSTING: That is a correct
8 statement.

9 THE COURT: And you are seeking to receive
10 an emergency distribution in the amount of a hundred
11 thousand dollars.

12 MS. CAROLE BRUNSTING: That's correct.

13 THE COURT: Okay. And let me ask the
14 counsel for the current trustees - and any of the other
15 attorneys - if you can tell me about the status of the
16 assets of the Trust or the various Trusts at this time.

17 MR. MENDEL: Your Honor, this is Steve
18 Mendel; I can do that.

19 THE COURT: All right. Go ahead.

20 STATEMENTS BY MR. MENDEL:

21 MR. MENDEL: I can give you a general
22 idea. There is a Decedent's Trust and a Survivor's
23 Trust, and the Decedent's Trust has a little over
24 \$900,000 of liquid assets. The -- of that sum, about
25 \$200,000 is sitting in a bank account, so that's the

1 most liquid.

2 With regard to the Survivor's Trust, there
3 are two accounts - there's a checking and a savings -
4 which total about \$432,000, and then there are assets
5 that are in stocks, bonds, mutual funds and things like
6 that.

7 The biggest asset - which is a non-liquid
8 asset - is real estate which is valued at \$2.1 million.

9 THE COURT: And you can imagine how many
10 cases I hear, but was there talk about selling a piece
11 of property?

12 MR. MENDEL: "Yes" is the answer. The
13 preliminary indication - unless it's changed - is that
14 four or five people were on board with the sale of the
15 real estate. And the one individual that wanted to hang
16 onto the property was Carole Brun -- hang on to a share
17 was Carole Brunsting.

18 THE COURT: So, in other words, the sale
19 didn't happen?

20 MR. MENDEL: Sale has not happened; it has
21 to proceed in a very cautious manner in order to
22 mitigate against taxes.

23 THE COURT: So, not saying that Carole
24 Brunsting would change her mind, but if she did, would
25 there still be a willing buyer?

1 MR. MENDEL: At this time, the last time
2 we checked - and it's been a few months - but it's
3 currently being farmed, and the farmer that is farming
4 the property has expressed an interest in acquiring it.
5 So, yes, there appears to be a willing buyer.

6 THE COURT: And that would be an
7 arm's-length transaction; it's not an insider or a party
8 in this litigation?

9 MR. MENDEL: That's correct, arm's-length.

10 THE COURT: Okay. Now, the Survivor's
11 Trust was, I assume, the money set aside for the
12 surviving spouse?

13 MR. MENDEL: Well, the Decedent's Trust
14 would also be taking care of the surviving spouse, and
15 then the Survivor's Trust had assets to, yes, take care
16 of the surviving spouse. The surviving spouse had
17 access to - what I'll call - both sides of the entire
18 trust transaction.

19 THE COURT: So, the successor
20 beneficiaries on both those Trusts remain the children;
21 is that correct?

22 MR. MENDEL: Remain? Subject to the
23 forfeiture provisions as set forth in the Trust and the
24 QBD, the Trust beneficiaries are the five kids.

25 THE COURT: On both of those Trusts?

1 MR. MENDEL: Yes, Your Honor.

2 THE COURT: Okay.

3 MS. SCHWAGER: Your Honor, may I --

4 THE COURT: Hold on just a moment.

5 MS. SCHWAGER: Sure.

6 THE COURT: Ms. Carole Brunsting, can you
7 hear me okay?

8 MS. CAROLE BRUNSTING: Yes, I can.

9 THE COURT: First of all, let me tell you
10 I'm sorry to hear your diagnosis. My wife is also going
11 through breast cancer treatment at M.D. Anderson and has
12 been doing so for four years. She gets chemo every
13 three weeks; just had it yesterday. So, I'm intimately
14 involved with it and I am aware of it and I empathize
15 with your situation. The mental aspect is the most
16 difficult at this point.

17 STATEMENTS BY MS. CAROLE BRUNSTING:

18 MS. CAROLE BRUNSTING: It is... I'm
19 sorry. I guess you don't realize what it's really like
20 until you're given the diagnosis.

21 THE COURT: I understand. And your
22 diagnosis is like only two-weeks old. So, you know,
23 it's still pretty fresh, and it's going to take a while
24 for you to assimilate it and --

25 MS. CAROLE BRUNSTING: And that's part of

1 the problem is because there still -- they don't have
2 the full diagnosis of everything because they make
3 updates to my chart every night; and so, I keep getting
4 more and more information. But I have to say that the
5 doctors and the people that work at M.D. Anderson are
6 some of the kindest people I've ever met in my life, and
7 they go out of their way to understand every aspect of
8 everything you're going through and make accommodations
9 because right now, I talked to my anesthesiologist
10 yesterday, and she said my stress level was too high;
11 and so, they're not really comfortable scheduling the
12 surgeries until I meet with their psychologist, and they
13 want me to try acupuncture to see if that is helpful as
14 well. So, they're trying to schedule -- they're trying
15 to rearrange their schedule so they can try and get me
16 in as soon as possible --

17 THE COURT: Is there any effort to do
18 chemotherapy before surgery?

19 MS. CAROLE BRUNSTING: Right now what
20 they're trying to do is -- my surgeon is trying to see
21 if I could qualify for a clinical trial, and that would
22 prevent surgery right away. But I haven't heard back
23 yet; but otherwise, it's going to be -- because I have
24 to wait for the biopsy to come back after the surgery.
25 So, there's going to be surgery, radiation, and then I

1 have to be on some medication for five years or --

2 THE COURT: Hold on. Hold on just a
3 second.

4 MS. CAROLE BRUNSTING: Okay.

5 THE COURT: The Court on its own motion
6 finds that the information in this matter is so
7 sensitive that it outweighs the public's need to hear
8 this, and I am ordering us to take this off of YouTube;
9 will you do that, Judge Comstock?

10 JUDGE COMSTOCK: It's done.

11 (WHEREUPON the following remaining
12 proceedings were via Zoom only)

13 THE COURT: Okay.

14 MS. CAROLE BRUNSTING: Thank you.

15 But as it was, it's going to be surgery.
16 And then the chemo oncologist said it could be surgery
17 and then I have to go through chemo first and then
18 radiation and then I still have to be on the medication
19 for five years. But the only thing is last night when
20 they update your My Chart, they -- and they did the
21 chest X-rays so I can get prior to the surgery, now
22 they've discovered that I have emphysema, and so I have
23 to get that addressed now. So, I'm waiting for the
24 appointment for that which I'm assuming is going to be
25 with Pulmonary. And so -- so, I don't know -- I mean,

1 it's just -- I mean, since your wife has been through
2 this, I'm sure you understand that it's just a process
3 that you go through and it's right now, I'm still kind
4 of in this -- I know some information, but I don't know
5 it all yet. I mean, nobody knows it all yet because I
6 still have to wait for biopsies to come back. They did
7 one biopsy on the 17th, and that's when they discovered
8 there was cancer, and they gave it a stage -- no. No, I
9 found out the stage on the 3rd, and that's when I met
10 with the surgeon, the radiologist oncologist and the
11 chemo oncologist, and they told me that in their
12 opinion - with what they knew right now - this is what
13 would happen and the time line of when it would happen.
14 And then that's when I found out that I may qualify for
15 this one clinical trial that's specifically for women
16 60-and-older. But my surgeon -- and my surgeon
17 participated in it before, but they're trying to --
18 based on the type of cancer I have, they're trying to
19 see if their response to that type of -- it's where they
20 freeze the cancer, and they're trying to see if my
21 particular kind responds to that before they're going to
22 tell me I can participate in it. So, right now, I
23 really don't know. So, otherwise --

24 THE COURT: Have they told you the
25 particular kind you have?

1 MS. CAROLE BRUNSTING: Yes. And so, I
2 really would like to --

3 THE COURT: Do you know the name of that
4 particular kind?

5 MS. CAROLE BRUNSTING: I don't know, like,
6 the exact --

7 THE COURT: Is it HER-negative?
8 HER-positive --

9 MS. CAROLE BRUNSTING: That's it. I think
10 that's it. I think that was it, what you just said.

11 THE COURT: HER-positive?

12 MS. CAROLE BRUNSTING: Yes, estrogen --
13 for estrogen. And so, I talked -- the nutritionist --
14 the doctor that's in charge in Nutrition called me
15 yesterday and told me everything being as my diet, take
16 out of my diet. And then -- I mean, I spent three hours
17 on the phone yesterday with M.D. Anderson. They just
18 call you. I mean, but you probably know all of this,
19 that they just -- they're constantly working on your
20 case and making updates and making appointments for you,
21 but I didn't realize that they really do take your --
22 they take into consideration everything, and they just
23 said that -- they asked me a whole bunch of questions
24 about between 0 and 10, and they just determined that my
25 stress level would just rise. So, that's where I have

1 to talk to the psychologist and --

2 THE COURT: Do you have anything to
3 help -- do you have anything that helps you sleep at
4 night?

5 MS. CAROLE BRUNSTING: Well, they gave me
6 a prescription for Xanax, and they're telling me to take
7 it.

8 THE COURT: It's an anti-anxiety
9 medication.

10 MS. CAROLE BRUNSTING: Yes.

11 THE COURT: I don't know that it
12 particularly helps you sleep; it could in the evening if
13 you're tired. But just let me tell you this:

14 Every cancer patient - and I'm a cancer
15 survivor and will probably be back at M.D. Anderson one
16 day myself - but you hear something, let's call that
17 "Part A," and you don't know anything more, and you put
18 your head -- you put your head down at night, and you
19 say - okay, that's going to lead to "Part B" which will
20 lead to "Part C" which will lead to "Part D" which will
21 lead to "Part E," and you wake up at 3 in the morning
22 sweating about "Part E," and --

23 MS. CAROLE BRUNSTING: Exactly --

24 THE COURT: -- "B" hasn't even happened
25 yet, and that's what your mind does. Your mind

1 absolutely cannot stand uncertainty. Lawyers are
2 somewhat trained to live with ambiguity, but when it
3 comes to their own personal life - I can testify,
4 myself - that legal training is of probably zero value.
5 And that - I call it the "what ifs." The "what ifs" at
6 nighttime are so strong that they keep you from
7 sleeping. And lack of sleep increases your fatigue; it
8 weakens your immune system. You have to sleep. And
9 whatever it takes for you to sleep - if it's Ambien or
10 Zoloft or whatever your doctor recommends - you have to
11 get some sleep every night.

12 Now --

13 MS. CAROLE BRUNSTING: I got an
14 appointment tomorrow to talk to somebody about some of
15 this.

16 THE COURT: Now, let me ask you this
17 question:

18 You have -- you -- do you have health
19 insurance? Are you 65? Do you have Medicare?

20 MS. CAROLE BRUNSTING: Well, I had
21 insurance through my --

22 THE COURT: Through Schlumberger?

23 MS. CAROLE BRUNSTING: -- yes. But my job
24 is going away.

25 THE COURT: But are you still employed

1 with Schlumberger?

2 MS. CAROLE BRUNSTING: Yes, 'til the end
3 of this month.

4 THE COURT: 'Til the end of this month?

5 MS. CAROLE BRUNSTING: Yes.

6 THE COURT: And will there be an
7 opportunity for you to obtain COBRA Insurance for, I
8 think it's, 18 months?

9 MS. CAROLE BRUNSTING: I'm assuming so,
10 but I'm not sure.

11 THE COURT: Okay. It gets expensive --

12 MS. CAROLE BRUNSTING: Yes, I know.

13 THE COURT: And your request for a hundred
14 thousand dollars is to cover a variety of what you
15 believe to be cost of treatment, ongoing care, and
16 maintenance.

17 MS. CAROLE BRUNSTING: Right. It's
18 hard -- I'm sorry, I didn't mean to interrupt. It's
19 hard for me to be able to say - I need exactly this -
20 because I simply don't know everything yet. I don't
21 know the type of surgery yet. I don't know if I'm
22 having a complete mastectomy. I don't know if it's just
23 a lumpectomy. I don't know some of this stuff yet; so,
24 the recovery time can be much different. If I do end up
25 having to have -- if I do end up having to have chemo, I

1 know I'm going to get pretty sick from that. And so,
2 I'm going to need to have caregivers here; and so, it's
3 really hard to know exactly how much I'm going to need.
4 And because I wasn't able to get the money from my Trust
5 to finish my house, there's work at my house that still
6 needs to be completed so that I can convalesce here
7 comfortably and expect for someone else to be able to,
8 you know, stay here as well. I've got to have
9 accommodations for someone else to be here. And so, I
10 did my best -- and then also, too, the bills are
11 starting to add up fairly quickly which I had no idea.
12 I get an update about every other day with new charges,
13 and that's where we haven't gotten to the surgery part
14 yet or the radiation or any of that. And so, I'm
15 thinking, okay, yeah, this is going to -- this is --
16 even my portion is probably going to get very expensive
17 at some point. But I did my best to try and allow
18 myself enough money, enough funds, so that I didn't
19 have -- because when they asked me, they said, "On a
20 scale of 1 to 10, what is your anxiety when it comes to
21 the finance?" And that was one of my key points is - I
22 don't want to have to go through this and have to worry
23 about - can I pay this? Can I pay this? Because this
24 is my Trust. This is my Trust money. It's my Trust
25 money. It's been my Trust money all along, you know,

1 for 11 years, and I've had to go without the benefit of
2 having it, and I need it. I need it. And it's going to
3 make a massive difference to me going through this and
4 coming out the other side because also, too, I signed up
5 with the American Cancer Society where they try and pair
6 you with someone who has been through the same situation
7 that you have, and I was able to speak with her last
8 night for almost two hours, and that helped quite a bit,
9 to be able to talk to somebody who's been through it,
10 and I learned a lot of information from her. And
11 there's no guarantee that it's not going to come back.
12 And so, we kind of talked about living with that, and
13 she just kind of told me what she does or how she kind
14 of gets through the day. And also, too, with this
15 medication I'm going to have to take, what it kind of --
16 what it's done to her and what she does to overcome the
17 side effects of it. And so, she's very positive. We're
18 about the same age, and she has no children. And so,
19 that was very helpful.

20 THE COURT: Do you know the name of the
21 medication?

22 MS. CAROLE BRUNSTING: It starts with an
23 "L." It's not Tamoxifen. It's not that. She said I'm
24 going to be taking one of -- it's one of three, and
25 apparently, this medication is really hard on your bones

1 and can make them kind of brittle; and unfortunately, I
2 have osteoporosis in my lower vertebrae, and so she
3 didn't like that. But she said that they have three
4 and that I may also have to be on some kind of a
5 poksamack [sic] or something like that. But the biggest
6 side effect that Brenda, that I talked to last night,
7 had is she said is joint pain.

8 THE COURT: That's a drug -- there's a
9 drug called Xgeva that gives a shot to strengthen the
10 bones, and you get that once a -- you get that once a
11 month.

12 MS. CAROLE BRUNSTING: For somebody like
13 me, I just try to take care of myself my whole life and
14 I eat healthy and I exercise and I do all the right
15 things and, you know, I'm kind of proud of myself for
16 not having ever had to take medication for diabetes or
17 high blood pressure or any of those things; but now, you
18 know, I have no choice but to have to take something. I
19 know I'm going to have to take something, and it's going
20 to be for a period of five years. I know that. I know
21 that. And then you have to go in for blood work and
22 your exam, I think it's every six months and but then
23 now --

24 THE COURT: Are you in Houston now?

25 MS. CAROLE BRUNSTING: Yes. I only live

1 about, oh, I don't know, maybe five miles from M.D.
2 Anderson. I live straight down Braeswood and turn on
3 Bertner --

4 THE COURT: I, for some reason, thought
5 you lived in California - maybe that's Ms. Schwager's
6 client.

7 MS. CAROLE BRUNSTING: Oh, no, no; I live
8 in Houston. Like I said, I'm five miles from M.D.
9 Anderson.

10 THE COURT: Okay. I got it. And, you
11 know, let me say this about the billing that you're
12 getting.

13 You know, I've practiced law for over 40
14 years. I did complex litigation involving a lot of real
15 estate, a lot of corporate mergers, and a lot of
16 high-end divorces; and the billing from M.D. Anderson
17 and its complexity and inability to be understood
18 surpasses everything I ever did as a lawyer. So, when
19 you get overwhelmed by your statement from M.D.
20 Anderson, you're in great company.

21 One of the first things I would have you
22 do is go over to the billing office and set up a payment
23 plan. And when they tell you that, okay, they want \$900
24 a month, you tell them, "I can only afford 250 a month"
25 or whatever. They'll work with you.

1 MS. CAROLE BRUNSTING: I want to be able
2 to pay them in full because I have the money.

3 THE COURT: Well, you don't need to and
4 they don't charge interest. So, you can, you know, you
5 have a payment plan that you can get.

6 Now, and of course, we started a new year,
7 so you have a new deductible that you'll incur. So,
8 there will be up-front costs that will come out now that
9 you'll probably reach your deductible rather quickly.

10 I've seen a proposed order signed by Mr.
11 Mendel regarding the distribution. And if you're on My
12 Chart with M.D. Anderson, and you have a section in that
13 called, "Test Results", am I correct?

14 MS. CAROLE BRUNSTING: Yes.

15 THE COURT: And in those test results,
16 there should be something that evidences the diagnosis
17 of a malignant tumor. I would assume that there would
18 be something to that effect.

19 MS. CAROLE BRUNSTING: There is.

20 THE COURT: Okay. Do you have the ability
21 to send that to Mr. Spielman or Mr. Mendel or any of
22 these attorneys? You know --

23 MS. CAROLE BRUNSTING: I don't know if I
24 have -- yeah -- I don't understand why I have to prove I
25 have cancer. I mean, do you really think I would make

1 this up?

2 THE COURT: I don't. But I don't think
3 it's much of a burden also to just print that out. And
4 I wouldn't put much of an imposition on you given the
5 fragile state that you are experiencing now which, by
6 the way, is totally appropriate. I would say at this
7 moment, you're probably still under some PTSD shock from
8 the diagnosis. But I think that if you would, if you
9 would simply print that out and send that to these
10 lawyers, I will sign this proposed order, but first I
11 want to hear from Ms. Schwager and Mr. Reed and Ms.
12 Bayless if they have anything they wish to say.

13 So, I'm going to start with Ms. Schwager

14 STATEMENTS BY MS. SCHWAGER:

15 MS. SCHWAGER: Thank you.

16 Your Honor, first of all, my heart goes
17 out to Carole, and I want to let her know that my
18 prayers are with her, and we support her request. And
19 we feel that if [inaudible] her house was hit by a
20 hurricane - that wasn't sufficient; and now cancer is
21 not sufficient either for a distribution according to
22 the Trustees.

23 I just want to -- I took a few notes that
24 I just wanted to add - if you don't mind - it's rather
25 short.

1 But first of all, the Trust -- Amy
2 Brunsting testified, by affidavit in the Southern
3 District of Texas, that the Trust was distributed into
4 five separate Trusts as the QBD that they're relying on
5 requires. They were Personal Asset Trusts. So, they
6 told you today that the Trust is still in two separate
7 Trusts and checking accounts; and so, that was perjury
8 and it's a lie, and it was a breach of their duties.

9 According to the QBD they rely upon,
10 Carole is the sole trustee for her share. And under
11 that instrument, the Defendants have been in the
12 wrongful possession of her personal property for more
13 than 10 years. And their demand is \$537,000 in
14 attorneys' fees; that's why they're holding us all
15 hostage. After 10 years, they've made no effort to
16 divide these assets; but instead, chosen to invoke this
17 in terrorem clause simply based on the fact that the
18 beneficiaries - including my client - are exercising
19 their right to demand accountings and hold the trustees
20 liable for the breach of the duties that they have to
21 Beneficiaries. They have no basis to continue to hold
22 this money in the first place.

23 And my thought is - the severance motion
24 that was just filed is just another attempt to snuff out
25 my client by depleting the Trust assets to this point

1 where there is nothing left. So, I would add that.

2 And, no, we're not considering that today.

3 But at any rate, I just -- there's been no
4 attorney fee bills or retainer contracts, things that
5 would even justify this extraordinary fee request. And
6 you wonder how 537,000 in fees is incurred when nothing
7 has happened in this case, in 10 years essentially.

8 So, I would only add that when my son was
9 in ICU, the bills were over a million dollars. My
10 portion was a hundred thousand; it was over a four-month
11 period. So, as you know, insurance doesn't cover
12 everything; and without a job, she's going to have
13 expenses. So, we completely support her.

14 And again, I'm very sorry that you're
15 going through this, Carole.

16 MS. CAROLE BRUNSTING: Thank you.

17 MS. SCHWAGER: I appreciate you letting me
18 speak.

19 THE COURT: Sure thing, Ms. Schwager.

20 Ms. Bayless, you wish to make any comment?

21 MR. MENDEL: Bobbie, you're on mute.

22 Bobbie, you're on mute.

23 MS. BAYLESS: I'm trying. Okay.

24 THE COURT: You're there.

25 MS. BAYLESS: Sorry, Judge.

1 THE COURT: Okay.

2 STATEMENTS BY MY BAYLESS:

3 MS. BAYLESS: Yes. You know, nobody can
4 relate to severe medical issues better than my client
5 so, and being separated from the Trust funds and trying
6 to deal with it. So we, you know, we don't oppose the
7 request by Carole, and we also are sorry about her
8 diagnosis. I think everyone's stress levels would be
9 greatly reduced by resolving this matter, and that's
10 where we're focusing our efforts - on trying to resolve
11 it. We can only do what we can do and we can't make
12 everyone want to resolve it. But that's our goal, and
13 that's where we're going to be spending our focus, and
14 that's why some of these filings have been made and that
15 Ms. Schwager referred to.

16 But as far as what we're here about today,
17 other than sympathy and support and acknowledging that
18 we can certainly relate to the stress levels and the
19 problems caused by having an asset that you can't access
20 when you need to very badly for medical issues, you
21 know, we don't oppose the distribution.

22 THE COURT: All right. Mr. Reed, I assume
23 you don't -- you represent an attorney.

24 MR. REED: Yes, Judge.

25 THE COURT: And the fact that -- you don't

1 feel the need to weigh in on this, do you?

2 MR. REED: That's correct; I don't even
3 think I have a right to speak on the issue, Judge,
4 outside of expressing sympathy.

5 THE COURT: All right. In the proposed
6 order regarding distribution - once the Defendant
7 Co-Trustees to have sole discretion to determine from
8 which account or accounts to make the distribution; what
9 are the various accounts that are possible in which to
10 make a distribution?

11 STATEMENTS BY MR. MENDEL:

12 MR. MENDEL: Well, Your Honor, with regard
13 to the Survivor's Trust, there is a Bank of America
14 checking, Bank of America savings. There's a Decedent's
15 checking account. So, in terms of very prompt
16 liquidity, those bank accounts are available. There is
17 an Edward Jones account that has liquidity, stocks,
18 bonds, mutual funds, and there are computer share
19 accounts. And so, there are several sources from
20 which - subject to what the Court decides is the
21 appropriate number - there are several sources in order
22 to make the payment.

23 THE COURT: What Trust was that?

24 MR. MENDEL: The decedent -- well, the
25 Decedent's Trust has one checking account, and the

1 Survivor's Trust has two checking accounts.

2 THE COURT: And they're all at Bank of
3 America?

4 MR. MENDEL: And they're at Bank of
5 America.

6 THE COURT'S RULING:

7 THE COURT: Okay. I got the -- that's the
8 information I wanted.

9 So, I'm going to order that she receive a
10 distribution of a hundred thousand dollars, and I want
11 that done within 36 hours after she provides written
12 confirmation of her test results to either you, Mr.
13 Mendel, or you, Mr. Spielman; and that money is to come
14 from a Bank of America checking account. I don't want
15 any of the mutual funds or the stocks, at this time,
16 sold. You know, you have a taxable problem,
17 potentially, with that. Also stock market's high and
18 may go higher. So, you're probably not earning much
19 interest on those liquid funds at Bank of America. So,
20 if --

21 MR. MENDEL: And, Your Honor, for
22 clarification, may the Trustees have the discretion to
23 pick which accounts it comes from? As long as she gets
24 a hundred grand out of Bank of America funds?

25 THE COURT: I don't -- I haven't heard

1 anything that would lead me to believe that I should
2 limit it to one particular account or another; so, I'm
3 going to allow that to happen.

4 If you can redraft your order --

5 MR. MENDEL: Yes, sir.

6 THE COURT: -- you should be able to make
7 that change pretty quickly.

8 I want Ms. Brunsting to get her money as
9 fast as possible to help reduce her stress level which
10 I'm a little sensitized to the subject, but I think it's
11 appropriate, and I'll sign this order when I get it.

12 MR. MENDEL: So, I'll modify it and send
13 it to you in a few minutes, Your Honor.

14 THE COURT: That's fine; I'll sign it as
15 soon as I get it.

16 MR. MENDEL: Should we --

17 THE COURT: If you'll -- Judge Comstock,
18 how do you want -- want him to file it or send it to you
19 by email or both?

20 JUDGE COMSTOCK: He can send it by email;
21 I'll upload it.

22 THE COURT: Okay. So, send it by email to
23 Judge Comstock.

24 MR. MENDEL: Yes, Your Honor. And then
25 for purposes of the distribution, the check? Wire?

1 Does the Court have a preference? If she wants a wire,
2 we need wiring instructions.

3 THE COURT: Let me ask Ms. Brunsting.

4 Do you have a bank account?

5 MS. CAROLE BRUNSTING: I have an account
6 with Bank of America.

7 THE COURT: Did you use the past sentence,
8 "had"?

9 MS. CAROLE BRUNSTING: I still have. I
10 have. I have -- my main checking account is with Bank
11 of America, but I did set up -- I mean, I don't -- if
12 this is considered --

13 THE COURT: Let me ask you a question.

14 In the email, in the email that you send
15 to Mr. Mendel with the test results showing that you
16 have a cancer diagnosis, okay, can you provide Mr.
17 Mendel with your account number? Is that something you
18 could be comfortable with? He can do an in-bank
19 transfer that goes from one Bank of America account to
20 another, and it can happen almost immediately.

21 MS. CAROLE BRUNSTING: Okay. I can do
22 that.

23 THE COURT: All right. So, you'll put
24 that in the email to Mr. Mendel as well, your account
25 number at Bank of America.

1 MS. CAROLE BRUNSTING: I will. Yes.

2 THE COURT: All right. Now, I think that
3 takes care of the matter that is before us. I know
4 there's been another motion filed, but that's not before
5 me right now. I'll take it up when somebody sets it for
6 a hearing. Right now, I want to close this hearing.
7 I've got other cases lined up like airplanes at La
8 Guardia Airport ready to take off. If there is nothing
9 further, I'm going to excuse -- yes, sir, Mr. Mendel?

10 MR. MENDEL: We -- since that motion is
11 now on file, can we go ahead and get a hearing date for
12 that motion to sever?

13 THE COURT: Well, I'm going to let you
14 talk to Judge Comstock about that.

15 MR. MENDEL: Okay. Yes, sir.

16 JUDGE COMSTOCK: Please reach out to Ana
17 Vaso - she sets the hearings.

18 MR. MENDEL: Okay. All right.

19 THE COURT: All right. If there's nothing
20 further, then I'm going to excuse all of you.

21 Ms. Brunsting, I wish you well. You are
22 in the best hands in the world at M.D. Anderson.

23 MS. CAROLE BRUNSTING: Yes, I'm starting
24 to realize that, and I really want to thank you so very
25 much. This really means a lot to me.

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THE COURT: All right. Good luck to
you-all. Everyone is excused.

* * * * *

1 The State of Texas)
2 County of Harris)

3
4 I, Hipolita Lopez, Official Court Reporter in and
5 for the Probate Court Number Four of Harris County,
6 State of Texas, do hereby certify that the above and
7 foregoing contains a true and correct transcription of
8 all portions of evidence and other proceedings requested
9 in writing by counsel for the parties to be included in
10 this volume of the Reporter's Record, in the
11 above-styled and numbered cause, all of which occurred
12 in open court or in chambers and were reported by me.

13 I further certify that this Reporter's Record
14 truly and correctly reflects the exhibits, if any,
15 admitted by the respective parties.

16 I further certify that the total cost for the
17 preparation of this Reporter's Record is \$217.00.
18 and was paid by MS. CANDACE CURTIS.

19 WITNESS MY OFFICIAL HAND this the 20th day of
20 January, 2022.

21 /s/ Hipolita G. Lopez
22 HIPOLITA G. LOPEZ, Texas CSR #6298
23 Expiration Date: 10-31-23
24 Official Court Reporter
25 Probate Court Number Four
Harris County, Texas
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