

ENTERED

May 03, 2022

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CANDACE LOUISE CURTIS,	§	
	§	
Plaintiff/Counterdefendant,	§	
	§	
VS.	§	CIVIL ACTION NO. H-22-1129
	§	
AMY RUTH BRUNSTING and ANITA		
KAY BRUNSTING,	§	
	§	
Defendants/Counterplaintiffs.	§	

ORDER



Candace Curtis and Carl Brunsting sued their siblings, Anita Brunsting and Amy

Brunsting, in state probate court, alleging misconduct related to the administration of a family

trust. Anita and Amy Brunsting filed counterclaims, alleging that Candace Curtis and Carl

Brunsting had forfeited their interests as beneficiaries of the trust. (Docket Entry No. 1, at 15).

Anita and Amy Brunsting later dismissed their counterclaim against their brother, Carl, leaving only the counterclaim against their sister, Candace. (*Id.*, at 16).



The probate court granted summary judgment to Anita and Amy Brunsting finding that Candace Curtis had “forfeited her interest as a beneficiary of the Trust, by taking one or more actions in violation of the Trust.” The probate court ordered that Candace Curtis “take-nothing by way of her claims against Amy [and] Anita,” and ordered her to pay attorneys’ fees to Amy and Anita Brunsting “in an amount to be subsequently determined.” (*Id.*, at 17). Candace Curtis now seeks removal from the probate court for this court to determine the remaining issue of attorneys’ fees, arguing that the “full diversity of citizenship among the parties [was restored]” when the counterclaim against Carl Brunsting was dismissed. (*Id.*, at 18).

Removal is improper. Candace Curtis filed her claims against Anita and Amy Brunsting in state court. “[T]he well-established rule is that the plaintiff, who chose the forum, is bound by that choice, and may not remove the case.” *Scott v. Commc’ns Servs., Inc.*, 762 F. Supp. 147, 150 (S.D. Tex. 1991). And because federal removal jurisdiction is determined on the basis of the pleadings on file when the case is removed, subsequent events—such as an agreement not to prosecute claims against a nondiverse party—cannot create or “restore” this court’s jurisdiction.

This civil action is remanded to the Probate Court No. 4 of Harris County, Texas. The pending motions, (Docket Entries No. 7 and 9), are denied.

SIGNED on May 3, 2022, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal". The signature is written in a cursive style with a large, sweeping flourish at the end.

Lee H. Rosenthal
Chief United States District Judge