

Prayer

Co-Trustees, Anita Brunsting and Amy Brunsting, pray that the Court grant the proposed Mediation Order, and permit the Co-Trustees, for purposes of the mediation, to serve as the representative to prosecute, defend, and/or settle the claims of the Trust against the Vacek Defendants, and grant the Co-Trustees such other and further relief, general and special, legal and equitable, to which they may be entitled.

Respectfully submitted,

// s // Stephen A. Mendel

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Attorney for Co-Trustee, Anita Brunsting

Respectfully submitted,

// s // Neal Spielman

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Attorney for Co-Trustee, Amy Brunsting

Certificate of Conference re Concurrence

I certify that the following parties concurred with the language in the proposed order:

Zandra Foley/Cory S. Reed
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Bobbie G. Bayless
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Attorney for Drina Brunsting,
Alleged Attorney in Fact for Carl Brunsting

Carole Ann Brunsting
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Pro Se

// s // Stephen A. Mendel

Stephen A. Mendel

Certificate of Conference re Opposition

The following party has not indicated if she agrees or disagrees with the language in the proposed order and, is, therefore presumed to oppose the proposed order:

Candace L. Schwager (24005603)
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2210 Village Dale Ave.
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Attorney for Candace Louis Curtis

// s // Stephen A. Mendel

Stephen A. Mendel

Certificate of Service

I certify that I served a true and correct copy of the foregoing instrument on the following:

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Pro Se

Via e-service on this February 20, 2020.

// s // Stephen A. Mendel

Stephen A. Mendel

Exhibit A

ESTATE OF NELVA E. BRUNSTING.
DECEASED

IN PROBATE COURT

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

NUMBER FOUR (4) OF

v.

CANDACE L. KUNZ-FREED &
VACEK & FREED, P.L.L.C.,
F/K/A THE VACEK LAW FIRM, P.L.L.C.

HARRIS COUNTY, TEXAS

MEDIATION ORDER

On January 10, 2020, the parties appeared before the Court on the Vacek Defendants, Candace L. Kunz-Freed, and Vacek & Freed, P.L.L.C., motion to appoint a third party representative. With the exception of Carole Brunsting, who was Pro Se, all the other parties appeared through counsel.

For purposes of this Order, the term “Parties” means Candace Curtis, Carl Brunsting, Carole Brunsting, Anita Brunsting, and Amy Brunsting, individually and in all other capacities held by them, if any, and the “Vacek Defendants.”

In addition to the Vacek Defendants’ motion, there was a general discussion of the status of other issues.

Based on the arguments of the Parties, it is, therefore, ORDERED as follows:

1. Unless the Parties agree otherwise, and notify the Court of any such agreement, the Parties shall mediate their disputes with the Hon. Mark Davidson. The mediation shall be scheduled with the mediator within fourteen (14) days from the date this Order is signed, and the mediation shall occur on or before sixty (60) days from the date this Order is signed, unless Judge Davidson’s mediation calendar does not have an available date within that time frame, in which event the mediation shall be scheduled as soon as Judge Davidson is available.
2. The Co-Trustees, Anita Brunsting and Amy Brunsting, shall serve as the representative, for purposes of the mediation, to negotiate and/or settle all claims against the Vacek Defendants. Such authority will include, but not be limited to, settlement on any terms and/or conditions as the Co-Trustees consider reasonable, including, but not limited to, dismissal with prejudice of any and all claims against the Vacek Defendants.

3. Any settlements reached at mediation by the Co-Trustees with the Vacek Defendants shall be binding on every Brunsting Party.
4. If the Co-Trustees do not settle all claims against the Vacek Defendants at mediation, the authority of the Co-Trustees to prosecute, defend and/or settle the claims against the Vacek Defendants will end and the Court will hold a hearing to determine whether the Co-Trustees will be appointed thereafter to serve as representatives to prosecute, defend, and/or settle the claims against the Vacek Defendants, or whether a different representative should be appointed.
5. The Court acknowledges that on January 16, 2020, Candace Curtis filed an objection to the Co-Trustees serving as the representatives addressing claims against the Vacek Defendants. If the case is not resolved at mediation, any other objection to the continuation of authority of the Co-Trustees may be filed prior to the hearing on that issue.
6. The Bill of Review filed by Candace Curtis is ABATED pending the conclusion of the mediation, or until further order of the Court.

SIGNED on this _____, 2020.

Presiding Judge

AGREED & APPROVED BY
THE FOLLOWING PARTIES

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Attorney for Candace Kunz-Freed
& Vacek & Freed, P.L.L.C.

Exhibit B

Steve Mendel

From: Candice Schwager <candiceschwager@outlook.com>
Sent: Tuesday, February 04, 2020 5:39 PM
To: Steve Mendel
Cc: bayless@baylessstokes.com; Neal Spielman; Reed, Cory; zfoley@thompsoncoe.com; cbrunsting@sbcglobal.net
Subject: Re: Brunsting / Draft Order

Looks good to me.

On Feb 1, 2020, at 3:17 PM, Steve Mendel <steve@mendellawfirm.com> wrote:

To All:

I forward for your review and comment a draft order for the court regarding the January 10 hearing. Please let me know what changes, if any, you might desire.

Very truly yours,
Stephen A. Mendel

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<Proposed Order re 2020-01-10 hrg.docx>

ESTATE OF NELVA E. BRUNSTING,
DECEASED

IN PROBATE COURT

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

NUMBER FOUR (4) OF

v.

CANDACE L. KUNZ-FREED &
VACEK & FREED, P.L.L.C.,
F/K/A THE VACEK LAW FIRM, P.L.L.C.

HARRIS COUNTY, TEXAS

ORDER

On January 10, 2020, the parties appeared before the Court on the Vacek Defendants, Candace L. Kunz-Freed, and Vacek & Freed, P.L.L.C., motion to appoint a third party representative. With the exception of Carole Brunsting, who was Pro Se, all the other parties appeared through counsel.

For purposes of this Order, the term "Parties" means Candace Curtis, Carl Brunsting, Carole Brunsting, Anita Brunsting, and Amy Brunsting, individually and in all other capacities held by them, if any, and the "Vacek Defendants."

In addition to the Vacek Defendants' motion, there was a general discussion of the status of other issues. Based on the arguments of the Parties, it is, therefore, ORDERED as follows:

1. The Court will take under advisement the Vacek Defendants' motion to appoint a third party representative with regard to the malpractice claim alleged against the Vacek Defendants. If any Party opposes the third party representative being the Co-Trustees, Anita Brunsting and Amy Brunsting, then such opposing Party shall file ~~their~~an objection and ~~their~~its reasons therefor ~~by Friday, February 7, 2020.~~
2. The Court acknowledges that Plaintiff, Candice Curtis, filed an objection on January 16, 2020. The Court presumes no other Party opposes the Co-Trustees from serving as the third party representative.
3. Unless the Parties agree otherwise, and so notify the Court of their agreement, if any, the Parties shall mediate their disputes with the Hon. Mark Davidson. The mediation shall be scheduled within fourteen (14) days from the date the Court makes a ruling on the third party representative to handle the malpractice claim against the Vacek Defendants, and the mediation shall be completed ~~this Order is signed, and completed~~ on or before sixty (60) days

from the date the Court makes a ruling on the third party representative to handle the malpractice claim against the Vacek Defendants ~~this Order is signed.~~

4. The Bill of Review filed by Candace Curtis is ABATED pending the outcome of the mediation or further order of the Court.

SIGNED on this _____, 2020.

Presiding Judge

APPROVED AS TO FORM
BY THE FOLLOWING PARTIES

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