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| ESTATE OF                   | § | IN PROBATE COURT     |
|                             | § |                      |
| NELVA E. BRUNSTING,         | § | NUMBER FOUR (4) OF   |
|                             | § |                      |
| DECEASED                    | § | HARRIS COUNTY, TEXAS |
| _____                       | § |                      |
|                             | § |                      |
| CARL HENRY BRUNSTING, et al | § |                      |
|                             | § |                      |
| v.                          | § |                      |
|                             | § |                      |
| ANITA KAY BRUNSTING, et al  | § |                      |

**AMY BRUNSTING’S MOTION FOR SANCTIONS AND/OR CONTEMPT**

TO THE HONORABLE JUDGES HORWITZ AND COMSTOCK:

AMY BRUNSTING (“Amy”) files this Motion for Sanctions and/or Contempt (the “Motion”) due to the conduct of Candace Louise Curtis (“Curtis”). For reasons discussed herein, Amy requests that this Court find Curtis in civil contempt and/or sanction Curtis appropriately.

**I.**

**INTRODUCTION**

Curtis is in contempt of this Court’s Order Denying Pleas and Motions filed by Candace Curtis dated February 14, 2019. Curtis has ignored this Court’s findings and orders as to her meritless jurisdictional arguments.

Curtis’ dogged pursuit of these meritless claims, both before and after entry of the Order Denying Pleas and Motions filed by Candace Curtis, reveals a disrespect for judicial authority; evidences an intent to exacerbate an already emotionally-charged matter; and continues a pattern of behavior that is either intentionally designed to harass, to waste Estate/Trust assets, and/or is recklessly pursued without regard to the law or the facts.

Most recently, despite this Court's determination that subject matter jurisdiction is proper in Harris County Probate Court No. 4, Curtis filed documents in the United States District Court for the Southern District of Texas – Houston Division in Case No. 4:12-CV-592, a matter confirmed as having been closed, remanded and terminated. The net impact of Curtis' contempt, for which she should be sanctioned, is an otherwise avoidable increase in time and expense associated with the matter, to say nothing of the years-long delays caused by her contemptable conduct.

## II.

### **DESCRIPTION OF CURTIS' CONTEMPTUOUS AND SANCTIONABLE ACTS**

The Order Denying Pleas and Motions filed by Candace Curtis expressly states that Harris County Probate Court No. 4 has subject matter jurisdiction over the Estates of Elmer and Nelva Brunsting, as well as the assets contributed to the Trust(s) related to those Estates. Further, the Order Denying Pleas and Motions filed by Candace Curtis makes it equally clear that no other court has dominant jurisdiction regarding claims related to these Estates.<sup>1</sup> The Court will recall that Curtis's own filings requested and resulted in the remand of the federal court proceeding to Probate Court No. 4.

More than thirty (30) days has passed since entry of the Order Denying Pleas and Motions filed by Candace Curtis, and Curtis took no action relative to it while the Court had plenary power. Instead on March 20, 2019 and again on or about April 12, 2019, Curtis filed the following documents in the United States District Court for the Southern District of Texas – Houston Division in Case No. 4:12-CV-592:

- Application for Orders to Show Cause Why Defendants and Their Counsel Should Not Be Held in Contempt of This Court's Injunctive Orders; and

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<sup>1</sup> See Exhibit 1 (Order Denying Pleas and Motions filed by Candace Curtis)

- Affidavit of Candace Louise Curtis in Support of Application for Orders to Show Cause.

The filing of these materials is direct evidence of Curtis' contempt. She should be found in contempt and sanctioned for her conduct.

This conduct is far from the first or only instance of Curtis' disregard for and disrespect of the judiciary. Three examples, among many, include:

1. On May 16, 2017, the Honorable Alfred H. Bennett issued a 7-page Order dismissing the Federal RICO case previously discussed with this Court as frivolous and meritless. In doing so, Judge Bennett afforded Curtis (and Rik Munson) the "benefit of the doubt" allowing them to escape financial responsibility (via sanction) for the trouble caused. However, Judge Bennett contemporaneously cautioned them against "additional meritless filings."<sup>2</sup> With flagrant disregard to Judge Bennett's instruction, Curtis and Munson proceeded to appeal his Order. The Court of Appeals subsequently affirmed Judge Bennett's Order, noting again that Curtis/Munson's allegations and efforts to pursue the matter were fantastical, nonsensical, frivolous and implausible.<sup>3</sup>
2. On October 3, 2013, prior to the remand to Probate Court No. 4, the Honorable Kenneth M. Hoyt issued an Order recognizing that Curtis' failure to employ counsel hinders necessary discourse and prevents parties from fulfilling their responsibilities, and directing her to retain counsel.<sup>4</sup> This Order prompted Curtis' retention of Jason Ostrum. However, in direct contravention of Judge Hoyt's Order, Curtis fired Mr. Ostrum shortly after the case was remanded.
3. Between August 17, 2018 and October 19, 2018, Curtis filed the Pleas in Abatement and Plea to the Jurisdiction that this Court denied via its Order Denying Pleas and Motions filed by Candace Curtis. Each of those filings was inconsistent with the May 2014 Motion to Remand Curtis filed in Case No. 4:12-CV-592 and in violation of both Judge Hoyt's Order Granting Plaintiff's Motion to Remand (dated May 15, 2014) and this Court's June 3, 2014 Order of Transfer in which this Court ordered that the pleadings and orders filed and entered in the Case No. 4:12-CV-59 are "*transferred to this Court to be held under Cause Number 412,249-401.*"

Throughout all three legal proceedings to which she is, or has been a party, Curtis has exhibited a pattern of ill-advised, unwise and contemptuous conduct, all of which occurred during

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<sup>2</sup> See Exhibit 2 (Order – Document 91 in Civil Action 4:16-CV-1969).

<sup>3</sup> See Exhibit 3.

<sup>4</sup> See Exhibit 4 (Order – Document 87 in Civil Action 4:12-CV-592).

the course of and as a result of her *pro se* status. At best, she fails to comprehend the legal process (as suggested by both Judge Hoyt and Judge Bennett). At worst, she is engaged in a calculated plan to delay, harass and unnecessarily increase costs, fees and expenses incurred by her siblings. In either instance, she seemingly fails to understand and has certainly yet to be shown that this conduct has consequences. It is well-past time that this message be sent.

### III.

#### REQUEST FOR CONTEMPT AND/OR SANCTIONS

##### A. Civil Contempt

Contempt of court is an appropriate means to enforce a court's civil order. V.T.C.A., C.P. &R., § 31.002(c). *Ex Parte Johnson*, 654 S.W.2d 415 (Tex. 1983). The contempt powers of the court are generally addressed by V.T.C.A., Government Code § 21.002. That section allows a court to punish a contemnor by a fine of not more than \$500 and/or confinement to the county jail for not more than six months. The purpose of civil contempt is remedial and coercive in nature. A judgment of civil contempt exerts the judicial authority of the court to persuade the contemnor to obey some order of the court where such obedience will benefit an opposing litigant. *Ex Parte Werblud*, 536 S.W.2d 542, 545 (Tex. 1976).

For the reasons discussed herein, Amy requests that the Court find that Curtis violated its Order Denying Pleas and Motions filed by Candace Curtis via her filings of March 20, 2019 and April 12, 2019 in the United States District Court for the Southern District of Texas – Houston Division in Case No. 4:12-CV-592. Amy requests that Curtis be fined in the maximum amount available at law (\$500.00), and that she continue to be held in contempt of court until such fine is paid.

## **B. Sanctions**

Most sanctions are imposed under the authority of a specific statute or rule that permits a court to order sanctions. However, sanctions may also be imposed via a court's inherent power. *See In re Bennet*, 960 S.W.2d 35, 40 (Tex. 1997); *see also Remington Arms Co. v. Caldwell*, 850 S.W.2d 167, 172 (Tex. 1993). This power allows a court to impose sanctions for abuses of the judicial process not covered by rule or statute, or as necessary to aid in exercise of jurisdiction, administration of justice, and preservation its independence and integrity.

Amy requests that this Court sanction Curtis, whether on its own initiative and/or under CPRC §9.012, CPRC §10.004 and/or TRCP 13. As detailed above, Curtis has engaged in conduct that has no proper purpose. Rather, her conduct evidences an intent to harass, delay and increase the costs of litigation. Even if Curtis attempts to evade the consequence of her conduct as a result of her *pro se* status, as other courts have allowed her to do to our current detriment, her conduct is at least negligent and/or founded in poor judgment.

For the reasons discussed herein, Amy requests that the Court sanction Curtis in one or more of the following ways: (1) Enjoin Curtis from making further filings in Case No. 4:12-CV-592; (2) Order that Curtis pay a monetary penalty to the Court; and/or (3) Order that Curtis pay Amy (and/or the Trust) all or any portion the Court deems appropriate of the total amount of attorney's fees incurred and/or anticipated as a result of the conduct described in this Motion.<sup>5</sup>

## **IV.**

### **PRAYER**

For these reasons addressed above, Amy Brunsting requests that the Court set this Motion for hearing, and enter all necessary and proper relief related to the issues addressed herein.

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<sup>5</sup> See Exhibit 5 (Affidavit of Neal E. Spielman)

Additionally, Amy Brunsting prays for such other and further relief (general and special, legal and equitable) to which she may be entitled, collectively, individually or in any of her representative capacities.

Respectfully submitted,

GRIFFIN & MATTHEWS

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*ATTORNEYS FOR AMY BRUNSTING*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been sent on this 15<sup>th</sup> day of May 2019, to all counsel of record/pro se parties via E-file and/or direct e-mail.

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