

**I. Docket Tampering, Criminal Conversion, Conspiracy to Steal Fiduciary Assets held in trust for the benefit of elderly and disabled beneficiaries.**

Transcript of a hearing, in which an agreement to consolidate Estate of Nelva Brunsting 412249-402 into Estate of Nelva Brunsting 412249-401, is unavailable and this would be the only reason Biamonte would be named as a necessary party defendant in the SDTX RICO case No. 4:16-cv-1969.

Agreed Order to Consolidate Cases [removed from electronic docket record](#).

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**Attorney Bobbie G. Bayless, (Bayless) Texas State Bar No. 01940600**

While the federal case involving the family trust was on appeal to the 5<sup>th</sup> Circuit Attorney Bobbie G. Bayless, (Bayless) Texas State Bar No. 01940600 used a diminished capacity Carl Brunsting to obtain letters Testamentary and obtained leave to conduct depositions before suit.

Jan 9, 2013 federal case reversed and remanded - Curtis v Brunsting 704 F.3d 406

Jan 29, 2013 Bayless filed malpractice claims against estate planning attorneys in Harris County District Court 164. Carl Brunsting as “independent executor” for both trust Settlers pour-over estates.

April 5, 2013 the inventory appraisalment and list of claims were approved for both settlors’ estates and drop orders were issued removing both estates from the active probate docket.

April 9, 2013 Preliminary Injunction issued USDC No. 4:12-cv-592

April 9, 2013 Bayless files non-probate related tort claims in Harris County Probate Court No. 4, 5 days after the close of the independent administration, naming all of the beneficiaries of the sole devisee (living trust) as Defendants, except her diminished capacity client.

The purpose of independent administration [Tab F] is to free the independent executor from judicial supervision by the probate court and to effect the distribution of an estate with minimal costs and delays. *Sweeney v. Sweeney*, 668 S.W.2d 909, 910. (Tex. App.—Houston [14th Dist.] 1984, no writ); *Burke v. Satterfield*, 525 S.W.2d 950, 955 (Tex. 1975). The Estates Code codifies this purpose by directing that after an independent executor is appointed and the inventory has been approved, "further action of any nature may not be had in the probate court except where this title specifically and explicitly provides for some action in the court", Texas Estates Code § 402.001. The record reflects that both Settlor's wills provide for independent administration. [Tab 12 p.2] [Tab 18 p.2] [Tab 50 p.13]

*"I direct that no action be required in the county or probate court in relation to the settlement of my estate other than the probate and recording of my Will and the return of an inventory, appraisal and list of claims as required by law."*

*Independent Executor Carl Brunsting exceeded the authority granted by the testator's wills [Tab 13 & 19], violated Texas Estates Code § 402.001 and lacked standing to file non-probate claims as ancillary to a closed probate, with no bonafide "claims" (Tex. Est. Code § 22.005) [Tab E] brought on behalf of, or against, the decedent's "estate" as that term is defined at Texas Estates Code § 22.012 [Tab E]. In his individual capacity Carl lacked standing to bring tort claims in a statutory probate court without a pending probate administration, see *Mortensen v. Villegas*, 630 S.W.3d 355 (Tex. App. 2021) . [Tab G]*

In filing tort claims in a probate court after the completion of the pour-over and the closing of the probate estates, violated Section 6 of both trust Settlor's wills requiring their personal representative to maintain their estate plan. Bayless exceeded the authority provided by the wills and Tex. Est. Code § 402.001.

**Attorney Jason B. Ostrom Texas State Bar No. 24027710**

The late Attorney Jason B. Ostrom Texas State Bar No. 24027710, Fed. Id. No. 33680 perpetrated frauds in obtaining the unopposed remand order and the motion to accept it as a transfer and also participated in the criminal conversion of the federal lawsuit into an estate that does not exist and had no one representing it if it did exist.

February 17, 2015, incapacitated independent executor Carl Henry Brunsting tendered his resignation and substituted his wife Drina as his attorney in fact. Carl's application to resign was approved February 19, 2015 [Tab 27]. The very next day, February 20, 2015, Ostrom and the participating attorneys all signed an Agreed Docket Control Order [Tab 28].

March 5, 2015 the participating attorneys all signed an Agreed Order to Consolidate "estate of Nelva Brunsting 412,249-402" with "estate of Nelva Brunsting 412,249-401" [Tab 29].

March 28, 2015 Candace Curtis terminated the disservices of Attorney Jason B. Ostrom and the Agreed Order to Consolidate Cases was immediately removed from the electronic docket record but the alleged ancillary case, No 412249-402, remained closed to filing.

Thus, with the help of Attorney Ostrom, the federal lawsuit vanished and Bayless had the dishonest estate planning attorneys neatly sequestered in the District Court where their Defense Attorneys languished without a plaintiff and continued to milk the insurance company money cow for keeping an eye on the non-probate case in the probate court, where the victims of their clients malfeasance are being held hostage by a cabal of attorneys pretending to litigate while working in cooperation to fleece the beneficiaries of the sole devisee in a closed independent administration of a pour-over estate.

This charade was enabled and has been maintained by the Co-Trustee Defendants (Greedy Beneficiaries) who were aided and abetted by the disloyal

estate planning attorneys in usurping the office of trustee and implementing a passive aggressive scheme to steal the family trust. That scheme is a false thesis that is self-defeating and the instrument it is ground upon is not in evidence and the proponent will not produce it and qualify it as evidence because they cannot produce it and qualify it as evidence of anything but forgery, perjury and fraud.

USDC No. 4:12-cv-592 was filed in the federal court and not a state court. The case had already visited the 5<sup>th</sup> Circuit and was unanimously held not to involve any property belonging to a decedent's estate and, pointing out that the avoidance of a probate court was one of the few benefits of a living trust!

Estate of Nelva Brunsting 412249-402 is allegedly USDC Cause No. 4:12-cv-592, "remanded" to the probate court from which it was never removed and accepted as an instate "transfer", which it was not.

In 2019, after the Honorable James Horwitz was elected Carole raised the question of the missing consolidation agreement and [Associate Judge Comstock said it never happened](#). When Bayless joined the Discussion it was [found rolling around in a drawer](#). How the agreed order was [removed from the electronic record](#) and why no written or electronic record of the "CONVERSION AGREEMENT HEARING" can be obtained has more than a fishy smell to it. Add that there was no representative for the estate(s) these agreements were being made in regard to.

**Let's go back to Carl polluting diversity.**

On January 5, 2022 Bayless filed a [Motion to Sever](#) Carl from Candace. Well, actually Bayless filed Drina's Brunsting's Motion to Sever as Carl had resigned in February 2015 and substituted Drina as his attorney in fact.

At the February 11, 2022, [hearing on the motion](#) to sever, [Bayless argued that Carl and Candace have no claims in common](#) and admitted that her client is disabled and his condition is worsening while Candace refuses to pay extortion or launder the ransom with the cleansing label of fees by settlement contract.

On February 25, 2022, after nearly nine years of stasis without a single evidentiary hearing, an [Order for summary judgment](#) was entered without finding facts or resort to law, that Candace had “forfeited” her beneficial interest in a trust share that had not been created, despite [Amy Brunstings affidavit](#) to the contrary.

On March 8, 2022 Bayless filed Drina Brunsting’s nonsuit of Co-Plaintiff Candace Curtis and on March 11, 2022 an [Order granting Drina Brunsting’s motion to sever](#) was signed.

Bayless had named Candace Curtis a defendant in the tort action she filed in probate. When Bayless resigned her incapacitated independent executor she substituted Carl’s wife Drina as his alleged attorney in fact. Then, sixteen days later, all of the participating attorneys consolidated Drina and Candace as Co-Plaintiff’s in “Estate of Nelva Brunsting” for which there is no estate, no representative and neither Carl, Candace nor Drina have individual standing.

Thus, Bayless moves to sever Candace from Drina and later files a nonsuit of her claims against Defendant/Co-Plaintiff Candace Curtis? Is there any part of this that doesn’t smell?

### **Misapplication of Fiduciary Property**

Misapplication of Fiduciary Property, in excess of \$300,000, by act or omission, [\[Texas Penal Code § 32.45\]](#) held in trust for elderly and disabled beneficiary’s [\[Texas Penal Code § 32.53\]](#) are both felonies and Texas does not make a distinction between principals and accessories. [\[Texas Penal Code §7.02\]](#)

Because Candace Curtis will not capitulate to ransom demands and refuses to ignore the published law and her parent’s intentions, the alleged Co-Trustees filed **Original Counter Claims** against the non-capitulating beneficiary in November of

2019 and motions for sanctions thereafter. These are actions forbidden of the trustee by [Article XII B of the trust](#) and therefore, were not the actions of Co-Trustees but those of thieves participating in the misapplication of fiduciary assets in excess of \$300,000 [Texas Penal Code § 32.45] held in trust for elderly and disabled beneficiary's [Texas Penal Code § 32.53].

## **II. Illegal Wiretap Recordings**

Wiretap recordings disseminated to create an excuse to avoid the original DCO. That wiretap conduct was mentioned in [Candace Curtis original affidavit](#) on February 27, 2012, as was their [passive aggressive in Terrorem plot](#).

Forfeiture Clauses (Texas Civil Practice and remedies Code Sec. 112.038(b)).

When a floor vote was taken on revisions to this statute in the 2013 session, the author of the bill read into the official proceedings a statement [that REPTL suggested] recognizing that forfeiture provisions do not apply to suits by beneficiaries to compel a fiduciary to perform his duties, seek redress for a breach of duty, or seek a judicial construction, and that the revisions were not meant to change that rule. Not satisfied with legislative history, new Subsection (b) enacts this recognition into law. (The same change was made to the Estates Code forfeiture provision in 2015.)

Thus, Anita Brunsting has proven that she caused litigation to be brought for the purpose of advancing a theory that, if true, would enlarge the claimants share. She caused litigation to be brought by failing to establish and maintain books and records, failing to disclose unprotected trust instruments and [making her plan to steal the family trust well known](#) within the family as was stated in Candace Curtis original federal petition filed in 2012.