

APR 07 2022

Nathan Ochsner, Clerk of Court

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

Candace Louise Curtis	§	
Plaintiff	§	
	§	Civil Action No. 4:12-cv-00592
Vs	§	
	§	
Anita Kay Brunsting	§	
Amy Ruth Brunsting	§	
Defendants	§	
<hr/>		
Anita Kay Brunsting, and	§	
Amy Ruth Brunsting	§	
Counter Plaintiffs	§	
	§	Civil Action No.
Vs	§	
	§	
Candace Louise Curtis	§	
Counter Defendant	§	

DEFENDANT CANDACE LOUISE CURTIS NOTICE OF REMOVAL

1. NOW COMES the above named Defendant, Candace Louise Curtis, and files this Notice of Removal and respectfully shows the Court that removal is proper pursuant to 28 U.S.C. § 1441(a) and (b)(1).
2. 28 U.S.C. § 1446 (b) is inapplicable as Defendant Candace Louise Curtis has never been personally served with the state court Plaintiff's counter claims and 30 days have not passed since the events that restored complete diversity and made Candace Curtis the sole remaining defendant in the action filed in the state court as hereinafter more fully appears.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a) as the amount in controversy exceeds \$75,000, exclusive of interest and costs, and is between citizens of different States. Venue is proper in the Southern District of Texas pursuant to 28 U.S.C. § 1391(b)(2) as a substantial part of the events or giving rise to the Defendants' counter claims occurred in Harris County Texas, within the jurisdiction of the Southern District of Texas.

CONTENTIONS OF THE PARTIES

4. Counter Plaintiff Anita Brunsting (Anita) and Counter Plaintiff Amy Brunsting (Amy) claim that Counter Defendant Candace Curtis, or her share of the family trust, is liable for more than \$680,000 in attorney fees, incurred as a direct or proximate result of Defendant Candace Curtis' wrongful act of filing a lawsuit to compel fiduciary performance, obtaining a preliminary injunction and questioning the legitimacy of an instrument Counter-Plaintiffs covet and are using as "the trust".

5. Counter Defendant Candace Curtis (Curtis) argues that she is not liable to Co-Trustees Anita Brunsting and Amy Brunsting for any attorney fees incurred as a result of their own misconduct. There have been no declaratory judgments and Plaintiff Candace Curtis' claims against Anita Brunsting, Amy Brunsting and Does 1-100, for damages caused by their breaches of fiduciary duty, and disregard for

the federal preliminary injunction remain, despite the appearance of having been dismissed by the state court, as hereinafter more fully appears.

THE LAW OF THE CASE

Notice of Precedent

6. It should be noted from the onset that the 5th Circuit Court of Appeals held the probate exception to federal diversity jurisdiction inapplicable to this trust controversy and that *Curtis v Brunsting* 704 F.3d 406 (Jan. 9, 2013) [Dkt 24]¹ and the preliminary injunction, [Dkt 45] issued in the Southern District of Texas April 19, 2013, established the law of the case. The United States District Court for the Southern District of Texas, Houston Division, is the court of original jurisdiction.

PROCEDURAL HISTORY

Southern District of Texas, Houston Division (the 1st trust related law suit)

7. This exponentially multiplied controversy was originally filed in the federal court under diversity jurisdiction, February 27, 2012, as *Candace Louise Curtis vs. Anita Brunsting, Amy Brunsting and Does 1-100* No. 4:12-cv-00592, when family trust beneficiary *Candace Curtis (Curtis)* sued Amy Brunsting (Amy) and Anita Brunsting (Anita) for an accounting, fiduciary disclosures, breach of fiduciary

¹ All [Dkt] references are to the original case; *Candace Louise Curtis vs Anita Brunsting, Amy Brunsting and Does 1-100* SDTX Cause No. 4:12-cv-592

duty, fraud, and intentional infliction of emotional distress. The lawsuit was later amended to include a declaratory judgment claim.

8. The case was dismissed March 8, 2012 [Dkt 14] under the probate exception to federal jurisdiction and Curtis filed timely notice of appeal. During the pendency of the appeal, parallel state court actions were commenced that included the filing of both Settlor's wills and applications to probate the decedents' estates by Candace's brother Carl Henry Brunsting (Carl).

9. Both of the Settlor's wills were pour-over wills requiring only the filing and approval of an inventory² to conclude probate. The living trust was the sole devisee. The Circuit Court was noticed of these filings and considered the ongoing probate matter when the panel rendered their unanimous opinion.

10. January 9, 2013, the Fifth Circuit reversed and remanded for further proceedings [Dkt 24]. (*Curtis v. Brunsting* 704 F.3d 406). This is a living trust controversy bearing no relation to the administration of any decedent's estate.

Harris County District Court 164 (the 2nd trust related law suit)

11. On January 29, 2013, while the federal suit was in transit back to the Southern District of Texas, Attorney Bobbie G. Bayless filed legal malpractice claims against the Brunsting's estate planning attorneys, (the Vacek and Freed law

² Exhibit a - 2013-04-04 Inventory of the Decedent's Estate was approved by the probate court and the Estate was closed by Drop Order 412249

firm), in *Harris County Texas Judicial District Court 164, Cause No. 2013-05455*,³ representing Carl Brunsting as “Independent Executor for the estates of Elmer and Nelva Brunsting”.⁴

Southern District of Texas

12. After her successful appeal Candace requested a preliminary injunction to protect the trust’s assets from being wasted. Hearing was had April 9, 2013, [Dkt 79] and after reviewing the evidence via oral hearing the U.S. District Court for the Southern District of Texas issued an injunction against the Defendant Co-Trustees in favor of CANDACE CURTIS, finding a substantial likelihood that she would prevail on the merits of her claims.

13. The Honorable Kenneth Hoyt issued a Memorandum and Order for the Preliminary Injunction on April 19, 2013 [Dkt 45]. This Order found substantial evidence in support of the elements of CURTIS’ claims.

Harris County Probate Court No. 4 No 412249-401 (the 3rd trust law suit)

14. The wills were admitted without contest. (Elmer 412248) (Nelva 412249) The inventories were approved⁵ April 4, 2013 and a drop order was issued, closing the estate. With knowledge of the pending federal lawsuit, on April 9, 2013, while

³ Transferred to probate by Order dated April 4, 2019 and labeled “estate of Nelva Brunsting No. 412249-403

⁴ Exhibit b - 2013-01-29 Bayless District Court Complaint against Freed

⁵ Exhibit a

the Court was entertaining Curtis' application for preliminary injunction [Dkt 79], Carl Brunsting filed a declaratory judgment and breach of fiduciary duty action against the co-trustees in Harris County Probate Court No. 4.⁶ The case was a veritable mirror image of Curtis' federal lawsuit and was filed as an ancillary matter to a closed estate, when the jurisdictional statute required that an estate be pending to file claims "incident to" or "related to" the estate.

15. In his probate court filing Carl named all four of his sisters Defendants including federal plaintiff Candace Curtis, whom Carl named as a nominal defendant only. [see Dkt 41 & Exhibit c] Clearly these claims were already pending in federal court, making the Southern District of Texas the court of dominant jurisdiction to the extent the probate court ever had jurisdiction, which is denied.

16. On May 9, 2013, the Court appointed CPA William West to perform an accounting of the Brunsting Family Trusts due to Amy and Anita Brunsting's continued failure to produce a proper accounting. [Dkt 55]

17. On August 8, 2013, William West produced the Special Master's Report, [Dkt 62] containing an accounting of income and disbursements of both the Decedent's and Survivor's Trusts, beginning 12/21/2010, when Anita was sole trustee, through the present. Accordingly, the only task left for the co-trustees to

⁶ Exhibit c. Carl's April 9, 2013 Petition in Probate Court 4 No. 412249-401

perform was to distribute the assets into five separate trust shares, one for each beneficiary.

18. The Special Master's Report also disclosed that Anita Brunsting, as sole trustee from December 21, 2010 until the passing of the last Settlor, had failed to maintain proper books and records; noting missing receipts for certain disbursements, and concluding that the Quicken files kept by Anita as SOLE TRUSTEE were "*more for use as an electronic checkbook to keep bank balances as opposed to a more fully integrated bookkeeping system*".

19. Hearing was held on the Report of Special Master September 3, 2013. [Dkt 84]

CONVERSION AND THE VANISHING OF A FEDERAL LAWSUIT

Attorney Jason Ostrom

20. On or about October 3, 2013 PLAINTIFF CANDACE CURTIS was instructed to retain the assistance of counsel so that discovery could move forward.

21. Due to Judge Hoyt's admonition that Curtis retain counsel, Curtis retained attorney Jason Ostrom of Ostrom/Sain to complete discovery, (Ostrom). Ostrom filed his appearance in the federal court January 6, 2014.

22. On May 9, 2014, OSTROM filed a 1st Amended Complaint, naming CARL BRUNSTING as an involuntary plaintiff to pollute diversity, [Dkt 108] stating that a declaratory judgment action was necessary because relief could not be had

without the addition of necessary parties for complete adjudication via declaratory judgement.⁷ The proper procedure was to include Carl Brunsting as a necessary party (nominal defendant), as was done with Carol Brunsting.

23. In conjunction with this pleading amendment, Ostrom filed an agreed motion to remand the case to Harris County Probate Court No. 4, when no removal had ever occurred. Ostrom thus obtained an order **remanding** the federal case to Harris County Statutory Probate Court No. 4, to be consolidated with the civil tort claims of Carl Brunsting. [Dkt 109/112].

24. The remand was improper, as the case had never been removed from Probate Court No 4, but resulted in the loss of federal jurisdiction by the wrongful pollution of diversity. The remand order was issued and the docket was closed, but the case never arrived in Probate Court No 4, as more fully set forth herein.

25. The following list of exhibits provides a timeline of relevant events in this conundrum of chaos litigation.

EXHIBITS

- a. 2013-04-04 Inventory of the Decedent's Estate was approved by the probate court and the Estate was closed by Drop Order 412249
- b. 2013-01-29 Bayless District Court Complaint against Freed
- c. Carl's April 9, 2013 Petition in Probate Court 4 No. 412249-401

⁷No declaratory judgement has been entered, no bone fide evidentiary hearings have been had and this case, filed February 27, 2012, has never been to trial

- d. Probate Docket summary includes 412249, 412249-401, 412249-402, 412249-403, 412249-404 and 412249-405
- e. 2014-06-05 Certified Motion to Enter Transfer and Order Accepting Transfer in 412249 [Dkt 128-1]
- f. 2014-12-05 Case 412249-401 Anita Objection to Carl and Candy distribution
- g. 2015-02-19 Carl's Resignation
- h. DCO issued June 10 2021 412249-401 vs DCO issued Feb 20 2015
- i. 2015-03-09 Agreed-Order-to-Consolidate-Cases [Dkt 128-3]
- j. No-evidence Motion for Summary Judgment
- k. 2019-02-14 Order denying Plea to the Jurisdiction
- l. 2019-11-04 Defendant Co-Trustees Original Counter Claims [Dkt 128-4]
- m. 2021-12-05 Rule 11 Agreement - MSJs Deferral
- n. 2022-03-11 SEVERANCE ORDER
- o. 2022-03-18 Notice of nonsuit of Candace Curtis
- p. 2022-02-25 Order for Summary Judgment
- q. Anita's (Mendel) attorney Fee Disclosure
- r. Amy's (Spielman) attorney fee disclosures
- s. 2021-03-05 Brunsting – Settlement Accounting
- t. 2021-03-29 Brunsting - Trustee Counter-Offer
- u. Transcript of hearing February 11, 2022 Severance motion
- v. Transcript of hearing February 25, 2022 Pretrial Conference
- w. Transcript of hearing March 31, 2022 Pre-Trial Conference (ordered and paid and will be filed upon receipt)

Motion to Enter Transfer Order [Exhibit e]

26. On May 28, 2014, without filing an appearance in the state probate court, Ostrom filed a motion to enter a transfer order which he used to convert “Candace Louise Curtis vs Anita Brunsting, Amy Brunsting and Does 1-100” into “Estate of Nelva Brunsting 412249-402”. *Candace Louise Curtis vs Anita Brunsting, Amy Brunsting and Does 1-100* has nothing to do with the pour-over estate of Nelva Brunsting.

27. On September 9, 2014, the Defendants' Mills Shirley attorneys moved to withdraw, citing conflict between the firm and their clients.

28. The Mendel Law firm noticed appearance in the probate court for Anita Brunsting in No. 412249-401 on November 14, 2014. All subsequent "litigation" was engaged in for the express purpose of escalating attorneys' fees of the co-trustees' lawyers, and they now demand that Curtis pay for the protracted litigation these attorneys manufactured for profit.

Estate of Nelva Brunsting 412249-402 – The Federal Law Suit?

29. Jason Ostrom appeared in federal court for Curtis, but never filed a Notice of Appearance in probate court to give him authority to act on Curtis' behalf. At this juncture, the attorneys engaged in a slew of legal maneuvers designed to give the appearance that Curtis' federal claims were pending in Probate Court No. 4, with full knowledge that the lawsuit was never actually transferred from the Southern District of Texas.

30. Proof that the attorneys for Defendant Co-Trustees knew the case was not lawfully remanded to probate court lies in the Mills Shirley attorneys' withdrawal citing conflicts of interest with their clients; Stephen Mendel's attorney fee bills

produced in discovery⁸, the subsequent Motion to enter transfer order and the void transfer order issued by probate court Judge Christine Butts on June 6, 2014.⁹

31. Essentially, Curtis' "federal case" was consolidated with the mirror image declaratory judgment filed by Carl, and Curtis was made a defendant [Dkt 128-2] instead of a plaintiff. The prior federal caption disappeared completely from the pleadings. Curtis retained Counsel Candice Schwager in November 2019, who only unraveled the fraud after making her way through 8 years of frivolous litigation in the probate court that included seven different case files¹⁰.

Anita Objection to Carl and Candace's Distribution [Exhibit f]

32. Proof that the Co-Trustees' attorneys knew their legal fees were unauthorized, lies in the active federal injunction and pleadings in which they admit that the trust does not fund litigation costs or attorneys' fees. On December 5, 2014 Stephen Mendel filed his first pleading in which Mr. Mendel argues:

1. Distributions to pay legal-fee creditors are not authorized by the trust and therefore, the motions must be denied

⁸ Exhibit q. p.9

1/9/2015 BEF

Reviewed correspondence re proposed deposition dates; reviewed file re injunction and problems with the federal court remand or case that was never removed, J. Ostrom nonsuit of injunctive relief, and trust barriers to such injunction.

⁹ Exhibit e. Motion to enter transfer order and order accepting Transfer

¹⁰ Exhibit d - Docket Sheet summary for 412248, 412249, 412249-401, 412249-402, 412249-403, 412249-404 and 412249-405

2. Distributions to pay legal-fee creditors are prohibited by the trust, and therefore, the motions must be denied.

3. The Court lacks jurisdiction to decide the distributions for legal-fee creditor issue because there are no allegations of fraud, misconduct, or clear abuse of discretion with respect to Candace's and Carl's request that the trust pay their attorneys' fees.

4. If the court finds the in Terrorem clause enforceable, then Carl and Candace have no right to any distribution from the trust."

33. Item 4 is Defendant Anita Brunsting and Defendant Amy Brunsting's first written assertion of an in Terrorem clause void on its face, via forfeiture counter-claims against Candace Curtis, identified on page 20 of Candace Curtis February 27, 2012 Petition and verified affidavit [Dkt 1 in SDTX 4:12-cv-592].

34. Three days later, December 8, 2014, above named attorney Neal Spielman noticed his appearance on behalf of Defendant Co-Trustee Amy Brunsting in No. 412249-401.

Carl's Resignation [Exhibit g]

35. On or about February 17, 2015, two years after the estate was closed and notwithstanding his incapacity, CARL BRUNSTING filed an application to resign as Independent Executor of the Estate of Nelva Brunsting and attempted to unlawfully substitute his wife, DRINA BRUNSTING as attorney in fact. The record does not affirmatively show Drina Brunsting to have standing as attorney in fact for the incapacitated Carl Brunsting. Mr. Mendel's attorney fee bills from

2015 reveal that discussions were had regarding pursuit of a guardianship action for Carl Brunsting.¹¹

36. No guardianship was pursued. This would indicate that attorney Bayless knew her declaratory judgment action was being pursued by an incapacitated Plaintiff with no standing to sue and the Rule 11 agreement¹² shows Bayless collusion with the Defendants' attorneys in effort to avoid confrontation on the want of standing issue.

DCO Issued Feb. 20, 2015 [Exhibit h]

37. On February 20, 2015, with no administrator representing the closed estates, an "agreed docket control order" was signed by all of the participating attorneys in the probate court.

Agreed Order to Consolidate Cases [Exhibit i]

38. On March 9, 2015, with no administrator representing the closed estates, an Agreed Order to Consolidate Cases was signed by all of the participating attorneys in the probate court, in which the former federal case "estate of Nelva Brunsting 412249-402" was dissolved into Carl's lawsuit labeled as "estate of Nelva Brunsting 412249-401", the -402 docket was closed to further filing. This event completed the vanishing of the "federal plaintiff" and her lawsuit.

¹¹ See Exhibit r. page 8 re Carl's competency issues

¹² Exhibit m.

Pro se Candace Curtis

39. Upon discovering that Ostrom acted without authority and without first advising Curtis of his intentions, Candace Curtis discharged attorney Jason Ostrom and filed a substitution to represent herself pro se, again without knowing that Ostrom had never even filed an appearance on her behalf.

40. In eight plus years of manufactured litigation, no declaratory judgement has been rendered, no evidentiary hearings have been had and the federal case, filed February 27, 2012, has never been to trial, nor will it, as the attorneys have obtained an order converting Curtis' trust share to their own use and benefit, with a visiting judge ruling that Curtis forfeited her share by instituting litigation to protect her interests. The court granted summary judgment on "all of Plaintiff's claims" without specifying which claims were included and without issuing a declaratory judgment regarding the controlling trust instruments or the rights and liabilities of the parties, holding that Curtis' share would be used for payment of Defendants' attorneys' fees, citing no statutory authority for the ruling.

41. The amount of Defendants' attorneys' fees was set for trial April 5, 2022, which has been cancelled based upon attorney Bayless, attorney Mendel and attorney Spielman's agreement that the Co-Trustees' attorneys' fees are reasonable and necessary and there was no need for a trial. The April date was also delayed

due to a direct challenge to the summary judgement order by way of a motion to vacate the void order. That motion is set for April 11, 2022.

DEFENDANTS' ORIGINAL COUNTER CLAIMS

42. On November 4, 2019, after nearly 8 years of refusing to divide the trust corpus as required by Article X of "the trust", and after refusing to distribute income as required by the preliminary injunction for more than six years and six months and after throwing away more than \$180,000.00 in excess taxes as a result of their disregard of their fiduciary obligations made clear by the injunction, with unclean hands, Defendant Anita Brunsting and Defendant Amy Brunsting filed their "Original Counter Claims" against Plaintiff beneficiary Carl Brunsting and Plaintiff beneficiary Candace Curtis, containing the following list of vague claims:

1. One or more of the causes of action asserted and/or declarations sought by Carl trigger forfeiture provisions.
2. One or more of the motions, responses, and/or replies filed by Carl trigger forfeiture provisions;
3. Carl did not have just cause to bring the action, and it was not brought in good faith;
4. Carl has forfeited his interest, and thus his interest passes as if he has predeceased the Founders;
5. If Carl has not forfeited his interest via asserting any of the identified claims, and is or becomes entitled to receive any interest in the Founders' estate, then Amy's and Anita's expenses in defending against Carl's claims are to be charged against his interest dollar for-dollar
6. All expenses incurred by Amy and Anita to legally defend against or otherwise resist the contest or attack by Carl and/or Curtis are to be paid from the Trust as expenses of administration.

43. Amy and Anita repeated this same list of claims against Candace and not only are these claims vague, but any counter claims not raised in their original answers were waived years ago.

THE RETURN TO DIVERSITY

44. On January 6, 2022, almost nine years after Attorney Bobbie G. Bayless (Bayless) initiated her case in the probate court, with no “fully litigated state court determinations” to show for the passing of time, Defendant Co-Trustees Anita Brunsting and Amy Brunsting, and Drina Brunsting, alleged attorney in fact for Plaintiff Carl Brunsting, filed a motion to sever from the case Carl Brunsting filed in the probate court as ancillary to a closed estate on April 9, 2013.

45. The January 6, 2022 motion reads:

“Plaintiff, Carl Brunsting, and Defendant/Co-Trustees, Anita Brunsting and Amy Brunsting (collectively the “Severing Parties”), file this motion to sever their respective claims against each other from the above-entitled and numbered cause (the “401 Case”)”

46. This Motion followed a Rule 11 agreement¹³ that the Defendant/Co-Trustees would not prosecute their forfeiture claims against Carl but only against Candace and that “Carl” (Drina) would not seek a dispositive ruling on Anita’s \$250,000.00 in self-dealing and co-mingling transactions that occurred prior to Nelva’s passing when Anita was the sole acting trustee.

¹³ Exhibit m. - 2021-12-05 Rule 11 Agreement - MSJs Deferral

47. On February 25, 2022 a sudden order¹⁴ for summary judgement was signed by a visiting judge at a “pretrial conference,”¹⁵ without notice or hearing on the question of summary judgment. The order reads:

“The Court FINDS that Curtis has forfeited her interest as a beneficiary of the Trust, by taking one or more actions in violation of the Trust and/or the August 2010 QBD (as such terms are defined in the Motion). The Court FINDS that the Co-Trustees shall first recover attorneys' fees from Curtis (and/ or from her forfeited interest in the Trust) via Article IV, Section G of the Trust; via Miscellaneous Provisions: Item A of the August 2010 QBD; and/or via the Declaratory Judgment Act.”

Accordingly, the Court GRANTS the Motion as to Curtis only, RENDERS judgment for the Co-Trustees against Curtis only and ORDERS:

(1) That Co-Trustees' Motion for Summary Judgment is GRANTED as to Curtis in its totality;

(2) That Curtis TAKE-NOTHING by way of her claims against Amy, Anita, the CoTrustees and/or the Trust;

(3) That the Co-Trustees are awarded attorneys' fees payable by Curtis (and/or from her forfeited interest in the Trust) in an amount to be subsequently determined; and

(4) That court costs are taxed against the party incurring same. This Order disposes of all claims and causes of action asserted against Amy, Anita, the Co-Trustees and/ or the Trust by Curtis, and no other claims or causes of action are pending against Amy, Anita, the Co-Trustees and/ or the Trust from Curtis.

48. On March 11, 2022, subsequent to the February 25, 2022 Order granting summary judgment against Curtis, the Co-Trustees’ counterclaims against

¹⁴ Exhibit q. February 25, 2022 Order for Summary Judgment

¹⁵ Exhibit h. DCO entered June 10, 2021 vs DCO entered February 20, 2015

beneficiary Candace Curtis were severed from Carl Brunsting's lawsuit,¹⁶ restoring full diversity of citizenship among the parties. This left Candace Curtis as the only Defendant remaining in the lawsuit improperly filed in the state probate court by Carl Brunsting on April 9, 2013, [DKT 41] the same day the preliminary injunction hearing [Dkt 79] was held in the Southern District of Texas.

49. On March 18, 2022, Drina Brunsting, alleged attorney in fact for Plaintiff Carl Brunsting, filed Notice of Non-Suit of Candace Louise Curtis¹⁷

50. The March 18, 2022 Notice of Nonsuit, combined with the February 25, 2022 Order changing Candace Curtis standing from Plaintiff to Defendant¹⁸ and the March 11, 2022 order severing the claims of Plaintiff Carl Brunsting from those of Plaintiff Candace Curtis, leaves only PLAINTIFF CO-TRUSTEE ANITA BRUNSTING and PLAINTIFF CO-TRUSTEE AMY BRUNSTING vs DEFENDANT BENEFICIARY CANDACE CURTIS on the PLAINTIFF CO-TRUSTEES' claim of entitlement to attorney fees from Curtis or her share of the family trust.

51. These events, when combined, provide the basis for invoking removal jurisdiction pursuant to 28 U.S.C. § 1441(a) and (b)(1).

¹⁶ Exhibit n. Order Severing Parties

¹⁷ Exhibit o. 2022-03-18 Carl Notice of nonsuit of Candace Curtis

¹⁸ An artful sleight of hand conversion previously complained of and now made formal as will be explained infra.

52. With complete diversity restored, standing under 28 U.S.C. § 1332 has been restored and the original federal parties now return to this Court, with the fiduciary Defendants as the Plaintiffs and the California beneficiary as the Defendant.

53. Less than thirty days have passed since the juxtaposition of parties and the return to diversity and DEFENDANT CANDACE CURTIS has not actively litigated against Plaintiff's claim for fees in the state court.

54. The first disclosure of Plaintiff Co-Trustees' attorney' fees were received on March 4, 2022.¹⁹ The PLAINTIFF CO-TRUSTES and their attorney fee creditors have yet to disclose the contract, retainer agreement or other theory of recovery under which they claim entitlement to "fees" in an amount yet to be determined.

PRAYER

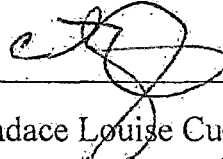
55. DEFENDANT CANDACE LOUISE CURTIS hereby gives Notice of Removal of PLAINTIFF ANITA BRUNSTING and PLAINTIFF AMY BRUNSTING'S claims to the Southern District of Texas, Houston Division.

56. ACCORDINGLY, Defendant prays that this cause be removed to the United States District Court for the Southern District of Texas, Houston Division, so that Plaintiffs can explain to this Court how the amount of attorney fees they are demanding from DEFENDANT CURTIS were both necessary and reasonable, in

¹⁹ Exhibit q. Steven Mendel's spoliated fee disclosure and Exhibit r., Neal Spielmans redacted fee disclosure

light of the complete absence of substantive resolution and the Co-Trustees' complete failure to divide or distribute anything.

Respectfully submitted pro se April 7, 2022,



Candace Louise Curtis Pro Se, in lieu of counsel of record's appearance, pending approval of application for reinstatement or leave to appear Pro Hac Vice.

PROOF OF SERVICE

A copy of this notice will be filed with the state court concurrent with acceptance of the filing in this court. Notice will be served upon the following parties via the state court electronic filing system when accepted in this court.

Anita Kay Brunsting
Added: 02/27/2012
(Defendant/Counter-Plaintiff)

represented by

Stephen A Mendel
The Mendel Law Firm L.P.
1155 Dairy Ashford
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281-759-3214 (fax)
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Amy Ruth Brunsting
Added: 02/27/2012
(Defendant/Counter-Plaintiff)

represented by

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Respectfully submitted, April 7, 2022

Candice Schwager

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ATTORNEY FOR CANDACE CURTIS

SUBJECT TO PRO HAC VICE



CANDACE CURTIS
PENDING PRO HAC VICE OF
COUNSEL

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

Anita Brunsting	§
Amy Brunsting	§
Plaintiff's	§
	§ Civil Action No.
Vs	§
	§
Candace Louise Curtis	§
Defendant	§

DEFENDANT'S NOTICE OF DIRECTLY RELATED CASE

Pursuant to Title 28 General Order No. 41, Rule 40.2 the above named Defendant and Counter-Plaintiff Candace Louise Curtis hereby gives notice of directly related cases.

1. Candace Louise Curtis vs Amy Brunsting, Anita Brunsting and Does 1-100, No. 4:12-cv-592 filed Southern District of Texas, Houston Division February 27, 2012.
2. Curtis et al., vs. Kunz-Freed et al., Southern District of Texas, Houston Division No. 4:16-cv-1969 filed July 5, 2016.

Respectfully submitted, April 7, 2022

Candice Schwager

CANDICE SCHWAGER

SCHWAGER LAW FIRM
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**ATTORNEY FOR CANDACE CURTIS
SUBJECT TO PRO HAC VICE**



CANDACE CURTIS
PENDING PRO HAC VICE OF
COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that all counsel and/or parties of record involved in the related case and removed case will be served via Texas E-file pursuant to the Federal Rules of Civil Procedure.

Candice Schwager

CANDICE SCHWAGER