NO. 2013-05455

CARL HENRY BRUNSTING, INDEPENDENT EXECUTOR OF THE ESTATES OF ELMER H. BRUNSTING AND NELVA E. BRUNSTING	§	**IN THE DISTRICT COURT OF**
vs.	§	**HARRIS COUNTY, T E X A S**
CANDACE L. KUNZ-FREED AND VACEK & FREED, PLLC f/k/a THE VACEK LAW FIRM, PLLC	§	**164th JUDICIAL DISTRICT**

PLAINTIFF'S
EXPERT WITNESS DESIGNATION

COMES NOW Plaintiff, Carl Henry Brunsting, Independent Executor of the estates of Elmer H. Brunsting and Nelva E. Brunsting ("Plaintiff"), and files his designation of expert witnesses that may testify in the above-referenced cause of action:

Expert Witnesses

1. Plaintiff may elicit expert testimony from the following retained experts:

   a. Judith W. Lenox
   Dinkins Kelly Lenox Lamb & Walker, L.L.P.
   2500 East T.C. Jester Blvd., Suite 675
   Houston, Texas 77008
   713.259.7029
   jlenox@dinkinslaw.com

   Ms.Lenox may testify concerning the standard of care required of attorneys under the circumstances at issue in this case and the various ways in which Defendants' actions fell below that standard of care. Ms. Lenox may also provide testimony concerning damages caused by Defendants actions and attorneys fees at issue in the case. The documents available to Ms. Lenox to support her opinions are the pleadings in this case and the discovery exchanged in the case. Ms. Lenox's opinions will support Plaintiff's allegations that Defendants' actions fall below the standard of care required of a reasonably prudent and competent attorney practicing law in Texas under the circumstances involved in this case, that those actions support the causes of action asserted by Plaintiffs, and that those actions resulted in damages to

Plaintiff. Ms. Lenox's mental impressions and opinions include the following:

(1) that Defendants did not properly or adequately prepare documents addressing and preserving Elmer and Nelva Brunsting's requests concerning their estate planning desires;

(2) that Defendants did not properly or adequately insure compliance with the terms of the documents they did prepare;

(3) that Defendants breached their fiduciary duties to Nelva Brunsting;

(4) that Defendants failed to address Nelva's lack of capacity to make and/or lack of understanding about making changes to the Family Trust and her power of attorney;

(5) that Defendants failed to address the undue influence being exercised over Nelva by other parties;

(6) that Defendants planned for and prepared documents without explaining the impact of those documents to Nelva and without obtaining reasonable input directly from Nelva;

(7) that Defendants instead discussed changes to the terms of the Family Trust, and ultimately changes to Nelva's control over the Family Trust with other parties; with some, but not all, of Nelva's children; and to the exclusion of Nelva;

(8) that Defendants facilitated signatures by Nelva in circumstances which allowed there to be confusion about what was being signed and which failed to insure that Nelva signed documents with consent, with proper capacity, and with knowledge and understanding of what she was signing;

(9) that Defendants failed to properly advise Nelva on the terms of the Family Trust and documents related to it, as well as the proper administration of the Family Trust;

(10) that Defendants failed to insure that documents being prepared and arrangements being made in cooperation with parties other than Nelva were not being used to improperly remove assets to the improper benefit of Anita Brunsting, Amy Brunsting, and Carole Brunsting;

(11) that Defendants failed to protect Nelva's rights, both individually and as trustee of the Family Trust;

(12) that Defendants preferred the rights of other parties to those of Nelva;

(13) that Defendants failed to refuse the representation of other parties so as to prevent a conflict of interest and failed to advise Nelva that Defendants' role in advising other parties was in conflict with Defendants' role as Nelva's counsel;

(14) that Defendants failed to take steps to inform Nelva of the objectives of other parties impacting Nelva's rights or to otherwise prevent those objectives;

(15) that Defendants failed to take steps to prevent the other parties from converting assets belonging to Nelva, Elmer's estate, or the Family Trust, and even facilitated the conversion of assets;

(16) that Defendants failed to require the administration of the Family Trust properly, in keeping with the terms of the Family Trust, and in the best interests of the beneficiaries, including Nelva; and

(17) that Defendants assisted other parties in attempting to hide and then justify their improper actions concerning Nelva and the Family Trust's assets.

Additional documents are still being sought which may impact Ms. Lenox's opinions. Any opinions concerning attorney's fees will be based on the actions taken in the case and the fees sought for those actions as well as Ms. Lenox's knowledge concerning reasonable, necessary, and customary fees in matters such as this. Ms. Lenox's resume and bibliography is being served on Defendants' counsel together with this Designation.

b. Bobbie G. Bayless
Bayless & Stokes
2931 Ferndale
Houston, Texas 77098
713.522.2224 - Telephone
713.522.2218 - Telecopier
bayless@baylessstokes.com

Ms. Bayless may testify concerning attorney's fees relevant to or at issue in this case. Ms. Bayless will rely on the actions taken and the filings in the case as well as her knowledge concerning reasonable, necessary, and

customary fees in matters such as this. Ms. Bayless' resume and bibliography is being served on Defendants' counsel together with this Designation.

c. Charles Gerhardt, CPA
5615 Kirby Drive, Suite 640
Houston, Texas 77005
713.520.5592 -Telephone
713.520.9968 - Telecopier
charlie@gerhardtcpa.com

Mr. Gerhardt may testify concerning damages suffered by Plaintiff as a result of Defendants' actions. The documents available to Mr. Gerhardt to support his opinions are the pleadings in this case and the discovery exchanged in the case. Mr. Gerhardt's opinions will support Plaintiff's allegations that Plaintiff suffered damages as a result of Defendants' actions and quantify those damages. Information is still being sought concerning the full extent of those damages. Mr. Gerhardt's resume and bibliography is being served on Defendants' counsel together with this Designation.

2. Plaintiff may also elicit expert testimony from experts who are not retained by Plaintiff, including the Defendants themselves who are attorneys, witnesses with expertise who may be called to testify by Defendants even though not retained as experts by Defendants, and Defendants' designated experts.

Reservations

Plaintiff reserves the right to supplement this designation with additional designations of experts within the time limits imposed by this Court or any alterations of same by subsequent Court Order or agreement of the parties, or pursuant to the Texas Rules of Civil Procedure and/or the Texas Rules of Civil Evidence.

Plaintiff reserves the right to call undesignated rebuttal expert witnesses, whose testimony cannot reasonably be foreseen until the presentation of the evidence.

Plaintiff reserves the right to withdraw the designation of an expert and to aver positively that any such previously designated expert will not be called as a witness at trial, and to redesignate same as a consulting expert.

Plaintiff reserves the right to elicit expert opinions or lay opinion testimony at the time of trial which would be truthful, which would be of benefit to the jury to determine material issues of fact, and which would not be violative of any existing Court Order or the Texas Rules of Civil Procedure.

Respectfully submitted,

BAYLESS & STOKES

By: /s/ Bobbie G. Bayless

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument was forwarded to counsel of record by telecopier, on this 3rd day of March, 2014, as follows:

Cory Reed
Thompson Coe Cousins & Irons, LLP
One Riverway, Suite 1600
Houston, Texas 77056

/s/ Bobbie G. Bayless
BOBBIE G. BAYLESS