

DATA-ENTRY
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NO. 412,249

ESTATE OF

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IN PROBATE COURT

NELVA E. BRUNSTING

NUMBER FOUR (4) OF

DECEASED

HARRIS COUNTY, TEXAS

**MOTION TO TRANSFER CAUSE FROM DISTRICT COURT TO
PROBATE COURT #4**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Candace Curtis individually, as heir to the Estate of Nelva E. Brunsting, and as a beneficiary of the Brunsting family of trusts, filing this Motion to Transfer Cause No. 2013-05455, styled Carl Henry Brunsting, Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting v. Candace L. Kunz-Freed and Vacek & Freed, PLLC f/k/a The Vacek Law Firm, PLLC, in the 164th Judicial District Court of Harris County, Texas, to Harris County Probate Court Number 4 and in support thereof would show as follows:

1. Cause No. 2013-05455, styled Carl Henry Brunsting, Independent Executor of the Estates of Elmer H. Brunsting and Nelva E. Brunsting v. Candace L. Kunz-Freed and Vacek & Freed, PLLC f/k/a The Vacek Law Firm, PLLC (the "District Court Case") was filed in district court on January 29, 2013. Carl Henry Brunsting filed the District Court Case in his capacity as executor of his parents' estates.
2. On February 19, 2015, Carl filed his Application to Resign as Independent Executor, and Carl's resignation as executor has been approved by this Court, creating a vacancy of party in the District Court Case.
3. On June 26, 2015, Defendants Anita and Amy Brunsting filed a joint no-evidence motion for partial summary judgment in the ancillary case 412,249-401 that was scheduled to be heard August 3, 2015.
4. On July 9, 2015, Plaintiff Carl Brunsting filed a Motion for Partial Summary Judgment in the 412,249-401 case. (PBT-2015-225037)

5. On July 13, 2015, Plaintiff Curtis filed a response to Defendants' No-Evidence Motion which included a counter Motion and Demand to Produce Evidence. (PBT-2015-227757)
6. On July 14, 2015, Plaintiff Carl Brunsting filed a motion to transfer the related District Court Case to the Probate Court. (PBT-2015-228888)
7. On July 21, 2015, the parties stipulated to an unknown, one Greg Lester, to serve as temporary administrator for the limited purpose of evaluating the estates' claims.

Ground for Transfer of District Court Case to Probate Court #4

8. The dispositive motions for summary and declaratory judgment filed in the Probate Court by both Plaintiffs and Defendants raise questions involving the validity, efficacy and applicability of instruments drawn up by District Court Defendant Candace Freed.

The dispositive motions are:

- a. Defendants' No-Evidence Motion for Partial Summary Judgment. (PBT-2015-227757)
- b. Plaintiff Curtis' Motion and Demand to Produce Evidence. (PBT-2015-227757)
- c. Plaintiff Carl Brunsting's Motion for Partial Summary Judgment. (PBT-2015-225037)
- d. Plaintiff Curtis' verified motion for partial summary judgment and petitions for declaratory judgment. (PBT-2016-26242)

9. The issues in the District Court Case are intrinsically related to the probate proceedings and many of the same witnesses, much of the same evidence, and the same damage considerations will arise in both cases.

10. The matters are so entangled that without consolidation, duplication of proceedings is literally guaranteed and the potential for conflict of rulings on the same law and fact questions is more than substantial. It would follow that the risk of contradictory and inconsistent rulings on the same issues of law and fact and the need to reduce the burden of duplicate proceedings upon the courts would necessarily mandate transferring the related District Court suit to the Probate Court sua sponte.

11. Tex. Estates Code §34.001 provides that a judge of a statutory probate court may transfer a proceeding from a district court to the probate court if it involves a cause of action related to a

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probate proceeding pending in that probate court or in which the personal representative of an estate pending in the probate court is a party.

The District Court Case meets that criteria.

WHEREFORE, PREMISES CONSIDERED, Movant asks that the District Court Case be transferred to Harris County Probate Court #4, and for such other and further relief to which Movant may be entitled.

Respectfully submitted,

By: /s/ Candace L. Curtis

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent on this 9th day of February, 2016 to the following via email:

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/s/ Candace L. Curtis
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