

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

Curtis, et al	§	
Plaintiffs	§	
	§	Civil Action No. 4:16-cv-01969
v	§	
	§	The Honorable Alfred Bennett
Kunz-Freed, et al	§	
Defendants	§	

**PLAINTIFFS' ANSWER TO DEFENDANT JILL WILLARD YOUNG'S MOTION TO DISMISS PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE 12(B)(6) AND 9(B)**

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**Introduction**

1. On July 5, 2016, Plaintiffs filed a complaint into the Southern District of Texas, individually and as private attorneys general, alleging a public corruption conspiracy under the Racketeer Influenced Corrupt Organization Act at 18 U.S.C. §§1961-1968 and the right of claims provided at 18 U.S.C. §1964(c). (Dkt 1)

2. On September 14, 2016, Defendant Jill Willard Young filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). (Dkt 25)

3. On September 15, 2016, Plaintiffs filed an Addendum of Memorandum (Dkt 26)<sup>1</sup> as a factual supplement to the RICO complaint. (Dkt 1).

4. Plaintiffs move the Court to take judicial notice, pursuant to Federal Rule of Evidence 201, that the Addendum of Memorandum (Dkt 26) and the exhibits attached thereto and referred to therein, are docket entries 115 through 120 in closely related Case 4:12-cv-0592. (See NOTICE of Related Case this Court's Docket (Dkt 12))

5. Plaintiffs hereby incorporate by reference the "Standards of Review", "Contextual Summary", "History of the Controversy", and "History of the Litigation" (Dkt 33 sections I, II, III and IV) from Plaintiffs' response to the Motions to Dismiss filed by Defendants Vacek & Freed (Dkts 19 & 20) as if fully restated herein.

### **The Issues**

a. Defendant Jill Willard Young claims:

*Plaintiffs' allegations appear to relate to a probate matter in Harris County Probate Court, which the Plaintiffs call "Curtis v. Brunsting" (see Complaint ¶ 110), although no cause number is ever mentioned and no court is ever identified.*

b. Defendant claims:

Plaintiffs fail to plead facts sufficient to satisfy Rule 9(b)

c. Defendant Claims:

*In reality, their Complaint is a bizarre, conspiracy-theory-laden attempt to seek revenge for being on the losing end of trust and estate determinations that have already been fully litigated in Texas state court.*

d. Defendant claims Plaintiffs' Complaint reads more like "an excerpt from the DaVinci Code, rattling off fantastical assertions with no connection to plausible facts or valid causes of action".

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<sup>1</sup> Case 4:12-cv-0592 Filed TXSD August 3, 2016 docket entry's 115, 117, 119, 120

e. Defendant takes exception to the descriptive labels acquired by plaintiffs as terms given to the complained of conduct by ordinary laypersons who have previously experienced the probate court version of the administration of justice.

f. Jill Willard Young claims that her only connection to Plaintiff Curtis involved the “estate of Nelva Brunsting”.

*The only matter in which Ms. Young was ever involved with Plaintiff Curtis was In re: Estate of Nelva E. Brunsting, No. 412.249 (Harris County Probate Court No. 4) (the “Brunsting matter”). In the Brunsting matter, Ms. Young was attorney for Greg Lester, who had been appointed by Probate Court No. 4 as temporary administrator, to assist Mr. Lester in preparing a written report to the Court.*

g. The Motion then says:

*All of the actions taken by Ms. Young in that matter were in her role as attorney to Mr. Lester. Ms. Young never had a fiduciary relationship with either Plaintiff, and she did not represent any other party in the Brunsting matter. Plaintiffs make no allegations to the contrary.*

h. Ms. Young then claims immunity.

*Plaintiffs’ claims should be dismissed with prejudice. First, Ms. Young, as attorney only for Mr. Lester, is entitled to immunity from suit under Texas law. See Cantey Hanger, LLP v. Byrd, 467 S.W.3d 477, 481 (Tex. 2015) (“[A]ttorneys are immune from civil liability to non-clients for actions taken in connection with representing a client in litigation.”) (emphasis added).*

i. Ms. Young attaches as her only exhibit (Dkt 25-A) a copy of the Order appointing Gregory Lester Temporary Administrator for the “estate of Nelva Brunsting No 412249”.

### **Plaintiffs' Argument**

6. Defendant's Rule 12(b)(6) Motion attempts to offer a set of facts inapposite to those of the complaint and although Defendant may offer a different view of the facts under Federal Rule of Civil Procedure 12(b)(1) by providing affidavits and other evidentiary support, Defendant has not done so and may not do so in a Rule12(b)(6) motion.

7. Ms. Young is charged with in-concert aiding and abetting for her role in manufacturing a vacuously fraudulent report as part of an extortion conspiracy with a primary objective of stealing assets from the Brunsting trusts under an estate litigation pretext.

8. The Privity and Texas Attorney Immunity Doctrines are regularly used as shields for the criminal racketeering alleged in the RICO complaint.

**Curtis v. Brunsting in the Southern District of Texas and the Fifth Circuit**

*Plaintiffs' allegations appear to relate to a probate matter in Harris County Probate Court, which the Plaintiffs call "Curtis v. Brunsting" (see Complaint ¶ 110), although no cause number is ever mentioned and no court is ever identified.*

9. Defendant Jill Willard Young, participated in the attempt to eliminate Curtis v Brunsting from the probate record. There is a reason for that. Plaintiffs' certificate of closely related case (Dkt 12) cites to the first filed lawsuit relating to the Brunsting trusts. Other than the case in point, 4:16-cv-01969, Curtis v Brunsting 4:12-cv-0592 is the only related lawsuit filed in a court of competent jurisdiction, as hereinafter more fully appears.

10. The events leading up to this RICO lawsuit are unique, in that the underlying unresolved federal lawsuit, Curtis v Brunsting 4:12-cv-592, is its own federal Fifth Circuit case law authority, *Curtis v Brunsting* 704 F.3d 406. The only real distinctions between Curtis v Brunsting 4:12-cv-592 and Curtis v Kunz-Freed et al., 4:16-cv-01969, are location in the chronology of events, the nature of the federal jurisdiction invoked, the number of actors involved, the volume of information available, and the remedies pursued.

11. Candace Louise Curtis v. Anita and Amy Brunsting 4:12-cv-592 was filed in the United States District Court for the Southern District of Texas on February 27, 2012, and dismissed sua sponte under the probate exception to federal diversity jurisdiction on March 8, 2012. Curtis filed a timely notice of appeal and the matter went to the Fifth Circuit for review.

12. On January 9, 2013, the Circuit Court issued a unanimous opinion with Order for Reverse and Remand, No. 12-20164, holding the probate exception to federal diversity jurisdiction does not apply to an inter vivos trust not in the custody of a state court, *Curtis V. Brunsting* 704 F.3d 406.

13. *On January 29, 2013*, Carl Brunsting, as Executor of the estate of Nelva Brunsting, filed suit against attorney Candace Kunz-Freed and Vacek & Freed P.L.L.C. in the Harris County District Court, raising claims exclusively related to the Brunsting trusts then in the custody of the federal court.<sup>2</sup>

14. Upon returned to the U.S. District Court Curtis immediately petitioned for a protective order. A hearing was held April 9, 2013 (Dkt 26-7 E289-E342) and an injunction was issued. (Dkt 26-2 E5-E9)

15. Also on April 9, 2013, after the federal injunction was issued, Defendant Bobbie Bayless filed suit in the Harris County Probate Court advancing Brunsting trust related claims similar to those already pending in the federal Court, styled “Carl Henry Brunsting individually and as Executor for the Estates of Elmer and Nelva Brunsting”. (Dkt 33-9 E188-E207)

16. The Probate cases are:

a. Harris County Probate Case 412248 Carl Henry Brunsting executor of the estate of Elmer H. Brunsting, vs Amy, Anita and Carole Brunsting, filed April 9, 2013.

b. Harris County Probate Case 412249 Carl Henry Brunsting executor of the estate of Nelva E. Brunsting, vs Amy, Anita and Carole Brunsting, filed April 9, 2013.

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<sup>2</sup> No. 2013-05455; *Carl Henry Brunsting v. Candace Freed & Vacek & Freed*; 164th Judicial District Court of Harris County, TX

c. Harris County Probate Case 412249-401 Carl Henry Brunsting Individually vs Amy, Anita and Carole Brunsting, filed April 9, 2013.

d. Harris County Probate No. 412249-402 on remand from the federal Court 4:12-cv-0592. The only docket entries in the probate court with the heading of Curtis v Brunsting are a notice of the original federal petition<sup>3</sup> and a notice of injunction and report of special master<sup>4</sup> and each is covered with a heading page of “Estate of Nelva Brunsting”.

### **The Losing End of Fully Litigated Determinations in Texas State Court**

17. Defendant alleges Plaintiffs' claims are:

*frivolous, delusional, and implausible”... bizarre, conspiracy-theory-laden attempt to seek revenge for being on the losing end of trust and estate determinations that have already been fully litigated in Texas state court.*

18. Counsel violates ethics rules when he files a pleading making knowingly disingenuous claims regarding the record of state court proceedings. Defendants do not, because they cannot point to the record in any proceeding where Plaintiffs have been on the losing end of any fully litigated state court determinations, because no such events exist in the record. There is a plausible explanation for that.

19. The state probate court absolutely refused to resolve any substantive issues on the merits, due to their awareness of a well-known phenomenon called “Complete Absence of Jurisdiction”.

20. Defendant’s knowledge of that simple fact explains the entire in-concert attempt to avoid ruling on the merits of any pleading and the character of the Gregory Lester Report.

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<sup>3</sup> 2015-02-10 PBT-2015-47716

<sup>4</sup> 2015-02-06 PBT-2015-47630

21. Defendant would love to argue, as they do against all of the probate cabal's victims (Exhibit 1 attached), that Plaintiffs are disgruntled losers seeking vengeance, or that they are asking a federal court to review state court judgments when, in fact, no rulings were ever entered against Curtis because no state court has been invoked as a "Court of Competent Jurisdiction" and these defendant legal professionals all know it.

**The Vacuously Indefensible Report of Jill Willard Young and Gregory Lester**

**The Order Granting Authority to Retain Counsel**

22. The Order granting authority to retain Jill Young (Exhibit 2 attached) was for the sole purpose of performing the Duties defined in the Order appointing Gregory Lester Temporary Administrator. (Dkt 25-A)

*as Counsel for Applicant, to perform such legal services on behalf of the Estate as are necessary and reasonable, including assisting Applicant in carrying out his fiduciary responsibilities.*

23. The Report of Temporary Administrator, filed January 14, 2016, (Dkt 26-9) never mentions the Wills of Elmer or Nelva Brunsting, which is where one would logically think to begin an honest investigation into the veracity of claims brought in the name of a "decedent's estate". The Wills (Exhibits 3 and 4 attached) make clear that the only heir in fact to either estate is "the trust", a matter commented on in the Fifth Circuit Opinion. (Dkt 34-4)

24. The "Report" does not give a history of any litigation, does not mention the estate of Elmer Brunsting, Harris County Probate No. 412248 (Will filed April 2, 2012), does not mention the estate of Nelva Brunsting, Harris County Probate No. 412249 (Will filed April 2, 2012), even though the Report is filed under the 412249 case number and the Order (Dkt 25-A) specifically authorized investigation and reporting on the efficacy of the "estate" claims.



a. The “Report” also does not mention the Petition in Curtis v Brunsting 4:12-cv-00592, or Curtis v Brunsting 704 F.3d 406, or the 164<sup>th</sup> Judicial District Court of Harris County No. 2013-05455 “estate of Nelva Brunsting” v Candace Kunz-Freed and Vacek and Freed, or that Carl Brunsting brought his complaint individually and as executor of the estates of Elmer and Nelva Brunsting in the probate Court, nor that the estate claims are virtually identical to those that had been pending in the Southern District of Texas since February of 2012.

b. The “Report” does not mention the federal injunction, does not mention the gap in activity in the “estate cases between April 5, 2013’s “Drop Orders” (Exhibits 5 and 6), the Inventory (Exhibit 7 attached), or the federal remand of May 2014 (Dkt 33-7 and 33-8), or the applications for letters dated October 17, 2014 (Exhibit 8 attached).

c. The “Report” does refer to Jason Ostrom’s alleged “2nd Amended Complaint” filed in the probate court under the heading of “Estate of Nelva Brunsting”. (Dkt 34-9)

25. Plaintiffs would again ask the Court to review Dkt 34-10 which is credible evidence of “bizarre” that actually exists, although the signed version appears to have been replaced with the unsigned version in the public record.<sup>5</sup> (Exhibit A9 attached)

### **Defendant’s Exhibit A**

26. Defendant's Exhibit A (Dkt 25-A) is the Order Appointing Temporary Administrator Gregory Lester. In the Order the Probate Court found that it had jurisdiction and venue over the Decedent’s Estate and authorized Mr. Lester to review the claims brought by the “estate” against 1) Candace Freed 2) Anita Kay Brunsting, 3) Amy Ruth Brunsting, and 4) Carole Ann Brunsting. The Order does not grant any authority to examine the claims brought by Plaintiff Carl Brunsting or Plaintiff Candace Curtis individually. None-the-less the report states:

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<sup>5</sup> Harris County Clerk public website case access

*Carl Henry Brunsting and Candace Louise Curtis have filed claims against Anita Kay Brunsting, Amy Ruth Brunsting (previously Tschirhart) and Carole Ann Brunsting in the Estate of Nelva E. Brunsting, Deceased, pending in Harris County Probate Court Number Four (4) under Cause Number 412,249 (hereinafter referred to as the "Probate Court Claims").*

27. While the "Report" specifically avoids any mention of the TXSD case of Curtis v Brunsting 4:12-cv-00592, it exhibits the Report of the Special Master with the federal case number listed across the top of every page referring to it thusly:

*"This **REPORT OF MASTER** that was prepared in the case filed in the Southern District of Texas federal court case has the details of the Trust's income, expenses and distributions of stock. A copy of this report is attached hereto as the sixth exhibit."*

28. The only exhibits in the "Report" are trust and not estate related instruments and there can be no plausible denial that the "Report" was nothing but a vehicle for threatening Plaintiff Curtis with injury to property rights if she did not agree to enter into a mediated settlement agreement. (See Dkt 26 pgs 3-31 and transcript of March 9, 2016 Dkt 26-16)

29. The Report exhibits include:

- a. The 2005 Restatement to the Brunsting Family inter vivos trust, Pg 11-97;
- b. The 2007 Amendment to the Brunsting Family inter vivos trust, Pg 98-99;
- c. The alleged December 21, 2010 appointment of successor trustees to the Brunsting Family inter vivos trusts, Pg 100-105;
- d. The June 2010 QBD to the Brunsting Family inter vivos trust, Pg 106-108;
- e. One of three versions of the 8/25/2010 QBD (extortion instrument) claiming to revoke the Brunsting Family inter vivos trust (see dkt 26-4)<sup>6</sup>, Pg 109-145 and;
- f. Report of Special Master regarding the Brunsting Family inter vivos trust, Pg 146-183.

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<sup>6</sup> Filed in the state probate court as an exhibit to Plaintiff Curtis July 13, 2015 Answer to Defendants 6/26/2015 No-evidence Motion and demand to produce evidence in 412249-401.

### **Probate Mafia and Harris County Tomb Raiders**

30. Plaintiff Curtis' original petition filed February 27, 2012, was dismissed under the probate exception and that is what sent Plaintiff on a journey to the Fifth Circuit. Anyone researching the Probate Exception will invariably be exposed to the "Probate Mafia". (Exhibit 10 attached)

31. Harris County Tomb Raiders is a term first observed by Plaintiffs in a recorded video of a hearing before the Texas Senate Committee on the Judiciary, October 11, 2006<sup>7</sup>, where one witness, a Robert Alpert<sup>8</sup>, gave an account of his experience in the Harris County Probate Court. His testimony contained remarkably similar descriptions of the means and methods complained of in the present complaint, a full ten full years later, and nothing appears to have changed. Where exactly Tomb Raiders was mentioned in the testimony Plaintiffs do not recall, as there are 12 recordings available and they cover a seven and one-half hour hearing session.

### **In Concert Aiding and Abetting**

32. As previously stated, Ms. Young is charged with in concert aiding and abetting a conspiracy to loot the Brunsting trusts, that is fully documented on the Public record. A particular participant's part in the conspiracy does not have to be of great magnitude, but only a manifest part of the symphony of sound produced by the other instruments in concert.

33. The elements of aiding and abetting are 1) that the accused had specific intent to facilitate the commission of a crime by another; 2) That the accused had the requisite intent of the

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<sup>7</sup> Audio Recordings are available online at the Texas Senate Library

<sup>8</sup> Beginning at 12 minutes of Recording: 791070a, 79th Senate Jurisprudence Committee E1.016 Tape 2 of 4 Side 1 & 2, 10/11/06 10:40am Recording: 791070b

underlying substantive offense; 3) That the accused assisted or participated in the commission of the underlying substantive offense; and 4) That someone committed the underlying offense.<sup>9</sup>

34. Defendant Jill Willard Young does not offer exhibits to support her proclaimed vision of the facts she proffers. She does not exhibit her motion for permission for Greg Lester to retain her law firm (Exhibit 11), nor the order appointing her to “assist” Mr. Lester (Exhibit 2) and definitely not the report she assisted Mr. Lester in producing (Dkt 26-9).

### **Prosecuting State and Local Corruption**

35. All of the states and most local governments have criminal statutes or codes which criminalize various aspects of corruption.

36. While there is no federal statute which is aimed specifically at state and local corruption, there are three statutes which have been generally utilized by federal prosecutors to prosecute state and local officials for acts of corruption. They are the mail and wire fraud statute, the Hobbs Act, and the Racketeer Influenced and Corrupt Organizations Act (“RICO”).

#### **Hobbs Act – 18 USC §1951**

37. The Hobbs Act, by its express language, makes it a crime to obstruct, delay, or affect commerce by robbery or extortion.

38. However, the statute, by a series of judicial decisions including a United States Supreme Court decision (*See, United States v. Evans*, 504 U.S. 255 [1992]), has been extended to cover practices best characterized as bribery. In that regard, all that has to be shown is that a public official has obtained a payment to which he was not entitled, knowing that the payment was made in return for official acts. This results in making the Hobbs Act similar to 18 USC

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<sup>9</sup> United States Attorney’s » Criminal Resource Manual » CRM 2000 - 2500 » Criminal Resource Manual 2401-2499 CRM 2474

§201, insofar as it covers bribery of a federal official. However, the statute would not cover mere receipt of gratuities, as under 18 USC §201, which is covered by the mail and wire fraud statutes.

39. While the Hobbs Act is limited to conduct that “obstructs, delays or affects interstate commerce [commerce between two or more states],” this requirement is hardly any requirement at all, since all that is needed is a small or practically negligible effect.

40. A Hobbs Act violation may serve as the foundation for RICO offenses.

**Mail and Wire Fraud – 18 USC §§1341 (Mail), 1343 (Wire)**

41. The mail and wire fraud statutes were enacted as anti-fraud statutes, designed to combat, as criminal, the common law crime of larceny by trick. Even though the statutes’ terms do not specifically embrace corruption, they are extensively used to prosecute acts of public corruption.

42. For mail fraud, the prosecutor must prove only (a) a scheme to defraud, and (b) the mailing of a letter for the purpose of executing the scheme; and for wire fraud, the prosecutor must prove only (a) a scheme to defraud, and (b) the use of interstate wire communications in furtherance of the scheme. For purposes of the statute, the requisite mailing can be done through the postal service or a private carrier, and the requisite wire communications include radio transmissions, telephone calls and e-mails. Significantly, the requisite mailing or wiring need not itself contain any fraudulent information and may be entirely innocent. However, they must be shown to be at least a “step” in the scheme. (*Schmuck v. United States*, 489 U.S. 705, 712 [1989]).

43. With respect to the statutes’ use in public corruption cases, a fraudulent scheme includes “a scheme . . . to deprive another of the intangible right of honest services.” (18 USC

§1346). It is this definition which makes the statutes a flexible tool for prosecutors to prosecute public corruption at the state or local level.

44. A typical “honest services” corruption case arises in two situations. First, “bribery” where the public official was paid for a particular decision or action, which includes a pattern of gratuities over a period of time to obtain favorable action. Secondly, “failure to disclose” a conflict of interest, resulting in personal enrichment, which encompasses circumstances where the official has an express or implied duty to inform others of the official’s personal relationship to the matter at hand, even though no public harm occurred or there was no misuse of office.

45. As to the “conflict of interest” situation, the basis for its condemnation is that “[w]hen an official fails to disclose a personal interest in a matter over which he has decision-making power, the public is deprived of its right either to disinterested decision making itself or, as the case may be, to full disclosure as to the official’s potential motivation behind an official act.” (*United States v. Sawyer*, 85 F3d 713, 724 [1<sup>st</sup> Cir. 1966]). Notably, a person who holds no public office but participates substantially in the operation of government, *e.g.*, a political party leader, may be subject to prosecution under an “honest services” theory. (*See, United States v. Margiotta*, 688 F.2d 108 [2d Cir. 1982]).

### **Federal Conspiracy Laws**

46. Federal conspiracy laws rest on the belief that criminal schemes are equally or more reprehensible than are the substantive offenses to which they are devoted. The Supreme Court has explained that a “collective criminal agreement—[a] partnership in crime—presents a greater potential threat to the public than individual delicts. Concerted action both increases the likelihood that the criminal object will be successfully attained and decreases the probability that

the individuals involved will depart from their path of criminality.”<sup>10</sup> Moreover, observed the Court, “[g]roup association for criminal purposes often, if not normally, makes possible the attainment of ends more complex than those which one criminal could accomplish. Nor is the danger of a conspiratorial group limited to the particular end toward which it has embarked.”<sup>11</sup> Finally, “[c]ombination in crime makes more likely the commission of crimes unrelated to the original purpose for which the group was formed.”<sup>12</sup> In sum, “the danger which a conspiracy generates is not confined to the substantive offense which is the immediate aim of the enterprise.”<sup>13</sup> Congress and the courts have fashioned federal conspiracy law accordingly.<sup>14</sup>

### Conclusion

47. Ms. Young drafted the motion asking to be appointed to “assist Mr. Lester in his fiduciary duties” (Exhibit 11 attached) and admits to participating in the production of the “Gregory Lester Report” (Dkt 26-9 E394-E403) but seeks to hide her participation in the conduct of the affairs of the enterprise as “attorney” conduct entitling Ms. Young to impunity.

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<sup>10</sup> *Iannelli v. United States*, 420 U.S. 770, 778 (1975), quoting *Callanan v. United States*, 364 U.S. 587, 593-94 (1961).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

There have long been contrary views, e.g., Sayre, *Criminal Conspiracy*, 35 HARVARD LAW REVIEW 393, 393 (1922) (“A doctrine so vague in its outlines and uncertain in its fundamental nature as criminal conspiracy lends no strength or glory to the law; it is a veritable quicksand of shifting opinion and ill-considered thought”); *Hyde v. United States*, 222 U.S. 347, 387 (1912) (Holmes, J, with Lurton, Hughes 7 Lamarr, JJ.) (dissenting) (“And as wherever two or more have united for the commission of a crime there is a conspiracy, the opening to oppression thus made is very wide indeed. It is even wider if success should be held not to merge the conspiracy in the crime intended and achieved”), both quoted in substantial part in Katyal, *Conspiracy Theory*, 112 YALE LAW JOURNAL 1307, 1310 n. 6 (2003)

<sup>14</sup> Federal prosecutors have used, and been encouraged to use, the law available to them, *Harrison v. United States*, 7 F.2d 259, 263 (2d Cir. 1925) (“[C]onspiracy, that darling of the modern prosecutor’s nursery”); *United States v. Reynolds*, 919 F.2d 435, 439 (7th Cir. 1990) (“[P]rosecutors seem to have conspiracy on their word processors as Count I”); Chesney, *Terrorism, Criminal Prosecution, and the Preventive Detention Debate*, 50 SOUTH TEXAS LAW REVIEW 669, 684 (2009) (“What options do prosecutors have in the terrorism-prevention scenario when [other charges] are unavailable for lack of evidence linking the suspect to a designated foreign terrorist organization? One possibility is conspiracy liability”).

48. It necessarily follows that an independent report on the efficacy of the estate claims would have revealed a complete absence of jurisdiction over the very things the report speaks to.

49. Where there is no court of competent jurisdiction, there is no judge and no litigation, and consequently Defendant's immunity claims collapse under the weight of the complete absence of jurisdiction in any state court. (See *Curtis v Brunsting* 704 F.3d 406, 409-410 and Lexis HN 6)

50. All of the Defendants are accused of violating 18 U.S.C. 1962(c), which prohibits participation in the conduct of the affairs of an enterprise through a pattern of racketeering activity affecting interstate commerce, and 18 U.S.C. 1962(d), conspiracy to violate 18 U.S.C. 1962(c).

51. Jill Willard Young's participation is directly related to the fraudulent report of Gregory Lester, used to promote their substantive resolution avoidance and mediated settlement diversion scheme, which can only be explained by these Defendants' knowledge of the Court's complete want of jurisdiction.

52. Defendant Jill Willard Young was present at the September 10, 2015 hearing, that plaintiffs have been unable to obtain a transcript of.

53. However, Defendant Neal Spielman's March 9, 2016 diatribe, (Dkt 26-16) referring to the September 10, 2015 hearing, evidences the "Report" to be the product of the Defendants' own dictation and, while the report admits "I was told" as a source for information, The report never mentions who told Lester what to write.

54. These lawyer Defendants, in concert, attempted to conceal *Curtis v. Brunsting* in the probate record as if it was the "estate of Nelva Brunsting" and then, knowing there was no authority to determine any matters related to the Brunsting trusts they all conspired together to avoid rulings on the merits and to attempt to intimidate the non-participant into attending a



“mediation” where she could be further impressed with the threat to her property interests if she did not rollover on her rights and surrender property by settlement agreement.

55. Defendant attempts to deceive this Court into believing the underlying matter is related to an inheritance or an expectancy, but Plaintiff Curtis is an equitable property owner whose property interest was fully vested at the creation of the family trusts in 1996 and the death of Elmer Brunsting and Nelva Brunsting elevated her to a property owner with a primary right of consideration under the undisturbed terms of the irrevocable trusts.

56. Plaintiff Curtis’ trust property has been withheld and that property continues to be illicitly held hostage to attorney fees and absolution ransoms Plaintiff does not owe.

57. Plaintiff Curtis and her domestic partner Plaintiff Munson have incurred substantial expense, expended efforts and suffered constant character attacks, been forced to divert quality time and capital assets away from local and domestic concerns in a productive life, to defend her property interests in Texas for more than 4 and one-half years, and the participants in the involuntary wealth redistribution scheme claim Plaintiffs have suffered no tangible injury.

58. Defendant also claims that some of the predicate acts do not provide a private right of claims, but that is not what 18 U.S.C. §1964(c) says about injury suffered as direct and proximate result of a pattern of racketeering activity involving such acts.

59. The only subject of the Jill Willard Young/Gregory Lester report is not the estate but the money cow trust, not properly in the custody of any state court.

60. There is not a single mention of the wills, the pour over provisions, the identity of the only heir, the inventory containing only an old car, or the “estate claims”, and it does not mention the drop orders or any other “estate” related matters, yet seeks to legitimize “estate claims” involving only the beneficiaries of the “heir-in-fact” trust.

61. Candace Curtis and her siblings are beneficiaries of “the trust” and, therefore, derivatively the only real parties in interest.

62. In essence, the “decedent’s estate” is suing “heirs in fact” (trust beneficiaries) in probate court, for trespasses committed against the “heir in fact” (trust) during the lifetime of the decedent.

63. Plaintiff Curtis’ federal petition was amended by Defendant Ostrom to join Plaintiff Carl Brunsting, to pollute diversity, in order to affect a remand to state court, where Plaintiff Curtis could be consolidated as a “defendant” in the “estate” lawsuit involving only the trust.

64. Any award from the estate lawsuits would belong to the “heir in fact” (trust), minus attorney and appointee fees from years of litigation involving an estate with no assets, in a court with no subject matter jurisdiction, whose judgments would all be void ab initio and would in any event guarantee a successful reversal on appeal by either party, with no resolution in sight forever and ever, while Anita, Amy, and their attorneys hold disposition of the trust hostage.

65. This is indeed a bazaar conspiracy theory but it is not a box office thriller. It is a reality embedded in the public record and one need look no further than the public record for the evidence that supports Plaintiffs’ claims.

*Wherefore*, Plaintiffs respectfully move this Honorable Court for an Order denying the Motion to Dismiss filed by Defendant Jill Willard Young August 14, 2016. (Dkt 25)

Respectfully submitted, October 2, 2016.

/s/Candace L. Curtis  
Candace L. Curtis

/s/Rik W. Munson  
Rik W. Munson

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was filed into Civil Action No. 4:16-cv-01969 and served on October 2, 2016, through the Court's CM/ECF system, which constitutes service on all parties.

/s/Candace L. Curtis

Candace L. Curtis

/s/Rik W. Munson

Rik W. Munson

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

Curtis, et al

Plaintiffs

v

Kunz-Freed, et al

Defendants

§  
§  
§  
§  
§  
§

Civil Action No. 4:16-cv-01969

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**ORDER**

Upon due consideration, the Rule 12(b)(6) Motion to Dismiss filed by Defendant Jill Young in the above styled cause on September 14, 2016 (Docket entry 25) should be Denied.

It is SO ORDERED

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Date

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The Honorable Alfred H Bennet  
United States District Judge

Exhibit List Jill Willard Young Rule 12 Motion

1-	Defendant Jill Willard Rule 11 Notice	E1-E8
2-	Order Granting Authority to retain Jill Young	E9-E10
3-	The Will of Nelva Brunsting	E11-E22
4-	The Will of Elmer Brunsting	E23-E34
5-	Drop Order 412249 April 4, 2013	E35
6-	Drop Order 412248 April 4, 2013	E36
7-	March 27, 2013 Inventory and April 4, 2013 Order Approving Inventory	E37-E44
8-	2013-10-17 Application for Letters Testamentary	E45
9-	Agreed Order to Consolidate “estate of Nelva Brunsting with “estate of Nelva Brunsting” (See Dkt 34-10)	E46-E49
10-	Fighting the Probate Mafia (2002)	E50-E119
11-	September 1, 2015 Application to Retain Jill Young	E120-E128