

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

CANDACE LOUISE CURTIS &
RIK WAYNE MUNSON

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VS.

CIVIL ACTION NO. 4:16-cv-01969

CANDACE KUNZ-FREED,
ALBERT VACEK, JR., ET AL

JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(f)
FEDERAL RULES OF CIVIL PROCEDURE

1. State when the parties conferred as required by rule 26(f), and identify the counsel who conferred.

Response: The parties conferred via email regarding this joint case management plan during the period of October 13, 2016, through October 17, 2016. There was no conference regarding this joint case management plan. Plaintiff and Defendants were unable to come to a meeting of the minds and Defendants had difficulty coming to any kind of consensus among themselves. This is not a joint plan. Plaintiffs apologize to the court but don't know what else to do.

The participants to this plan are:

- A. Candace L. Curtis, Pro Se Plaintiff.
- B. Rik Wayne Munson, Pro Se Plaintiff.
- C. Anita Brunsting, Pro Se Defendant.
- D. Amy Ruth Brunsting, Pro Se Defendant.
- E. Cory S. Reed, counsel for defendants Candace Kuntz-Freed and Albert Vacek Jr.
- F. Robert S. Harrell, counsel for Jill Willard Young.
- G. Laura Beckman Hedge, counsel for:
 - (1) Defendant Christine Riddle Butts.
 - (2) Defendant Clarinda Comstock.

(3) Defendant Tony Biamonte

H. Stephen A. Mendel, Pro Se Defendant
I. Bradley E. Featherston, Pro Se Defendant
J. Bobbie Bayless, Pro Se Defendant.

K. Darlene Payne Smith, Pro Se Defendant.

L. Stacy L. Kelly, counsel for

(1) Gregory Lester
(2) Jason B. Ostrom

N. Neal E. Spielman,

2. List the cases related to this one that are pending in any state or federal court with the case number and court.

Response: A. Plaintiffs allege C.A. No. 4:12-592, *Candace Louise Curtis v. Anita Katy Brunsting, Et Al*; In the U.S. District Court for the Southern District of Texas is the base case and that the present matter is an extension of the earlier case and nothing less.

B. Defendants disagree and believe the only related case is C.A. No. 412,249-401, *Estate of Nelva Brunsting, Deceased*, Probate Court No. 4, Harris County, Texas.

3. Briefly describe what the case is about.

Response: Plaintiff allege a racketeering conspiracy that includes acts of aiding and abetting RICO predicate acts, obstructing justice and other civil and other rights violations designed to bust and loot the Brunsting trusts by preventing resolution on the merits and attempting to force agreement by coercion and duress that would include violating the trust to obtain fees for fake litigation in a court without subject matter jurisdiction over any Brunsting trust related matters. All Defendants are being sued in their individual capacities only.

Defendants allege that the suit is against eleven (11) attorneys, two (2) judges, and a court reporter protected by various forms of immunity

4. Specify the allegation of federal jurisdiction.

Response: Federal question based on plaintiffs' RICO Complaint.

5. Name the parties who disagree and the reasons.

Response: Defendants contend that the Plaintiffs failure to state a claim on which relief can be granted means there are no facts that support federal question jurisdiction, or jurisdiction on any other basis.

6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

Response: None anticipated at this time.

7. List anticipated interventions.

Response: None anticipated at this time.

8. Describe class-action issues.

The Five Brunsting beneficiaries and their remaindermen are a limited private class.

Defendants disagree

9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

Response: The parties will make initial disclosures within fourteen (14) days after the Court issues a scheduling order.

10. Describe the proposed agreed discovery plan, including:

A. Responses to all the matters raised in Rule 26(f).

- 1) Discovery should be completed within one hundred and twenty (120) days after **resolution of the base case.** (Defendants don't believe there is a base case.)
- 2) Discovery will be limited to:
 - a) Facts that prove or disprove any claim or cause of action in any related matter once the dispute over what those matters are and are not, has been resolved.
 - b) Opinions of experts, if any.

- 3) The parties will preserve hard copies and/or electronic copies of documents that relate in whole or in part to any issue in the case, and regardless of any claim of privilege or work product doctrine. The documents will be preserved through the date of trial or until this case is dismissed.
- 4) The parties will preserve any recordings of any communications by, among, or between themselves and the decedent, Nelva Brunsting, if such recordings relate in whole or in part to any issue in the case, and regardless of any claim of privilege or work product doctrine. The recordings will be preserved through the date of trial or until this case is dismissed.
- 5) Parties agree that oral depositions will be limited as follows:
 - (a) No more than four (4) hours per plaintiff.
 - (a) No more than four (4) hours per defendant.
- 6) Interrogatories will be limited to twenty five (25) questions per party, inclusive of any subparts. Interrogatories, including subparts, in excess thereof shall require leave of Court.
- 7) Requests for production shall not exceed _____ (__) requests. Requests in excess thereof shall require leave of Court.
- 8) Requests for admissions shall not exceed _____ (__) requests. Requests in excess thereof shall require leave of Court.

B. When and to whom the plaintiff anticipates it may send interrogatories.

Plaintiffs will serve interrogatories on the following persons within forty-Five (45) days after the Court issues a scheduling order:

- 1) Anita Brunsting.
- 2) Candace Kuntz-Freed.
- 3) Albert Vacek, Jr.
- 4) Amy Ruth Brunsting.
- 5) Neal E. Spielman.
- 6) Stephen A. Mendel.
- 7) Bradley Featherston.
- 8) Darlene Payne Smith.
- 9) Jason B. Ostrom.
- 10) Gregory Lester.
- 11) Jill Willard Young.
- 12) Bobbie Bayless.
- 13) Hon. Christine Riddle Butts.
- 14) Hon. Clarinda Comstock.

15) Tony Biamonte.

C. When and to whom the defendant anticipates it may send interrogatories.

Defendants will serve interrogatories on the following persons within fifteen (15) days after the Court issues a scheduling order:

- 1) Candace L. Curtis.
- 2) Rik Wayne Munson.

D. Of whom and by when the plaintiff anticipates taking oral depositions.

Plaintiffs will take oral depositions of the following persons within one hundred eighty (180) days after the Court issues a scheduling order:

1. Gregory Lester
2. Jill Willard Young
3. Candace Kunz-Freed,
4. Anita Brunsting,
5. Amy Brunsting,
6. Neal Spielman,
7. Jason Ostram,
8. Bobbie Bayless,
9. Clarinda Comstock
10. Christine Butts
11. Drina Brunsting, attorney in fact for Carl Brunsting

Plaintiff would expect Depositions to trail dispositive hearings in the base case and under no circumstances are these Defendants to be allowed to torment Carl Brunsting. Carl resigned as executor due to a lack of capacity and these defendants pleadings admit to Carl's lack of capacity. Plaintiffs will seek a protective Order. Defendants already had their deposition of Carl Brunsting and Plaintiffs are adamantly opposed to any repeat of such a horrible inhuman event.

E. Of whom and by when the defendant anticipates taking oral depositions.

Defendants will take oral depositions of the following persons within one hundred twenty (120) days after the Court issues a scheduling order:

- 1) Candace L. Curtis.
- 2) Rik Wayne Munson.
- 3) Carole Brunsting.

F. When the plaintiff (or other party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.

- 1) Plaintiffs will designate any experts and provide the required reports within thirty (30) days after the Court issues a scheduling order.
- 2) Defendants do not anticipate the need for any expert testimony in this matter, other than testimony on attorneys' for sanctions for the frivolous filing. Such experts will be designated within sixty (60) days after the Court issues a scheduling order.

G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).

Neither plaintiffs nor defendants anticipate the need for expert depositions at this time. Should the need arise, any such depositions will be completed within one hundred twenty (120) days after the Court issues a scheduling order.

H. List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).

Neither plaintiffs nor defendants anticipate the need for expert depositions at this time. Should the need arise, any such depositions will be completed within one hundred twenty (120) days after the Court issues a scheduling order.

11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.

Response: None.

12. Specific the discovery beyond initial disclosures that has been undertaken to date.

Response: None.

13. State the date the planned discovery can be reasonably completed.

Response: Within one hundred twenty (120) days after the Court issues a scheduling order.

14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.

Response: None. The defendants do not intend to settle.

15. Describe what each party has done or agreed to do to bring about a prompt resolution.

Response: None. The defendants do not intend to settle.

16. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable, and state when such a technique may be effectively used in this case.

Response: None. The defendants do not intend to settle.

17. Magistrate judges may now hear jury and non-injury trials. Indicate the parties' joint position on a trial before a magistrate judge.

Response: Defendants object to a trial before a magistrate judge.

18. State whether a jury demand has been made and if was made on time.

Response: Plaintiffs' made jury demand in their original complaint.

19. Specify the number of hours it will take to present the evidence in this case.

Plaintiff's Response. Will be more easily determined by the number of issues remaining after 12(c) motions for remedy on the pleadings as soon as the base case has been resolved by the same method.

Defendants Response: Eighty (80) hours.

20. List pending motions that could be ruled on at the initial pretrial and scheduling conference.

Plaintiff's Response:

The Rule 60 Motion for vacatur of the void remand order (Dkt 26 this court, Dkt 115-119 in the base case) to Harris County Probate Court No. 4 issued May 14, 2014 in base case 4:12-cv-592 (Dkt106). Plaintiff's challenge to probate court jurisdiction over Brunsting trust matters is dispositive and must be resolved before any Rule 12 Motions can be considered.

Plaintiffs' Motion for Consolidation of related cases (Dkt 43) should also be resolved before any substantive issues are addressed

Defendants Response:

A. Rule 12(b)(6) Motions:

- 1) Defendants' Candace Kunz-Freed and Albert Vacek Jr.'s Motion to Dismiss for Failure to State a Claim [Docket No. 19].
 - 2) Bobbie G. Bayless' Motion to Dismiss for Failure to State a Claim [Docket No. 23].
 - 3) Defendant Jill Willard Young's Rule 12(b)(6) Motion to Dismiss [Docket No. 25].
 - 4) Defendant Anita Brunsting's Rule 12(b)(6) Motion to Dismiss for Plaintiffs' failure to State a Claim [Docket No. 30].
 - 5) Defendant Amy Brunsting's Rule 12(b)(6) Motion to Dismiss for Plaintiffs' failure to State a Claim [Docket No. 35].
 - 6) Defendants Mendel's & Featherston's Rule 12(b)(6) Motion to Dismiss for Plaintiffs' failure to State a Claim [Docket No. 36].
 - 7) Defendant Neal Spielman's Motion to Dismiss for Plaintiffs' failure to State a Claim [Docket No. 39].
 - 8) Defendants Judge Christine Riddle Butts, Judge Clarinda Comstock & Tony Biamonte's Motion to Dismiss Complaint Pursuant to FED. R. CIV. P. 12(b)(1) and (6) [Docket No. 53].
- B. Defendant Jill Willard Young's Motion to Strike Plaintiffs' "Addendum of Memorandum in Support of RICO Complaint," [Docket No. 38].

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C. Rule 12(b)(1) Motion:

- 1) Defendants' Candace Kunz-Freed and Albert Vacek Jr.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction [Docket No. 20].
- 2) Defendant Neal Spielman's Motion to Dismiss Based on Lack of Subject Matter Jurisdiction [Docket No. 40].
- 3) Defendants Judge Christine Riddle Butts, Judge Clarinda Comstock & Tony Biamonte's Motion to Dismiss Complaint Pursuant to FED. R. CIV. P. 12(b)(1) and (6) [Docket No. 53].

D. Plaintiff's Motion for Consolidation of Related Cases Pursuant to 28 U.S.C. § 1637, Rule 42(A) of the FED. R. CIV. P. and Local Rule 7.6 with Supporting Memorandum [Docket No. 43].

21. List other motions pending.

Response: None.

22. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.

Plaintiff Response: There is a Fifth Circuit Opinion, 704 F.3d 406 and a federal injunction issued April 9, 2013 in 4:12-cv-592 that directly relate to this case. The injunction remains active and is an issue directly related to the case before this Court.

Defendants say: none.

23. Certify that all parties have filed Disclosure of Interested Parties as directed in the Order for Conference and Disclosure of Interested Parties, listing the date of filing for original and any amendments.

- Response:
- A. Rik Wayne Munson and Candace Louise Curtis, plaintiffs, Plaintiffs' Certificate of Interested Parties [Docket No. 6, filed July 20, 2016].
 - B. Jason B. Ostrom, defendant, Certificate of Interested Parties [Docket No. 16, filed August 24, 2016].
 - C. Bobbie G. Bayless, defendant, Disclosure of Interested Parties [Docket No. 21, filed September 7, 2016].

- D. Candace Kunz-Freed and Albert Vacek Jr., defendants, Certificate of Interested Parties [Docket No. 22, filed September 7, 2016].
- E. Anita Brunsting, defendant, Certificate of Interested Parties [Docket No. 29, filed September 12, 2016].
- F. Amy Brunsting, defendant, Certificate of Interested Parties [Docket No. 32, filed September 16, 2016].
- G. Stephen A. Mendel and Bradley E. Featherston, defendants, Certificate of Interested Parties [Docket No. 37, filed September 30, 2016].
- H. Neal Spielman, defendant, Certificate of Interested Parties [Docket No. 44, filed October 6, 2016].
- I. Jill Willard Young, defendant, Certificate of Interested Parties [Docket No. Parties, document 46, October 6, 2016].

24. List the names, bar numbers, addresses and telephone numbers of all counsel.

Response: For the Court's convenience, the list of persons below includes the Pro Se parties:

A. Pro Se Plaintiffs:

- 1) Candace L. Curtis
Plaintiff, Pro Se
218 Landana Street
American Canyon, CA 94503
925-759-9020
- 2) Rik Wayne Munson
Plaintiff, Pro Se
218 Landana Street
American Canyon, CA 94503
925-349-8348

B. Plaintiffs Represented by Counsel: None.

C. Pro Se Defendants:

- 1) Anita Brunsting
Defendant, Pro Se
203 Bloomingdale Circle

A Co-Trustee
Victoria, Texas 77904
361-550-7132

- 2) Amy Ruth Brunsting
Defendant, Pro Se
2582 Country Ledge
A Co-Trustee
New Braunfels, Texas 78132

D. Defendants Represented by Counsel:

- 1) Laura B. Hedge (SBN 00790288) Def. Hon. Christine Riddle Butts
Harris County Attorney's Office Def. Hon. Clarinda Comstock
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- 2) Cory S. Reed (SBN 24076640) Def. Candace Kuntz-Freed
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- 3) Robert S. Harrell (SBN 09041350) Defendant Jill Willard Young
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- 4) Martin Schexnayder (SBN 17745610) Def. Neal E. Spielman
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- 5) R. Keith Morris, III (SBN) Def. Jason B. Ostrom
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- 6) Stephen A. Mendel Def. Stephen A. Mendel
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E. Attorney Defendants Who are Pro Se:

- 1) Gregory Lester (SBN 12235700)
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- 2) Bernard Lyle Matthews, III (SBN 13187450)
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- 3) Bobbie Bayless (SBN 01940600)
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- 4) Darlene Payne Smith (SBN 18643525)
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